

9.0% Convertible Bond Issue 2010/2012

of

Arques Industries AG

ISSUE TERMS AND CONDITIONS

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1 Unitization, securitization, paying and conversion agent, status

- 1.1** The convertible bonds issued by Arques Industries AG ("Issuer") in the aggregate principal amount of up to EUR 23,800,002 are divided into up to 11,900,001 individual bonds in bearer form, which rank *pari passu* among themselves, with a principal amount of EUR 2.00 each (each one of which an "**individual bond**" and all individual bonds together the "**convertible bond issue**"). The convertible bonds shall be issued in one or more tranches. Each holder of an individual bond ("**bondholder**") shall hold certain rights, as set out in the present terms and conditions of the convertible bond issue.
- 1.2** The individual bonds shall be securitized for their entire term in the form of one or more permanent global bonds (the "**Global Bond**") without coupons. The Global Bond shall be delivered to and held in safe custody by Clearstream Banking AG, Frankfurt am Main, until all obligations of the Issuer under the individual bonds have been fulfilled. The Global Bond shall bear the autograph signatures of that number of members of the Management Board authorized to represent the Issuer. No physical individual bonds or coupons will be issued. To that extent, there is no claim to securitization.
- 1.3** Individual bonds may be transferred by means of appropriate book transfers and entries in the custody accounts, in observance of the respectively applicable terms and conditions of Clearstream Banking AG, Frankfurt am Main.
- 1.4** Within the scope of the laws and regulations applicable to it, the Issuer shall be entitled to purchase individual bonds at any time. The Issuer shall be entitled to cancel, hold or re-sell the individual bonds it will have purchased.
- 1.5** The Issuer has designated VEM Aktienbank AG, Munich, as the paying and conversion agent. The paying and conversion agent shall be entitled to utilize the services of third parties and/or delegate tasks to third parties. The paying and conversion agent is exempt from the restrictions of Section 181 BGB (German Civil Code) and any similar restrictions set forth in the applicable laws of other countries.
- 1.6** For as long as not all obligations under the individual bonds have been fulfilled, the Issuer shall see to it that a paying agent is ready to serve at all times and

that an exchange agent is ready to serve from the beginning of the exercise period.

2 Issue price

The issue price of every individual bond is 100% of the principal amount and therefore EUR 2.00 per individual bond (the "**issue price**").

3 Term, interest

3.1 The individual bonds shall bear interest on their principal amount at the rate of 9.0% p.a. (in words: nine point zero percent per annum), from December 1, 2010 (inclusive) to December 31, 2012 (inclusive) (the "**term**"), insofar as they will not have been converted prior to that time. Interest shall be computed in arrears at the end of a calendar year. If the exchange right pursuant to Article 5.2 would be exercised with valid legal effect, interest shall cease to accrue upon the close of the exercise date pursuant to Article 5.3.

3.2 If interest is to be calculated in respect of a period that is shorter than a full interest period, the interest shall be calculated on the basis of the actual number of days elapsed in the relevant period, based on an interest year of 365 days (English method of interest computation).

3.3 The first interest payment shall be due on January 1, 2011 (payable on the first banking day of the year 2011); thereafter, interest shall be due in arrears on January 1 of the year following the calendar year for which the interest is payable. If the exchange right pursuant to Article 5.2 is exercised, interest shall be payable on the due date for performance in respect of the exchange right.

3.4 If the Issuer would fail to perform an obligation under the individual bonds when such obligation is due, the individual bonds shall cease to bear interest on their principal amounts not on the due date, but at the end of the day immediately preceding the day of actual performance in respect of the individual bonds. The applicable interest rate shall be 9.0% per annum. The assertion of any further claim for compensation is not excluded.

3.5 To the extent not otherwise stipulated, all payments to be paid by the Issuer to the bondholders in connection with the convertible bond issue shall be paid in

euros without deduction of bank fees to the account indicated in writing by the bondholder.

- 3.6** A "**banking day**" is every day (with the exception of Saturdays and Sundays) on which the clearing system is open and payments are settled in euros and on which banks in Munich are open for business.

4 Cancellation

Cancellation of the convertible bond issue by the bondholder is excluded, barring express statutory prescriptions to the contrary; the right of the bondholder to cancellation for important cause according to Article 9 remains unaffected.

5 Exchange obligation and exchange right of the Issuer

- 5.1** The Issuer shall exchange the individual bonds, exclusive of accrued interest at the end of the term, thus on January 1, 2013, in total, provided that the exchange right according to Article 5.2. was not exercised, in accordance with the specific provisions of the present terms and conditions of the convertible bond issue, with no-par bearer shares, each representing an imputed share of EUR 1.00 of the total share capital of the Issuer, in consideration of the exchange price (the "**exchange obligation**"). The bondholder authorizes the exchange agent to issue the subscription declaration on his behalf.
- 5.2** At its discretion, moreover, the Issuer shall be entitled, but not obligated, to exchange all the individual bonds excluding accrued interest, in full or in part, with no-par bearer shares, each representing an imputed share of EUR 1.00 of the total share capital of the Issuer, in consideration of the exchange price, in accordance with the specific provisions of the present terms and conditions of the convertible bond issue, on the date indicated in Article 5.3. (the "**exchange right**"). The bondholder authorizes the exchange agent to issue the subscription declaration on his behalf.
- 5.3** The Issuer shall be entitled to exercise its right under Article 5.2 for the first time on June 30, 2011, and thereafter on December 31, 2011 and June 30, 2012, by means of the notice set out in Article 13. If the last day of such a semiannual period would fall on a day that is not a banking day, the notice shall

be made on the preceding banking day. The exchange right shall be deemed to have been exercised on the notice date or on the final day of a semiannual period that is not a banking day ("**exercise date**").

5.4 An exercise of the exchange right shall be excluded during the following periods (each one a "non-exercise period"):

5.4.1 On the occasion of the general meetings of the Issuer, during the period that begins on the first banking day after the time limit for registering for the respective general meeting of the Issuer and ends on the first banking day after the general meeting (exclusive in both cases); and

5.3.2 During the period that begins with the day on which a subscription offer of the Issuer to its shareholders for the subscription of (new or old) shares, bonds with warrants or conversion rights or obligations, profit participation bonds or participation certificates, and ends on the last day of the time limit allowed for exercising the subscription right (inclusive in both cases).

5.4 After the exchange has been effected, shares shall be allotted in the aggregate nominal amount of up to EUR 11,925,000,00 from the Conditional Capital established by virtue of Article 4 para. 5 of the Articles of Association of the Issuer, on the basis of the resolution of the general meeting of August 5, 2009. After the exchange has been effected, the Issuer shall securitize the shares in the form of one or more global share certificates.

6 Conversion ratio and exchange price, limitation of the exchange right

6.1 The conversion ratio shall be calculated by dividing the principal amount of an individual bond by the exchange price for one no-par bearer share of the Issuer determined in accordance with Article 6.2, for the respective conversion date as per Article 5.3. The conversion ratio shall be rounded to the fourth decimal place.

6.2 The exchange price per share shall be equivalent to the following amount:

- 100% of the reference price, if the arithmetic mean of the closing prices of the shares of the Issuer in the XETRA trading system of the Frankfurt Stock Exchange (or comparable successor system) on the twenty stock exchange trading days ending with the third trading day prior to the conversion date is less than or equal to the reference price according to Article 6.3 of the present issue terms and conditions;
- 115% of the reference price, if the arithmetic mean of the closing prices of the shares of the Issuer in the XETRA trading system of the Frankfurt Stock Exchange (or comparable successor system) on the twenty stock exchange trading days ending with the third trading day prior to the conversion date is greater than the reference price according to Article 6.3 of the present issue terms and conditions, and greater than or equal to 115% of the reference price;
- the arithmetic mean of the closing prices of the shares of the company in the XETRA trading system of the Frankfurt Stock Exchange (or comparable successor system) on the twenty stock exchange trading days ending with the third trading day prior to the conversion date, if this value is greater than the reference price according to Article 6.3 and less than 115% of the reference price.

6.3 The “**reference price**” is the arithmetic mean of the closing prices of the shares of the Issuer in the XETRA trading system of the Frankfurt Stock Exchange (or comparable successor system) on the last five stock exchange trading days prior to the date of setting the issue amount of the individual bonds.

- 6.4** However, the exchange price shall always be equal at least to the lowest issue amount within the meaning of Section 9 (1) AktG (Stock Corporations Act). In addition, Section 199 (2) AktG shall apply.

7 Delivery of shares, share fractions

- 7.1** After exercising the exchange right, only whole shares shall be delivered. The Issuer shall calculate the number of shares to be delivered in the event of an exchange by dividing the aggregate principal amount of the individual bonds to be redeemed to the convertible bondholders via the custody account book-entry system by reason of the exchange, by the exchange price in effect on the conversion declaration date, rounded to the next whole share. Any remaining share fractions shall not be settled in shares. After the exercise date, the shares to be delivered shall be credited to the custody account of the respective bondholder in which the individual bonds were held.
- 7.2** Any remaining share fractions shall not be delivered, but settled in cash. The remaining fraction to be paid shall be equal to the fraction of the arithmetic mean of the volume-weighted average price of the shares in the Xetra system of Deutsche Börse AG (or comparable successor system) on the ten trading days of the Frankfurt Stock Exchange (each one of which a "**trading day**") immediately preceding the exercise date according to Article 5.2, rounded to the nearest full cent. Any necessary cash settlement for share fractions shall be paid directly after the exercise date. No interest shall be owed on that amount. Amounts less than EUR 5 shall not be paid.
- 7.3** If, in the opinion of the Issuer, any payment should be regarded as a discount on the exchange price, no payment shall be made, if as a result of such payment the exchange price for one share would be reduced to less than the imputed share of the share capital of the Issuer attributable to one no-par share.

8 Adjustment of the exchange price in other cases, dilution protection

- 8.1.** If the share capital of the Issuer would be increased from company funds by means of converting additional paid-in capital or retained earnings reserves, the Conditional Capital 2009 as per Article 4 (5) of the Articles of Association shall be increased by the same amount as the share capital, in accordance with

Section 218 (1) AktG. The exchange price shall be adjusted by application of the following formula:

$$A = P \times N_o / N_n$$

where the symbols have the following meanings:

A	=	Adjusted exchange price
P	=	Exchange price according to Article 6.2
No	=	Number of outstanding shares before the share capital increase
Nn	=	Number of outstanding shares after the share capital increase

Share fractions created as a result of the capital increase from company funds are not the subject of a subscription right and shall not be settled. If more than one exchange right would be exercised concurrently by a holder of convertible bonds, the various share fractions shall be counted together.

- 8.2** If the share capital reduction of the Issuer would be reduced, also by reason of the retirement of shares, leading to a decrease in the number of shares of the Issuer, it shall be adjusted by application of the following formula:

$$A = P \times N_o / N_n$$

where the symbols have the following meanings:

A	=	Adjusted exchange price
P	=	Exchange price according to Article 6.2
No	=	Number of outstanding shares before the capital reduction
Nn	=	Number of outstanding shares after the capital reduction

Share fractions created as a result of the capital reduction are not the subject of an exchange right and shall not be settled. If more than one exchange right would be exercised concurrently by a bondholder, the various share fractions shall be counted together.

- 8.3** However, the adjusted exchange price shall always be equal at least to the lowest issue amount within the meaning of Section 9 (1) AktG. Thus, the exchange price shall be at least EUR 1.00 or equal to the higher imputed share of the share capital per no-par share.

- 8.4** Subscription right of the shareholders

- 8.4.1 If the Issuer (i) would increase its share capital by issuing new shares in exchange for capital contributions, in conjunction with the granting of subscription rights to its shareholders pursuant to Section 186 of the Stock Corporations Act, or (ii) would issue or guarantee other bonds with warrant or exchange rights or obligations, or profit participation bonds or participation certificates, or would sell treasury shares, it shall grant to every bondholder, to the extent that he still holds convertible individual bonds, a subscription right in the amount to which he would be entitled if the Issuer would have exercised the exchange right on the last banking day immediately preceding the ex-date. The "ex-date" is the first trading day on the Frankfurt Stock Exchange on which the shares are traded "ex subscription right," "ex dividend" or ex another right, on the basis of which the stock exchange price in the Xetra system (or comparable successor system) would be adjusted.
- 8.4.2 At the sole discretion of the Issuer, the Issuer may grant to every bondholder, in respect of individual bonds for which the exchange right will not yet have been exercised upon the commencement of a capital measure according to the foregoing paragraph, a compensation payment in cash (the "subscription right compensation amount") instead of a subscription right, which shall be equal to the subscription right value for every individual bond (as defined below) multiplied by the conversion ratio in effect on the day immediately preceding the ex-date. The subscription right compensation amount shall be rounded up to the next full cent and shall be due and payable only if and when the exchange right is exercised by the Issuer. Articles 7.2 and 7.3 apply accordingly.
- 8.4.3 Instead of granting a subscription right (Article 8.4.1) or paying a subscription right compensation amount (Article 8.4.2), the Issuer may choose, at its sole discretion, to adjust the exchange price by application of the following formula:

$$\mathbf{CPn = CPo \times (SPo - VSR) / SPo}$$

where the symbols have the following meanings:

CPn= New exchange price;

CPO= Exchange price in effect immediately prior to the close of trading on the Frankfurt Stock Exchange on the effective date (as defined below);

SP= Volume-weighted average price in the Xetra trading system on the effective date;

Effective date= Whichever date is earlier: (i) The relevant date for the determination of shareholders who have a claim to subscription rights or dividends, or (ii) the trading day immediately preceding the ex-date.

“VSR” For each share, the closing price of the right to subscribe the corresponding securities on the Frankfurt Stock Exchange on the ex-date; or, if such a closing price would not be available, the value of the subscription right determined by the conversion agent (Article 1.4) in consideration of the market situation on the ex-date. In that case, the exchange ratio shall be adjusted accordingly. Adjustments made in accordance with the present Article 8.4.3 shall take effect on the ex-date.

9 Cancellation for important cause

9.1 In the event of important cause, the bondholder shall be entitled to demand immediate redemption of the individual bond at the principal amount, including all interest accrued until such time, by way of cancellation without notice; specifically, such an important cause shall be deemed to exist:

9.1.1 If an insolvency proceeding would be commenced against the assets of the Issuer or if the commencement of such an insolvency proceeding would be refused for lack of assets.

9.1.2 If the Issuer would be liquidated by virtue of a liquidation resolution of the general meeting.

9.2 Notice of cancellation must be given in written form.

10 Presentation period, period of limitations

The presentation period pursuant to Section 801 (3) BGB for the individual bond shall end on December 31, 2017. The period of limitations for claims under the individual bonds that will have been presented for exchange or payment during the presentation period shall be three years from the end of the presentation period.

11 Dividend qualification of exchange shares

The shares purchased after exercising the exchange right by the bondholder shall qualify fully for dividends from the beginning of the financial year of the Issuer during which they will have been created, but not for the past financial year, even if a dividend for that year will not yet have been paid. Initially, the shares can temporarily have their own, provisional securities ID codes.

12 Taxes and duties

Shares shall be delivered in accordance with Article 7.1 and any payments shall be made in accordance with Article 7.2 only if the bondholder pays any taxes, duties or official fees payable in connection with the exercise of the exchange right, the delivery of shares in accordance with Article 7.1 or the payment of any payments in accordance with Article 7.2. Taxes, duties and official fees can be deducted from any payment according to Article 7.2 if the bondholder will not have previously paid such taxes, duties or official fees. In particular, the Issuer shall pay all amounts payable in respect of the individual bonds without deduction or withholding of current or future taxes, duties, assessments or official fees of any kind, which are imposed or assessed by or on behalf of the Federal Republic of Germany or any agency or authority in that country which is authorized to assess taxes, unless the Issuer would be obligated by law or by some other legal prescription to deduct or withhold such source taxes. In that case, the Issuer shall withhold or deduct the corresponding source tax, and pay the withheld or deducted amounts to the competent authority, and provide any legally prescribed proof of such payment to the bondholder.

13 Notices

All notices related to the bonds shall be published on the website of the Issuer (www.arques.de) and in the Electronic Federal Gazette (*Elektronischer Bundesanzeiger*). A notice shall be deemed to have been made on the date of publication (or, in the case of more than one publication, on the date of earliest publication). To the extent allowed by the regulations of the stock exchange on which the bonds are listed, the Issuer shall be entitled to publish notices also by means of notifying the central custodian, which will then forward the notice to the bondholders, by means of written notifications sent directly to the bondholders. Notices made by way of the central custodian shall take effect seven days after notification of the central custodian and direct notifications of the bondholders shall take effect immediately upon being received by them. The text of all notices pursuant to the present Article 13 shall also be made available in the offices of the paying agent and conversion agent.

14 Final provisions

- 14.1** The form and content of the individual bonds and the rights and obligations of the bondholder and the Issuer shall be governed by and construed in accordance with the laws of the Federal Republic of Germany, excluding the international conflict-of-law rules and principles.
- 14.2** The place of performance shall be Munich, to the extent legally permitted.
- 14.3** All legal disputes arising from or in connection with the individual bonds shall be submitted to the jurisdiction and venue of the competent courts in Munich (Regional Court Munich I – Landgericht München I), to the extent legally permitted.
- 14.4** Should any provisions of these issue terms and conditions be or become invalid, the validity of the remaining provisions shall not be affected thereby. The parties shall be obligated to replace the invalid provision with a valid provision that most closely approximates the intended economic result of the invalid provision, as far as legally permissible.