

**CONVERSION REPORT**

of the Management Board of

**INSTONE REAL ESTATE GROUP AG**

concerning the conversion into the

legal form of a European company (Societas Europaea, SE) under

**INSTONE REAL ESTATE GROUP SE**

of 23 April 2021

– presented under item 10 of the agenda of the Annual General Meeting  
of Instone Real Estate Group AG on 9 June 2021 –

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- Annex 1** Draft of the terms of conversion of Instone Real Estate Group AG, including the draft Articles of Association of Instone Real Estate Group SE of 19 April 2021
- Annex 2** List of affiliated companies, associated companies and equity investments

## 1 Introduction

Instone Real Estate Group AG (the “**company**”) is a public limited company established under German law, the registered office of which is in Essen. The company is entered in the commercial register of the Local Court of Essen under HRB 29362. The business address of the company is Grugaplatz 2-4, 45131 Essen, Germany. This is also where its head office is located.

The subject of this conversion report is the conversion of the company into a European company (*Societas Europaea*, hereinafter also “**SE**”). The Management Board of the company has drawn up terms of conversion for this purpose, to which the Articles of Association of Instone Real Estate Group SE are attached as an annex. The terms of conversion, including the future Articles of Association of Instone Real Estate Group SE, were adopted and drawn up in writing by the Management Board on 19 April 2021. The terms of conversion, including the future Articles of Association of Instone Real Estate Group SE, are attached to this conversion report as **Annex 1**. The terms were officially recorded by a notary on 22 April 2021.

The conversion into an SE is carried out in accordance with article 2(4) in conjunction with Article 37 of Council Regulation (EC) No. 2157/2001 of 8 October 2001 on the Statute for a European Company (SE) (“**SE Regulation**”). Furthermore, the Act on the Implementation of Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European Company (SE) of 22 December 2004 (“**SEAG**” – German SE Implementation Act) and the Act on employee participation in a European company of 22 December 2004 (“**SEBG**”) as well as the regulations of the Aktiengesetz (“**AktG**” - German Stock Corporation Act) and of the Umwandlungsgesetz (“**UmwG**” – German Transformation Act) apply in particular.

Pursuant to article 37(7) of the SE Regulation, the terms of conversion and the Articles of Association of the SE require the approval of the Annual General Meeting of the company. The Management Board and the Supervisory Board of the company therefore propose to the Annual General Meeting of the company on 9 June 2021 under item 10 of the agenda that it approve the terms of conversion, which were officially recorded by a notary on 22 April 2021, and the Articles of Association of Instone Real Estate Group SE, which are attached in the annex. The Supervisory Board of the company approved the conversion project during its meeting on 23 April 2021 and decided to propose a corresponding resolution to the Annual General Meeting. The precise contents of the resolutions proposed by the Management Board and the Supervisory Board can be found in the invitation convening the Annual General Meeting, which is planned to be published in the Federal Gazette on 28 April 2021.

The identity of the legal entity is preserved when the conversion is carried out. The conversion thus does not result in either the winding up of the company or the formation of a new legal entity. The equity investment of the shareholders in the company continues unchanged. The company also intends to retain its registered and head office and its actual central administration in Essen, Germany.

Instone Real Estate Group SE is to have a two-tier system. In addition to the Annual General Meeting, the executive bodies of Instone Real Estate Group SE are therefore the Management Board (management organ within the meaning of article 38 (b) and article 39 of the SE Regulation) and the Supervisory Board (supervisory organ within the meaning of article 38 (b) and article 40 of the SE Regulation). The management system of Instone Real Estate Group SE thus corresponds to the management system of the company.



This conversion report is drawn up by the Management Board of the company pursuant to article 37(4) of the SE Regulation. The conversion report explains the legal and economic aspects of the conversion as well as the implications for the shareholders and for the employees of the transition from a public limited company to an SE.

With regard to the description of the business operations of the company, the conversion report is limited to a summary presentation. The conversion into an SE will not have any effects on the business operations of the company. For further information, please refer to the annual report of the company for the 2020 financial year (which can be downloaded from <https://ir.de.instone.de/websites/instonereal/English/6000/annual-general-meeting.html>).

The terms of conversion, including the Articles of Association of Instone Real Estate Group SE, as well as this conversion report can be accessed on the company's homepage (and can be downloaded from <https://ir.de.instone.de/websites/instonereal/English/6000/annual-general-meeting.html>) and will be available for inspection during the Annual General Meeting. This will also be the case for the certification by the independent court-appointed expert, Deloitte GmbH Wirtschaftsprüfungsgesellschaft, Düsseldorf, pursuant to article 37(6) of the SE Regulation and for the annual and consolidated financial statements for the 2018, 2019 and 2020 financial years as well as the combined management reports and group management reports of the company for 2018, 2019 and 2020 financial years.

Unless otherwise noted, all information in this conversion report relates to the time at which it is signed.

## **2 Instone Real Estate Group AG**

The company is one of Germany's leading residential developers. The company develops attractive residences and apartment buildings as well as publicly subsidised housing, designs modern urban districts and renovates listed buildings. Projects are marketed to owner-occupiers, private buy-to-let investors and institutional investors.

Over 1 million square metres have been realised in 30 years. As at 31 December 2020, a total of 413 employees worked at nine locations throughout Germany. As at 31 December 2020, the company's project portfolio comprised 52 development projects with an expected total volume of sales contracts of approximately EUR 6.1 billion and 13,561 units.

The company is a strategic management holding company. As a holding company, the company undertakes management functions and services for the operating business of the subsidiaries. Responsibility for the operating project business lies with Instone Real Estate Development GmbH and Nyoo Real Estate GmbH for the Modular Planning and Construction division.

### **2.1 Registered office, head office, financial year and purpose of the company**

The company is a public limited company under German law with its registered office in Essen. It is entered in the commercial register of the Local Court of Essen under HRB 29362. The business address is Grugaplatz 2-4, 45131 Essen, Germany. The company's head office is also located at this address. The financial year of the company is the calendar year.

The business purpose of the company according to the Articles of Association is the acquisition, development, construction, leasing, management and sale or other use of land and buildings as well as equity investments in other companies that are active in this field of business. The company is authorised to conduct all transactions and to take all measures

that are connected with this business purpose or that are suitable for indirectly serving this purpose. It may acquire and sell developed and undeveloped properties as well as land rights in this connection. The company is furthermore authorised to establish, to acquire or to invest in other companies as well as to set up branches in Germany and abroad.

## 2.2 Business activity

### 2.2.1 Business activities

The company develops attractive residences and apartment buildings as well as publicly subsidised housing, designs modern urban districts and renovates listed buildings. Projects are marketed to owner-occupiers, private buy-to-let investors and institutional investors. The company is the only listed residential property developer in Germany that covers the whole value chain and does not just undertake only construction work. The company offers a fully integrated platform throughout Germany that ranges from purchasing and developing property, through concept planning and construction management, to marketing and sales.

As at 31 December 2020, approximately 89% of the company's portfolio (based on expected sales volume after the developments have been completed) is located in Germany's most important urban conglomerations and metropolitan regions (Berlin, Bonn, Düsseldorf, Frankfurt am Main, Hamburg, Cologne, Leipzig, Munich, Nuremberg and Stuttgart), while around 11% can be found in other thriving medium-sized cities.

### 2.2.2 Group structure and equity investments

The company is the strategic management holding of the Instone Group. The major subsidiary Instone Real Estate Development GmbH is responsible for the majority of the operating project business. Nyoo Real Estate GmbH is responsible for the Modular Planning and Construction division

As at 31 December 2020, the company has a total of 40 directly and indirectly affiliated companies, associated companies and equity investments in Germany and abroad, of which 20 are consolidated and seven associated companies are included *at equity* in the consolidated financial statements. A list of these affiliated companies, associated companies and the equity investments is attached to this conversion report as **Annex 2**.

The company and its domestic and international subsidiaries as well as other equity investments are also referred to in the following as the "**Instone Group**".

### 2.2.3 Key performance indicators of the Instone Group

The table below contains the key performance indicators for the past 2020 financial year for the Instone Group.

- Volume of sales contracts EUR 464 million
- Adjusted revenue EUR 480.1 million
- Adjusted gross profit margin EUR 30.5 million
- Adjusted EAT EUR 41.1 million

Further details and definitions of the financial performance indicators, the key figures and the performance of the Instone Group in comparison with the previous year, 2019, can be found in the 2020 annual report, which can be downloaded from

the company's homepage at <https://ir.de.instone.de/websites/instonereal/English/3200/financial-reports.html>.

### 2.3 Management Board and representation of the company, Supervisory Board

The company's Management Board consists of no less than two people in accordance with the article 8.1 of the Articles of Association. The Supervisory Board appoints the members of the Management Board and determines how many members there are. The Management Board currently comprises Mr Kruno Crepulja (Chairman of the Management Board), Dr Foruhar Madjlessi and Mr Andreas Gräf.

In accordance with article 10(1) of the company's Articles of Association, the company is represented by two members of the Management Board jointly or by one member of the Management Board together with an authorised signatory.

The company's Supervisory Board consists of five members in accordance with article 11.1 of the company's Articles of Association. All the members are shareholder representatives who are elected by the Annual General Meeting. The current members of the Supervisory Board are Mr Stefan Brendgen (Chairman of the Supervisory Board), Dr Jochen Scharpe (Deputy Chairman of the Supervisory Board), Ms Marija Korsch, Mr Dietmar P. Binkowska and Mr Thomas Hegel.

### 2.4 Share capital and stock market listing

The registered share capital of the company amounts to EUR 46,988,336.00 and is divided into 46,988,336 registered no-par value shares with a nominal share of the share capital of EUR 1.00 per share (the "**Instone Real Estate shares**"). The Instone Real Estate shares under ISIN DE000A2NBX80 are admitted to trading on the Regulated Market (Prime Standard) at the Frankfurt Stock Exchange. The company has been listed on the SDAX since 29 August 2019.

The Instone Real Estate shares are recorded in global share certificates. The existing global certificates will be incorrect when the company is converted into Instone Real Estate Group SE (see section 6.4 of this conversion report on this). The shares of the company recorded in global certificates are to be documented in one or more new global certificates issued by Instone Real Estate Group SE.

To the best of the Management Board's knowledge, members of the Management Board and members of the extended management acquired shares from the former direct sole shareholders in the 2018 financial year in connection with the company's IPO and the restructuring of a management remuneration programme already existing before the IPO, where these shares are subject to standard market contractual transfer restriction. According to this restriction, these shares may among other things not be sold or otherwise transferred without the consent of the former direct sole shareholders. The transfer and voting restrictions end for each one third of the shares acquired in the course of the share purchase after the expiry of twelve months, 24 months and 36 months respectively from the date on which the relevant share purchase was entered into with the former direct sole shareholders. To the best of the Management Board's knowledge, the transfer restriction described above concerns a total of 435,531 shares of the company. There are no Instone Real Estate shares with special rights. Furthermore, the Management Board is not aware of any binding selling restrictions agreed with shareholders (e.g. lock-up agreements), securities lending or pre-emption rights for Instone Real Estate shares.

### 2.5 Authorised capital

Article 6.1 of the company's Articles of Association contains authorised capital totalling EUR 8,450,000.00 that can be utilised by 28 June 2023 (Authorised Capital). These regulation on authorised capital in the Articles of Association will not be changed and will be taken over into the Articles of Association of Instone Real Estate Group SE.

Moreover, for the reasons specified in the invitation convening the Annual General Meeting of the company on 9 June 2021, it is planned to create additional authorised capital amounting to EUR 8,000,000.00 (Authorised Capital 2021). The Authorised Capital 2021 will not be changed and will be taken over into the Articles of Association of Instone Real Estate Group SE.

## 2.6 Contingent capital

On the basis of a capital increase with subscription rights against cash contributions performed in September 2020, the company increased its share capital by EUR 10 million from EUR 36,988,366.00 to EUR 46,988,366.00 by issuing 10 million new no-par value shares with a notional share of the share capital of EUR 1.00 each. Against this background, it is planned to propose to the Annual General Meeting of the company on 9 June 2021, which is set to decide under item 10 of the agenda on the approval for the conversion of the company into an SE, under item 8 of the agenda that a resolution be adopted on an adjusted contingent capital increase (Contingent Capital 2021) and a corresponding amendment to article 7 of the company's Articles of Association while cancelling the contingent capital increase adopted by the Annual General Meeting of 13 June 2019 (Contingent Capital 2019) (cf. section 3.7 of the terms of conversion).

## 2.7 Ownership structure

At the time that this conversion report is signed and based on the definition of Deutsche Börse AG, 100% of the Instone Real Estate shares are in free float. The company is aware of the following shareholders who own a shareholding reported in accordance with the regulations of the Wertpapierhandelsgesetz (WpHG – German Securities Trading Act) (updated: 14 April 2021):

Name of the shareholder	Shares in per cent
Fidelity	9.99
Janus Henderson Group plc	6.96
DWS	5,38
Cohen & Steers	5.24
The Capital Group Companies	4.87
Union Investment Privatfonds GmbH	3.38
Amundi S.A.	3.07
Others	61.11

The company does not hold any treasury shares at the time this conversion report is signed. As at 31 December 2020, members of the Management Board and of the Supervisory Board did not hold any Instone Real Estate shares or financial instruments relating to these shares that amount directly or indirectly to more than 1% of the shares issued by the company. On the above-mentioned reporting date, the total number of Instone Real Estate

shares held by all members of the Management Board and Supervisory Board also did not exceed 1% of the shares issued by the company

## **2.8 Number of employees and corporate co-determination**

As at 31 December 2020, the Instone Group employed a total of 413 employees. The company employed eight staff as at 31 December 2020.

There is no system of corporate co-determination in place at the company at the moment. Corporate co-determination is also not required by law.

## **2.9 German Corporate Governance Code**

As a listed company, the recommendations of the “Regierungskommission Deutscher Corporate Governance Kodex” (“**DCGK**” – Government Commission for the German Corporate Governance Code – the “code”) published by the Federal Ministry of Justice and Consumer Protection in the official section of the Federal Gazette are applicable to the company. In accordance with section 161 of the Aktiengesetz (AktG – German Stock Corporation Act), the Management Board and Supervisory Board of the company issue a declaration annually on whether the recommendations have been complied with or which recommendations have not been applied and why.

The Management Board and Supervisory Board of the company stated most recently in their declaration of compliance of December 2020 that they follow the recommendations of the code as amended on 16 December 2019 with some individual deviations. The reasons why certain recommendations are not complied with are explained in more detail in the declaration of compliance. This declaration as well as the declarations of compliance of December 2018 and December 2019 of the company are published on the company’s homepage (<https://ir.de.instone.de/websites/instonereal/English/5910/compliance-statement.html>).

## **3 Overview of the key economic and legal aspects for the conversion**

### **3.1 Key reasons for the conversion**

The planned conversion into an SE as a modern and supranational legal form is intended to underline the identity of the company as a dynamic, fast-growing company and to further increase its attractiveness for European and international investors. Another reason for the conversion of the legal form from a public limited company to an SE is to maintain the company’s existing tried and trusted and efficient corporate governance.

### **3.2 Alternatives to the conversion**

In the course of preparing the conversion of the company into an SE, the Management Board of the company thoroughly analysed conceivable alternatives to the proposed measure. Based on the result of this analysis, there are currently no other, similarly meaningful alternatives to the planned conversion that, when considering the objectives pursued with the conversion, will do better justice to the interests of the shareholders and of the company.

In particular, the choice of a European-style legal form that is striven for and the retention and continued development of the company’s efficient and tried and trusted corporate governance structure is possibly by converting the company into a two-tier SE. The SE is the only legal form at the moment that both features a European character and allows a listing on the stock market to be continued. Moreover, in terms of its structure, the legal form of the SE is essentially comparable with a German public limited company. This is true for

example for the structure of the capital and of the shares as well as the rights of the shareholders. Against this background, there are also no material changes that result from the conversion from the shareholders' perspective.

Although the formation of an SE is also possible – instead of a conversion – by way of a cross-border merger as set out in article 2(1) of the SE Regulation, but this process would have been considerably more complex both in law and in fact. The conversion of the company into an SE is therefore the most effective means for achieving the objectives of the company and of its shareholders that are being pursued.

### **3.3 Costs of the conversion**

Based on the current estimate of the company's Management Board, the costs of the conversion will amount to up to EUR 1.500.000 in total. This estimate includes in particular the costs for preparatory measures, the costs of the conversion audit by the independent court-appointed expert, the costs of the official recording of the terms of conversion by a notary, the costs of the necessary entries in the commercial register, the costs of external consultants, the costs of the necessary publications and also for conducting the procedure relating to the involvement of the employees as well as the costs for converting the stock market listing from public limited company shares to SE shares.

The costs for holding the 2021 Annual General Meeting of the company are not included in this estimate, as the 2021 Annual General Meeting has to be held in any case and no significant additional costs are incurred by the resolution on the conversion of the company.

## **4 Comparison of the structural elements, especially the legal position of the shareholders of the company and of Instone Real Estate Group SE**

The major structural characteristics of the company in its current legal form as a public limited company and of the future Instone Real Estate Group SE are compared and contrasted in the following section, especially if they are significant for the rights of the shareholders.

### **4.1 Background**

The SE is a trading company in the form of a European public limited company (article 1(1) of the SE Regulation). It is a supranational legal form that has been created by European Community law. The SE Regulation applies directly in all member states, which means that European-wide recognition is guaranteed.

Pursuant to article 10 of the SE Regulation and subject to the provisions of the regulation, an SE shall be treated in every member state as if it were a public limited-liability company formed in accordance with the law of the member state in which it has its registered office. The legal relationships of Instone Real Estate Group SE, the rights of its shareholders and the corporate governance are therefore governed in particular by (i) the provisions of the SE Regulation, which applies directly in all member states of the European Union and in the other contracting states to the Agreement on the European Economic Area, (ii) the SEAG as the German act on the implementation of the SE Regulation, (iii) the regulations of the law applicable to a German public limited company, especially those of the German Stock Corporation Act and (iv) the Articles of Association of Instone Real Estate Group SE (see article 9(1) of the SE Regulation in this connection in particular). Just like a public limited company under German law, the SE has its own legal personality (article 1(3) of the SE Regulation), its capital is divided into shares. No shareholder and it is liable to its creditors only in the amount of the company assets (article 1(2) of the SE Regulation).

As Instone Real Estate Group SE – subject to the provisions of the SE Regulation – is treated as a public limited company, the regulations of commercial, tax and capital market law that currently already apply to the company will also continue to apply as before for Instone Real Estate Group SE.

## 4.2 General regulations

### 4.2.1 Legal personality

As a public limited company under German law, the SE also has its own legal personality. It is a legal entity and thus itself the bearer of rights and duties (article 1(3) of the SE Regulation).

### 4.2.2 Share capital, structure of the shares

The registered share capital of the company currently amounts to EUR 46,988,336.00. The share capital of Instone Real Estate Group SE will be exactly the same amount as the share capital of the company at the time of the conversion and will thus be far higher than the minimum capital of EUR 120,000.00 (article 4(2) of the SE Regulation) that is required to form an SE (cf. section 2.4 of this conversion report in this connection).

Both the authorised and the contingent capital of Instone Real Estate Group SE will each be the same as the authorised and contingent capital of the company immediately at the time that the conversion comes into effect (cf. section 2.5 and section 2.6 of this conversion report in this connection).

With regard to the share capital as well as the authorised and contingent capital of the company, the conversion accordingly does not result in any changes.

Similarly, no changes result from the conversion into an SE in terms of the options for the structure of the shares. In accordance with article 5 of the SE Regulation, the regulations for a German public limited company continue to apply in this regard. The name of the issuer of the share certificates changes with the conversion of the company into the legal form of an SE under the company name “Instone Real Estate Group SE.”. The share certificates that have become incorrect in this connection are thus exchanged (cf. section 6.4 of this conversion report on this).

### 4.2.3 Registered office of the company and possibility for its cross-border relocation

The registered office of an SE is determined by its Articles of Association. Instone Real Estate Group SE intends to retain its registered office and its head office in Germany. The registered and head office of Instone Real Estate Group SE will therefore remain in Essen, Germany.

In view of the mandatory regulation in the Articles of Association, the registered office of an SE can be relocated only as the result of an amendment to the Articles of Association. The SE can transfer its registered office across the border to another member state in a legally regulated process without it being wound up (article 8 of the SE Regulation). Shareholders who have stated their objection to the transfer of the registered office on the record must be made an offer to acquire their shares in return for reasonable cash compensation (section 12(1) SEAG). In contrast, a cross-border relocation of the registered office that preserves the identity and legal form is not possible in the case of a public limited company (section 5 AktG).

#### 4.2.4 Disclosure obligations

Both the regulations of the Gesetz über den Wertpapierhandel (“**WpHG**” – Securities Trading Act) and the regulations of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) (“**MAR**”) also apply to the future Instone Real Estate Group SE because of the stock exchange listing.

Specifically, the regulations on insider monitoring (article 7 ff. MAR) and on disclosure obligations relating to voting shares (section 33 ff. WpHG) thus continue to be applicable. If the disclosure obligations are breached, shareholder rights are thus lost at Instone Real Estate Group SE in continued application of the conditions of section 44 WpHG. There are just as few changes relating to applicable regulations of takeover law as a result of the conversion of the company into the legal form of an SE.

### 4.3 Formation of the company

Subject to the provisions of the SE Regulation, the formation of an SE is governed by the law applicable to public limited companies in the state in which the SE establishes its registered office (article 15(1) of the SE Regulation). As Instone Real Estate Group SE will have its registered office in Germany, the German company formation legislation for public limited companies applies in principle to its formation. In the case of a conversion into an SE, the company to be converted is itself the founder; the founder is consequently Instone Real Estate Group AG.

The regulations governing formation under company law (approval of the Articles of Association, formation expenses, formation report, formation audit, registration of the company, examination by the court, entry in the commercial register, etc.) are modified or superseded by the regulations of article 37 of the SE Regulation during the conversion into an SE. The details of the formation procedure are described in section 4.6 of this conversion report.

### 4.4 Legal relationships of the company and the shareholders

In the case of a public limited company, the capital must be contributed at the time it is formed and maintained following its formation (sections 56 ff. AktG). On account of the strict capital maintenance rules, the company is allowed for example to acquire treasury shares only under certain conditions (sections 56 and 71 AktG). The shareholders’ contributions may not be refunded to them (section 57 AktG). These regulations serving to maintain the capital of the company are also applicable pursuant to article 5 of the SE Regulation to an SE with its registered office in Germany and consequently also continue to apply after the company is converted into an SE.

In a public limited company, the shareholders subject to the same conditions have to be treated equally (section 53a AktG). This principle of equal treatment under company law also applies to an SE with its registered office in Germany (article 9(1) (c) (ii) of the SE Regulation), meaning that no changes are associated with the conversion in this respect.

### 4.5 Constitution of the company

#### 4.5.1 Choice of one-tier or two-tier system

The law governing SEs provides greater flexibility in the structure of the corporate governance in comparison with the public limited company. When an SE is formed, a choice exists between a one-tier and a two-tier system. In the case of the two-tier system, there are two executive bodies that are responsible for the governance of



the company. One of these bodies manages the business transactions (management organ), while the other supervises the management (supervisory organ). In the case of a one-tier system, there is only an administrative organ, which manages the company, determines the fundamental principles of its activity and monitors their implementation (cf, section 22(1) SEAG). For a public limited company, in contrast, only a management system in the form of the two-tier system – comprising the management board as the management organ and the supervisory board as the supervisory organ – is permitted.

In keeping with the previous management system of the company, the Articles of Association of Instone Real Estate Group SE stipulate the two-tier system (cf. article 8 of the Articles of Association of Instone Real Estate Group SE). Instone Real Estate Group SE will thus also have a management board as the management organ and a supervisory board as the supervisory organ, meaning that the conversion to the legal form of an SE is not associated with any change to the company's corporate governance in this respect. The conversion leads only to a few changes in the details, the specifics of which are explained below.

#### 4.5.2 Management Board

##### (i) Management of the company

In terms of the management of the future Instone Real Estate Group SE, no changes result from the conversion of the company into an SE. In accordance with article 39(1) sentence 1 of the SE Regulation, the management organ (i.e. the management board) is independently responsible for managing the business transactions of the SE. The management responsibility of an SE's management board thus corresponds to the management responsibility of a public limited company's management board (section 76(1) AktG).

##### (ii) Size and composition of the management board

The management board of a public limited company consists in principle of one or more persons (section 76(2) sentence 1 AktG). In a company where the share capital is more than EUR 3 million, the management board, subject to any divergent regulation in the articles of association, has to consist of no fewer than two persons (section 76(2) sentence 2 AktG). The same is true for the management board of an SE pursuant to section 16 SEAG.

The Articles of Association of Instone Real Estate Group SE stipulate that – as with the company – the Management Board has to consist of no fewer than two people (article 9.1 of the Articles of Association of Instone Real Estate Group SE); the number of Management Board members is determined by the Supervisory Board (article 9.2 of the Articles of Association of Instone Real Estate Group SE). The members of the Management Board of the future Instone Real Estate Group SE will be newly appointed by the Supervisory Board of Instone Real Estate Group SE after the conversion (cf. section 4.6.7 of the conversion report on this). Subject to a corresponding appointment by the Supervisory Board of Instone Real Estate Group SE, the members of the Management Board of Instone Real Estate Group SE will be the same persons as the members of the company's Management Board. In accordance with this provision, the members of the Management Board of Instone Real Estate Group SE are expected to be Mr

Kruno Crepulja (Chairman of the Management Board), Dr Foruhar Madjlessi and Mr Andreas Gräf.

(iii) Management

In the law governing the SE – just as in the law governing the public limited company – the principle of joint management by all members of the Management Board applies. A different regulation can be provided in the articles of association or the rules of procedure of an SE or of a public limited company. The principle under company law that differences of opinion in the management board may not be decided by one of more management board members against the majority of the management board members also applies for the management board of the SE (article 9(1) (c) (ii) of the SE Regulation in conjunction with section 77(1) sentence 2 AktG). In an SE, however, a veto right regarding the decisions of the full management board can be granted to the chair of the management board (cf. article 50(1) of the SE Regulation). The Articles of Association of Instone Real Estate Group SE do not make use of the option to have a veto right of this kind.

In a public limited company, articles of association or the management board's rules of procedure can stipulate that the chair of the management board shall have the casting vote in the event of tied vote (cf. section 77(1) sentence 2 AktG). Section 5.9 sentence 3 of the rules of procedure for the company's Management Board provide that, in the case where at least three Management Board members are appointed, the vote of the Chair of the Management Board is the casting vote in the event of a tie. This regulation has been taken over into article 9.5 sentence 4 of the Articles of Association of Instone Real Estate Group SE (cf. section 5.2.10 of this conversion report on this).

(iv) Representation of the company

The regulations of the Stock Corporation Act and the statutes of the SE apply for the representation of the SE by the management organ (article 9(1) (c) (ii) of the SE Regulation). Article 11 of the Articles of Association of Instone Real Estate Group SE provides that the company is represented by two members of the Management Board or by one member of the Management Board jointly with an authorised signatory. The Supervisory Board can decide that all or individual members of the Management Board are authorised to represent the company on their own. The members of the Management Board are furthermore authorised to enter into legal transactions in the name of the company with themselves as representatives of a third party and are thus exempt from the prohibition on multiple agency pursuant to section 181, 2nd alternative, of the Bürgerliches Gesetzbuch (BGB – German Civil Code)). This regulation is consistent with the regulation in the company's articles of association, meaning that the conversion does not result in any changes in this respect.

(v) Appointment and dismissal of the management board and its term of office

As with the public limited company, the members of the management board are also appointed and removed by the supervisory at an SE (section 84(1) AktG, article 39(2) sentence 1 of the SE Regulation). In the case of the public limited company, members of the management board are appointed

for a maximum of five years. Members can be reappointed or their term of office can be extended, for a maximum of five years in each case. The supervisory board can revoke the appointment as a member of the management board and the appointment as chair of the management board when there is good cause (section 84 AktG).

In contrast, the members of the management organ (management board) of an SE are appointed for a period specified in the articles of association, which may not exceed six years (article 46(1) of the SE Regulation). Subject to any restrictions laid down in the articles of association, members may be reappointed (article 46(2) of the SE Regulation). Article 9.3 of the Articles of Association of Instone Real Estate Group SE provide a term of office of no more than five years. The regulation thus corresponds to the statutory regulation for a public limited company. Also as far as the revocation of the appointment of a member of the Management Board or of the appointment as Chair of the Management Board of Instone Real Estate Group SE is concerned, revocation is also possible for good cause (section 84(3) AktG in conjunction with article 9(1) (c) (ii) of the SE Regulation).

- (vi) Remuneration of the management board members, non-compete clause and granting of credit

No changes result from the conversion of the company into an SE as far as the remuneration of the members of the management board, the contractual agreements on non-compete clauses and the granting of credit to members of the management board are concerned. The provisions of company law apply in this respect for an SE with its registered office in Germany (sections 87 to 89 AktG in conjunction with article 9(1) (c) (ii) of the SE Regulation).

- (vii) Reports to the supervisory board

The reporting obligations of the management board to the supervisory board of an SE are based on the reporting obligations of the management board to the supervisory board of a public limited company.

The management board of a public limited company reports to the supervisory board at regular intervals and upon every important development on (i) the business policy it intends to pursue and other fundamental matters regarding the future conduct of the company's business (especially financial, investment and personnel planning), where deviations in the actual performance from previously reported targets have to be examined and the reasons for them stated, (ii) the company's profitability, especially the return on equity, (iii) the state of business, especially revenues and the situation of the company, and (iv) transactions that may have a material impact on the profitability or liquidity of the company (section 90 AktG). The report also has to deal with subsidiaries and joint ventures (section 90(1) sentence 2 AktG). In addition, reports to the chair of the supervisory board are to be made upon the occurrence of other significant developments. A significant development is also a business transaction the management board has become aware of at an associated company that may have a material impact on the company's situation (section 90(1) sentence 3 AktG). The AktG stipulates that the relevant reports be submitted at regular intervals (section 90(2) AktG).

In addition, the supervisory board can at any time request a report on the matters of the company, on its business relationships with affiliated enterprises and on business transactions at these companies that may have a material impact on the company's situation (section 90(3) sentence 1 AktG). An individual member of the supervisory board can also request a report, which may not be addressed to them personally, but only to the full supervisory board as an executive body of the public limited company.

The management board's reports must comply with the principles of conscientious and accurate reporting. They are to be submitted as promptly as possible and generally in written or electronic form (section 90(4) AktG). Each member of the supervisory board has the right to examine the reports for their information (section 90(5) sentence 1 AktG).

The management board of an SE is essentially subject to comparable reporting obligations. The management board of an SE also reports to the supervisory board at regular intervals. It reports to the supervisory board at least every three months on the progress and foreseeable development of the SE's business (article 41(1) of the SE Regulation). In addition to the regular information, the management board has to report promptly any information on events likely to have an appreciable effect on the SE (article 41(2) of the SE Regulation). Pursuant to article 41(3) of the SE Regulation, the supervisory board can request from the management board information of any kind that it needs to exercise supervision. Each member of the supervisory board of an SE with its registered office in Germany can also request information of this kind for the supervisory board (article 41(3) of the SE Regulation in conjunction with section 18 SEAG). The supervisory board can undertake or arrange for any investigations necessary for the performance of its duties (article 41(4) of the SE Regulation). Each member of the supervisory board is entitled to examine all information submitted to the supervisory board (article 41(5) of the SE Regulation).

Against this background, no significant changes to the contents result from the conversion of the company into an SE as far as the reporting obligations of the management board are concerned. The contents of article 41 of the SE Regulation, which is key for the reports of the Management Board of Instone Real Estate Group SE feature regulations that are essentially comparable with section 90 AktG. The Management Board of Instone Real Estate Group SE will thus be subject to requirements to report to the Supervisory Board, the scope of which is equivalent to those of the company's Management Board before the conversion.

- (viii) Management board obligations in the event of the loss of half of the share capital, over-indebtedness or insolvency

The duties of the management board in the event of any loss of half of the share capital or any over-indebtedness or insolvency correspond to the duties of the management board of a public limited company (section 92 AktG in conjunction with article 9(1) (c) (ii) of the SE Regulation).

- (ix) Due diligence and responsibility

The members of an SE's management organ are liable in accordance with the legal provisions applicable to public limited companies in the member

state in which the SE's registered office is situated (article 51 of the SE Regulation), meaning that the Management Board of Instone Real Estate Group SE has to apply the due care and diligence of a prudent and conscientious manager in the course of its management (section 93(1) sentence 1 AktG). Based on the business judgement rule, members of the management board of an SE act in line with their obligations when they may have reasonably assumed in making a business decision that they acted on an appropriately informed basis in the interests of the company (section 93(1) sentence 2 AktG).

In accordance with article 49 of the SE Regulation, information concerning the SE, the disclosure of which might be prejudicial to the company's interests, may in principle not be divulged even after a management board member has ceased to hold office. This regulation is consistent with the legal position under German company law.

#### 4.5.3 Supervisory board

In an SE with a two-tier management system, the supervisory organ – consequently the Supervisory Board in the case of Instone Real Estate Group SE – supervises the work of the management board as the management organ. The duties and powers of the supervisory board are essentially the same as those of the supervisory board of a public limited company. An overview of the regulations governing the supervisory board of a public limited company and the supervisory board of an SE is presented in the following.

##### (i) Size and composition of the supervisory board

The supervisory board of a public limited company and the supervisory board of an SE consist of no fewer than three members, where the articles of association or articles of association can stipulate a specific higher number of members (section 95 AktG, section 17(1) SEAG). The size of the Supervisory Board will not change after the company is converted into Instone Real Estate Group SE. The Supervisory Board of Instone Real Estate Group SE will in fact also consist of five members pursuant to article 12.1 of its Articles of Association in line with the previous regulation (article 11.1 of the company's Articles of Association).

In view of the fact that the company's Supervisory Board is not subject to co-determination on the part of the employees in accordance with the Drittelbeteiligungsgesetz (One-Third Employee Representation Act) or the Mitbestimmungsgesetz (Co-determination Act), the Supervisory Board of Instone Real Estate Group SE – as also the company's Supervisory Board – consists exclusively of shareholder representatives.

##### (ii) Status proceedings on the composition of the supervisory board

The regulations of company law apply in the event of disputes concerning the composition of an SE's supervisory board. As in the case of disputes concerning the composition of the supervisory board at a public limited company, status proceedings under company law can thus be pursued (sections 97 ff. AktG in conjunction with article 9(1) (c) (ii) of the SE Regulation). In accordance with section 17(4) SEAG, the SE works council can also file a petition for the institution of status proceedings.

(iii) Election of the chair of the supervisory board and personal qualifications

In a public limited company not subject to co-determination, all members of the supervisory board are elected by the Annual General Meeting (section 101(1) AktG). This also applies in the case of an SE not subject to co-determination (article 40(2) sentence 1 of the SE Regulation). The members of the Supervisory Board will thus also be elected in the future Instone Real Estate Group SE exclusively by the annual general meeting.

Members of the supervisory board of a public limited company may only be natural persons of full legal capacity (section 100(1) sentence 1 AktG). This also applies for an SE with its registered office in Germany (article 47(1) of the SE Regulation, cf. also section 27(3) SEAG). Similarly, the personal reasons disqualifying persons from serving as a member of a public limited company's supervisory board pursuant to section 100(2) AktG also apply at an SE with its registered office in Germany (article 47(2) (a) of the SE Regulation). A person who is already a supervisory board member at ten commercial companies that are required by law to form a supervisory board can thus not be a member of the supervisory board of an SE.

In particular, at companies within the meaning of section 264d of the Handelsgesetzbuch (HGB – German Commercial Code) – and the company falls under this scope – at least one member of the Supervisory Board must have expertise in the fields of accounting or auditing of financial statements and the members of the supervisory board as a whole must, in accordance with section 100(5) second half of the sentence AktG, be familiar with the sector in which the company operates. This provision of company law also applies for Instone Real Estate Group SE by the reference in article 9(1) (c) (ii) of the SE Regulation.

The personal qualifications for membership of the Supervisory Board of the company and of Instone Real Estate Group SE are thus identical.

(iv) Term of office

The members of the supervisory board of a public limited company may not be appointed for a period of time extending beyond the end of the annual general meeting that resolves to grant formal approval of their actions for the fourth financial year following the commencement of the term of office (section 102(1) AktG). The financial year in which the term of office begins is not counted here. At an SE, the members of the supervisory organ can be appointed for a period laid down in the articles of association not exceeding six years (article 46(1) of the SE Regulation), meaning that longer terms of office are possible in principle for supervisory board members at an SE than at a public limited company. Supervisory board members can be reappointed at an SE, subject to any restrictions laid down in the articles of association, as they can be at a public limited company.

The regulation governing the term of office of the Supervisory Board members in article 12.2 of the Articles of Association of Instone Real Estate Group SE corresponds to the statutory regulations applicable to the public limited company and accordingly also to the previous regulation applicable to the company. Accordingly, and unless otherwise expressly determined in

the resolution of the annual general meeting on their appointment, the members of the supervisory board are appointed for the period up to the end of the annual general meeting that resolves to grant formal approval of their actions for the fourth financial year after their term of office begins. The financial year in which the term of office begins is not counted. Supervisory board members can be re-elected.

(v) Appointment by a court

In principle, no changes result from the conversion with regard to the appointment of supervisory board members by a court. If the supervisory board of a public limited company does not consist of the number of members required for it to be quorate or is otherwise below the required numbers, the competent court has to appoint additional members to it upon the request of the management board, a member of the supervisory board or a shareholder (section 104 AktG). This also applies in the case of an SE with its registered office in Germany (article 9(1) c) (ii) of the SE Regulation).

(vi) Incompatibility of concurrent membership of the management board and supervisory board

In neither a public limited company nor an SE may a person be a member of the management board and the supervisory board at the same time (section 105(1) AktG, article 39(3) of the SE Regulation).

If a member of the management board of a public limited company is absent or is unable to perform their duties, the supervisory board can – by way of exception – appoint individual members of the Supervisory Board as substitutes for this member of the management board. The person in question may not exercise their function as a member of the supervisory board for the period of the appointment. The appointment must be made for a limited period set in advance, which may not be more than one year (section 105(2) AktG).

There is also no difference in this respect between the company and Instone Real Estate Group SE: if in the case of an SE there is a vacancy on the management organ, a member of the Supervisory Board can be nominated to perform the relevant duties. The functions of the person concerned as a member of the supervisory organ are also suspended during this period when an appointment of this kind is made. The appointment is also permitted only for a limited period set in advance, which is a maximum of one year (article 39(3) of the SE Regulation, section 15 SEAG).

(vii) Internal regulations and adoption of resolutions

The supervisory board of a public limited company elects a chair and at least one deputy chair (section 107(1) sentence 1 AktG). The same is ultimately true in an SE (article 42(1) of the SE Regulation, article 9(1) (c) (ii) of the SE Regulation in conjunction with section 107(1) sentence 1 AktG). The Articles of Association of Instone Real Estate Group SE provide for the election of a Chair as well as a Deputy Chair in article 13.1 sentence 1.

Unless otherwise regulated in the articles of association, the supervisory board of an SE is quorate when at least half of its members are present or represented (article 50(1) (a) of the SE Regulation) and takes decisions by

a majority of the votes of the members present or represented (article 50(1) (b) of the SE Regulation). The chair has the casting vote in the event of a tie without a second resolution of the supervisory board being required (article 50(2) of the SE Regulation).

Although the SE Regulation does not include any regulations on the establishment of supervisory board committees, the establishment of committees of this kind is consistent with good corporate governance as well the company's practice. The government bill on the strengthening of financial market integrity (FISG) of 15 December 2020 additionally provides that the establishing of an audit committee will even be mandatory for capital market-oriented companies. To the extent permitted by law, the Supervisory Board of Instone Real Estate Group SE will therefore transfer various powers of the full supervisory organ to Supervisory Board committees as was previously the case. Article 13.4 of the Articles of Association of Instone Real Estate Group SE contain an appropriate clarification on this.

(viii) Convening the supervisory board

Each supervisory board member of a public limited company and of an SE or the management board can request, while stating the purpose and the reasons for this, that the chair of the supervisory board convene the supervisory board without undue delay. If this meeting does not take place within two weeks, the supervisory board member or the management board can convene the board themselves. At listed companies, the supervisory board must hold two meetings every six months of the calendar year (section 110 AktG, article 9(1) (c) (ii) of the SE Regulation).

(ix) Duties and rights of the supervisory board

The primary duty of the supervisory board of a public limited company consists in monitoring the business management by the management board (section 111(1) AktG). This corresponds to the description of the duties of the supervisory organ of an SE contained in article 40(1) sentence 1 of the SE Regulation. Neither the supervisory board of a public limited company nor the supervisory board of an SE may itself exercise the power to manage the SE in principle (section 111(4) sentence 1 AktG, article 40(1) sentence 2 of the SE Regulation).

Both in the public limited company and in the SE, certain transactions may be conducted only with the approval of the supervisory board. In the public limited company, these transactions can be stipulated in the articles of association, where it is also sufficient for the supervisory board to define transactions of this kind in rules of procedure (section 111(4) sentence 2 AktG). In the SE legislation, on the other hand, a catalogue of transactions which require authorisation must necessarily be included in the articles of association (article 48(1) sentence 1 of the SE Regulation). The supervisory board can additionally make specific types of transactions subject to its approval (article 48(1) sentence 2 of the SE Regulation, section 19 SEAG).

Against this background, article 10.2 of the Articles of Association of Instone Real Estate Group SE contains a catalogue of specific types of transactions that may be conducted only with the approval of the Supervisory Board. Article 10.3 of the Articles of Association makes clear that the Supervisory



Board can make certain other types of transactions by the Management Board subject to approval.

Extensive rights of control are assigned to the supervisory board both at the public limited company and at the SE so that it can perform its supervisory function. The AktG expressly stipulates that the supervisory board can inspect and audit the books and records of the company as well as its assets (section 111(2) sentence 1 AktG). The supervisory board of the SE can also undertake or arrange for any investigations necessary for the performance of its duties (article 41(4) of the SE Regulation).

(a) Due diligence and non-disclosure requirements

In carrying out their duties, the members of the supervisory board of a public limited company as well as of an SE have to apply the due care and diligence of a prudent and conscientious administrator (section 116 sentence 1 in conjunction with section 93(1) sentence 1 AktG, article 51 of the SE Regulation). They are bound by the requirement not to disclose any confidential reports they have received or confidential discussions they have been privy to (section 116 sentence 2 AktG). The members of an SE's supervisory board may not, even after they have ceased to hold office, divulge information concerning the SE, the disclosure of which might be prejudicial to the company's interests, except where such disclosure is required or permitted under national law provisions applicable to public limited companies or is in the public interest (article 49 of the SE Regulation).

(b) Representation of the company in respect of members of the management board

As in the case of a public limited company, the supervisory board of an SE also represents the company in respect of management board members in and outside court (section 112 AktG, article 9(1) (c) (ii) of the SE Regulation).

(c) Remuneration of supervisory board members, contracts with supervisory board members and granting of credit

The regulations of the AktG on the remuneration of the supervisory board members, on the contracts with supervisory board members and on the granting of credit to supervisory board members (sections 113 to 115 AktG) also apply for the SE (article 9(1) (c) (ii) of the SE Regulation). The remuneration of the Supervisory Board of Instone Real Estate Group SE is regulated in article 14 of the Articles of Association of Instone Real Estate Group SE.

**4.5.4** Annual general meeting

(i) Rights of the annual general meeting

The shareholders of a public limited company exercise their rights in the matters of the company at the annual general meeting, unless otherwise provided for by law (section 118(1) AktG). The members of the management board and of the supervisory board shall attend the annual general meeting (section 118(3) AktG). This also applies for the SE by virtue of the reference

of article 9(1) (c) (ii) of the SE Regulation. No changes result in this respect from the conversion of the company into an SE.

The annual general meeting of a public limited company or of an SE with its registered office in Germany decides on matters for which the responsibility is assigned to the annual general meeting of a German public limited company either on account of national regulations or on account of provisions in the articles of association. These include in particular the appointment of the members of the supervisory board, the appropriation of the net retained profit, the formal approval of the actions of the members of the management board and supervisory board, the engagement of the auditor of the financial statements, amendments to the articles of association or capital measures (capital increases and capital reductions), including the creation of authorised and contingent capital (section 119(1) AktG, article 52 paragraph 2 of the SE Regulation). The annual general meeting of a public limited company or of an SE with its registered office in Germany can in principle make decisions on matters of the management only if the management board requests this (section 119(2) AktG, article 52 paragraph 2 of the SE Regulation). There are exceptions based on the case law of the German Federal Court of Justice that apply to structural measures which, although they fall under the management competence of the management board, approximate an amendment to the articles of association and impinge heavily on the rights of shareholders. This principle also applies to an SE with its registered office in Germany (cf. article 52 paragraph 2 of the SE Regulation), meaning that no changes result in this respect from the conversion of the company into an SE.

The annual general meeting of a listed public limited company adopts a resolution on the approval of the remuneration system for the members of the management board presented by the supervisory board when there is any material change in the remuneration system, but at least every four years (section 120a(1) sentence 1 AktG). The first resolution has to be adopted by the end of the first annual general meeting that follows 31 December 2020 (section 26j(1) sentence 1 of the Einführungsgesetz zum Aktiengesetz (EGAktG – Introductory Act to the Stock Corporation Act). Furthermore, the annual general meeting adopts a resolution on the approval of the remuneration report for the past financial year (section 120a(4) sentence 1 AktG). The first resolution has to be adopted by the end of the first annual general meeting, calculated from the beginning of the second financial year that follows 31 December 2020 (section 26j(1) sentence 3 EGAktG). The regulations in question also apply to an SE with its registered office in Germany (article 9(1) (c) (ii) of the SE Regulation).

Furthermore, the decision-making authority of the annual general meeting of both a public limited company and an SE includes decisions on the authorisation of the management board to acquire and to use treasury shares (section 71(1) no. 8 AktG, authorisations to issue convertible bonds, participating bonds and profit participation rights (section 221 AktG) as well as measures under the law on conversions pursuant to the Umwandlungsgesetz (UmwG – Transformation Act) (e.g. mergers or spin-offs).

The annual general meeting of an SE decides on matters for which it is given sole responsibility by the SE Regulation or by the legislation of the

member state in which the SE's registered office is situated adopted in implementation of Directive 2001/86/EC (SE employee involvement directive) (article 52 paragraph 1 of the SE Regulation). These are in particular the transfer of the registered office (article 8 of the SE Regulation) and the conversion back to a public limited company governed by the law of the Member State in which its registered office is situated (article 66 of the SE Regulation).

- (ii) Formal approval of the actions of the management board and supervisory board

The annual general meeting of a public limited company decides on the formal approval of the actions of the management board and the supervisory board in the first eight months of the financial year. By adopting the resolution on granting formal approval, it endorses the management of the company by the members of the management board and of the supervisory board (section 119(1) no. 4, section 120 AktG).

The regulations of company law also apply in principle without restriction to the SE with its registered office in Germany (article 52 paragraph 2, article 53 of the SE Regulation).

- (iii) Convening the annual general meeting

The annual general meeting of an SE can be convened at any time by the management board or supervisory board in accordance with the national law applicable to public limited companies in the member state in which the SE's registered office is situated (article 54(2) of the SE Regulation). A difference here is that the annual general meeting of a public limited company has to be held in principle in the first eight months after the end of the financial year (section 120(1) sentence 1 AktG), while at an SE this period is in principle six months (article 54(1) sentence 1 of the SE Regulation).

- (iv) Convening the annual general meeting and supplementing the agenda at the request of a minority

The Annual General Meeting of a public limited company has to be convened if shareholders whose combined shares constitute 5% of the share capital request this in writing and state the purpose and the reasons for the meeting (section 122(1) AktG). These shareholders have to provide proof that they have owned the shares for at least 90 days before the date that the request is received and that they will hold the shares until the decision on the request is made, i.e. until authorisation by a court is issued or until the meeting is convened by the management board, (section 122(1) sentence 3 in conjunction with section 142(2) sentence 2 AktG). In the same way, shareholders whose combined shares constitute more than 5% of the share capital or a pro rata amount of the share capital totalling EUR 500,000.00 may request that items of business requiring the adoption of a resolution of the annual general meeting are published (section 122(2) AktG). If the request is not met, the court can authorise the shareholders who have made the request to convene the annual general meeting or to publish the item of business (section 122(3) sentence 1 AktG). The articles of association can link the request to a different form and to the ownership of a smaller percentage of the share capital.

One or more shareholders who together hold at least 5% of an SE's subscribed capital may request the SE to convene the annual general meeting and draw up its agenda (article 55(1) of the SE Regulation in conjunction with section 50(1) SEAG). The request that an annual general meeting be convened shall state the items to be put on the agenda (article 55(2) of the SE Regulation). Upon request, the court can authorise the shareholders to convene the annual general meeting if the annual general meeting is not held at the latest two months after the request to convene it has been made (article 55(3) of the SE Regulation). In contrast to the procedure for convening the annual general meeting of a public limited company by a minority, a minimum holding period of 90 days before the request is submitted is not necessary in the case of an SE.

One or more shareholders who together hold at least 5% of the share capital or a pro rata amount of the share capital of EUR 500,000.00 may request that one or more additional items be put on the agenda of an annual general meeting of an SE (article 56 of the SE Regulation, section 50(2) SEAG).

The procedures and time limits are governed by national law, thus here by the SEAG and by sections 122 ff. AktG (cf. article 56 sentence 2 of the SE Regulation in conjunction with section 50 SEAG). Also with regard to the addition of items to the agenda, a minimum holding period of 90 days before the request is submitted is not necessary in the case of an SE (unlike in company law).

(v) Organisation and conduct of the annual general meeting

The organization and conduct of the annual general meeting of an SE, are governed in principle by the regulations applicable to public limited companies (article 53 of the SE Regulation), meaning that no differences result for the shareholders from the conversion of the company into an SE.

Just as for the public limited company, the regulations concerning the information, notices and announcements to be provided in or in connection with the invitation convening the meeting (sections 121(3) and (4a), 124(1), 124a AktG) as well as concerning the possibilities for participating online (section 118(1) sentence 2 AktG) and for a postal vote (section 118(2) AktG) that the articles of association can stipulate or which the articles of association can authorise the management board to provide thus also apply for the SE.

(vi) Right of the shareholders to speak and to ask questions at the annual general meeting

In the public limited company, information on the company's affairs must be provided by the management board to each shareholder on their request at the annual general meeting if the information is required to make an informed judgement on the item of the agenda (section 131(1) AktG). Reasonable time limits can be placed on the shareholders' right to ask questions and to speak and the requests for information can be refused under certain conditions regulated in detail in the AktG (section 131(2) sentence 2 and (3) AktG). These regulations also apply to an SE with its registered office in Germany (article 9(1) (c) (ii) of the SE Regulation). The right of the company's shareholders to speak and to ask questions is maintained without any changes by the conversion of the company into an SE.

(vii) Special features in the case of virtual annual general meetings

Special features defined in deviation from the above apply for virtual annual general meetings that are held in accordance with section 1(1), (2) and (3) of the Act on Measures in Corporate, Cooperative, Association, Foundation and Home Ownership Law to Combat the Effects of the COVID-19 Pandemic as amended on 22 December 2020 (“**COVID-19 Act**”). The COVID-19 act applies to the public limited company and to the SE.

(viii) Rules of procedure of the annual general meeting

The annual general meeting of the public limited company can adopt rules of procedure for itself by a majority comprising at least three quarters of the share capital represented at the time the resolution is adopted, which set out the rules governing the organisation and the conduct of the annual general meeting (section 129(1) sentence 1 AktG). This power also exists in the SE through the reference in article 53 of the SE Regulation. The prevailing opinion there, however, is that the resolution shall be adopted by a majority of three quarters of the votes cast and not of the share capital that is represented. This follows from the fact that, in the provisions of the SE Regulation dealing with the vote, reference is made only to the majority of votes and not to the majority of the capital (see articles 57 and 59 of the SE Regulation). Accordingly, in this view, the provisions of the AktG that call for a majority of the capital have to be applied in the SE in such a way that this majority of votes cast is sufficient. This is of no practical relevance for the German SE, however, as there are no shares with multiple voting rights in German law and the majority of the capital therefore always corresponds to the majority of votes cast.

(ix) Simple resolutions that do not amend the articles of association

The resolutions of the annual general meeting of a public limited company require a majority of the votes cast (simple majority), unless the law or the articles of association stipulate a larger majority or additional requirements (section 133(1) AktG). In accordance with the AktG, increased requirements for a majority that cannot be reduced by the articles of association apply in certain cases, specifically a majority of at least three quarters of the share capital represented in the vote on the resolution. This is true in particular for an exclusion of the shareholders’ subscription rights by the annual general meeting or a corresponding authorisation of the management board to exclude subscription rights, the approval of the annual general meeting of the public limited company to company agreements or conversion measures that affect the company.

In the SE, resolutions of the annual general meeting are adopted by a simple majority of votes validly cast, unless the SE Regulation or the national law applicable to public limited companies in the Member State in which an SE’s registered office is situated requires a larger majority (article 57 of the SE Regulation). At Instone Real Estate Group SE, resolutions of the Annual General Meeting are accordingly adopted pursuant to article 21.4 of the Articles of Association in principle by a simple majority of the votes validly cast, unless otherwise stipulated as mandatory by the law or the Articles of Association. In view of article 57 of the SE Regulation, the articles of associa-

tion can relate higher requirements for a majority exclusively to amendments to the Articles of Association, because only here is there an opening in favour of majority requirements defined by the articles of association that go further than the law. The provisions of the AktG that require a majority of the capital (for example sections 179(2) sentence 1, 186(3), 293(1) sentence 2 AktG in addition to section 129 AktG) must be applied at the SE, according to the prevailing view in the legal literature, in such a way that the corresponding majority of votes is required and is sufficient. This issue is of no practical relevance for the German SE, however, as there are no shares with multiple voting rights in German law and the majority of the capital therefore always corresponds to the majority of votes cast.

The conversion into an SE thus does nothing in substance to change the principle applicable to the company pursuant to section 133(1) AktG of the simple majority of votes for resolutions of the annual general meeting that do not amend the articles of association. Where the AktG or the UmwG sets requirements for resolutions – specifically a majority of at least three quarters of the share capital represented in the adoption of a resolution – other than those that can be reduced by the articles of association, a corresponding majority of votes that cannot be reduced by the articles of association applies at the SE with its registered office in Germany, meaning that no changes factually result from the conversion into the SE in this regard, either.

(x) Resolutions amending the articles of association

Resolutions amending the articles of association of a public limited company require a majority of at least three quarters of the share capital represented in the adoption of the resolution as well as a simple majority of votes (sections 179(2) sentence 1, 133(1) AktG). The articles of association can stipulate a different majority, but only a larger majority of the capital for any change to the purpose of the company (section 179(2) sentence 2 AktG). Also if the amendment to the articles of association contains an exclusion of subscription rights and authorises the management board to implement this, a majority of three quarters of the share capital represented in the adoption of the resolution, thus going further than a simple majority, is required as mandatory (section 186(3) AktG).

The amendment of an SE's articles of association requires a decision by the annual general meeting taken by a majority which may not be less two thirds of the votes cast, unless the law applicable to public limited companies in the member state in which the SE's registered office is situated requires or permits a larger majority (article 59(1) of the SE Regulation). In amendments to the articles of association for which German company law already requires a three quarters majority of the capital as mandatory, a majority of no less than three quarters of the votes cast is accordingly necessary at the SE.

However, the articles of association of an SE with its registered office in Germany can stipulate that for a resolution of the annual general meeting on the amendment of the articles of association a simple majority of the votes cast suffices if at least half of the share capital is represented (sec-

tion 51 SEAG, article 59(2) of the SE Regulation). This does not apply, however, for a change to the purpose of the company, to a resolution pursuant to article 8(6) of the SE Regulation and to cases where a higher majority of the capital is required as mandatory in German law. The Articles of Association of Instone Real Estate Group SE have made use of the option in section 51 SEAG and provide a corresponding regulation in the Articles of Association (cf. article 21.4 of the Articles of Association of Instone Real Estate Group SE as well as section 5.2.22 of this conversion report).

As a result of the regulations in article 59 of the SE Regulation and section 51 SEAG in conjunction with the Articles of Association of Instone Real Estate Group SE, the requirements relating to resolutions for Instone Real Estate Group SE are therefore more stringent compared with the company in so far as amendments to the SE's Articles of Association can continue to be adopted by a simple majority of votes, but only when half of the share capital is represented. In the case of amendments to the articles of association for which German company law stipulates a three quarters majority of the capital as mandatory, a corresponding majority of the votes is required.

Through the reference provided in article 9(1) (c) (ii) of the SE Regulation, section 179(1) sentence 2 AktG also applies to the SE, meaning that, also at the SE, the annual general meeting can delegate the power to make amendments to the articles of association affecting only the working to the supervisory board. As in the company's Articles of Association, this kind of authorisation of the Supervisory Board is also provided in article 18.3 of the Articles of Association of Instone Real Estate Group SE.

- (xi) Special audit, claims for compensation against company organs and legal action of shareholders

The regulations under company law on the special audit (sections 142, 258 AktG) also apply at an SE (article 9(1) (c) (ii) and article 52 paragraph 2 of the SE Regulation). This also applies for the regulations under company law on the assertion of claims for compensation and legal action by shareholders in sections 147 ff. AktG (article 9(1) (c) (ii) of the SE Regulation), meaning that no changes result for the shareholders from the conversion of the company into an SE also in this respect.

#### 4.5.5 Annual financial statements, consolidated financial statements

With regard to the preparation of the annual financial statements and the consolidated financial statements including the accompanying management report as well as the audit and publication of the financial statements, no changes result from the conversion of the company into an SE. The SE is governed in this regard by the rules applicable to public limited companies (article 61 of the SE Regulation). Otherwise the regulations of the AktG and of the Handelsgesetzbuch (HGB – German Commercial Code) apply by virtue of article 9(1) (c) (ii) of the SE Regulation.

#### 4.5.6 Measures to raise or to reduce share capital

With regard to the measures to raise or to reduce the share capital, the regulations under company law apply in principle for the SE.

**4.5.7** Annulment of resolutions of the annual general meeting and of the approved annual financial statements, special audit due to impermissible undervaluation

(i) Annulment and contestability of resolutions of the annual general meeting

The regulations relating to the contestability or annulment of resolutions of the annual general meeting in accordance with the AktG (sections 241 ff. AktG) apply to the SE (article 9(1) (c) (ii) of the SE Regulation).

(ii) Invalidity of the approved annual financial statements

Also with regard to any invalidity of approved annual financial statements, no changes result from the conversion of the company into an SE, as the regulations under company law (sections 256, 257 AktG) remain application in this respect (article 9(1) (c) (ii) of the SE Regulation).

(iii) Special audit for impermissible undervaluation

Finally, the regulations governing the special audit for impermissible undervaluation (sections 258 to 261a AktG) also apply to the SE (article 9(1) (c) (ii) of the SE Regulation). No changes consequently result from the conversion of the company into an SE in this respect, either.

**4.5.8** Winding up and annulment of the company

As regards winding up, liquidation, insolvency, cessation of payments and similar procedures, an SE shall be governed by the legal provisions which would apply to a public limited company formed in accordance with the law of the member state in which its registered office is situated, including provisions relating to decision-making by the annual general meeting (article 63 of the SE Regulation). No changes consequently arise in this respect as a result of the conversion of the company into an SE. However, a cross-border relocation of the registered office of the SE to another member state would – unlike in the case of the public limited company – not result in the winding up of the SE (article 8(1) of the SE Regulation).

The regulations governing the winding up of a public limited company by order of a court (sections 396 to 398 AktG) are applicable to an SE with its registered office in Germany (article 9(1) (c) (ii) of the SE Regulation and article 63 of the SE Regulation), meaning that nothing changes in this respect as a result of the company's conversion into an SE.

**4.5.9** Affiliated companies

Prevailing opinion is of the view that national law on groups of companies applies to the SE with its registered office in Germany. In terms of the applicable law on groups of companies, no changes consequently result from the conversion of the company into an SE.

**4.5.10** Regulations on criminal penalties and administrative fines

Finally, the regulations on criminal penalties and administrative fines in sections 399 ff. AktG also apply to an SE with its registered office in Germany (section 53 SEAG). Also in this respect, no changes result from the conversion of the company into an SE.



#### 4.5.11 German Corporate Governance Code

In accordance with section 161 AktG, the management board and supervisory board of a German listed public limited company have to make a declaration on the recommendations of the German Corporate Governance Code (the “code”) every year.

The contents of the code concern the legal and factual regulatory framework for the management and supervision of a company. The code contains principles, recommendations and suggestions for the management board and supervisory board that are intended to contribute to good corporate governance. The principles reflect important legal requirements for responsible corporate governance and thus serve information purposes in particular. The recommendations and the suggestions are not binding. In the declaration of compliance, the management board and supervisory board have to state annually whether and which recommendations of the code have been or are deviated from and why.

The company last issued a declaration of compliance in December 2020. The declaration can be found on the company’s homepage ([https://ir.de.instone.de/download/companies/instonereal/CorporateGovernance/Instone\\_Entsprechenserklaerung\\_2020.pdf](https://ir.de.instone.de/download/companies/instonereal/CorporateGovernance/Instone_Entsprechenserklaerung_2020.pdf)).

The Management Board and the Supervisory Board of the future Instone Real Estate Group SE will also be required to issue a corresponding declaration (article 9(1) (c) (ii) of the SE Regulation). No changes result from the conversion in this respect.

### 4.6 Process for the conversion into Instone Real Estate Group SE

The process for converting the company into an SE is described in the following. The conversion requires that the Annual General Meeting of the company agree to this measure on this basis of the terms of conversion of 22 April 2021 and approve the Articles of Association of Instone Real Estate Group SE. The conversion comes into effect only when it is entered in the commercial register of the Local Court of Essen

#### 4.6.1 Preparation of the terms of conversion

In accordance with article 37(4) of the SE Regulation, the Management Board is required to draw up terms of conversion. The terms of conversion were drawn up by the company’s Management Board in an official deed recorded by a notary on 22 April 2021.

In relation to the terms of conversion, neither article 37(4) of the SE Regulation nor the SEAG place specific requirements on the (minimum) contents of the terms. When drawing up the terms of conversion, the Management Board was guided by the requirements for draft terms of merger in the formation of the SE (cf. article 20 of the SE Regulation) where this seemed appropriate to it (for example with regard to information on the name and registered office of the company, special rights, special advantages for specific groups of persons, the SE’s Articles of Association as well as information on the arrangements for the involvement of the employees, etc.). Furthermore, the Management Board complied with the requirements for a resolution on the conversion pursuant to German law (sections 193 ff. UmwG) where this seemed appropriate to it (for example information on the consequences of the conversion for the employees and their representative bodies).

The terms of conversion, including the statutes of Instone Real Estate Group SE attached as an annex, will be made available to the shareholders on the company's homepage and can be downloaded at <https://ir.de.instone.de/websites/instone-real/English/6000/annual-general-meeting.html>. Furthermore, the terms of conversion will be available for inspection during the Annual General Meeting. The terms of conversion and the Articles of Association are both explained in more detail in section 5 of this conversion report.

Having thoroughly analysed the conversion project, the Supervisory Board of the company decided at its meeting on 23 April 2021 to submit the terms of conversion, including the Articles of Association of Instone Real Estate Group SE in the version adopted by the Management Board, to the Annual General Meeting of the company on 9 June 2021 for approval.

#### 4.6.2 Conversion audit

Pursuant to article 37(6) of the SE Regulation, one or more independent experts have to certify before the resolution on the conversion into an SE is adopted by the annual general meeting of the company that the company has net assets at least equivalent to its share capital plus the reserves which must not be distributed under the law or the articles of association (capital cover audit).

By a ruling of 16 December 2020, the regional court of Dortmund appointed Deloitte GmbH Wirtschaftsprüfungsgesellschaft, Düsseldorf, as the independent expert ("**conversion auditor**"). The conversion auditor started work on the audit in January 2021 and issued the certificate pursuant to article 37(6) of the SE Regulation on 19 April 2021. The assessment of the conversion auditor on the capital cover audit has concluded with the following finding:

*"In accordance with the mandate given to us, we have examined the capital coverage of Instone Real Estate Group AG. Following the final result of our audit based on the documents submitted to us and the information and evidence provided to us, and on the basis of the considerations and methods set out in this report, we confirm that Instone Real Estate Group AG, Essen, has net assets at least in the amount of its share capital plus the reserves that must not be distributed under the law or the articles of association.*

*In addition, we confirm that Instone Real Estate Group AG will also have net assets on the date of the Annual General Meeting resolving on the change of legal form on June 9, 2021, according to its budgeted figures, which cover the capital to be certified of EUR 243,214,268.07."*

Shareholders will be able to access the certificate of the conversion auditor on the company's homepage, where it can be downloaded from <https://ir.de.instone.de/websites/instone-real/English/6000/annual-general-meeting.html>, and it will be available for inspection during the Annual General Meeting.

Apart from the capital cover audit by the conversion auditor, no additional audits or reports are required. In particular, a formation audit by an external formation auditor in accordance with the general formation regulations applicable to a public limited company (section 33(2) AktG) is not necessary in the case of a conversion into an SE. The same applies for a formation report and also an internal formation audit by the management board and the supervisory board as are stipulated for the formation of a public limited company (section 32 and section 33(1) AktG).

#### 4.6.3 Disclosure

Pursuant to article 37(5) of the SE Regulation in conjunction with the legal regulations that implement article 3 of the First Company Law Directive (Directive 68/151/EEC) in German law, the terms of conversion shall be published at least one month before the date of the annual general meeting that is called upon to decide on the conversion.

The conversion report and the terms of conversion will be published together with the other documents that have to be published from the time the annual general meeting of the company is convened on the company's homepage and can be downloaded from <https://ir.de.instone.de/websites/instonereal/English/6000/annual-general-meeting.html>.

#### 4.6.4 Annual general meeting of the company

Pursuant to article 37(7) of the SE Regulation, the terms of conversion and the Articles of Association of Instone Real Estate Group SE require the approval of the Annual General Meeting of the company. As part of the terms of conversion, Deloitte GmbH Wirtschaftsprüfungsgesellschaft, Düsseldorf, is appointed as the first auditor of the financial statements of Instone Real Estate Group SE.

The resolution of the annual general meeting requires a majority that is larger than a simple majority of votes and comprises at least three quarters of the share capital represented in the adoption of the resolution (article 37(7) sentence 2 in conjunction with section 65(1) sentence 1 UmwG).

#### 4.6.5 Arrangements for employee involvement

An integral part of the process for converting the company into an SE is the implementation of a negotiating procedure on the involvement of the employees of the company and its subsidiaries in the future Instone Real Estate Group SE.

The procedure is determined by the SEBG, which implements Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees ("**SE Directive**") in German law. In addition, the relevant national regulations on the implementation of the SE Directive in the respective members states in relation to specific aspects of the process have to be applied.

The goal of the negotiating procedure is to conclude an agreement within the meaning of section 21 SEBG on the future involvement of the employees in Instone Real Estate Group SE.

Section 2(8) to (12) SEBG defines the terms relevant for the arrangements of the employee involvement as follows:

- Involvement of employees: any mechanism, including information, consultation and participation, through which employees' representatives may exercise an influence on decisions to be taken within the company.
- Participation rights: rights to which the employees and their representatives are entitled in the area of information, consultation, participation and other involvement.
- Information: the informing of the SE works council or other employees' representatives by the management of the SE on questions which concern the

SE itself and any of its subsidiaries or establishments situated in another member state or which exceed the powers of the competent organs in a single member state. The time, manner and content of the information have to be selected in such a way that allows the employees' representatives to undertake an in-depth assessment of the possible impact and, where appropriate, prepare consultations with the management of the SE.

- Consultation: the establishment of dialogue and exchange of views between the SE works council or other employees' representatives and the management of the SE or another competent management level furnished with its own decision-making powers. The time, manner and content of the consultation must allow the SE works council, on the basis of the information provided, to express an opinion on measures envisaged by the SE's management which may be taken into account in the decision-making process within the SE.
- Participation: the influence of the employees in the affairs of a company by way of (i) the exercising of the right to elect or appoint some of the members of the company's supervisory or administrative organ or (ii) the exercise of the right to recommend or oppose the appointment of some or all of the members of the company's supervisory or administrative organ.

(i) Institution of the negotiating process

Pursuant to section 4(1) and (2) SEBG, the arrangements for involving the employees are initiated by the management of the company involved in the conversion –here: the company's Management Board – informing the employee representative bodies at the company and at the concerned subsidiaries and concerned establishments of the conversion project and requesting them to create a special negotiating body ("**SNB**"). Only if there is no employee representative body in place are the employees informed directly (section 4(2) sentence 2 SEBG).

In accordance with section 4(3) SEBG, the information extends in particular to (i) the identity and structure of the companies involved, the subsidiaries concerned and the establishments concerned and their distribution across the member states, (ii) the employee representative bodies existing at these companies and establishments, (iii) the number of employees employed in each of these companies and establishments and the total number of employees employed in a member state to be calculated from this and (iv) the number of employees entitled to participation rights in the executive bodies of these companies.

In accordance with these requirements, the company's Management Board informed the General Works Council of Instone Real Estate Development GmbH and the executives of the Instone Group on 28 October 2020 of the intended conversion of the company into the legal form of an SE and requested them to create an SNB.

(ii) Creation and composition of the SNB

The SNB comprises representatives of the employees from all member states in which staff are employed. Pursuant to section 11(1) sentence 1 SEBG, the election or appointment of the members of the SNB should be carried out within ten weeks after the employees have been informed as

stipulated in section 4(2) and (3) SEBG. Management has to be notified of the members (including the substitute members) of the SNB without undue delay (section 11(1) sentence 2 SEBG).

Immediately after the members of the SNB have been notified to the management of the company involved in the conversion – here: the company's Management Board – but no later than after the expiry of the period of ten weeks after the employees have been informed pursuant to section 4(2) and (3) SEBG, the management board has to invite the members to the inaugural meeting of the SNB (section 12(1) SEBG).

The negotiation procedure pursuant to sections 12 to 17 SEBG also takes place in accordance with section 11(2) sentence 1 SEBG if the ten-week period is exceeded for reasons for which the employees are responsible. Members of the SNB who have been elected or appointed after the period has expired can take part in the negotiations at any time, however (section 11(2) sentence 2 SEBG).

(a) Allocation of seats to the member states

In accordance with section 5(1) SEBG, at least one seat on the SNB is allocated to each member state in which staff are employed. The number of seats allocated to a member state is increased by one more seat in each case if the number of staff employed in the member state exceeds the threshold of 10%, 20%, 30%, etc., of all staff employed in the member states.

As the whole of the workforce of the Instone Group (i.e. 100%), based on the employment figures as at 28 October 2020, is concentrated in Germany, the SNB consists in the present case of ten seats, all of which are allocated to Germany.

If changes in the structure and number of the staff of the Instone Group employed in the relevant member states arise in the course of the duration of the SNB's work in such a way that the specific composition of the SNB would be changed, the composition of the SNB has to be amended accordingly (section 5(4) SEBG).

(b) Election of the members of the SNB allocated to Germany

The members of the SNB allocated to Germany were elected in a direct and secret ballot by an election committee that was created in accordance with section 8(2) SEBG from the members of the highest-ranking employee representative body. These are the members of the General Works Council in place at Instone Real Estate Development GmbH. The election and the weighting of the votes on the election committee are determined in accordance with section 10 SEBG.

All employees (including the executives within the meaning of section 5(3) sentence 2 of the Betriebsverfassungsgesetz (BetrVG – Works Council Constitution Act)) of all companies involved in or affected by the conversion, i.e. here all employees of the company and of Instone Real Estate Development GmbH, are eligible for election to the SNB pursuant to section 6(2) SEBG. Although this is not laid down as mandatory, but nevertheless as far as it is possible, women and men shall

be elected here in proportion to their numbers in the companies, so that the SNB constitutes a mirror image of the workforce in terms of the gender balance. A substitute member has to be elected for each member. With regard to the composition of the SNB, the requirements arising from section 6(3) and (4) SEBG additionally have to be complied with,

(iii) Possible results of the arrangements for regulating employee involvement

From the date that the SNB is constituted, the Management Board of the company can open negotiations with the SNB on entering into an agreement on the involvement of the employees in Instone Real Estate Group SE. The subject matter of the involvement agreement shall be the establishment of a procedure for the purposes of informing and consulting the employees of the Instone Group in cross-border matters concerning the SNB and its subsidiaries in the member states (e.g. by setting up an SE works council). A duration of up to six months, which can be extended to one year by mutual agreement, is provided by law for the negotiations (section 20 SEBG).

Under certain conditions, the SNB can decide in accordance with section 16(1) SEBG not to open negotiations or to terminate negotiations that have already been opened. The regulations governing information and consultation that are in force in the members states would apply in both cases (section 16(1) sentence 3 SEBG). Furthermore, a decision in accordance with section 16(1) SEBG would end the process to enter into the agreement pursuant to section 21 SEBG. Furthermore, the statutory standard rules of sections 22 to 38 SEBG would not apply (section 16(2) SEBG).

The SNB was constituted in the present case on 11 January 2021 on the invitation of the company's Management Board. The negotiations between the company's Management Board and the SNB on the involvement agreement commenced on the date that the SNB was constituted and are currently still in progress.

(a) Contents of a possible agreement between the management and the SNB

The objective of the negotiations is to enter into a participation agreement. Without prejudice to the autonomy of the parties and subject to section 21(6) SEBG, the following is laid down in accordance with section 21 SEBG in an involvement agreement:

- the scope of the involvement agreement (including the companies and establishments located outside the territory of the member states, if these are covered by the scope of the involvement agreement).

If an SE works council is created, the following is laid down in the involvement agreement:

- the composition of the SE works council, the number of members, the allocation of seats, including the effects of significant changes to the number of employees employed in the SE;

- the functions and the procedure for informing and consulting the SE works council;
- the frequency of the meetings of the SE works council;
- the financial and material resources to be allocated to the SE works council; and
- the date that the agreement enters into force and its duration, cases where the agreement should be renegotiated and the procedure for its renegotiation.

If an SE works council is not created, the following is laid down in the involvement agreement:

- the arrangements for implementing the procedure or the procedures for informing and consulting the employees.

The involvement agreement can additionally contain other regulations (cf. section 21(3) to (5) SEBG).

(b) Statutory standard rules

If an agreement on the involvement of the employees is not concluded within the period provided (section 20 SEBG) and if the SNB also decides not to open the negotiations or to terminate them, the statutory standard rules apply (section 22 to 38 SEBG). The application of the statutory standard rules can also be agreed between the management –here: the company's Management Board – and the SNB in the involvement agreement (section 21(5) SEBG, section 22(1) no. 1 SEBG).

The application of the statutory standard rules pursuant to sections 23 to 33 SEBG would mean that an SE works council would have to be established in accordance with section 23 SEBG, the task of which would consist in ensuring that the employees in the SE are informed and consulted. It would be competent for questions which concern the SE itself and any of its subsidiaries or establishments situated in another member state or which exceed the powers of the competent organs in a single member state (section 27 SEBG). The SE works council would have to be informed and consulted on the progress of the business of Instone Real Estate Group SE and its prospects at least once in the calendar year in a joint meeting (section 28 SEBG). The SE works council would also have to be informed and consulted during the year on exceptional circumstances that have significant impacts on the interests of the employees (section 29 SEBG).

The regulations on the involvement of the employees by virtue of the law in accordance with sections 35 to 38 SEBG do not apply in the present case pursuant to section 34(1) no. 1 SEBG, as Instone Real Estate Group SE is formed by way of a conversion and no provisions on the involvement of employees in the Supervisory Board applied at the company before the conversion.

## (iv) Costs of the negotiation procedure and of the creation of the SNB

The costs that are incurred by the creation and the work of the SNB are borne by the company and, after the conversion comes into effect, by Instone Real Estate Group SE. The obligation to bear the costs encompasses the necessary and reasonable material and personal costs that are incurred in connection with the work of the SNB, including the negotiations, in particular for premises and material resources (e.g. phone, fax, literature) as well as the necessary travel and accommodation expenses of the SNB's members.

## (v) Participation rights under national regulations and European works council

The conversion of the company into Instone Real Estate Group SE does not effect the corporate participation rights that the employees are entitled to in accordance with national regulations.

Special features apply for the involvement of the employees in accordance with the Europäisches Betriebsräte-Gesetz ("**EBRG**" – European Works Council Act). The European works council and the SE works council perform similar functions and are therefore mutually exclusive. The SEBG determines the priority in this respect; the EBRG is not applicable (section 47(1) no. 2 SEBG). This is also the case when a different procedure for informing and consulting the employees is set up pursuant to section 21(2) SEBG.

The regulations of the EBRG apply to Instone Real Estate Group SE, however, if the SNB decides in accordance with section 16(1) SEBG not to open negotiations with the company's management or to terminate negotiations that have already been opened. In this event, an SE works council can no longer be established by virtue of an agreement (section 16(2) sentence 1 SEBG) and the regulations on the SE works council by virtue of the law pursuant to sections 22 to 33 SEBG shall not apply (section 16(2) sentence 2 SEBG). A situation in which there is competition between the SE works council and the European works council can thus not arise. Consequently, section 47(1) no. 2 SEBG clarifies for this case that the SEBG does not affect the regulations of the EBRG.

## 4.6.6 Entry of the conversion in the commercial register

The conversion of the company into an SE comes into effect when it is entered in the commercial register of the Local Court of Essen. The entry might be delayed in particular if shareholders of the company should file actions to contest the validity of or to annul the decision of the Annual General Meeting of the company of 9 June 2021 on the conversion. Should an action for avoidance or annulment be filed, this would – regardless of its prospects for success – prevent the entry of the conversion in the commercial register (block on registration).

In this event, the company would have the option of instituting proceedings at the competent higher regional court seeking entry of contested resolutions of the annual general meeting in the register and applying for a declaratory ruling to be issued that the filing of the action for avoidance or annulment does not prevent the conversion into an SE being entered in the register. A ruling of this kind will be issued if (i) the action is inadmissible or manifestly unfounded, or (ii) the plaintiff has failed to provide documents within one week after the application has been served that prove that they have held a proportionate amount of not less than EUR



1,000.00 in the share capital since the notice convening the meeting was announced or (iii) the prompt entry into force of the conversion appears to take precedence, because the material disadvantages for the company and its shareholders as set out by the petitioner outweigh, at the discretion and conviction of the court, the disadvantages for the respondent, unless the infringement is particularly severe. In all of these cases, the resolution of the Annual General Meeting 9 June 2021 on the conversion would be entered in the commercial register irrespective of any actions filed against the effectiveness of the resolution.

Furthermore, an SE can be entered in the commercial register only when an agreement on arrangements for employee involvement has been concluded, the negotiations have been terminated by a formal decision of the SNB or, if the period for negotiations has not been extended by mutual agreement pursuant to section 20(2) SEBG, the statutory period for negotiations of six months after the inaugural meeting of the SNB has expired and an agreement has not been concluded (cf. article 12(2) of the SE Regulation).

The Articles of Association of the future Instone Real Estate Group SE may not conflict at any time with the agreement negotiated on arrangements for employee involvement (article 12(4) of the SE Regulation). The Articles of Association of the future Instone Real Estate Group SE presented for approval as an integral element of the terms of conversion are consistent with the involvement of the employees in Instone Real Estate Group SE that is planned in the future; it will therefore not be necessary to adapt the Articles of Association to the involvement agreement.

If all the requirements for registration are met, the conversion of the company into the legal form of the SE is to be entered in the commercial register at the seat of the company – i.e. in the commercial register at the local court of Essen. The SE acquires its legal personality upon its entry in the register (article 16(1) of the SE Regulation). The principle of the identity of the legal entity applies during the conversion. The company is thus not terminated, nor is a new legal entity created upon the entry in the register. The company is changing only its legal form.

The members of the Management Board of Instone Real Estate Group SE have to be registered as soon as the application for registration of the conversion is submitted (article 15(1) of the SE Regulation, section 246(2) UmwG). The members of the Management Board will thus have to be appointed by the Supervisory Board of the SE to be formed before the registration is applied for. The members of the Management Board of Instone Real Estate Group SE also have to issue the necessary assurances in accordance with sections 37(2), 76(3) sentence 2 no. 2 and no. 3, sentence 3 AktG.

Instone Real Estate Group SE is created upon the entry in the companies register. Because of the identity of the legal entity of the company and of Instone Real Estate Group SE (cf. article 37(2) of the SE Regulation, it can be assumed that no previous SE exists and the shareholders of Instone Real Estate Group SE are in any event not subject to any promoter's liability. If persons should already perform legal acts in the name of the SE before Instone Real Estate Group SE is registered, these persons shall be jointly and severally liable for these without limit (article 16(2) of the SE Regulation, known as promoter liability). An action performed in the company's name does not trigger a corresponding liability. Against this background, the company can also continue to conduct its business as before in the period before the conversion into the SE is registered irrespective of promoter liability.

#### 4.6.7 Appointment of the SE's first Management Board; continuity of office of the Supervisory Board

The mandates of the current members of the company's Management Board end when the conversion comes into effect by being entered in the commercial register. The members of the Management Board of Instone Real Estate Group SE have to be appointed by the Supervisory Board. The Supervisory Board of Instone Real Estate Group SE will hold a meeting before the conversion is filed in the commercial register in order to appoint the members of the Management Board. The members of the Management Board have to be registered when the conversion is entered in the commercial register (article 15(1) of the SE Regulation in conjunction with section 246(2) UmwG).

The Supervisory Board of Instone Real Estate Group SE will continue to consist of five members, all of whom are shareholder representatives and who are elected by the Annual General Meeting of Instone Real Estate Group SE (article 12.2 of the Articles of Association of Instone Real Estate Group SE). Unlike the situation with the Management Board of Instone Real Estate Group SE, no special deed of appointment or election is required in the case of the members of the Supervisory Board of Instone Real Estate Group SE. In the case of the conversion into an SE of a public limited company that is not subject to co-determination pursuant to the One-Third Employee Representation Act or the Co-determination Act, the principle of continuity of office applies in this respect in any event of the size and composition of the supervisory board is not changed as a result of the conversion. The members of the company's supervisory board will thus retain their mandates for the duration of their term of office in accordance with the principle of continuity of office irrespective of the conversion into the legal form of an SE (article 15(1) of the SE Regulation in conjunction with section 203(1) UmwG).

## 5 Explanation of the terms of conversion and of the first Articles of Association of Instone Real Estate Group SE as well as of the effects for the shareholders and employees

### 5.1 Explanation of the terms of conversion

#### 5.1.1 Conversion of the company into Instone Real Estate Group SE (section 1 of the terms of conversion)

Section 1.1 of the terms of conversion lay down that the company is to be converted into Instone Real Estate Group SE.

Section 1.2 of the terms of conversion explains that the necessary requirements for the conversion into an SE (article 2(4) in conjunction with article 37 of the SE Regulation) are met. Through its subsidiary Instone Real Estate Development GmbH, the sole shareholder of which is the company, the company has indirectly held all the shares in subsidiaries governed by the law of other members states for more than two years. These include DURST-BAU GmbH with its registered office in Vienna and formart Luxembourg s.à.r.l. with its registered office in Luxembourg. The business address of DURST-BAU GmbH is c/o Arnold Rechtsanwälte GmbH, Wipplingerstraße 10/10, 1110 Vienna, Austria, and the company is entered in the Austrian companies register (*Firmenbuch*) under registration number 42220p. The business address of formart Luxembourg s.à.r.l. is 12, Rue du Château d'Eau, L-3364

Leudelange, Luxembourg, and it is entered in the Luxembourg trade and companies register (*Registre de Commerce et des Sociétés*) under registration number B18517. The requirement of article 2(4) of the SE Regulation for the conversion of the company into an SE is thus met.

For the avoidance of doubt, it is additionally pointed out in section 1.3 of the terms of conversion that the conversion of the company into an SE does not result in either the winding up of the company or the formation of a new legal entity. Because the identity of the legal entity is preserved, no transfer of assets takes place, either. For this reason, the respective equity interests of the previous shareholders of the company also continue to exist in Instone Real Estate Group SE.

It is explained in section 1.4 of the terms of conversion that, like the company, Instone Real Estate Group SE will have a two-tier administrative structure consisting of the Management Board as the management organ within the meaning of article 38 (b) and article 39(1) of the SE Regulation and the Supervisory Board as the supervisory organ within the meaning of article 38 (b) and article 40(1) of the SE Regulation. The current Supervisory Board mandates of the company remain in effect on the basis of the principle of continuity of office (section 203 sentence 1 UmwG in conjunction with article 15(1) of the SE Regulation), as the size and composition of the Supervisory Board are not affected by the conversion of the company into Instone Real Estate Group SE.

Section 1.5 finally makes clear that shareholders who object to the conversion will not receive any offer of cash compensation. A compensation offer of this kind is not provided by the law. The regulation of section 207 UmwG does not apply in the conversion of a public limited company into an SE, as these are largely the same as each other in their structure and financial constitution under company law.

**5.1.2** Entry into effect of the conversion (section 2 of the terms of conversion)

Section 2 of the terms of conversion states that the conversion comes into effect upon its entry in the commercial register of the company (the “**conversion date**”). One of the requirements for the conversion to be registered is, pursuant to article 12(2) of the SE Regulation, that the employee involvement procedure has been concluded (cf. section 8.1 of the terms of conversion and section 4.6.5 of this conversion report in this connection).

**5.1.3** Company name, registered office, Articles of Association and share capital of Instone Real Estate Group SE (section 3 of the terms of conversion)

Sections 3.1 and 3.2 of the terms of conversion establish the company name and the registered and head office of Instone Real Estate Group SE. The name of the SE is Instone Real Estate Group AG. A change to the company name is necessary as a result of the conversion, as the name of an SE must be preceded or followed by the abbreviation “SE” (article 11(1) of the SE Regulation). The registered and head office of Instone Real Estate Group SE will continue to be Essen, Germany. This is where the company’s actual administrative headquarters are also located. Section 3.3 of the terms of conversion make clear that Instone Real Estate Group SE shall have the Articles of Association attached in the annex to the terms of conversion.

Sections 3.4 and 3.5 of the terms of conversion present the capital structure at the company and at Instone Real Estate Group SE. Because the conversion has the character of preserving the identity, the share capital of the company in the amount

existing on the conversion date as well as in terms of the division into no-par value shares existing on this date will become the share capital of Instone Real Estate Group SE. The existing capital structure at the company is thus continued at Instone Real Estate Group SE without any changes.

At the time of the Annual General Meeting that decides on the conversion, the share capital of the company that is entered in the commercial register amounts to EUR 46,988,336.00. The registered capital of Instone Real Estate Group SE accordingly amounts, subject to any change arising before the conversion comes into effect, to EUR 46,988,336.00 and is divided into the same number of no-par value shares (46,988,336). The nominal amount of a no-par value share in the share capital (currently EUR 1.00) is maintained as it is immediately before the date that the conversion comes into effect. The persons and companies that are shareholders of the company on the conversion date will become shareholders of Instone Real Estate Group SE in the same extent.

Section 3.6 of the terms of conversion furthermore makes clear that the company's listing on the stock market will continue as before.

Section 3.7 of the terms of conversion furthermore stipulate that, immediately on the conversion date, the authorised capital previously provided in article 6 of the company's Articles of Association also corresponds to the authorised capital now laid down in article 6 of the Articles of Association of Instone Real Estate Group SE. Furthermore, the contingent capital stipulated in article 7 of the Articles of Association of Instone Real Estate Group SE corresponds to the contingent capital laid down in article 7 of the company's Articles of Association immediately on the conversion date.

On the basis of a capital increase with subscription rights against cash contributions performed in September 2020, the company increased its share capital by EUR 10 million from EUR 36,988,366.00 to EUR 46,988,366.00 by issuing 10 million new no-par value shares with a notional share of the share capital of EUR 1.00 each. Against this background, it is planned to propose to the Annual General Meeting of the company on 9 June 2021, which is set to decide under item 10 of the agenda on the approval for the conversion of the company into an SE, under item 8 of the agenda that a resolution be adopted on an adjusted contingent capital increase (Contingent Capital 2021) and a corresponding amendment to article 7 of the company's Articles of Association while cancelling the contingent capital increase adopted by the Annual General Meeting of 13 June 2019 (Contingent Capital 2019). Furthermore, it is planned to propose to the Annual General Meeting of the company on 9 June 2021 under item 9 of the agenda that the Management Board be authorised to increase the company's share capital by up to EUR 8.0 million by issuing up to 8.0 million new no-par value shares (Authorised Capital 2021) and that a resolution be adopted on a corresponding addition to the company's Articles of Association.

Any changes concerning the share capital, including the authorised capital and the contingent capital, of the company that are made before the conversion, especially the resolutions proposed to the Annual General Meeting of the company on 9 June 2021 under items 8 and 9 of the agenda on the change to the contingent capital and the creation of additional authorised capital, also apply for Instone Real Estate Group SE. Accordingly, article 6a and article 7 of the Articles of Association of Instone Real Estate Group SE that are attached to the terms of conversion in the

annex stipulate provisions on the Authorised Capital 2021 and on the Contingent Capital 2021 that correspond to the addition of article 6a of the Articles of Association and the amendment to article 7 of the company's Articles of Association proposed to the Annual General Meeting on 9 June 2021. If and in so far as the Annual General Meeting of the company on 9 June 2021 does not approve the relevant items of the agenda on the creation of the Authorised Capital 2021 and the change to the Contingent Capital 2021, the company's authorised capital and contingent capital existing on the conversion date will remain in effect at Instone Real Estate Group SE.

The Supervisory Board of the company (alternatively the Supervisory Board of Instone Real Estate Group SE) is authorised and at the same time instructed to make any amendments that may result from the above to the wording of the Articles of Association of Instone Real Estate Group SE, which assume approval of the Annual General Meeting of 9 June 2021 of the resolutions proposed by management relating to all items of the agenda, before the conversion is entered in the commercial register.

**5.1.4** Continuing application of resolutions of the Annual General Meeting of the company (section 4 of the terms of conversion)

Section 4.1 of the terms of conversion stipulates that, if they have not yet been executed by the conversion date, resolutions already adopted by the Annual General Meeting of the company are not changed and remain in effect also at Instone Real Estate Group SE in accordance with the principle of continuity.

This applies pursuant to section 4.2 of the terms of conversion – in addition to the resolutions of the Annual General Meeting of 9 June 2021 on the change to the contingent capital and on the creation of additional authorised capital that are referred to in section 5.1.3 – in particular for the authorisation issued by resolution of the Annual General Meeting of 13 June 2019 under item 7 of the agenda to acquire and also to use treasury shares in accordance with section 71(1) no. 8 AktG with possible exclusion of the rights of tender and subscription.

**5.1.5** Two-tier management system of Instone Real Estate Group SE (section 5 of the terms of conversion)

Section 5 of the terms of conversion makes clear that the two-tier management system comprising a Management Board as the management organ within the meaning of article 38 (b) and article 39(1) of the SE Regulation and a Supervisory Board as the supervisory organ within the meaning of article 38 (b) and article 40(1) of the SE Regulation will not be changed and will remain in place at Instone Real Estate Group SE.

**5.1.6** Management Board of Instone Real Estate Group SE (section 6 of the terms of conversion)

It is stated in section 6 of the terms of conversion that, without prejudice to the decision-making authority under company law of the Supervisory Board of Instone Real Estate Group SE, it can be assumed that the following members of the company's Management Board previously in office will also be appointed as members of the Management Board of the future SE: Mr Kruno Crepulja (Chair of the Management Board), Dr Foruhar Madjlessi and Mr Andreas Gräf.

**5.1.7** Supervisory Board of Instone Real Estate Group SE (section 7 of the terms of conversion)

Section 7.1 of the terms of conversion contains the information that, in accordance with the article 12.1 of the Articles of Association of Instone Real Estate Group SE, the Supervisory Board will consist as before of five members, all of whom are shareholder representatives and who are elected by the Annual General Meeting of Instone Real Estate Group SE.

As explained in section 7.2 of the terms of conversion, the mandates of the Supervisory Board members remain in effect based on the principle of continuity of office (section 203 sentence 1 UmwG in conjunction with article 15(1) of the SE Regulation) when the conversion into the legal form of an SE comes into effect (see section 5.1.1 of the conversion report in this connection).

Members of the Supervisory Board of Instone Real Estate Group SE will thus be the members who are members of the company's Supervisory Board at the time the conversion comes into effect. Currently, the members of the Supervisory Board are Mr Stefan Brendgen, Dr Jochen Scharpe, Ms Marija Korsch, Mr Dietmar P. Binkowska and Mr Thomas Hegel. All incumbent members of the company's Supervisory Board are elected for the period up to the end of the Annual General Meeting that decides on granting formal approval of the actions of the Supervisory Board members for the 2021 financial year. In the event that either an incumbent member of the Supervisory Board resigns from office before the end of their term and before this time or the conversion comes into effect only after the regular term of office of the Supervisory Board member in question has ended and the Supervisory Board member in question is not re-elected as a member of the Supervisory Board by the Annual General Meeting, the member of the Supervisory Board succeeding the relevant member of the company's Supervisory Board shall immediately become of a member of the Supervisory Board of Instone Real Estate Group SE when the conversion comes into effect.

**5.1.8** Information on the procedure relating to employee involvement at Instone Real Estate Group SE (section 8 of the terms of conversion)

Section 8 of the terms of conversion presents the procedure relating to employee involvement at the future Instone Real Estate Group SE and possible results of this procedure. The contents of the statements correspond to the statements in section 4.6.5 of this conversion report.

**5.1.9** Other impacts of the conversion on the employees and their representative bodies (section 9 of the terms of conversion)

Section 9 of the terms of conversion explains the other impacts of the company's conversion into Instone Real Estate Group SE on the employees and their representative bodies.

Pursuant to section 9.1 of the terms of conversion, the employment relationships of the employees of the company and also of the subsidiaries are not affected by the conversion and will continue without any changes after the conversion. With the exception of the procedure for the involvement of the employees described in section 8 of the terms of conversion, the conversion also does not have any impacts on the participation rights of the employees in the company and the companies of the Instone Group.

Section 9.3 of the terms of conversion finally makes clear that other measures that could result in impacts on the employees are not planned.

**5.1.10 Auditor of the financial statements and first financial year (section 10 of the terms of conversion)**

Section 10 of the terms of conversion contains information on the auditor of the annual and consolidated financial statements for the first financial year of Instone Real Estate Group SE. According to this, Deloitte GmbH Wirtschaftsprüfungsgesellschaft, Düsseldorf, will be appointed as the auditor of the annual and consolidated financial statements for the first financial year of Instone Real Estate Group SE and also as the auditor for any review of the interim financial reports to be prepared during the year before the next Annual General Meeting. The first financial year of Instone Real Estate Group SE is the calendar year in which the conversion of the company into Instone Real Estate Group SE is entered in the commercial register.

**5.1.11 Special rights and special advantages (section 11 of the terms of conversion)**

As in draft terms of merger (article 20(1) sentence 2 (f) and (g) of the SE Regulation), the terms of conversion also contain information on special rights and special advantages. The information on special rights and special advantages is provided in section 11.1 and section 11.2 of the terms of conversion.

It is pointed out to begin with section 11.1 that parties within the meaning of section 194(1) no. 5 UmwG and/or article 20(1) sentence 2 (f) of the SE Regulation are not granted any rights beyond the shares specified above and in section 3.5 and no special measures are planned for these parties, either. It is additionally made clear that special rights (e.g. conversion, option or profit participation rights) of owner of securities other than shares remain unaffected on account of the applicable continuity principle; the existing special rights continue intact in the legal form of the SE in this respect. No special measures are additionally envisaged for the owners of these rights.

Section 11.2 of the terms of conversion contains statements on the granting of special advantages. Special advantages are all particular advantages that are granted to the members of the management or controlling organs of the company. Section 11.2 lays down in this connection that no special advantages are granted to these persons on the course of the conversion. It is furthermore pointed out that, without prejudice to the continuing decision-making authority of the Supervisory Board of Instone Real Estate Group SE, it can be assumed that the members of the company's Management Board currently in office will be appointed members of the Management Board of Instone Real Estate Group SE (see section 6.2 of the terms of conversion). Furthermore, all members of the company's Supervisory Board in office at the time the conversion is registered will become members of the Supervisory Board of Instone Real Estate Group SE when the conversion comes into effect (see section 7.2 of the terms of conversion).

**5.1.12 Costs of the conversion (section 12 of the terms of conversion)**

Finally, section 12 of the terms of conversion makes clear that the costs of the conversion in an amount up to EUR 1,500,000 are borne by the company. For the cost factors and the estimated amount of these costs, please see section 3.3 of this conversion report.

**5.2 Explanation of the Articles of Association of Instone Real Estate Group SE**

The company changes its legal form to that of an SE when the conversion comes into effect. The Articles of Association of the company are replaced by new Articles of Association. The Articles of Association of Instone Real Estate Group SE are an integral part of the terms of conversion, which the Annual General Meeting has to give its approval to (article 37(4), (7) of the SE Regulation).

This draft of the Articles of Association for Instone Real Estate Group SE is based on the existing Articles of Association of the company. It has been possible here to take over the vast majority of the provisions of the company's Articles of Association into the Articles of Association of Instone Real Estate Group SE essentially without any changes, because the regulations of the SE Regulation and the SEAG that are relevant for the Articles of Association of Instone Real Estate Group SE are broadly consistent with the regulations applicable to the articles of association of a public limited company or in any event only minor deviations result. Otherwise, the Articles of Association of Instone Real Estate Group SE are designed in such a way that the legal position existing at the company can be extensively continued at Instone Real Estate Group SE. Changes are made in principle only to the extent that these have been necessary as a result of the conversion into an SE.

**5.2.1** Legal form, company name, registered office and financial year (article 1)

Article 1.1 of the Articles of Association of Instone Real Estate Group SE lays down the company name that the company bears. The name of the company is changed to "Instone Real Estate Group SE.". The change to the addition of the legal form, "SE", is required in accordance with article 11(1) of the SE Regulation.

The registered office of the company is laid down in article 1.2 of the Articles of Association of Instone Real Estate Group SE and will continue to be located in Essen, Germany. The registered office is thus not changed as a result of the conversion.

The financial year defined in article 1.3 of the Articles of Association of Instone Real Estate Group SE also remains unchanged and continues to correspond to the calendar year.

**5.2.2** Purpose of the company (article 2)

Article 2 of the Articles of Association of Instone Real Estate Group SE corresponds in full to the regulation in article 2 of the company's Articles of Association. The business purpose of Instone Real Estate Group SE pursuant to the Articles of Association thus corresponds in full to the business purpose of the company.

The business purpose of Instone Real Estate Group SE is the acquisition, development, construction, leasing, management and sale or other use of land and buildings as well as the investment in other companies that are active in this field of business. Instone Real Estate Group SE may conduct all transactions and to take all measures that are connected with the purpose of the company or that are suitable for indirectly serving this purpose. It may acquire and sell developed and undeveloped properties as well as land rights in this connection. Instone Real Estate Group SE may establish, acquire or invest in other companies as well as set up branches in Germany and abroad.

**5.2.3** Notices and the transmission of information (article 3)

Article 3 of the Articles of Association of Instone Real Estate Group SE deals with regulations on notices of Instone Real Estate Group SE and on sending information to the shareholders. The regulation in article 3 corresponds in full to the regulation



in article 3 of the company's Articles of Association. Pursuant to article 3.1 of the Articles of Association of Instone Real Estate Group SE, the notices are published in the Federal Gazette. Pursuant to section 3.2 of the Articles of Association, Instone Real Estate Group SE is entitled in accordance with section 49(3) WpHG to send information to the shareholders by means of electronic data transfer.

**5.2.4** Share capital (article 4)

Article 4 of the Articles of Association of Instone Real Estate Group SE regulates the share capital of Instone Real Estate Group SE. The previous share capital pursuant to article 4(1) of the company's Articles of Association has been taken over into article 4.1 of the Articles of Association of Instone Real Estate Group SE without any changes for Instone Real Estate Group SE. With regard to the continuity of the different forms of capital, special features apply that are regulated in section 3.7 of the terms of conversion and explained in section 5.1.3 of this conversion report.

Article 4.2 of the Articles of Association of Instone Real Estate Group SE lays down how the company's share capital will be contributed by way of conversion of the company into the legal form of the SE. An appropriate provision is necessary in view of the application of company formation law, with the result that corresponding information on the contribution of the share capital has also been included in the Articles of Association of Instone Real Estate Group SE.

Article 4.3 of the Articles of Association of Instone Real Estate Group SE lays down that the share capital is divided as before into no-par value shares and the nominal amount in the share capital attributed to each of the no-par value shares is EUR 1.00.

**5.2.5** Form of shares and certification (article 5)

Article 5 of the Articles of Association of Instone Real Estate Group SE has been taken over from article 5 of the company's Articles of Association without any changes being made. The shares will continue to be issued as bearer shares. This also applies in the case of a capital increase, unless otherwise stipulated in the resolution to increase the capital.

In accordance with article 5.2 of the Articles of Association, Instone Real Estate Group SE is authorised to issue share certificates that represent individual shares (individual certificates) or multiple shares (global certificates). A right of the shareholders to be issued with certificates for their shares is excluded in so far as this is permitted by law and the issuing of a certificate is not required in accordance with the rules of the stock exchange on which the shares are admitted for trading.

The Management Board in consultation with the Supervisory Board also determines the form and the content of share certificates, any dividend warrants and renewal coupons, bonds or promissory notes at Instone Real Estate Group SE (article 5.3 of the Articles of Association of Instone Real Estate Group SE).

During a capital increase, the profit participation of the new shares can be regulated in divergence from section 60(2) sentence 3 AktG (article 5.4 of the Articles of Association of Instone Real Estate Group SE).

**5.2.6** Authorised Capital (article 6)

The previous regulation on the authorised capital in article 6 of the company's Articles of Association is taken over into article 6 of the Articles of Association of Instone

Real Estate Group SE without any changes. The special features that are produced on account of the continuity of the different forms of capital are regulated in section 3.7 of the terms of conversion and explained in section 5.1.3 of this conversion report.

**5.2.7** Authorised Capital 2021 (article 6a)

It is planned to propose to the Annual General Meeting of the company on 9 June 2021, which is set to decide under item 10 of the agenda on the approval of the conversion of the company into an SE, under item 9 of the agenda that the Management Board be authorised to increase the company's share capital by up to EUR 8.0 million by issuing up to 8.0 million new no-par value shares (Authorised Capital 2021) and that a resolution be adopted on a corresponding addition to the company's Articles of Association. The Articles of Association of Instone Real Estate Group SE accordingly stipulate in article 6a a provision on the Authorised Capital 2021 that corresponds to the creation of article 6a of the company's articles of the association proposed to the Annual General Meeting on 9 June 2021. The special features that are produced on account of the continuity of the different forms of capital are regulated in section 3.7 of the terms of conversion and explained in section 5.1.3 of this conversion report.

**5.2.8** Contingent Capital (article 7)

It is planned to propose to the Annual General Meeting of the company of 9 June 2021, which is set to decide under item 10 of the agenda on the approval for the conversion of the company into an SE, under item 8 of the agenda that a resolution be adopted on an adjusted contingent capital increase (Contingent Capital 2021) and a corresponding amendment to article 7 of the company's Articles of Association while cancelling the contingent capital increase adopted by the Annual General Meeting of 13 June 2019 (Contingent Capital 2019). The Articles of Association of Instone Real Estate Group SE accordingly stipulate in article 7 a provision on the contingent capital that corresponds to the amendment of article 7 of the company's articles of the association proposed to the Annual General Meeting on 9 June 2021. The special features that are produced on account of the continuity of the different forms of capital are regulated in section 3.7 of the terms of conversion and explained in section 5.1.3 of this conversion report.

**5.2.9** Two-tier management system (article 8)

Article 8 of the Articles of Association of Instone Real Estate Group SE has been added as a new article on account of the conversion into the legal form of an SE. This regulation in the Articles of Association makes clear that Instone Real Estate Group SE has a two-tier system in accordance with article 38 (b) alternative 1 of the SE Regulation. The executive bodies of Instone Real Estate Group SE are thus the Management Board (management organ), the Supervisory Board (supervisory organ) and the Annual General Meeting. The management system of Instone Real Estate Group SE accordingly corresponds to the previous structure of the company.

**5.2.10** Composition, adoption of resolutions and rules of procedure of the Management Board (article 9)

It is laid down in article 9.1 and article 9.2 of the Articles of Association of Instone Real Estate Group SE in conformity the article 8.1 and article 8.2 of the company's Articles of Association that the Management Board consists of no less than two persons, that the Supervisory Board appoints the members of the Management

Board and decides how many there will be and that the Supervisory Board can appoint deputy Management Board members and designate a Chair and a Deputy Chair of the Management Board.

The new article 9.3 inserted in the Articles of Association of Instone Real Estate Group SE regulates the period for which members of the Management Board are appointed. A regulation on the period of appointment in the Articles of Association is necessary in accordance with article 46(1) of the SE Regulation. In accordance with article 9.3 of the Articles of Association of Instone Real Estate Group SE, the appointment is made for a period of no longer than five years. This regulation means that the legal position applicable to the company under company law (section 84(1) sentence 1 AktG) continues to apply at Instone Real Estate Group SE. Furthermore, the Articles of Association make clear with declaratory effect that members of the Management Board can also be reappointed (article 46(2) of the SE Regulation, section 84(1) sentence 2 AktG).

Also new are the regulations on the quorum of the Management Board of Instone Real Estate Group SE as well as on the majorities required for resolutions in article 9.4 and article 9.5 of the Articles of Association of Instone Real Estate Group SE. These provisions take over the corresponding regulations in section 5.8 sentences 1 and 2 and sections 5.9 sentences 1 to 4 of the rules of procedure for the company's Management Board. No changes thus result in substance from the new regulations in the Articles of Association. The background to the inclusion of the regulations in the Articles of Association of the SE is solely that a regulation in rules of procedure would not suffice in accordance with the applicable SE law (article 50(1), (2) sentence 1 of the SE Regulation).

Pursuant to article 9.4 of the Articles of Association of Instone Real Estate Group SE, the Management Board is quorate only when all of its members have been invited and at least half of the members, including the Chair of the Management Board or the Chief Financial Officer, attend the meeting and take part in the voting on combined resolutions and resolutions outside of meetings. A Management Board consisting of only two people is quorate only if all members of the Management Board take part in the resolution. This provision means that article 50(1) (a) of the SE Regulation is waived (only) in so far as the organs of the SE are always quorate according to this article when at least half of the members attend or are represented.

Pursuant to article 9.5 of the Articles of Association of Instone Real Estate Group SE, the Management Board adopts resolutions on all matters by a simple majority of the votes cast, unless otherwise stipulated by law. Each Management Board member has one vote. Abstentions are regarded as votes that have not been cast. In the event of a tie, the Chair of the Management Board has the casting vote, if at least three Management Board members are appointed. This provision means that article 50(1) (b) of the SE Regulation is waived in so far as, according to the article, the organs of the SE make decisions by the majority of the members attending or represented and, in the prevailing opinion in the legal literature, this is understood to mean that abstentions are regarded as votes against.

Finally, the Supervisory Board has the right pursuant to article 9.6 of the Articles of Association of Instone Real Estate Group SE to issue rules of procedure for the Management Board. If the Supervisory Board does not issue rules of procedure for the Management Board, the Management Board draws up rules of procedure for itself by a unanimous resolution of the Management Board members; these rules

require the approval of the Supervisory Board. This regulation corresponds to article 8.3 of the company's Articles of Association.

#### 5.2.11 Management (article 10)

The contents of article 10.1 of the Articles of Association of Instone Real Estate Group SE correspond to the contents of article 9.1 of the company's Articles of Association and stipulate that the Management Board is independently responsible for managing the company. The Management Board must conduct the business in accordance with the legal provisions, the Articles of Association and the rules of procedure laid down for the Management Board.

The new provision introduced in article 10.2 of the Articles of Association of Instone Real Estate Group SE lays down that the types of business transactions listed there may be performed only with the approval of the Supervisory Board. The regulation can be attributed to the fact that the Articles of Association of the SE itself must include certain types of transactions for which the management organ (the Management Board) requires the approval of the supervisory organ (the Supervisory Board) to conduct them (article 48(1) of the SE Regulation). A corresponding catalogue was not included in the previous Articles of Association of the company. Article 10.2 of the Articles of Association of Instone Real Estate Group SE now lay down a right of the Supervisory Board to reserve approval for (a) the commencement of new lines of business or material changes, expansions or restrictions of existing lines of business of the company (unless these have been submitted to the Annual General Meeting for approval), (b) the annual planning, including the financial and investment planning and the personnel development derived from that and (c) the formation, acquisition, sale or winding up of companies or parts of companies (including mergers, asset transfers and conversions) as well as the acquisition and disposal of equity investments in companies (including changes to the equity share) outside of the investment plan that has been approved with the exception of measures that concern project companies. These reservations of consent were also already included in the rules of procedure issued for the company's Management Board.

It is further regulated for the purposes of clarification that the Supervisory Board can at any time make specific other types of business transactions subject to its approval (article 10.3 of the Articles of Association of Instone Real Estate Group SE).

Furthermore, article 10.4 of the Articles of Association of Instone Real Estate Group SE regulates – also for clarification purposes – that the Supervisory Board can issue approval in advance for a specific group of business transactions generally or for the event that the individual transaction satisfies certain conditions and that this approval is revocable. This provision corresponds to article 9.3 of the company's Articles of Association.

#### 5.2.12 Representation of the company (article 11)

The previous article 10 of the company's Articles of Association is taken over in full in article 11 of the Articles of Association of Instone Real Estate Group SE. It is stipulated as before in article 11 sentence 1 of the Articles of Association of Instone Real Estate Group SE that Instone Real Estate Group SE is represented by two members of the Management Board or by one member of the Management Board together with an authorised signatory. The Supervisory Board can decide pursuant

to article 11 sentence 2 of the Articles of Association of Instone Real Estate Group SE that all or individual members of the Management Board are authorised to represent the company on their own. In accordance with article 11 sentence 3 of the Articles of Association of Instone Real Estate Group SE, the members of the Management Board are authorised to enter into legal transactions in the name of the company with themselves as representatives of a third party and are thus exempt from the prohibition on multiple agency of section 181, 2nd alternative, BGB).

#### 5.2.13 Composition and election of the Supervisory Board (article 12)

The contents of article 12 of the Articles of Association of Instone Real Estate Group SE correspond to the contents of article 11 of the company's Articles of Association. Pursuant to article 12.1 of the Articles of Association of Instone Real Estate Group SE, the Supervisory Board continues to comprise five members to be elected by the Annual General Meeting. In accordance with article 12.2 of the Articles of Association of Instone Real Estate Group SE, the members of the Supervisory Board are each elected for the period up to the end of the Annual General Meeting that resolves on the granting of formal approval for the fourth financial year after the term of office begins, unless the Annual General Meeting decides on a shorter term of office for all or individual Supervisory Board members at the time of the election. The financial year in which the term of office begins is not counted. The regulation on the terms of office of the Supervisory Board members stipulates a shorter period than the maximum permitted period of appointment for the members of organs of an SE pursuant to article 46(1) of the SE Regulation. The previous legal situation under company law is thus maintained. Members of the Supervisory Board can be re-elected.

Article 12.3 to article 12.5 of the Articles of Association of Instone Real Estate Group SE concern regulations on the election of substitute members, the appointment of successors to Supervisory Board members who resign before the end of their term of office and the voluntary resignation from office of Supervisory Board members and substitute members.

#### 5.2.14 Chair and Deputy Chair of the Supervisory Board, committees (article 13)

The contents of article 13 of the Articles of Association of Instone Real Estate Group SE correspond to the contents of article 12 of the company's Articles of Association. In accordance with article 13.1 of the Articles of Association of Instone Real Estate Group SE, the Supervisory Board elects a Chair and a Deputy Chair from among its members at a meeting that is held without being specially convened following the Annual General Meeting at which the members of the Supervisory Board have been elected. The term of office of the Chair and of their Deputy is the same here as their term of office as members of the Supervisory Board, unless a shorter term of office is decided at the time of the election. If the Chair or the Deputy Chair resign from their position before their term of office has ended, the Supervisory Board has immediately to conduct a new election for the remaining term of office of the departing member. The oldest present member of the Supervisory Board in terms of age chairs the election of the Chair of the Supervisory Board (article 13.2 of the Articles of Association of Instone Real Estate Group SE).

Article 13.3 of the Articles of Association of Instone Real Estate Group SE regulate that the Deputy has the rights and duties of the Chair (only) when the Chair is prevented from performing their function and unless otherwise stipulated by law, these Articles of Association or the rules of procedure of the Supervisory Board.

The Supervisory Board can set up committees, in particular an Audit Committee, from among its members and delegate specific tasks to them. The Supervisory Board determines the duties and procedures of the committees in its rules of procedure or by separate resolution (article 13.4 of the Articles of Association of Instone Real Estate Group SE).

#### 5.2.15 Remuneration of the Supervisory Board (article 14)

It is proposed to the Annual General Meeting of the company on 9 June 2021, which is set to decide on under item 10 of the agenda on the approval of the conversion of the company into an SE, under item 7 2) of the agenda that, in connection with the approval of the system for the remuneration of the members of the Supervisory Board, a resolution be adopted on an adjustment of the remuneration of the Supervisory Board. The Articles of Association of Instone Real Estate Group SE accordingly stipulate in articles 14.1 and 14.2 provisions on the Supervisory Board remuneration that corresponds to the amendment of article 13.1 and 13.2 of the company's Articles of the Association proposed to the Annual General Meeting on 9 June 2021.

The members of the Supervisory Board receive basic fixed annual remuneration of EUR 75,000. The Chair of the Supervisory Board here receives double this amount, the Deputy Chair receives one and a half times this amount (article 14.1 of the Articles of Association of Instone Real Estate Group SE). Members of the Audit Committee receive an additional fixed annual remuneration of EUR 15,000; members in other committees of the Supervisory Board receive an additional fixed annual remuneration of EUR 7,500. The respective Chair of a committee receives double this amount.

If the Annual General Meeting of the company on 9 June 2021 does not approve the corresponding item of the agenda on the adjustment of the Supervisory Board remuneration, the adjustment of the remuneration will also not apply for Instone Real Estate Group SE. In this event, the remuneration of the Supervisory Board members regulated in articles 13.1 and 13.2 of the company's Articles of Association as currently amended shall continue to apply for Instone Real Estate Group SE without any changes. According to this, the members of the Supervisory Board receive basic annual fixed remuneration of EUR 60,000, the Chair of the Supervisory Board receives double this amount, the Deputy Chair receives one and a half times this amount. Members of the Audit Committee receive an additional fixed annual remuneration of EUR 15,000; members in other committees of the Supervisory Board receive an additional fixed annual remuneration of EUR 1,500. The respective Chair of a committee receives double this amount. The Supervisory Board of the company (alternatively the Supervisory Board of Instone Real Estate Group SE) is authorised and at the same time instructed to make a corresponding amendment to the wording of the Articles of Association of Instone Real Estate Group SE, which are subject to the approval by the Annual General Meeting of 9 June 2021 of the resolutions proposed by management under all items of the agenda, before the conversion is entered in the commercial register.

Articles 14.3 to 14.5 of the Articles of Association of Instone Real Estate Group SE contain further regulations on remuneration and the reimbursement of expenses,

**5.2.16 Meetings of the Supervisory Board (article 15)**

The regulation in article 15 of the Articles of Association of Instone Real Estate Group SE on meetings of the Supervisory Board follows article 14 of the company's Articles of Association.

Thus the Chair of the Supervisory Board, in their absence the Deputy Chair, convenes the meetings of the Supervisory Board in writing, by e-mail or by fax, indicating the individual items of the agenda at the same time. Motions on items of the agenda must be announced here in such good time before the meeting that it is also possible for members of the Supervisory Board who do not attend the meeting to cast a written vote (article 15.1 and article 15.2 of the Articles of Association of Instone Real Estate Group SE).

At the request of the Supervisory Board, the Management Board is required pursuant to article 15.3 of the Articles of Association of Instone Real Estate Group SE to attend meetings and to report to the Supervisory Board on an ongoing basis in the scope laid down by law, the Articles of Association and the rules of procedure of the Management Board.

If an item of the agenda has not been duly and properly announced, a resolution may be adopted on the item in accordance with article 15.4 of the Articles of Association of Instone Real Estate Group SE only if no Supervisory Board member present objects. In such an event, Supervisory Board members who are not present are to be given the opportunity to object to the resolution within a reasonable period to be determined by the Chair or, in their absence, by the Deputy Chair.

Article 15.5 and article 15.6 of the Articles of Association of Instone Real Estate Group SE lay down further regulations on the necessary number of meetings of the Supervisory Board and on the right of each Supervisory Board member and of the Management Board to convene meetings.

**5.2.17 Adoption of resolutions of the Supervisory Board and minutes of the meetings (article 16)**

Article 16 of the Articles of Association of Instone Real Estate Group SE corresponds to article 15 of the company's Articles of Association almost in its entirety.

The Supervisory Board is quorate during meetings pursuant to article 16.1 of the Articles of Association of Instone Real Estate Group SE when all members have been invited and at least half of the members of which the Supervisory Board has to consist participate in the adoption of the resolution. A member who abstains is also regarded as participating here. Supervisory Board members who are absent can take part in the adoption of resolutions of the Supervisory board or of its committees by arranging to have their votes submitted in writing by other Supervisory Board members.

The Supervisory Board adopts its resolutions in principle by a simple majority of the votes cast. Abstentions are regarded here as votes that have not been cast (article 16.2 sentences 1 and 2 of the Articles of Association of Instone Real Estate Group SE). In accordance with article 16.2 sentence 3 of the Articles of Association of Instone Real Estate Group A, the Chair of the Supervisory Board has the casting vote if the vote is tied, a new vote is held and this also produces a tied vote. The contents of this provision are intended only to set out more clearly in comparison with article 15.2 sentence 3 of the company's Articles of Association that a second

vote is required when there is a tied vote in the course of adopting a resolution and the Chair has the casting vote only in this second vote. Article 50(2) sentence 1 of the SE Regulation actually assumes that the vote of the chair would already be the casting vote in the first vote in which a deadlock would (otherwise) arise and that a second vote is not required.

Resolutions can furthermore be adopted under the requirements of article 16.3 of the Articles of Association of Instone Real Estate Group SE by votes that are cast and submitted in writing, by telephone, by-email, by telefax or in an equivalent manner to the Chair of the Supervisory Board or, in their absence, to the Deputy Chair. Furthermore, according to this article, votes can be submitted via various permitted communication channels as well as in a procedure where some votes are cast at the meeting and some as submitted via other permitted communication channels – also at a later time – by members who are not present.

Minutes of the meetings and resolutions of the Supervisory Board of Instone Real Estate Group SE – as also provided in the company’s Articles of Association – have to be produced (article 16.4 of the Articles of Association of Instone Real Estate Group SE). The minutes are signed by the Chair or, in their absence, by the Deputy Chair and copies of the minutes are circulated to the members of the Supervisory Board without undue delay after they are signed.

**5.2.18 Representation of the Supervisory Board (article 17)**

Article 17 of the Articles of Association of Instone Real Estate Group SE takes over the regulation from article 16 of the company’s Articles of Association on the representation of the Supervisory Board in full. The declarations of intent of the Supervisory Board and of its committees are accordingly issued in the name of the Supervisory Board by the Chair or, in their absence, by the Deputy Chair. The Chair or, in their absence, the Deputy Chair is authorised to receive declarations for the Supervisory Board.

**5.2.19 Powers of the Supervisory Board (article 18)**

Article 18 of the Articles of Association of Instone Real Estate Group SE takes over the regulation from article 17 of the company’s Articles of Association on the powers of the Supervisory Board in full. Article 18.1 of the Articles of Association of Instone Real Estate Group SE stipulates with declaratory effect that the duties and rights of the Supervisory Board are determined by the law and the Articles of Association. The engagement of the auditor of the financial statements following their election by the Annual General Meeting also comes under the responsibility of the Supervisory Board here.

The Supervisory Board adopts rules of procedure for itself within the framework of the statutory regulations and the provisions of these Articles of Association (article 18.2 of the Articles of Association of Instone Real Estate Group SE).

The Supervisory Board is further authorised to decide on amendments and additions to the Articles of Association of Instone Real Estate Group SE that affect only their wording (article 18.3 of the Articles of Association of Instone Real Estate Group SE).

**5.2.20 Venue and convening of the Annual General Meeting (article 19)**

Article 19 of the Articles of Association of Instone Real Estate Group SE takes over the regulation from article 18 of the company’s Articles of Association concerning



the venue and also the arrangements for convening the Annual General Meeting in full.

The Annual General Meeting of Instone Real Estate Group SE thus also continues to be held at the registered office of the company or alternatively in another German city with at least 100,000 inhabitants (article 19.1 of the Articles of Association of Instone Real Estate Group SE).

The requirements already applicable for the company relating to the form and deadlines also apply to the arrangements for convening the Annual General Meeting of Instone Real Estate Group SE, registration and proof of shareholding provided by the shareholders (article 19.2 to article 19.4 of the Articles of Association of Instone Real Estate Group SE).

The Management Board of Instone Real Estate Group SE is authorised to allow parts or all of the Annual General Meeting to be broadcast by means of a video and audio feed (article 19.5 of the Articles of Association of Instone Real Estate Group SE).

Similarly, the Management Board is authorised under the requirements of article 19.6 of the Articles of Association of Instone Real Estate Group SE to allow for shareholders to participate in the Annual General Meeting without attending it in person and without nominating a proxy and to exercise some or all of their rights in full or in part by means of electronic communication.

#### 5.2.21 Chair of the Annual General Meeting (article 20)

Article 20 of the Articles of Association of Instone Real Estate Group SE reflects article 19 of the company's Articles of Association on the chairing of the Annual General Meeting.

According to this, the Annual General Meeting is chaired by the Chair of the Supervisory Board of Instone Real Estate Group SE or another member of the Supervisory Board to be designated by the Chair.

As regulated in article 19.4 of the company's Articles of Association, the chair presides over the meeting, determines the order in which the items of the agenda are dealt with as well as the nature and order of the votes and the order of the speakers. The chair may place reasonable time limits on the shareholders' right to ask questions and to speak and is entitled at the start or in the course of the Annual General Meeting to set a reasonable time frame for the full proceedings of the Annual General Meeting, for individual items of the agenda, or for individual contributors to speak or ask questions.

#### 5.2.22 Voting (article 21)

The regulations on the voting procedures at the Annual General Meeting in article 21 of the Articles of Association of Instone Real Estate Group SE take over in full in article 21.1 to article 21.3 the regulations from article 20.1 to article 20.3 of the company's Articles of Association. Each share thus grants one vote at the Annual General Meeting. Voting rights can also continue to be exercised by proxies, and the Management Board is authorised to allow shareholders to cast their votes by postal vote without taking part in the Annual General Meeting.

The original provision of article 20.4 of the company's Articles of Association provides that resolutions of the Annual General Meeting are adopted by a simple majority of the votes cast and, if the law stipulates a majority of the share capital represented in the adoption of the resolution in addition to the majority of votes, by a simple majority of the share capital represented in the adoption of the resolution, if this is permitted by law. As a result, the required majority for adopting resolutions at the company both for resolutions that amend the Articles of Association and for other resolutions for which the law permits this is reduced to the simple majority of votes and capital.

The new regulation in article 21.4 of the Articles of Association of Instone Real Estate Group SE means that the regulations on majorities for resolutions are changed against the background of the SE Regulation. Article 21.4 of the Articles of Association of Instone Real Estate Group SE stipulate that – in the absence of mandatory statutory provisions to the contrary – resolutions amending the Articles of Association require a two thirds majority of the votes cast or, if at least half of the share capital is represented, a simple majority of the votes cast.

This regulation is based on article 59(2) of the SE Regulation in conjunction with section 51 SEAG. In the final analysis, this means that, instead of a simple majority as before, amendments to the Articles of Association – subject to any higher majorities required as mandatory – now require a two thirds majority of the votes if at least half of the share capital is not represented at the Annual General Meeting. If mandatory legal regulations additionally stipulate a majority of the share capital represented in the adoption of the resolution for it to be effective, a simple majority of the share capital represented is sufficient, if permitted by law. A motion is regarded as rejected if the vote is tied.

Article 21.5 and article 21.6 of the Articles of Association of Instone Real Estate Group SE correspond in substance to article 20.4 and article 20.5 of the company's Articles of Association.

**5.2.23** Audio and video transmission (article 22)

The regulations on the admissibility of transmitting an audio and video broadcast of the Annual General Meeting and the requirements to be complied are stipulated in article 22 of the Articles of Association of Instone Real Estate Group SE. This regulation corresponds to article 21 of the company's Articles of Association.

**5.2.24** Annual financial statements (article 23)

Article 23 of the Articles of Association of Instone Real Estate Group SE regulates the preparation of the annual financial statements. The previous regulations on this in article 22 of the company's Articles of Association are retained.

**5.2.25** Appropriation of the profit (article 24)

With regard to the appropriation of the net retained profit resulting from the approved annual financial statements that is now regulated in article 24 of the Articles of Association of Instone Real Estate Group SE, the previous regulation pursuant to section 23 of the company's Articles of Association will also continue to apply without any changes.

**5.2.26 Place of jurisdiction (article 25)**

The regulation in article 25 of the Articles of Association of Instone Real Estate Group SE on the place of jurisdiction also correspond to the provision regulated in article 24 of the company's Articles of Association.

**5.2.27 Formation, formation expenses and costs of the conversion (article 26)**

Article 26.1 and article 26.2 of the Articles of Association of Instone Real Estate Group SE correspond to the previous article 25.1 and article 25.2 of the company's Articles of Association and take into account the mandatory formation regulations under company law of sections 26 and 27 AktG.

Article 26.3 of the Articles of Association of Instone Real Estate Group SE is a new addition and stipulates that Instone Real Estate Group SE bears the cost of forming Instone Real Estate Group SE by conversion of the company into the legal form of an SE in an amount of up to EUR 1,500,000. It is mandatory for this regulation also to be included in the Articles of Association because of the formation regulations applicable to the conversion into an SE.

**5.2.28 Severability clause (article 27)**

The severability clause contained in article 27 of the Articles of Association of Instone Real Estate Group SE for any invalid or unenforceable provisions of the Articles of Association corresponds to article 26 of the company's Articles of Association.

**6 Impacts of the conversion****6.1 Impacts under company law****6.1.1 Legal effects of the conversion**

The conversion of the company into an SE does not result in either the winding-up of the company or the creation of a new legal entity (article 37(2) of the SE Regulation). The legal and commercial identity of the company is preserved as a result of the conversion. No asset transfer takes place in the course of the conversion for this reason. The shareholders of the company maintain the same equity interest in Instone Real Estate Group SE. Only the legal provisions to be applied to the company change as a consequence of the conversion, as Instone Real Estate Group SE is no longer subject to the law governing a public limited company under German law. Against the background that the law applicable to a German public limited company applies *mutatis mutandis* in large parts to an SE with its registered office in Germany (see section 4 of this conversion report in this connection), no significant changes result in this respect.

Article 37(9) of the SE Regulation provides in particular that the rights and obligations of the company to be converted relating to terms and conditions of employment arising from employment contracts or employment relationships and existing at the date of the registration are transferred to the SE upon the entry of the conversion into an SE in the commercial register.

**6.1.2 Ownership structure at Instone Real Estate Group SE after the conversion**

As the equity investment of the shareholders in the company continue to exist without any changes on account of the identity of the legal entity, the ownership structure remains unchanged as a result of the company's conversion into an SE. The

shareholders receive the same number of shares that they held immediately before the conversion of the company comes into effect. The nominal amount of each no-par value share in the share capital is also maintained as it is immediately before the conversion comes into effect.

#### 6.1.3 Entitlement to a dividend

The right of the shareholders to receive dividends is not changed by the conversion of the company into an SE. As with the company, the Annual General Meeting also decides on the appropriation of the net retained profit at Instone Real Estate Group SE.

#### 6.1.4 Other impacts under company law

For other impacts under company law, please also see the comparison of the structural elements, especially the legal position of the shareholders of the company and of Instone Real Estate Group SE, in section 4 of this conversion report and the explanation of the Articles of Association of Instone Real Estate Group SE in section 5.2 of this conversion report.

### 6.2 Accounting impacts

The conversion of the company into an SE does not have any accounting impacts. As a conversion that maintains the identity of the company, neither the winding up of the company nor the formation of a new legal entity takes place (article 37(2) of the SE Regulation). With regard to the annual financial statements, the management report, the consolidated financial statements and the group management report, the same regulations that are applicable to a German public limited company will apply to Instone Real Estate Group SE.

### 6.3 Tax impacts

This section contains a brief summary of some key tax principles that are or may be of importance in connection with the conversion preserving the company's identity. This is not a comprehensive and complete presentation of all the tax aspects that may be relevant for the shareholders of the company and of Instone Real Estate Group SE. The basis for the statements is provided by the German tax law in force at the time this conversion report has been prepared, the provisions of which may change – also possibly with retroactive effect. It is therefore recommended that shareholders of the company and of Instone Real Estate Group SE consult their own tax advisers concerning the possible tax consequences of the conversion preserving the company's identity as well as of the acquisition, holding and sale of shares in the company and in Instone Real Estate Group SE. Only they will be able to give appropriate consideration to the particular tax circumstances of the individual shareholder.

#### 6.3.1 Taxation of the conversion

The company assumes that the conversion of the company into an SE with its registered office and place of effective management in Germany that preserves its identity will, in the absence of an asset transfer, be neutral in terms of income tax and that no German value added tax or property transfer tax will be incurred here. The shareholders of the company maintain the same equity interest as before in Instone Real Estate Group SE after the conversion preserving the company's identity. Against this background, the company assumes that the conversion preserving the company's identity will not lead to a taxable profit or a loss relevant for tax purposes for the company's shareholders liable to tax in Germany. However, a state-

ment on the tax treatment of the conversion in other states of residence of a shareholder based on the relevant foreign tax regulations cannot be made at this juncture.

#### **6.3.2 Taxation of the future Instone Real Estate Group SE**

After the conversion preserving the company's identity, the same tax consequences are produced for Instone Real Estate Group SE as they did for the company before the conversion. Instone Real Estate Group SE will be treated for ongoing income tax purposes as a German public limited company and will be subject, like the company beforehand, to corporation and trade tax.

#### **6.3.3 Taxation of the shareholders**

Future dividend payments from Instone Real Estate Group SE as well as sales of shares in Instone Real Estate Group SE will be treated in principle as dividend payments of the company and as sales of shares of the company for the shareholders of Instone Real Estate Group SE who are liable to tax in Germany, unless there is a change in the applicable law or the actual circumstances.

### **6.4 Impacts on the shares of the company and the stock exchange listing**

The conversion of the company into an SE has no material effects on the shares of the company and the stock exchange listing.

As the identity of the company remains unaffected by the conversion, the shareholders of the company will become shareholders of Instone Real Estate Group SE upon the conversion. The shares of the company will continue to be bearer shares also after the conversion. The share certificates of the company will be exchanged after the conversion. As global certificates are issued for the shares in the company, this will be done through an exchange of the global certificates at Clearstream Banking AG.

The Instone Real Estate shares are admitted to trading on the Regulated Market (Prime Standard) at the Frankfurt Stock Exchange under ISIN DE000A2NBX80. The company has been listed on the SDAX since 29 August 2019. Trading in the Instone Real Estate shares on the stock market will not be adversely impacted by the conversion. The shareholders can trade their shares in Instone Real Estate Group SE after the company has been converted. The conversion also does not have any impacts on the inclusion of the share on stock market indices. Similarly, because the nature of the conversion preserves the company's identity, the shares of Instone Real Estate Group SE do not have to be readmitted for trading. However, because the company will be renamed, the listing will have to be changed. The company will notify the relevant licensing authorities of Deutsche Börse AG in accordance with the statutory provisions of the changes associated with the conversion and in particular the amendments to the Articles of Association.

Essen, 23 April 2021

Instone Real Estate Group AG

The Board of Management

*Kruno Crepulja*

*Dr. Foruhar Madjlessi*

*Andreas Gräf*

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Kruno Crepulja

Dr Foruhar Madjlessi

Andreas Gräf

**Annex 1**

Draft of the terms of conversion of Instone Real Estate Group AG, including the draft Articles of Association of Instone Real Estate Group SE of 19. April 2021

I.

## TERMS OF CONVERSION

for the conversion, resulting in the

change of legal form, of

**Instone Real Estate Group AG**

into the

**legal form of a *Societas Europaea* (SE –  
European company)**

### Recitals

Instone Real Estate Group AG (the “**Company**”) is a public limited company established under German law, the registered office of which is in Essen. The Company is entered in the commercial register of the Local Court of Essen under HRB 29362. The business address of the Company is Grugaplatz 2-4, 45131 Essen, Germany. The Company constitutes the top management of a group of German and international subsidiaries as well as other equity investments (together the “**Instone Group**”).

The Company’s field of activities encompass the development of houses, apartment buildings and publicly subsidised housing, the design of modern urban districts and the renovation of listed buildings. Projects are marketed to owner-occupiers, private buy-to-let investors and institutional investors.

The Company’s share capital amounts as of today to EUR 46,988,336.00 and is divided into 46,988,336 no-par value bearer shares. The notional amount of the share capital attributed to each no-par value share is EUR 1.00.

The Company is listed on the stock market. The shares are listed on the Regulated Market (Prime Standard) at the Frankfurt Stock Exchange under ISIN DE000A2NBX80. The Company is included in the SDAX index.

The Company is to be converted into a European company (*Societas Europaea*, “**SE**”) in accordance with article 2(4) in conjunction with article 37 of Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European Company (SE) (“**SE regulation**”), which will have the name “Instone Real Estate Group SE”. In addition to the SE regulation, the German Act on the implementation of Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European Company (SE) of 22 December 2004 (“**SEAG**” – SE Implementation Act) as amended on 12 December 2019 and the German Act on employee involvement in a European company of 22 December 2004 (“**SEBG**”) apply. The legal form of the SE is a supranational legal form for public limited companies that is based on European law.

The SE is a modern and supranational legal form. The planned conversion into the legal form of an SE is intended to underline the identity of the Company as a dynamic, fast-growing company and to further increase its attractiveness for European and international investors. At the same time, the legal form of the SE guarantees that the tried and trusted corporate governance of the Company can be retained and that the Company can be effectively managed. The Company will keep its registered and head office and its actual administrative headquarters in Germany as before.

Against this background and in order to implement the conversion project, the Management Board of the Company draws up the following terms of conversion in accordance with article 37(4) of the SE regulation:

### **Section 1** **Conversion of Instone Real Estate Group AG** **into Instone Real Estate Group SE**

- 1.1 The Company is converted into the legal form of an SE in accordance with article 2(4) in conjunction with article 37 of the SE regulation by a change of form.
- 1.2 The Company has had (indirect) subsidiaries governed by the law of another member state for at least two years. These include DURST-BAU GmbH with its registered office in Vienna and formart Luxembourg s.à r.l. with its registered office in Luxembourg. The business address of DURST-BAU GmbH is c/o Arnold Rechtsanwälte GmbH, Wipplingerstraße 10/10, 1110 Vienna, Austria, and the Company is entered in the Austrian companies register (*Firmenbuch*) under registration number 42220p. The business address of formart Luxembourg s.à r.l. is 12, Rue du Château d'Eau, L-3364 Leudelange, Luxembourg, and it is entered in the Luxembourg trade and companies register (*Registre de Commerce et des Sociétés*) under registration number B18517. In turn, formart Luxembourg s.à r.l. has a wholly owned subsidiary with its registered office in Luxembourg, Immobiliengesellschaft CSC Kirchberg s.à r.l., which is entered in the Luxembourg trade and companies register (*Registre de Commerce et des Sociétés*) under registration number B67082. All shares both in DURST-BAU GmbH and in formart Luxembourg s.à r.l. are held by Instone Real Estate Development GmbH, which has its registered office in Essen and which is entered in the commercial register of the Local Court of Essen under HRB 28401. The shares in both companies were transferred to formart GmbH & Co. KG, the predecessor in interest of Instone Real Estate Development GmbH, by HOCHTIEF Solutions AG pursuant to section 123(3) no. 1 of the Umwandlungsgesetz (UmwG – German Transformation Act) as part of the spin-off of the “formart” business units, which came into effect on 29 August 2013 when it was entered in the commercial register. The Company is the sole shareholder of Instone Real Estate Development GmbH and thus not only indirectly holds all the shares in DURST-BAU GmbH and formart Luxembourg s.à r.l., but also indirectly has all the voting rights associated with the shares. The Company thus exercises control over DURST-BAU GmbH and formart Luxembourg s.à r.l. as subsidiaries. The requirements of article 2(4) of the SE regulation for the conversion of the Company into an SE are thus met.
- 1.3 The conversion of the Company into an SE does not result in either the winding-up of the Company or the formation of a new legal entity. Because the identity of the legal entity is preserved, no transfer of assets takes place. The Company continues in the legal form of the SE. The equity investment of the shareholders in the Company continues unchanged.
- 1.4 Like the Company, Instone Real Estate Group SE will have a two-tier management system consisting of a Management Board as the management organ within the meaning of article 38 (b) and



article 39(1) of the SE regulation and a Supervisory Board as the supervisory organ within the meaning of article 38 (b) and article 40(1) of the SE regulation. The Supervisory Board mandates of the members of the Company's Supervisory Board in office on the Conversion Date are not affected by the conversion into the legal form of an SE. Neither the size nor the composition of the Supervisory Board are changed by the conversion into Instone Real Estate Group SE. The principle of the continuity of office (section 203 sentence 1 UmwG in conjunction with article 15(1) of the SE regulation) thus applies.

- 1.5 Shareholders who object to the conversion do not receive any offer of cash compensation. A corresponding right to compensation in cash is not provided by law.

## **Section 2**

### **Entry into effect of the conversion**

The conversion comes into effect when it is entered in the commercial register of the local court (the "**Conversion Date**").

## **Section 3**

### **Company name, share capital and Articles of Association of Instone Real Estate Group SE**

- 3.1 The name of the SE is Instone Real Estate Group AG
- 3.2 The registered and head office of Instone Real Estate Group SE will continue to be Essen, Germany. This is also where the actual administrative headquarters are located.
- 3.3 Instone Real Estate Group SE is given the Articles of Association attached in the **Annex**. The Articles of Association of Instone Real Estate Group SE are an integral part of these terms of conversion.
- 3.4 The total share capital of the Company in the amount existing on the Conversion Date (current amount EUR 46,988,336.00) and as divided on this date into no-par value bearer shares (shares with no nominal value, currently numbering 46,988,336) will become the share capital of Instone Real Estate Group SE.
- 3.5 The persons and companies that are shareholders of the Company on the Conversion Date will become shareholders of Instone Real Estate Group SE. They will hold an equity interest in the share capital of Instone Real Estate Group SE in the same extent and with the same number of no-par value shares as they hold in the Company's share capital immediately before the Conversion Date. The nominal amount of each no-par value share in the share capital (currently EUR 1.00) is maintained as it was immediately before the Conversion Date.
- 3.6 The listing of the Company on the stock market will continue as before.
- 3.7 On the Conversion Date,
- (i) the amount of the share capital with the division into no-par value shares of Instone Real Estate Group SE (article 4 of the Articles of Association of Instone Real Estate Group SE) corresponds to the amount of the share capital with the division into no-par value shares of the Company (article 4 of the Articles of Association of the Company),

- (ii) the authorised capital pursuant to article 6 of the Articles of Association of Instone Real Estate Group SE corresponds to the authorised capital pursuant to article 6 of the Articles of Association of the Company and
- (iii) the contingent capital pursuant to article 7 of the Articles of Association of Instone Real Estate Group SE corresponds to the contingent capital pursuant to article 7 of the Articles of Association of the Company.

On the basis of a capital increase with subscription rights against cash contributions performed in September 2020, the Company increased its share capital by EUR 10 million from EUR 36,988,366.00 to EUR 46,988,366.00 by issuing 10 million new no-par value shares with a notional share of the share capital of EUR 1.00 each. Against this background, it is planned to propose to the Annual General Meeting of the Company on 9 June 2021, which is set to decide under item 10 of the agenda on the approval for the conversion of the Company into an SE, under item 8 of the agenda that a resolution be adopted on an adjusted contingent capital increase (Contingent Capital 2021) and a corresponding amendment to article 7 of the Company's Articles of Association while cancelling the contingent capital increase adopted by the Annual General Meeting of 13 June 2019 (Contingent Capital 2019). Furthermore, it is planned to propose to the Annual General Meeting of the Company on 9 June 2021 under item 9 of the agenda that the Management Board be authorised to increase the Company's share capital by up to EUR 8.0 million by issuing up to 8.0 million new no-par value shares (Authorised Capital 2021) and that a resolution be adopted on a corresponding addition to the Company's Articles of Association.

Any changes concerning the amount of the share capital and the amounts of the authorised capital and of the contingent capital of the Company contained therein that are made before the conversion, especially the change to the contingent capital and the creation of additional authorised capital adopted by the Annual General Meeting of the Company on 9 June 2021 immediately before the resolution on the conversion, also apply for Instone Real Estate Group SE. Article 6a and article 7 of the Articles of Association of Instone Real Estate Group SE that are attached in the annex accordingly stipulate provisions on the Authorised Capital 2021 and on the Contingent Capital 2021 that correspond to the addition of article 6a of the Articles of Association and the amendment to article 7 of the Articles of Association of the Company proposed to the Annual General Meeting on 9 June 2021. If and in so far as the Annual General Meeting of the Company on 9 June 2021 does not approve the relevant items of the agenda on the creation of the Authorised Capital 2021 and the change to the Contingent Capital 2021, the Company's authorised capital and contingent capital existing on the Conversion Date will remain in effect at Instone Real Estate Group SE.

The Supervisory Board of the Company (alternatively the Supervisory Board of Instone Real Estate Group SE) is authorised and at the same time instructed to make any amendments that may result from the above to the wording of the Articles of Association of Instone Real Estate Group SE, which are attached in the annex and which assume approval of the Annual General Meeting of 9 June 2021 of the resolutions proposed by management relating to all items of the agenda, before the conversion involving the change of form is entered in the commercial register.

## **Section 4**

### **Continued validity of resolutions of the Annual General Meeting of the Company**

- 4.1 Resolutions of the Annual General Meeting of the Company that have not yet been executed by the Conversion Date are not changed and remain in effect for Instone Real Estate Group SE.

- 4.2 This applies specifically – in addition to the resolutions of the Annual General Meeting of 9 June 2021 on the adjustment of the contingent capital and on the creation of additional authorised capital that are referred to in section 3.7 – for the resolution adopted under item 7 of the agenda of the Annual General Meeting of the Company of 13 June 2019 on the authorisation of the Management Board to acquire and also to use treasury shares in accordance with section 71(1) no. 8 of the Aktiengesetz (AktG – German Stock Corporation Act) with a possible exclusion of the rights of tender and subscription.

## **Section 5**

### **Two-tier management system of Instone Real Estate Group SE**

In accordance with article 5 of the Articles of Association of Instone Real Estate Group SE, the two-tier management system comprising a Management Board as the management organ within the meaning of article 38 (b) and article 39(1) of the SE regulation and a Supervisory Board as the supervisory organ within the meaning of article 38 (b) and article 40(1) of the SE regulation will not be changed and will remain in place.

## **Section 6**

### **Management Board**

- 6.1 In accordance with article 9.1 of the Articles of Association of Instone Real Estate Group SE, the Management Board will consist at Instone Real Estate Group SE of no fewer than two people, who are appointed by the Supervisory Board pursuant to article 9.2 of the Articles of Association of Instone Real Estate Group SE.
- 6.2 Without prejudice to the decision-making authority under company law of the Supervisory Board of Instone Real Estate Group SE pursuant to article 39(2) sentence 1 of the SE regulation, it can be assumed that the members of the Company's Management Board currently in office will be appointed members of the Management Board of Instone Real Estate Group SE. The current members of the Company's Management Board are Mr Kruno Crepulja (Chair of the Management Board), Dr Foruhar Madjlessi and Mr Andreas Gräf.

## **Section 7**

### **Supervisory Board**

- 7.1 In accordance with article 12.1 of the Articles of Association of Instone Real Estate Group SE, a Supervisory Board is created at Instone Real Estate Group SE consisting – just as before the conversion – of five members. All the members are representatives of the shareholders and are elected by the Annual General Meeting, which is not bound by any nominations that have been put forward. The Supervisory Board is thus also not subject to corporate co-determination after the conversion.
- 7.2 In addition to the size, the composition of the Company's Supervisory board is also not changed by the conversion into Instone Real Estate Group SE. Irrespective of the conversion, the mandates of the incumbent members of the Company's Supervisory Board remain in effect in accordance with the principle of continuity of office (section 203 sentence 1 UmwG in conjunction with article 15(1) of the SE regulation) for the duration still remaining of the terms of office of the Supervisory

Board members in question. Members of the Supervisory Board of Instone Real Estate Group SE will thus be the members who are members of the Company's Supervisory Board at the time the conversion comes into effect. In the event that either an incumbent member of the Supervisory Board resigns from office before the end of their term and before this time or the conversion comes into effect only after the regular term of office of the Supervisory Board member in question has ended and the Supervisory Board member in question is not re-elected as a member of the Supervisory Board by the Annual General Meeting, the member of the Supervisory Board succeeding the relevant member of the Company's Supervisory Board shall immediately become of a member of the Supervisory Board of Instone Real Estate Group SE when the conversion comes into effect.

- 7.3 It is planned to propose to the Annual General Meeting of the Company on 9 June 2021, which is set to decide on under item 10 of the agenda on the approval of the conversion of the Company into an SE, under item 7 2) of the agenda that, in connection with the approval of the system for the remuneration of the members of the Supervisory Board, a resolution be adopted on an adjustment of the remuneration of the Supervisory Board. The Articles of Association of Instone Real Estate Group SE accordingly stipulate in articles 14.1 and 14.2 provisions on the Supervisory Board remuneration that correspond to the amendment of articles 13.1 and 13.1 of the Company's articles of the association proposed to the Annual General Meeting on 9 June 2021.
- 7.4 If the Annual General Meeting of the Company on 9 June 2021 does not approve the corresponding item of the agenda on the adjustment of the Supervisory Board remuneration, the adjustment of the remuneration will also not apply for Instone Real Estate Group SE. In this event, the remuneration of the Supervisory Board members regulated in articles 13.1 and 13.2 of the Company's Articles of Association as currently amended shall continue to apply for Instone Real Estate Group SE without any changes. The Supervisory Board of the Company (alternatively the Supervisory Board of Instone Real Estate Group SE) is authorised and at the same time instructed to make a corresponding amendment to the wording of the Articles of Association of Instone Real Estate Group SE, which are subject to the approval by the Annual General Meeting of 9 June 2021 of the resolutions proposed by management under all items of the agenda, before the conversion is entered in the commercial register.

## Section 8

### Information on the procedure relating to the agreement on employee involvement

- 8.1 In order to ensure the rights acquired by the employees of the Company to be involved in corporate decisions, a procedure for employee involvement at Instone Real Estate Group SE has to be implemented pursuant to article 12(2) of the SE regulation in conjunction with sections 4 ff. SEBG in connection with the conversion into an SE. The goal of the negotiations is to enter into an agreement on employee involvement in the SE pursuant to section 13(1) sentence 1 SEBG ("**Involvement Agreement**") that concerns in particular the mechanism for informing and consulting the employees through the establishment of an SE works council or in another way to be agreed with the Company's Management Board.

The procedure for employee involvement is characterised by the principle of securing the rights that have been acquired by the Company's employees. The scope of the employee involvement in the SE is determined by section 2(8) SEBG, which essentially follows article 2 (h) of the Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees. According to this, the term "involvement of employees"

is the umbrella term for any mechanism, especially information for, consultation with and participation of the employees, through which employees' representatives may exercise an influence on decisions to be taken within the Company (section 2(8) SEBG).

- 8.2 The procedure for the involvement of employees is initiated in accordance with the regulations of the SEBG. These provide that the management of the company involved – the Management Board in the case of the conversion of Instone Real Estate Group AG – informs the employees and their respective employee representatives of the conversion project and requests them to create a special negotiating body (“**SNB**”).
- 8.3 The Management Board of the company has to initiate the procedure by informing and sending the request to the employees and their relevant representatives. The information provided to the employees and their relevant representatives includes in particular (i) the identity and structure of the companies involved, the subsidiaries concerned and the establishments concerned and their distribution across the member states, (ii) the employee representative bodies existing at these companies and establishments, (iii) the number of employees employed in each of these companies and establishments and the total number of employees employed in a member state to be calculated from this and (iv) the number of employees entitled to participation rights in the executive bodies of these companies.

Employee representative bodies under national law are in place within the Instone Group at Instone Real Estate Development GmbH, where a General Works Council and local works councils for the North/East, West and South regions have been set up. Because a joint operation was set up between Instone Real Estate Development GmbH and Nyoo Real Estate GmbH at the Cologne location in January 2021, the works council of Instone Real Estate Development GmbH for the West region also represents the employees of Nyoo Real Estate GmbH. No other employee representative bodies have been set up in Germany. The Company's indirect subsidiaries domiciled in Austria (DURST-BAU GmbH) and Luxembourg (formart Luxembourg s.à r.l., Immobiliengesellschaft CSC Kirchberg s.à r.l.) do not employ any staff and accordingly no employee representative bodies have been set up there either.

In accordance with this, the information required for the creation of the SNB as well as the request required in this respect is to be addressed to the General Works Council in place at Instone Real Estate Development GmbH and the executives of the Instone Group. It was not necessary to inform employee representative bodies and employees outside Germany, as the Instone Group does not employ any staff in member states outside of Germany.

- 8.4 It is stipulated by law that the employees and the employee representative bodies elect or appoint the members of the SNB within ten weeks after the employees and their relevant employee representative bodies have been informed. It is the task of the SNB to negotiate the design of the participation procedure and the definition of the employee's rights of involvement at the SE.

The creation and the composition of the SNB are determined in principle in accordance with German law (sections 4 to 7 SEBG), as no employees are employed within the Instone Group in other member states of the European Union or of the European Economic Area.

In the case of the SE formed as a result of conversion, the SNB comprises representatives of the employees of both the Company directly involved in the conversion (here Instone Real Estate Group AG) and of its concerned subsidiaries and concerned establishments, if their employees are employed in a member state of the European Union or of the European Economic Area. The number of seats on the SNB allocated to the individual member states is determined pursuant to section 5 SEBG by the number of employees employed in the respective member state. As the Instone Group employs staff only in Germany, the members of the SNB were elected exclusively from the employees of the Instone Group employed in Germany.

- 8.5 If only one group of companies is involved in the formation of the SE from outside Germany, the election committee for electing the members of the SNB consists pursuant to section 8(2) SEBG of the members of the group works council or, if there is no group works council, the members of the general works councils or, if there are no general works councils, the members of the works council. Establishments and companies of a group that do not have works councils are also represented by the group works council, the general works council or the works council. This means for the Instone Group that the General Works Council of Instone Real Estate Development GmbH as the highest ranking national employee representative body creates the election committee and also represents the establishments and companies of the Instone group that do not have works councils in the election of the members of the SNB.

In accordance with section 8(1) SEBG, the members of the SNB must be elected in a direct and secret ballot. Two thirds of the members of the election committee representing no less than two thirds of the employees must be present at the election.

All employees of the German companies and establishments of the Instone Group as well as trade union representatives and executives are eligible for election to the SNB. A substitute member has to be elected for each member. If the SNB comprises more than two members, every third member shall be nominated for election by a trade union that is represented at a company involved in the formation of the SE (sections 6(3) and 8(1) sentence 1 SEBG). If the SNB comprises more than six members, every seventh member shall be an executive (sections 6(4) and 8(1) sentence 5 SEBG). For the SNB that is to be elected in the course of the conversion of Instone Real Estate Group AG, this means that, of the ten members of the SNB to be elected, three members are nominated for election by a represented trade union and one member is nominated for election by the executives.

The nominations for the trade union representative are put forward by the trade unions themselves. As there are no committees representing executives within the Instone Group, the nominations by the executives must be put forward by the executives themselves. A nomination by the executives must be signed by 1/20 or 50 of the executives who are eligible to vote. The nominations for the other members of the SNB must be put forward by the members of the election committee.

- 8.6 No earlier than after all members of the SNB have been appointed, but no later than ten weeks after the information pursuant to section 4(2) and (3) SEBG has been provided, the Management Board of the company has to invite the members without undue delay to constitute the SNB. The procedure for creating the SNB ends and the negotiations commence on the date that the SNB is constituted; the law provides for a duration of up to six months for the negotiations, which can be extended to up twelve months by a mutually agreed decision of the negotiating parties.

The negotiation procedure also takes place if the period for electing or appointing individual or all members of the SNB is exceeded for reasons for which the employees are responsible (section 11(2) sentence 1 SEBG).

- 8.7 A procedure for informing and consulting the employees in the SE shall be defined in the agreement between the Management Board and the SNB. This can be implemented by establishing an SE works council or by another procedure envisaged by the negotiating partners that guarantees that the employees of Instone Real Estate Group SE are informed and consulted. If an SE works council is created, the scope, the number of its members and the allocation of the seats, the information and consultation functions, the related procedure, the frequency of meetings, the financial and material resources to be allocated, the date that the agreement enters into force and its duration as well as the cases where the agreement should be renegotiated and the procedure to be applied for its renegotiation shall be agreed. Instead of the creation of an SE works council,

another procedure can also be agreed that ensures that the employees are informed and consulted.

- 8.8 The conclusion of an Involvement Agreement between the Management Board and the SNB requires a decision by the SNB. The decision is adopted by the majority of the members, which must at the same time represent the majority of the employees represented.

The SNB can decide by a majority of two thirds of the members not to open negotiations or to terminate negotiations that have already been opened (section 16(1) SEBG). A statutory right exists to reconvene the SNB and also to reopen negotiations on the written request of at least 10% of the employees of the SE at the earliest two years after the relevant decision taken by SNB (section 18(1) sentence 1 SEBG).

- 8.9 If an Involvement Agreement is not concluded within the envisaged (or extended) period and if a decision pursuant to section 16 SEBG is not adopted, standard rules shall apply by operation of the law (section 22 SEBG); this can also be agreed from the outset as the contractual solution.

With regard to the Company, the application of these standard rules by operation of the law would mean that an SE works council would have to be established, the task of which would consist in ensuring that the employees in the SE were informed and consulted. It would be competent for questions which concern the SE itself and any of its subsidiaries or establishments situated in another member state or which exceed the powers of the competent organs in a single member state. The SE works council would have to be informed and consulted on the progress of the business of the SE and its prospects on an annual basis. The composition of the SE works council and the election of its members would in principle follow the provisions on the composition of the SNB and the appointment of its members.

In the event that the standard rules are applied by operation of the law, the management of the SE has to examine every two years during the existence of the SE whether changes in the SE, its subsidiaries and establishments make it necessary to change the composition of the SE works council (section 25 SEBG). In the event that the standard rules are applied by operation of the law, the SE works council furthermore has to decide by a majority of its members four years after it is established whether to open negotiations on an agreement on employee involvement or to continue to apply the previous regulation (section 26(1) SEBG). If the decision is taken to negotiate an Involvement Agreement, the SE works council takes the place of the SNB in these negotiations (section 26(2) SEBG).

- 8.10 The necessary costs incurred in the creation and the work of the SNB are borne by the Company and, after the conversion, by Instone Real Estate Group SE. The obligation to bear the costs encompasses the material and personal costs that are incurred in connection with the work of the SNB, including the negotiations. In particular, premises, material resources and office staff shall be made available in the necessary scope for the meetings, and any necessary travel and accommodation expenses of the SNB's members shall be covered.

- 8.11 The Management Board of the Company opened the participation procedure on 28 October 2020 by sending an information letter and formal notice within the meaning of section 4(2) and (3) SEBG regarding the creation of an SNB to the General Works Council of Instone Real Estate Development GmbH and the executives of the Instone Group.

The election of the members of the SNB was held on 14 December 2020. Ten employees from the Instone Group, including one executive (and including one substitute member each) were elected to the SNB in this process. No nominations were put forward by the trade unions.

The inaugural meeting of the SNB was held on 11 January 2021. Following this inaugural meeting, the draft of an Involvement Agreement was discussed by the negotiating parties.

A new round of negotiations was held between the Management Board of the Company and the SNB on 4 February 2021 and on 18 March 2021. Negotiations between the Management Board and the SNB regarding the execution of an Involvement Agreement are continuing; the outcome of the negotiations is open.

Concerning the conclusion of the procedure for employee involvement, the following three options are available:

- (i) Firstly, an Involvement Agreement between the Company's Management Board and the SNB may be concluded in accordance with section 21 SEBG. The conclusion of the Involvement Agreement requires a decision of the SNB to be adopted by the majority of the members who at the same time represent the majority of the employees. The Involvement Agreement would come into force when the conversion into Instone Real Estate Group SE takes effect upon its entry in the commercial register of the local court of Essen.
- (ii) Secondly, it is also possible for the SNB to conclude the procedure for employee involvement by deciding to terminate the participation procedure in accordance with section 16 SEBG. The SNB may within the statutory six-month period or, as the case may be, by the expiry of the period extended by mutual agreement between the parties, adopt a resolution to terminate the negotiations with the Company's Management Board on the conclusion of an Involvement Agreement. This resolution would terminate the procedure for employee involvement, section 16(2) sentence 1 SEBG. As a consequence, the statutory standard rules would not apply in accordance with section 16(2) sentence 2 SEBG. Please refer to the statements under section 8.8 for the other legal consequences.
- (iii) Lastly, the procedure for employee involvement would be concluded if the Management Board of the Company and the SNB are unable to reach an agreement on the conclusion of an Involvement Agreement within the statutory six-month period or, as the case may be, by the expiry of the period extended by mutual agreement between the parties, section 22(1) no. 2 SEBG. If the SNB has not taken a decision to terminate the negotiations in accordance with section 16(1) sentence 1 SEBG, the statutory standard rules would apply in accordance with section 22(1) no. 2 SEBG and the employee involvement procedure is ended. Please refer to the statements under section 8.9 for the legal consequences.

## **Section 9**

### **Other impacts of the conversion on the employees and their representative bodies**

- 9.1 The employment relationships of the employees of the Company and also of the subsidiaries are not affected by the conversion. Similarly, with the exception of the procedure for the involvement of the employees described in section 8, the conversion of the Company into an SE does not produce any impacts for the employees of the Instone Group on the participation rights of the employees in the Company and the companies of the Instone Group.
- 9.2 Similarly, no changes result from the conversion for the existing employee representative bodies at Instone Real Estate Development GmbH and its establishments.
- 9.3 No other measures that would have impacts on the employees are envisaged or planned as a consequence of the conversion.



## **Section 10**

### **Auditor**

Deloitte GmbH Wirtschaftsprüfungsgesellschaft, Düsseldorf, is appointed as the auditor of the annual and consolidated financial statements for the first financial year of Instone Real Estate Group SE and also as the auditor for any review of the interim financial reports to be prepared during the year before the next Annual General Meeting. The first financial year of Instone Real Estate Group SE is the calendar year in which the conversion of the Company is entered in the commercial register of the Local Court of Essen.

## **Section 11**

### **No other rights or special advantages**

- 11.1 Parties within the meaning of section 194(1) no. 5 UmwG and/or article 20(1) sentence 2 (f) of the SE regulation are not granted any rights beyond the shares specified in section 3.5. Special measures with regard to these parties are not provided for. Out of an abundance of caution from a legal perspective, it is pointed out that special rights (e.g. conversion, option or profit participation rights) of owner of securities other than shares remain unaffected on account of the continuity principle; any special rights continue intact in the legal form of the SE. No special measures are envisaged for the owners of these rights.
- 11.2 Parties within the meaning of article 20(1) sentence 2 (g) of the SE regulation are not granted any special advantages in the course of the conversion. Out of an abundance of caution from a legal perspective, it is pointed out that, without prejudice to the decision-making authority under Company law of the Supervisory Board of Instone Real Estate Group SE, it can be assumed that the members of the Company's Management Board currently in office will be appointed members of the Management Board of Instone Real Estate Group SE (see section 6.2). Furthermore, all members of the Company's Supervisory Board in office at the time the conversion is registered will become members of the Supervisory Board of Instone Real Estate Group SE upon the Conversion Date (see section 7.2).

## **Section 12**

### **Conversion costs**

The Company bears the costs incurred for the official recording of these terms of conversion and their preparation and implementation up to the amount of EUR 1,500,000 laid down in article 26.3 of the Articles of Association of Instone Real Estate Group SE.

**ARTICLES OF ASSOCIATION  
INSTONE REAL ESTATE GROUP SE**

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I.  
**General provisions**

**§ 1**  
**Legal form and company name; registered office; financial year**

1.1. The company is a European company (Societas Europaea); the name of the company is

**Instone Real Estate Group SE.**

1.2. The registered office of the company is in Essen.

1.3. The financial year is the calendar year.

**§ 2**  
**Purpose of the company**

2.1. The purpose of the company is the acquisition, development, construction, leasing, management and sale or other use of land and buildings as well as equity investments in other companies that are active in this field of business.

2.2. The company is authorised to conduct all transactions and to take all measures that are connected with the purpose of the company pursuant to article 2.1 or that are suitable for indirectly serving this purpose. It may acquire and sell developed and undeveloped properties as well as land rights in this connection.

2.3. The company is authorised to establish, to acquire or to invest in other companies, especially companies where their business purpose extends in full or in part to the business purpose of the company pursuant to article 2.1. The company may establish branches in Germany and abroad.

2.4. The company can sell each of its equity investments or split off its business or assets in full or in part or transfer the business or assets to affiliated companies. The company can furthermore combine companies in which it has an equity interest under its management and/or limit itself to administering the equity interest(s) and enter into company agreements of all kinds as well as spin off its operations in full or in part to companies in which it has a majority equity interest or transfer these operations to such companies.

2.5. The company can limit itself to fulfilling only parts of the business purpose.

**§ 3**

**Notices; transmission of information**

- 3.1. The notices of the company are made in the Federal Gazette, unless otherwise stipulated by mandatory provisions of the law.
- 3.2. In accordance with section 49(3) of the Wertpapiershandelsgesetz (WpHG – German Securities Trading Act), the company is entitled to send information to the shareholders by means of electronic data transfer.

**II.**

**Share capital and shares, authorised/contingent capital**

**§ 4**

**Share capital**

- 4.1. The share capital of the company amounts to  
  
**forty-six million nine hundred and eight-eight thousand three hundred and thirty-six euros**  
  
**(EUR 46,988,336).**
- 4.2. The share capital of the company has been paid in full by way of the conversion of Instone Real Estate AG into a European company (SE).
- 4.3. The share capital is divided into forty-six million nine hundred and eighty-eight thousand three hundred and thirty-six (46,988,336) no-par value shares. The notional amount of the share capital attributable to each no-par value shares is one euro (EUR 1.00).

**§ 5**

**Form of the shares; share certification**

- 5.1. The shares are bearer shares. Shares from a capital increase are also bearer shares, unless otherwise provided for in the resolution on the capital increase.
- 5.2. The company is authorised to issue certificates for individual shares (individual certificates) or for several shares (global certificates). The right of the shareholders to be issued with certificates for their respective shares is excluded in so far as this is permitted by law and the issuing of a certificate is not required in accordance with the rules of the stock exchange on which the shares are admitted.

- 5.3. The form and content of the share certificates as well as of any dividend warrants and renewal coupons are determined by the Management Board in consultation with the Supervisory Board. The same applies for bonds and promissory notes.
- 5.4. During a capital increase, the profit participation of the new shares can be regulated in divergence from section 60(2) sentence 3 of the Aktiengesetz (AktG – German Stock Corporation Act).

## **§ 6 Authorised capital**

- 6.1. The Management Board is authorised, with the approval of the Supervisory Board, to increase the share capital of the company on one or more occasions by up to eight million four hundred and fifty thousand euros (EUR 8,450,000.00) by issuing up to eight million four hundred and fifty thousand (8,450,000) new no-par value bearer shares against cash and/or non-cash contributions (Authorised Capital 2018) by the twenty-eighth of June two thousand and twenty-three (28 June 2023).
- 6.2. Shareholders shall in principle be granted subscription rights. In accordance with section 186(5) AktG, the shares can also be acquired by one or more credit institutions or entities operating in accordance with section 53(1) sentence 1 or section 53b(1) sentence 1 or (7) of the Kreditwesengesetz (KWG – German Banking Act) with the obligation to offer them to the shareholders of the company for subscription (indirect subscription rights). The Management Board is authorised, however, with the approval of the Supervisory Board, to exclude the shareholders' subscription rights for one or more capital increases as part of the Authorised Capital 2018:
- (a) in order to exclude fractional amounts from the shareholders' subscription rights;
  - (b) if this is necessary in order to grant to holders of conversion or option rights arising from or in connection with bonds, profit participation rights and participating bonds or creditors of bonds furnished with conversion obligations (or a combination of these instruments) that have been or will be issued by the company or by companies dependent on or majority-owned by the company a subscription right to new no-par value bearer shares of the company in the extent to which they would be entitled after the option or conversions rights are exercised or after conversion obligations are fulfilled, or if the company exercises an option in respect of such bonds, profit participation rights and participating bonds to grant shares in the company in full or in part instead of paying the cash amount that is due.

- (c) to issue shares against cash contributions if the issue amount of the new shares is not significantly less, within the meaning of sections 203(1) and (2) and 186(3) sentence 4 AktG, than the market price of the shares that are already listed and the notional amount in the share capital attributed to the new shares issued subject to the exclusion of the subscription rights in accordance with section 186(3) sentence 4 AktG does not in total exceed ten percent (10%) of the share capital either at the time this authorisation comes into effect or at the time that it is exercised. Shares that are issued or that are to be issued to serve conversion or option rights arising from or in connection with bonds, profit participation rights and participating bonds or creditors of bonds furnished with conversion obligations or a combination of these instruments or when an option is exercised by the company to grant shares in the company instead of paying the cash amount due from or in connection with bonds, profit participation rights and participating bonds or creditors of bonds furnished with conversion obligations shall be deducted from this number if these bonds were issued in application mutatis mutandis of section 186(3) sentence 4 AktG subject to the exclusion of the subscription rights during the term of this authorisation. Furthermore, treasury shares of the company that are disposed of during the term of this authorisation subject to the exclusion of the shareholders' subscription rights in accordance with section 71(1) no. 8 sentence 5, second half of the sentence in conjunction with section 186(3) sentence 4 AktG shall also be deducted from the maximum limit of ten percent (10%) of the share capital;
- (d) to issue shares in return for non-cash contributions in particular for – but not limited to – the purposes of acquiring (also indirectly) companies, parts of companies, equity investments in companies or other assets (including receivables), properties and property portfolios in connection with an acquisition project, or to serve conversion or option rights and conversion obligations arising from or in connection with bonds, profit participation rights and participating bonds or creditors of bonds furnished with conversion obligations or a combination of these instruments that are issued in return for non-cash contributions; or
- (e) to carry out a stock dividend, in the course of which shares of the company are used (also in part and/or optionally) to fulfil the shareholders' dividend claims.

6.3. The Management Board is authorised, with the approval of the Supervisory Board, to define the further content of the share rights (including a profit participation for the new shares deviating from section 60(2) sentence 3 AktG) and the terms and conditions of the share issue. The Supervisory Board will be authorised, after the Authorised Capital 2018 is utilised or after the deadline for utilising the Authorised Capital 2018 has elapsed, to amend the wording of the Articles of Association.



**§ 6a**  
**Authorised Capital 2021**

- 6a.1. The Management Board is authorised, with the approval of the Supervisory Board, to increase the share capital of the company on one or more occasions by up to eight million euros (EUR 8,000,000.00) by issuing up to eight million (8,000,000) new no-par value bearer shares in return for cash and/or non-cash contributions (**Authorised Capital 2021**) by 8 June 2026.
- 6a.2. Shareholders shall in principle be granted subscription rights. In accordance with section 186(5) AktG, the shares can also be acquired by one or more credit institutions or entities operating in accordance with section 53(1) sentence 1 or section 53b(1) sentence 1 or (7) of the Kreditwesengesetz (KWG – German Banking Act) with the obligation to offer them to the shareholders of the company for subscription (indirect subscription rights). The Management Board is authorised, however, with the approval of the Supervisory Board, to exclude the shareholders' subscription rights for one or more capital increases as part of the Authorised Capital 2021:
- (a) in order to exclude fractional amounts from the shareholders' subscription rights;
  - (b) to issue shares against cash contributions if the issue amount of the new shares is not significantly less, within the meaning of sections 203(1) and (2) and 186(3) sentence 4 AktG, than the market price of the shares that are already listed and the notional amount in the share capital attributed to the new shares issued subject to the exclusion of the subscription rights in accordance with section 186(3) sentence 4 AktG does not in total exceed ten percent (10%) of the share capital either at the time this authorisation comes into effect or at the time that it is exercised. Shares that are issued or that are to be issued to serve conversion or option rights arising from or in connection with bonds, profit participation rights and participating bonds or creditors of bonds furnished with conversion obligations or a combination of these instruments or when an option is exercised by the company to grant shares in the company instead of paying the cash amount due from or in connection with bonds, profit participation rights and participating bonds or creditors of bonds furnished with conversion obligations shall be deducted from this number if these bonds were issued in application mutatis mutandis of section 186(3) sentence 4 AktG subject to the exclusion of the subscription rights during the term of this authorisation. Furthermore, treasury shares of the company that are disposed of during the term of this authorisation subject to the exclusion of the shareholders' subscription rights in accordance with section 71(1) no. 8 sentence 5, second half of the sentence in conjunction with section 186(3) sentence 4 AktG shall also be deducted from the maximum limit of ten percent (10%) of the share capital;

- (c) to issue shares in return for non-cash contributions in particular for – but not limited to – the purposes of acquiring (also indirectly) companies, parts of companies, equity investments in companies or other assets (including receivables), properties and property portfolios in connection with an acquisition project; or
- (d) to carry out a stock dividend, in the course of which shares of the company are used (also in part and/or optionally) to fulfil the shareholders' dividend claims.

Under this authorisation, shares can be issued subject to the exclusion of the subscription rights only if the total of the new shares together with new shares from authorised capital or treasury shares that have been issued or disposed of by the company during the term of this authorisation up to the time it is utilised by utilising another authorisation where the shareholders' subscription rights are excluded, and also together with rights that are issued during the term of this authorisation up to the time it is utilised by utilising another authorisation where the subscription rights are excluded and that allow or require the exchange into or the subscription for shares of the company, do not account for a notional amount of the share capital of more than 10% in total of the share capital. The key factor for calculating the limit of 10% of the share capital is the amount of the share capital at the time that this authorisation comes into effect. If the amount of the share capital is lower at the time that this authorisation is exercised, this lower value shall be used.

- 6a.3. The Management Board will be authorised, with the approval of the Supervisory Board, to define the further content of the share rights (including a profit participation for the new shares deviating from section 60(2) sentence 3 AktG) and the terms and conditions of the share issue. The Supervisory Board will be authorised, after the Authorised Capital 2021 is utilised or after the deadline for utilising the Authorised Capital 2021 has elapsed, to amend the wording of the Articles of Association.

## § 7 Contingent Capital 2021

- 7.1. The share capital of the company is contingently increased by up to EUR 4,698,833.00 (in words: four million six hundred and ninety-eight thousand eight hundred and thirty-three euros) by issuing up to 4,698,833 (in words: four million six hundred and ninety-eight thousand eight hundred and thirty-three) new no-par value bearer shares with dividend rights from the start of the financial year in which they are issued (**Contingent Capital 2021**).
- 7.2. The contingent capital increase serves to grant shares to the bearers or creditors of warrant or convertible bonds that are issued by the company or other companies dependent on or majority-owned by the company in accordance with the authorisation of the Annual General Meeting of

9 June 2021 under item 8 (2) of the agenda. It will be carried out only to the extent that the option or conversion rights under the warrant and convertible bonds referred to above are exercised or conversion obligations from such bonds are fulfilled and to the extent that they are not served by treasury shares or new shares from the authorised capital. The issue amount of the new shares is equal here to the option or conversion price to be set in accordance with the specified authorisation.

- 7.3. The Management Board is authorised to stipulate the further details of the implementation of the contingent capital increase.

## **§ 8**

### **Two-tier system, executive bodies**

The company has a two-tier system. The executive bodies of the company are the management organ (Management Board), the supervisory organ (Supervisory Board) and the Annual General Meeting.

## **III.**

### **Management Board**

## **§ 9**

### **Composition; adoption of resolutions; rules of procedure**

- 9.1. The Management Board consists of no fewer than two persons.
- 9.2. The Supervisory Board appoints the members of the Management Board and determines how many members there shall be. It can appoint substitute Management Board members. The Supervisory Board can appoint a Chair of the Management Board as well as a Deputy Chair of the Management Board.
- 9.3. The members of the Management Board are appointed for a period of no more than five years. They can be reappointed.
- 9.4. The Management Board is quorate only when all of its members have been invited and at least half of the members, including the Chair of the Management Board or the Chief Financial Officer, attend the meeting and take part in the voting on combined resolutions and resolutions outside of meetings. A Management Board consisting of only two people is quorate only if all members of the Management Board take part in the resolution.

- 9.5. The Management Board adopts resolutions on all matters by a simple majority of the votes cast, unless otherwise stipulated by law. Each Management Board member has one vote. Abstentions are regarded as votes that have not been cast. In the event of a tie, the Chair of the Management Board shall have the casting vote, if at least three Management Board members are appointed.
- 9.6. The Supervisory Board has the right to issue rules of procedure for the Management Board. If the Supervisory Board does not issue rules of procedure for the Management Board, the Management Board draws up rules of procedure for itself by a unanimous resolution of the Management Board members; these rules require the approval of the Supervisory Board.

## **§ 10 Management**

- 10.1. The Management Board is independently responsible for managing the company. It has to conduct the business in accordance with the legal provisions, these Articles of Association and the rules of procedure laid down for the Management Board.
- 10.2. The following types of business transactions may be conducted only with the approval of the Supervisory Board:
- (a) commencement of new lines of business or material changes, expansions or restrictions of existing lines of business of the company (unless these have been submitted to the Annual General Meeting for approval);
  - (b) the annual planning, including the financial and investment planning and the personnel development estimated on this basis; and
  - (c) the formation, acquisition, sale or winding-up of companies or parts of companies (including mergers, asset transfers and conversions) as well as the acquisition and disposal of equity investments in companies (including changes to the equity share) outside of the investment plan that has been approved; an exception to this is provided for measures that concern project companies.
- 10.3. The Supervisory Board can make specific other types of business transactions of the Management Board subject to its approval.
- 10.4. The Supervisory Board can issue approval in advance for a specific group of business transactions generally or for the event that the individual transaction satisfies certain conditions; this approval is revocable.

## **§ 11 Representation**

The company is represented by two members of the Management Board or by one member of the Management Board together with an authorised signatory. The Supervisory Board can decide that all or individual members of the Management Board are authorised to represent the company on their own. The members of the Management Board are authorised to enter into legal transactions in the name of the company with themselves as representatives of a third party (exemption from the prohibition on multiple agency of section 181, 2nd alternative, of the Bürgerliches Gesetzbuch (BGB – German Civil Code)).

## **IV. Supervisory Board**

### **§ 12 Composition; election**

- 12.1. The Supervisory Board consists of five members.
- 12.2. The members of the Supervisory Board are each elected for the period up to the end of the Annual General Meeting that resolves on the granting of formal approval for the fourth financial year after the term of office begins, unless the Annual General Meeting decides on a shorter term of office for all or individual Supervisory Board members at the time of the election. The financial year in which the term of office begins is not included in the calculation of the term of office. Members of the Supervisory Board can be re-elected.
- 12.3. Substitute members can be elected for all or individual Supervisory Board members at the same time as the Supervisory Board members are elected; the substitute members take the place of the Supervisory Board member who resigns before the term of office ends and for whom they have been elected as substitute member, unless a new Supervisory Board member is elected by the Annual General Meeting before the resignation becomes effective. The term of office of a substitute member who takes the place of the Supervisory Board member who has resigned expires at the end of the next Annual General Meeting at which a new Supervisory Board member is elected. The term of office of the substitute members expires at the latest upon the expiry of the term of office of the Supervisory Board member who has resigned.
- 12.4. The successor to a member who resigns before their term of office expires is appointed for the remainder of the term of office of the member who has resigned, unless the Annual General Meeting determines a different term of office as set out in article 12.2.

- 12.5. Each member of the Supervisory Board and each substitute member can resign from office by giving written notice to the company, represented by the Management Board. It is sufficient if the notice is submitted to one member of the Management Board. Two weeks' notice has to be given for the resignation. The Management Board can agree to shorten the notice period or to waive the need to comply with the notice period. Resignation with immediate effect is possible in any event if there is good cause.

### **§ 13**

#### **Chair; Deputy; committees**

- 13.1. The Supervisory Board elects the Chair and their deputy from among its members. The election is held at a meeting that is held without being specially convened following the Annual General Meeting at which the members of the Supervisory Board are elected. The term of office of the Chair and of their Deputy is the same as their term of office as members of the Supervisory Board, unless a shorter term of office is decided at the time of the election. If the Chair or their Deputy resign from office before the end of their term of office, the Supervisory Board has immediately to conduct a new election for the remaining term of the member who has resigned.
- 13.2. The oldest present member of the Supervisory Board in terms of age chairs the election of the Chair of the Supervisory Board.
- 13.3. The Deputy has the rights and duties of the Chair (only) when the Chair is prevented from performing their function unless otherwise stipulated by law, these Articles of Association or the rules of procedure of the Supervisory Board.
- 13.4. The Supervisory Board can set up committees, in particular an Audit Committee, from among its members and delegate specific tasks to them. The Supervisory Board determines the duties and procedures of the committees in its rules of procedure or by separate resolution.

### **§ 14**

#### **Remuneration**

- 14.1. The members of the Supervisory Board receive basic fixed annual remuneration of of seventy five thousand euros (EUR 75,000.00). The Chair of the Supervisory Board receives double this amount, the Deputy Chair receives one and a half times this amount.
- 14.2. Members of the Audit Committee receive additional fixed annual remuneration of fifteen thousand euros (EUR 15,000) and members on other committees of the Supervisory Board receive additional fixed annual remuneration of seven thousand five hundred euros (EUR 7,500.00). The Chair of each committee receives double the relevant fixed remuneration.

- 14.3. All the remuneration specified above is payable after the end of the financial year. Supervisory Board members who have been members of the Supervisory Board or of a committee of the Supervisory Board only for part of the financial year receive the corresponding remuneration pro rata temporis for this financial year. The company reimburses to the members of the Supervisory Board the value added tax to be paid on their remuneration.
- 14.4. The company reimburses to the members of the Supervisory Board the reasonable expenses incurred in the performance of their official duties. The value added tax is reimbursed by the company if the members of the Supervisory Board are entitled to invoice the value added tax separately to the company and exercise this right.
- 14.5. The company provides the members of the Supervisory Board with insurance protection, in particular in the form of liability insurance (D&O insurance), to cover the statutory liability arising from the Supervisory Board work.

## **§ 15 Meetings**

- 15.1. The Chair of the Supervisory Board, in their absence the Deputy Chair, convenes the meetings of the Supervisory Board, indicating the items of the agenda at the same time. Motions on items of the agenda must be announced in such good time before the meeting that it is also possible for members of the Supervisory Board who do not attend the meeting to cast a written vote.
- 15.2. The invitation convening the meeting can be sent in writing, by e-mail or by fax.
- 15.3. At the request of the Supervisory Board, the Management Board is required to attend meetings and to report to the Supervisory Board on an ongoing basis in the scope laid down by law, these Articles of Association and the rules of procedure of the Management Board.
- 15.4. If an item of the agenda has not been duly and properly announced, a resolution may be adopted on the item only if no Supervisory Board member present objects. In such an event, Supervisory Board members who are not present are to be given the opportunity to object to the resolution within a reasonable period to be determined by the Chair or, in their absence, by the Deputy Chair. The resolution takes effect only when the Supervisory Board members who were absent do not object within this period or when they approve the resolution.
- 15.5. The Supervisory Board must hold no fewer than two meetings every six months of the calendar year. It additionally holds meetings as often and as soon as the interests of the company require. Where justified in exceptional cases, these meetings can be conducted by conference

call or video conference on the instruction of the Chair of the Supervisory Board or, in their absence, on the instruction of the Deputy Chair.

- 15.6. Each Supervisory Board member or the Management Board can request, while stating the purpose and the reasons for this, that the Chair of the Supervisory Board or, in their absence, the Deputy Chair convene the Supervisory Board without undue delay. A meeting of this kind must take place within two (2) weeks of being called. If the request is not met, the Supervisory Board member or the Management Board can themselves convene the Supervisory Board by announcing the facts and issuing an agenda.

## **§ 16**

### **Adoption of resolutions; minutes**

- 16.1. The Supervisory Board is quorate during meetings when all members have been invited and at least half of the members of which the Supervisory Board has to consist participate in the adoption of the resolution. A member who abstains is also regarded as participating. Supervisory Board members who are absent can take part in the adoption of resolutions of the Supervisory board or of its committees by arranging to have their votes submitted in writing by other Supervisory Board members.
- 16.2. Unless otherwise stipulated by law or these Articles of Association, the Supervisory Board adopts its resolutions by a simple majority of the votes cast. An abstention does not count as a vote cast. If the vote is tied, a new vote is held and this also produces a tied vote, the Chair of the Supervisory Board shall have the casting vote.
- 16.3. Resolutions can furthermore be adopted by votes that are cast and submitted in writing, by telephone, by-email, by telefax or in an equivalent manner to the Chair of the Supervisory Board or, in their absence, to the Deputy Chair. Resolutions can also be adopted using a procedure where votes are submitted via various permitted communication channels as well as where some votes are cast at the meeting and some as submitted via other permitted communication channels – also at a later time – by members who are not present. Each of these cases require either that all members take part in the adoption of the resolution or the Chair of the Supervisory Board mandates a procedure of this kind for the adoption of the resolution and at least half of the members of which the Supervisory Board has to consist participate in the adoption of the resolution. The Chair of the Supervisory Board can in any event set a reasonable period for the vote. Members of the Supervisory Board do not have a right to object to instructions of the Chair pursuant to this article 16.3.
- 16.4. Minutes of the meetings and resolutions of the Supervisory Board have to be produced, which have to be signed by the Chair or, in their absence, the Deputy Chair. Copies of the minutes



shall be circulated to the members of the Supervisory Board without undue delay after they are signed. The minutes shall report the place and date of the meeting, the participants, the items of the agenda items, the main content of the discussions and the resolutions of the Supervisory Board. Resolutions adopted outside of meetings are recorded in writing and signed by the Chair or, in his absence, by the Deputy Chair, or by a member designated by the Supervisory Board to do so, with copies circulated to all members of the Supervisory Board without undue delay.

**§ 17  
Representation**

Declarations of intent of the Supervisory Board and of its committees are issued in the name of the Supervisory Board by the Chair or, in their absence, by the Deputy Chair. The Chair or, in their absence, the Deputy Chair is authorised to receive declarations for the Supervisory Board. Section 78(2) sentence 2 AktG remains unaffected.

**§ 18  
Powers**

- 18.1. The duties and rights of the Supervisory Board are determined by the law and these Articles of Association. The engagement of the auditor of the financial statements following their election by the Annual General Meeting also comes under the responsibility of the Supervisory Board.
- 18.2. The Supervisory Board adopts rules of procedure for itself within the framework of the statutory regulations and the provisions of these Articles of Association.
- 18.3. The Supervisory Board is authorised to decide on amendments and additions to these Articles of Association that relate solely to their wording.

**V.  
Annual General Meeting**

**§ 19  
Venue, convening**

- 19.1. The Annual General Meeting is held at the registered office of the company or in another German city with at least one hundred thousand (100,000) inhabitants.

- 19.2. Unless a different period is stipulated by law, the Annual General Meeting has to be convened no fewer than thirty (30) days before the date of the Annual General Meeting by a notice published in the Federal Gazette. The minimum notice period is extended by the day of the registration deadline in section 19.3. The calculation of the period is subject to the statutory regulations.
- 19.3. Only the shareholders who register for the Annual General Meeting and furnish proof of their shareholding are entitled to participate in the Annual General Meeting and to exercise their voting rights. The registration and proof of shareholding must be received by the company no less than six (6) days before the Annual General Meeting in written or electronic form (section 126b BGB) at the address indicated for this in the invitation convening the meeting. The day of the Annual General Meeting and the day that the registration is received shall not be counted.
- 19.4. Proof of the shareholding in accordance with section 67c(3) AktG is sufficient as proof of eligibility pursuant to section 19.3. The proof has to relate to the beginning of the twenty-first day before the Annual General Meeting.
- 19.5. The Management Board is authorised to allow parts or all of the Annual General Meeting to be broadcast by means of a video and audio feed. It announces this when convening the Annual General Meeting.
- 19.6. The Management Board is authorized to stipulate that shareholders may take part in the Annual General Meeting even if they do not attend the venue and do not make use of a proxy and may exercise all or some of their rights in full or in part by means of electronic communication. If the Management Board makes use of this authorisation, it announces the further details of the procedure when convening the Annual General Meeting. Shareholders who attend the meeting in accordance with sentence 1 are neither entitled to file an objection to the resolutions of the Annual General Meeting, nor do they have the authority to contest them pursuant to section 245(1) no. 1 of the AktG

## **§ 20** **Chairing of meetings**

- 20.1. The Annual General Meeting is chaired by the Chair of the Supervisory Board or another member of the Supervisory Board to be designated by the Chair. If the member of the Supervisory Board designated as the chair of the meeting is prevented from performing this function, the Supervisory Board members present at the Annual General Meeting elect the chair of the meeting. If an election in accordance with the above procedure is not held, the chair of the meeting is elected by the Annual General Meeting. A person who is not a member of the Supervisory Board can also be elected in the cases described in sentence 2 and sentence 3.

- 20.2. The chair of the meeting presides over the meeting. They determine the order in which the items of the agenda are dealt with as well as the nature and order of the votes. The chair of the meeting can determine the order in which contributors speak and is authorised to impose reasonable time limits on the shareholders' right to ask questions and to speak. They are in particular entitled at the start or in the course of the Annual General Meeting to set a reasonable time frame for the full proceedings of the Annual General Meeting, for individual items of the agenda, or for individual contributors to speak or ask questions.

## **§ 21 Voting**

- 21.1. Each share confers one vote at the Annual General Meeting.
- 21.2. Voting rights can be exercised by proxies. The proxy, its revocation and proof of the authorisation in relation to the company must be issued in written or electronic form. The details regarding the issuing of these proxies, their revocation and the proof provided to the company are announced in the invitation convening the meeting, in which a simplification of the requirements can also be specified. Section 135 AktG remains unaffected.
- 21.3. The Management Board is authorised to stipulate that shareholders may cast their votes in writing or by means of electronic communication even if they do not attend the Annual General Meeting (postal voting). If the Management Board makes use of this authorisation, it announces the further details of the procedure for the postal vote when convening the Annual General Meeting.
- 21.4. The resolutions of the Annual General Meeting are adopted by a simple majority of the votes cast, unless a larger majority is stipulated by mandatory legal regulations. In the absence of mandatory statutory provisions to the contrary, amendments to the Articles of Association require a two thirds majority of the votes cast or, if at least half of the share capital is represented, a simple majority of the votes cast. If the law stipulates that resolutions of the Annual General Meeting additionally require a majority of the share capital represented in the adoption of the resolution, a simple majority of the share capital represented in the adoption of the resolution is sufficient, if permitted by law. A motion is regarded as rejected if the vote is tied.
- 21.5. Resolutions that can be adopted under the conditions set out in article 21.4 sentence 2 by a simple majority of the votes include in particular, but are not limited to, all resolutions of the Annual General Meeting on
- (a) capital increases with subscription rights of the shareholders in return for contributions (section 182(1) AktG),

- (b) capital increases from company funds (section 207(2) AktG in conjunction with section 182(1) AktG), and
- (c) the issuing of convertible bonds, participating bonds and other instruments to which the shareholders have a subscription right (section 221 AktG).

21.6. A majority comprising at least three quarters of the votes cast is required for the removal of members of the Supervisory Board who have been elected where nominations were not binding. This also applies to any amendment of this article 21.6 itself.

## **§ 22**

### **Audio and video transmissions**

On the instruction of the chair of the meeting, parts or all of the Annual General Meeting can be broadcast by means of a video and audio feed. The broadcast can also be conducted in a form that provides the public with unlimited access. The form of the broadcast has to be announced in the invitation convening the meeting.

## **VI.**

### **Annual financial statements; appropriation of the profits**

## **§ 23**

### **Annual financial statements**

The annual financial statements and the consolidated financial statements are prepared, audited and approved in accordance with the statutory regulations.

## **§ 24**

### **Appropriation of the profits**

The Annual General Meeting decides on the appropriation of the net retained profit resulting from the approved annual financial statements. The Annual General Meeting can decide to distribute a non-cash dividend in place of or in addition to the cash dividend.

## **VII. Final provisions**

### **§ 25 Place of jurisdiction**

By subscribing for or acquiring shares or interim certificates of the company, the shareholders are subject in all disputes with the company or members of the executive bodies of the company to the general place of jurisdiction of the company in the absence of any mandatory statutory regulations to the contrary. This also applies for disputes in which compensation is claimed for damage caused by public capital market information that is incorrect or misleading or has not been disclosed. Foreign courts do not have jurisdiction for disputes of this kind.

### **§ 26 Formation; formation expenses; costs of the conversion**

- 26.1. The share capital of the company is provided in the amount of thirty-six million nine hundred and eighty-eight thousand three hundred and thirty six euros (EUR 36,988,336.00) by way of the non-cash contribution resulting from the change of form of Instone Real Estate Group N.V., a Dutch public limited company (*naamloze vennootschap*) with its registered office in Amsterdam, entered in the Dutch commercial register (*Handelsregister van de Kamer van Koophandel*) under registration number 60490861.
- 26.2. The costs incurred by the creation of the company and the costs of the change of form of the company into the legal form of a public limited company are borne by the company up to an amount of one million five hundred thousand euros (EUR 1,500,000.00).
- 26.3. The company bears the costs of the formation of Instone Real Estate Group SE resulting from the conversion of Instone Real Estate Group AG into the legal form of an SE up to the amount of one million five hundred thousand euros (EUR 1,500,000).

### **§ 27 Severability clause**

- 27.1. Should one of the provisions of these Articles of Association or a provision incorporated in them in the future be invalid or unenforceable in full or in part or lose its validity or enforceability at a later date, the validity of the remaining provisions shall not be affected by this. The same shall apply if it should emerge that these Articles of Association contain a gap or omission in the regulations.

- 27.2. A reasonable provision shall be agreed to replace the invalid or unenforceable provision or to fill the regulatory gap that, to the extent possible in law, comes as close as possible to what the shareholders would have agreed if they had been aware that these Articles of Association were invalid, unenforceable or there was a gap or omission.
- 27.3. If the invalidity of a provision is based on a measure of performance or time (deadline or date) defined in these Articles of Association, the measure of performance (time or date) that is permitted by law and that comes as close as possible to the intention of the shareholders shall be agreed.

**Annex 2**

List of affiliated companies, associated companies and equity investments

	<b>Firma / Sitz</b>
1.	Durst-Bau GmbH, Vienna, Austria
2.	formart Immobilien GmbH, Essen, Germany
3.	formart Luxemburg S.à r.l., Luxembourg, Luxembourg
4.	Gartenhöfe GmbH, Leipzig, Germany
5.	Instone Real Estate Development GmbH, Essen, Germany
6.	Instone Real Estate Landmark GmbH, Leipzig, Germany
7.	Instone Real Estate Leipzig GmbH, Leipzig, Germany
8.	Instone Real Estate Projekt Erlangen GmbH & Co. KG, Erlangen, Germany
9.	Instone Real Estate Projekt MarinaBricks GmbH, Erlangen, Germany
10.	Instone Real Estate Projekt Rosenheim GmbH & Co. KG, Erlangen, Germany
11.	Instone Real Estate Projektbeteiligungs GmbH, Erlangen, Germany
12.	KORE GmbH, Dortmund, Germany
13.	Nyoo Real Estate GmbH (previously: Instone Real Estate Property GmbH), Essen, Germany
14.	Projekt am Sonnenberg Wiesbaden GmbH (formerly: Instone Real Estate Erste Projektbeteiligungs GmbH & Co. KG), Essen, Germany
15.	Projekt Wilhelmstrasse Wiesbaden GmbH & Co. KG, Frankfurt a. M., Germany
16.	Westville 1 GmbH, Essen, Germany
17.	Westville 2 GmbH, Essen, Germany
18.	Westville 3 GmbH, Essen, Germany
19.	Westville 4 GmbH, Essen, Germany
20.	Westville 5 GmbH, Essen, Germany
21.	FHP Friedenauer Höhe Erste GmbH & Co. KG, Berlin, Germany
22.	FHP Friedenauer Höhe Dritte GmbH & Co. KG, Berlin, Germany
23.	FHP Friedenauer Höhe Vierte GmbH & Co. KG, Berlin, Germany
24.	FHP Friedenauer Höhe Sechste GmbH & Co. KG, Berlin, Germany
25.	Projektentwicklungsgesellschaft Holbeinviertel mbH & Co. KG, Frankfurt a. M., Germany
26.	Wohnpark Giessener Strasse GmbH & Co. KG, Frankfurt a. M., Germany
27.	Wohnpark Heusenstamm GmbH & Co. KG, Hamburg, Germany
28.	BEYOUTOPE GmbH, (previously: Sportplatz RKP GmbH), Hanover, Germany
29.	CONTUR Wohnbauentwicklung GmbH, Cologne, Germany
30.	FHP Friedenauer Höhe Verwaltungs GmbH, Berlin, Germany
31.	formart Wilma Verwaltungsgesellschaft mbH, Kriftel, Germany
32.	Immobilien-gesellschaft CSC Kirchberg S.à r.l., Luxembourg, Luxembourg
33.	Instone Real Estate Erste Projekt GmbH, Essen, Germany
34.	Instone Real Estate Projektverwaltungs GmbH, Essen, Germany
35.	Kleyer Beteiligungsgesellschaft mbH, Frankfurt a. M., Germany
36.	Parkhausfonds Objekt Flensburg GmbH & Co. KG, Stuttgart, Germany
37.	Projekt Wilhelmstrasse Wiesbaden Verwaltung GmbH, Cologne, Germany
38.	Projektverwaltungsgesellschaft SEVERINS WOHNEN mbH, Cologne, Germany
39.	TG Potsdam Projektentwicklungsgesellschaft mbH, Munich, Germany
40.	Uferpalais Verwaltungsgesellschaft mbH, Essen, Germany