

## **2. Report of the General Partner in respect of Agenda Items 8 and 9: Authorization to acquire treasury stocks by deploying derivatives**

In Agenda Item 8, the General Partner and Supervisory Board propose authorizing the General Partner to acquire treasury stocks for the company and either to sell the treasury stocks thereby acquired or to retire them without any further resolution being required by the Annual General Meeting. In addition, in Agenda Item 9 they propose an authorization enabling treasury stocks also to be acquired by deploying derivatives, specifically by deploying put options, call options, forward sales, or combinations of these instruments. Pursuant to § 71 (1) No. 8 Sentence 5 in conjunction with § 186 (4) Sentence 2 AktG, in the following section the General Partner provides report on the reasons for the exclusion, in specified cases, of any tender rights arising upon the acquisition of treasury stocks and, in specified cases, of shareholders' subscription rights upon the use of treasury stocks.

### **a) Acquisition of treasury stocks and exclusion of any tender rights**

In Agenda Item 8, the General Partner and Supervisory Board propose authorizing the General Partner through to the expiry of July 4, 2026 to acquire treasury stocks in the company in a volume of up to a total of 10% current share capital or, if such amount is lower, of the share capital at the time at which this authorization is exercised for every purpose permitted by § 71 (1) No. 8 AktG in accordance with statutory limitations. Together with treasury stocks that are acquired for other reasons and that are in the possession of the company or attributable to it pursuant to § 71d and § 71e AktG, the shares acquired on the basis of this authorization may at no time exceed 10% of the company's share capital.

It is envisaged that this authorization may be exercised in whole or partial amounts, on one or several occasions, and for one or several purposes within the aforementioned restriction and that the authorization may be exercised by the company itself, or also by dependent Group companies pursuant to § 17 AktG or by third parties acting on its or their behalf.

Furthermore, it is envisaged that, at the discretion of the General Partner, the acquisition may be performed either via the stock market or outside the stock market by way of a public purchase offer addressed to all shareholders to submit sell offers. In these cases, due account must be taken of the principle of equality set out in § 53a AktG; in this respect, § 71 (1) No.8 Sentence 4 AktG stipulates that acquisition via the stock market always satisfies this requirement.

If the treasury stocks are acquired outside the stock market by way of a purchase offer addressed to all shareholders or by way of a public request addressed to all shareholders to submit sell offers, the proposed authorization permits the offer or acceptance volume to be limited and the acquisition to be based on the ratio of tendered/offered shares (tender quota) rather than the respective levels of shareholding if the volume tendered/offered at the specified price exceeds the number of shares in demand by the company. The acquisition can only be technically executed on reasonable economic terms if the acquisition is in principle based on tender quotas. Furthermore, it should be possible to envisage the preferential acceptance of low volumes of up to 100 tendered shares per shareholder. This possibility serves on the one hand to avoid small and generally uneconomical residual balances and any associated potential de-facto disadvantaging of small shareholders. On the other hand, it also serves to simplify the technical handling of the acquisition process. Finally, it should be possible to provide for the rounding up or down of numbers of shares in accordance with commercial principles in order to avoid arithmetic fractions of shares. Specifically, this enables the acquisition quota and/or number of shares to be acquired by the individual tendering shareholder to be commercially rounded up or down as required to facilitate the acquisition of whole shares in technical handling terms. In agreement with the Supervisory Board, the General Partner believes that the resultant exclusion of any more extensive tender rights on the part of shareholders is objectively justified and reasonable for shareholders.

In addition to acquisition via the stock market or by way of a public purchase offer addressed to all shareholders or by way of a public request addressed to all shareholders to submit sell offers, the authorization also provides for enabling the acquisition to be executed by way of tender rights made available by the company to shareholders ("created tender rights"). These created tender rights are structured in such a way that the company is only obliged to acquire whole shares. Should it then not be possible to exercise created tender rights, these will lapse unless the General Partner resolves that they are tradable. This process treats shareholders equally and serves to simplify the technical handling of the share buyback.

Moreover, the proposed authorization provides for the possibility that, in connection with a buyback, a bank, investment firm or any other company meeting the requirements of § 186 (5) Sentence 1 AktG (collectively: emitting companies) may also be

commissioned to purchase either a previously agreed number of shares or shares for a previously determined total purchase price either on a previously determined minimum number of trading days or through to the expiry of a previously agreed period and then to transfer these to the company. In purchasing the shares to be supplied on the stock market, the emitting company must in turn account for the principle of equality (§ 53a AktG) and purchase the shares at prices within the range defined in Agenda Item 8, Letter aa).

**b) Use of acquired treasury stocks and exclusion of subscription rights**

The General Partner is to be authorized to use the treasury stocks bought back for all purposes permitted by law and specifically to sell these either in whole or in part via the stock market or by offering them for purchase by shareholders by way of a public sale offer conducted in such a way as to safeguard shareholders' subscription rights. If the General Partner sells treasury stocks via the stock market, shareholders do not have any subscription rights. Pursuant to § 71 (1) No. 8 Sentence 4 AktG, however, just like purchases via the stock market the sale of treasury stocks via the stock market suffices to satisfy the principle of equality set out in § 53a AktG.

The General Partner should nevertheless also be authorized to retire the treasury stocks thereby acquired without any further resolution required by the Annual General Meeting. Such retirement generally results in a reduction in capital. However, the General Partner should also be authorized to execute the retirement without changing the share capital as provided for in § 237 (3) No. 3 AktG. In such case, the retirement increases the share of share capital attributable to the other shares pursuant to § 8 (3) AktG.

Furthermore, resolution on Agenda Item 8 proposed for adoption by the Annual General Meeting on July 5, 2024 also provides for excluding shareholders' subscription rights when the treasury stocks bought back are used as set out in the cases below:

**aa) Sale in return for cash payment not materially lower than stock market price**

The General Partner is to be authorized, subject to approval by the Supervisory Board, to sell acquired treasury stocks with a total share of up to 10% of the share capital at the time at which the Annual General Meeting adopts the respective resolution on July 5, 2024 or, if this amount is lower, 10% of the company's share capital at the time at which the shares are sold in ways other than via the stock market or by addressing a sale offer to all shareholders if the shares are sold in return for cash payment at a price that does not fall materially short of the price of company shares in the XETRA trading system of the Frankfurt Stock Exchange (or any functionally comparable successor system) at the time at which the sale price is definitively stipulated. Shareholders' subscription rights are to be excluded in this respect. The legal basis for this so-called simplified exclusion of subscription rights is provided by § 71 (1) No. 8 Sentence 5 in conjunction with § 186 (3) Sentence 4 AktG.

The possibility of excluding subscription rights provided for in § 186 (3) Sentence 4 AktG enables the company to draw swiftly, flexibly, and inexpensively on any opportunities arising on the stock market at any given time. The sale proceeds that can be generated by setting the price close to market generally lead to a significantly higher inflow of funds per share than in the case of a share placement with subscription rights, and in this respect to the greatest possible addition of capital resources. Furthermore, by waiving the time-consuming and cost-intensive handling of subscription rights the company can cover its equity requirements from market opportunities arising at short notice. It is true that § 186 (2) Sentence 2 AktG permits the subscription price to be published no later than three days before expiry of the subscription period. Given the volatility on stock markets, however, even then there would be a market risk lasting several days that may result in safety markdowns upon stipulation of the sale price and thus mean that the conditions are not close to market. If it were to grant subscription rights, moreover, the length of the subscription period would mean that the company would be unable to react to favorable market conditions at short notice. Authorized capital, such as that in place at HORNBAACH Holding AG & Co. KGaA, may also serve the aforementioned purpose. The company should nevertheless be provided with the possibility, following any buyback of treasury stocks, to pursue this objective without executing a capital increase which, given the requirement for registration in the Commercial Register, would require greater input.

In order to comply with limit placed by § 186 (3) Sentence 4 AktG on the volume of simplified subscription right exclusions, the authorization to submit acquired treasury stocks in accordance with the simplified subscription right exclusion is limited to shares with a prorated amount of 10% of the company's share capital. The calculation of the 10% limit is based on the amount of share capital at the time at which the resolution on this authorization is adopted by the Annual General Meeting on July 5, 2024 or, if lower, the amount of share capital at the time at which the authorization is exercised. The proposed resolution also provides for an imputation clause by which the authorization volume is reduced to the extent that, from the date of the Annual General Meeting onwards, other authorizations to use simplified subscription exclusion are drawn on. This is intended to ensure that, taking due account of all such authorizations with the possibility of excluding subscription rights, the volume limit provided for in § 186 (3) Sentence 4 AktG is adhered to with direct, corresponding, or analogous application of § 186 (3) Sentence 4 AktG.

For the reasons outlined, the proposed authorization for use of the treasury stocks and exclusion of subscription rights is in the interests of the company and its shareholders. As the sale price for any treasury stocks thereby granted has to be aligned to the stock market price and in view of the limited scope of the authorization, the interests of shareholders are appropriately safeguarded. Shareholders have the possibility of maintaining their relative level of shareholding by purchasing shares via the stock market.

**bb) Sale as consideration, particularly in connection with combinations with other companies or acquisitions of companies or other assets**

Furthermore, the General Partner is to be authorized, subject to approval by the Supervisory Board, to transfer acquired treasury stocks to third parties as consideration, particularly in the context of combinations with other companies or the acquisition of companies, parts of companies, or shareholdings in companies, or of other assets or rights to acquire assets, including receivables due from the company or its shareholdings. Here too, shareholders' subscription rights should be excluded.

HORNBACH Holding AG & Co. KGaA is in global competition. In the interests of its shareholders, it has to be in a position to act swiftly and flexibly in both national and international markets. This also involves the option of acquiring companies, parts of companies, or shareholdings in companies in order to improve its competitive position or of combining with other companies, or acquiring other assets. The optimal implementation of this option in the interests of shareholders and the company may, in specific cases, involve combining with another company or acquiring a company, a part of a company, or a shareholding in a company, or another asset by granting shares to the acquiring company.

Practice shows that the shareholders of attractive acquisition objects frequently request the provision of shares in the acquiring company as consideration for any sale. To be able to acquire these objects of acquisition as well, HORNBACH Holding AG & Co. KGaA must have the possibility to grant treasury stocks as consideration. Authorized capital, such as that in place at HORNBACH Holding AG & Co. KGaA, may also serve the aforementioned purpose. The company should nevertheless be provided with the possibility, following any buyback of treasury stocks, to pursue this objective in suitable cases without executing a capital increase which, given the requirement for registration in the Commercial Register, would require greater input.

If subscription rights were to be granted, the possibility of combining with other companies or acquiring companies, parts of companies, or shareholdings in companies, or other assets in return for acquired treasury stocks would be excluded and the associated benefits for the company and shareholders would not be attainable.

The company currently does not have any specific combination or acquisition plans for which this possibility would be drawn on. Should any such possibilities of combining with other companies or of acquiring companies, parts of companies, or shareholdings in companies, or other assets materialize, the General Partner will carefully review in each individual case whether it should draw on the authorization to grant treasury stocks. It will only do so if it is convinced that the combination or the acquisition of the respective company, part of a company, or shareholding, or acquisition of other assets in return for granting HORNBAACH shares is in the best interests of the company. The same applies by analogy to the Supervisory Board approval required in accordance with the proposed resolution. The General Partner will report on details as to how this authorization is drawn on to the Annual General Meeting following any such combination or acquisition executed in return for granting shares in HORNBAACH Holding AG & Co. KGaA.

**cc) Authorization to exclude subscription rights for residual amounts**

Finally, the General Partner is to be authorized, subject to approval by the Supervisory Board, to exclude shareholders' subscription rights for residual amounts arising in connection with any sale offer addressed to all shareholders in the company. The exclusion of subscription rights for residual amounts is necessary to achieve a technically executable subscription ratio. The treasury stocks excluded from shareholders' subscription rights as free residual amounts will be used in the best possible way for the company either by being sold on the stock market or otherwise. Due to the limitation to residual amounts, the potential dilutive effect is low.

**dd) Concluding remark**

The proposal submitted by the General Partner and Supervisory Board further provides for the authorization set out in Letters aa) to cc) of Agenda Item 8 to be exercised in whole or partial amounts, on one or several occasions, in pursuit of one or several objectives within the aforementioned limitation and, in the case of the authorizations in Letters aa) and bb) of Agenda Item 8, that these may be exercised by the company itself, but also by dependent Group companies pursuant to § 17 AktG or by third parties acting on its or their behalf. Shareholders' subscription rights to company treasury stocks are then excluded to the extent that these shares are used in accordance with the aforementioned authorizations.

Having considered all of the circumstances stated, in agreement with the Supervisory Board the General Partner deems the exclusion of subscription rights to be objectively justified and appropriate for shareholders, also with regard to potential dilutive effects, in the cases referred to and for the reasons outlined.

**c) Authorization to deploy derivatives**

In addition to the above proposal, in Agenda Item 9 the General Partner and Supervisory Board further propose an authorization also to acquire treasury stocks by deploying derivatives, and specifically by deploying put options, call options, forward purchases, or combinations of these instruments. This does not increase the total volume of treasury stocks that may be acquired. The additional authorization merely extends the company's possibilities of optimally structuring the acquisition of treasury stocks.

By granting a put option, the company provides the purchaser of the put option with the right to sell company shares to the company at a price stipulated in the put option (exercise price). The company is obliged to acquire the number of shares stipulated in the put option at the exercise price. In return, the company receives an option premium when the put option is granted. If the put option is exercised, the option premium paid by the purchaser of the put option reduces the total consideration paid by the company to acquire the share.

From the company's perspective, the possibility of buying back shares using put options offers the advantage that the exercise price is already determined on the day on which the option is concluded (trade date). By contrast, the liquidity outflow only occurs upon the exercise date. If the option is not exercised due to the share price on the exercise date exceeding the exercise price, the company cannot acquire any treasury stocks this way. It nevertheless retains the option premium collected on the trade date.

If it acquires a call option, in return for payment of an option premium the company obtains the right to purchase a previously determined number of shares at a previously determined price (exercise price) from the seller of the option, the writer. Exercising the call option makes economic sense for the company when the company's share price exceeds the exercise price, as it can then purchase the shares from the writer at the lower exercise price. By acquiring call options, the company can hedge against rising share prices and only has to acquire the number of shares that it actually requires at the later point in time. In addition, the company's liquidity is protected as the predetermined acquisition price for the shares only has to be paid when the call options are exercised.

The option premium payable by the company for call options and receivable from put options may not materially exceed or undercut the theoretical market value of the respective options calculated using recognized mathematical methods and taking due account, among other factors, of the agreed exercise price. The aforementioned process of determining the option premium and the permissible exercise price, which is more closely limited in the resolution, enables the company to acquire call and/or put options with longer terms even in volatile market environments; shareholders are thus not placed at any economic disadvantage when treasury stocks are acquired by deploying put and call options. As the company pays or receives a fair market price, the shareholders not participating in the option transactions do not suffer any material economic disadvantage in terms of the value of their shareholdings.

This corresponds to shareholders' position when shares are bought back via the stock market, a situation in which not all shareholders can actually sell shares to the company. In this respect, it is justified, also based on the legal concept underlying § 186 (3) Sentence 4 AktG, to conclude option transactions, for example with an independent banks, as such transactions also cannot be performed with all shareholders and given that shareholders' financial interests are protected by the stipulation of close-to-market prices.

In a forward purchase, the company acquires the shares following agreement with the forward seller at a specified future date and at the acquisition price stipulated upon agreement of the transaction. Concluding forward purchases is expedient for the company in cases in which it would like to secure a fixed need for treasury stocks at a given dated and at a specified price.

The derivative transactions must be concluded with an independent bank or investment firm or another company meeting the requirements of § 186 (5) Sentence 1 AktG, or with a consortium of such firms or companies. For all derivatives, the respective contractual partner may only supply shares that it previously acquired in accordance with the principle of equality. A corresponding obligation must form a component of any put option transaction or forward purchase contract agreed.

If a call option agreement is concluded, the company may only exercise the option if it is ensured that, when the option is exercised, the respective contractual partner only supplies shares previously acquired in accordance with the principle of equality. The fact that the respective contractual partner for the derivative transaction only supplies shares acquired in accordance with the aforementioned conditions means that the requirement to treat shareholders equally is satisfied. In this respect, it is legitimate, also based on the legal concept underlying § 186 (3) Sentence 4 AktG, that any claim on the part of shareholders to conclude derivative transactions with the company is excluded. This exclusion also enables the company to enter into derivative transactions at short notice; this would not be possible if an offer to conclude derivative transactions of this nature were to be addressed to all shareholders. This provides the company with the flexibility needed to react swiftly to specific market situations.

If treasury stocks are acquired by deploying derivatives, shareholders should only be entitled to tender their shares to the extent that the derivative transactions place an obligation on the company towards its shareholders to accept the shares. The deployment of derivatives in order to buy back treasury stocks would otherwise not be possible and the associated benefits for the company would be unattainable. Following careful consideration of the interests of shareholders and the company and given the advantages for the company resulting from the deployment of derivatives, the General Partner deems the decision not to grant and/or to limit tender rights justified.

The term of the derivatives may not exceed 18 months in each individual case and must be selected such that the acquisition of shares in order to exercise or settle the respective derivatives may not be executed after July 4, 2026. This way, it is ensured that the obligations resulting from individual derivative transactions are limited to an appropriate timeframe.

All acquisitions of shares involving the deployment of derivatives are limited to shares in a scope of a maximum of 5% of share capital at the time at which this authorization takes effect or, if the subsequent amount is lower, at the time at which this authorization is drawn on.

Reference is made to Letter b) in this report in respect of the potential exclusion of subscription rights upon the use of acquired treasury stocks.