TAG Immobilien AG
Hamburg

Report by the Management Board on <u>item 9</u> of the Agenda for the annual general meeting on 16 May 2023 in accordance with Sections 221 (4), Sentence 2 and 186 (4) Sentence 2 of the German Stock Corporation Act

The Management Board and Supervisory Board propose that the authorisation granted at the annual general meeting on 13 May 2022 be replaced by new authorisation adjusted to allow for the higher equity ratio resulting from the equity issue executed in July 2022 to issue convertible and/or option bonds with a maximum total nominal amount of EUR 1,400,000,000.00 and with conversion and/or option rights to bearer shares in the Company accounting for a total proportion of up to EUR 35,000,000.00 of the Company's share capital so that the Company remains able to use convertible and/or option bonds subject to the exclusion of shareholders' pre-emptive subscription rights to finance its business to the customary extent in the future.

With the exception of its duration and the amount adjusted to allow for the new equity ratio, the authorisation will be identical to the authorisation granted under item 8 of the agenda of the annual general meeting of 13 May 2022. The issue of convertible and/or option bonds (collectively "**the bonds**") enables capital to be raised on attractive terms. The authorisation on which a resolution is to be passed provides the Company with the necessary flexibility to issue bonds itself or via directly or indirectly affiliated subsidiaries. Bonds may be issued for a definite or indefinite period of time. The scope of the authorisation will be limited to a total nominal amount of a maximum of EUR 1,400,000,000.00 and entitlement to subscribe to a maximum of 35,000,000 new bearer shares issued by the Company. The authorisation will take effect upon Contingent Capital 2022 being replaced by Contingent Capital 2023.

As a matter of principle, subscription rights will be granted to the holders of the bonds. However, the Management Board is also to be authorised subject to the Supervisory Board's approval to exclude the shareholders' pre-emptive subscription rights in accordance with Section 186 (3) Sentence 4 of the German Stock Corporation Act provided that the shares issued to exercise the conversion and option rights and to settle the obligations arising from the conversion and option rights under the bonds do not exceed ten percent of the Company's share capital. This cap of ten percent of the share capital also includes new shares which are issued in return for cash payment from 16 May 2023, i.e. the date of the annual general meeting, pursuant to authorisation to issue new shares using the Company's authorised capital in accordance with Section 186 (3) Sentence 4 of the German Stock Corporation Act subject to the exclusion of the shareholders' pre-emptive right of subscription. This will also include the sale of the Company's treasury stock if and to the extent that such sale occurs from 16 May 2023, i.e. the date of the annual general meeting, pursuant to authorisation to sell the Company's treasury stock subject to the exclusion of subscription rights in accordance with Sections 71 (1) No. 8 Sentence 5 and 186 (3) Sentence 4 of the German Stock Corporation Act. This ensures that no bonds can be issued if such issue results in the shareholders' pre-emptive subscription rights being excluded for more than ten percent of the Company's share capital for no particular objective reason in analogous or corresponding application of Section 186 (3) Sentence 4 of the German Stock Corporation Act. The shareholders' voting rights will be protected in this way in accordance with the statutory evaluation provided for in Section 186 (3) Sentence 4 of the German Stock Corporation Act. Shareholders wishing to maintain their percentage share in the Company's share capital may do so by making the necessary purchases via the market and thus at standard market conditions.

With this authorisation to exclude subscription rights, the Company has the flexibility necessary to make use of favourable conditions in the capital market at short notice. This is due to the fact that the grant of subscription rights normally necessitates the preparation and publication of an issuing prospectus which must be approved by the German Federal Financial Supervisory Authority (BaFin), something which causes considerable expense and delays. This is not the case with a private placement in which shareholders' pre-emptive subscription rights are excluded. Moreover, in contrast to the issue of bonds with subscription rights it is possible to fix the issue price immediately before the placement, thus avoiding the heightened price risk liable to occur during a subscription period. Although Section 221 (4) Sentence 2 in connection with Section 186 (2) Sentence 2 of the German Stock Corporation Act states that the subscription price does not have to be disclosed until the third last day of the subscription period, given the volatility which can be frequently observed in the capital markets a market risk would arise over several days resulting in risk discounts and thus distorting market conditions. Accordingly, the exclusion of pre-emptive subscription rights is fundamentally in the interests of both the Company and its shareholders.

If pre-emptive subscription rights are excluded, the analogous application of Section 186 (3) Sentence 4 of the German Stock Corporation Act stipulates that the issue price of the bonds must not be materially less than their theoretical market value. This aims to make suitable allowance for the shareholders' interest in avoiding dilution in the value of their shares. As the authorisation stipulates that the issue price of the bonds must not be materially less than their theoretical market value, the value of the subscription rights would be effectively zero. However, to ensure compliance with this requirement in connection with the issue of bonds, the issue price must in particular not be materially less than the theoretical market value of the bonds calculated in accordance with acknowledged principles of financial mathematics. This protects the shareholders from the risk of the value of their shareholdings being diluted. At the same time, the exclusion of subscription rights does not result in any economic disadvantage for them.

The Management Board is to be additionally authorised subject to the Supervisory Board's approval to exclude fractional amounts from the subscription rights. Such fractional amounts may arise from the amount of the issue volume and the application of a practicable subscription ratio. The exclusion of the pre-emptive subscription rights simplifies this. Fractional amounts generally have only a small value. Moreover, the dilution effect arising from the exclusion of pre-emptive subscription rights for fractional amounts is minimal. Accordingly, the exclusion of pre-emptive subscription rights for fractional amounts will not result in any material impairment of shareholders' financial interests or voting rights.

In addition, the Management Board is to be given the option of excluding the shareholders' pre-emptive subscription rights subject to the Supervisory Board's approval in order to grant the holders of the conversion and/or option rights and of conversion and/or option obligations subscription rights to the same extent as the subscription rights to which they are entitled after the exercise of their conversion and/or option rights or settlement of the conversion and/or option obligations. This aims to prevent a situation in which in the event of authorisation being utilised the option price is reduced for the holders of existing conversion and/or option rights and/or corresponding obligations under the option and conversion terms and conditions or the Company is required to provide some other protection from dilution. As this generally permits a greater inflow of proceeds from the issue of bonds, the exclusion of subscription rights is in the interests of the Company and its shareholders. Bonds must exhibit such protection from dilution to facilitate placement in the capital market. This protection is provided by granting the holders of bonds in connection with ensuing share capital issues a subscription right with respect to new bonds equivalent to that accruing to shareholders. This ensures that holders of bonds are placed in the position which they would have if they were already shareholders. The shareholders' pre-emptive subscription rights to such bonds must be excluded to ensure that the bonds receive the necessary protection from dilution. In addition, the exclusion of the shareholders' pre-emptive subscription rights in favour of the holders of bonds granting a conversion and/or option right or giving rise to a conversion and/or option obligation offers a further advantage in that, if the authorisation is utilised, the option or conversion price for the holders of existing bonds granting a conversion and/or option right or giving rise to a conversion and/or option obligation does not have to be reduced in accordance with the applicable terms and conditions for the issue of the bonds and the Company is not required to provide any other form of protection from dilution, e.g. compensation payments.

All in all, the scope of the authorisation used to issue bonds subject to the exclusion of the shareholders' pre-emptive subscription rights, will be limited inasmuch as the conversion and option rights tied to the bonds to be issued entail only shares which do not exceed 10% of the Company's share capital as of the date on which convertible bond authorisation 2023 takes effect or is exercised, whichever amount is lower. The 10% cap will include (i) new shares that are issued from 16 May 2023, i.e. the date of the annual general meeting, using authorisation capital subject to the exclusion of the shareholders' pre-emptive subscription rights, (ii) treasury stock sold from 16 May 2023, i.e. the date of the annual general meeting, subject to the exclusion of the shareholders' pre-emptive subscription rights unless it is used to settle claims held by members of the Management Board and/or employees under staff participation programmes, and (iii) new shares which are issued to settle obligations under convertible and/or option bonds issued from 16 May 2023, i.e. the date of the annual general meeting, subject to the exclusion of the shareholders' pre-emptive subscription rights.

The Management Board will consider the individual circumstances carefully before deciding whether to make use of this authorisation. It may only make use of the authorisation if it takes the view that this is in the best interests of the Company and of its shareholders and is reasonable and appropriate.

The Management Board will notify the shareholders at the next annual general meeting whenever it makes use of such authorisation.

Hamburg, March 2023

The Management Board of TAG Immobilien AG

Martin Thiel

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