

## **Report to the Annual General Meeting regarding agenda items 9 and 10**

Pursuant to Section 71 (1) no. 8, sentence 5, Section 186 (3) sentence 4 and (4) sentence 2 of the German Stock Corporation Act, the Management Board wishes to submit the following report on agenda items 9 and 10, in particular on the grounds for the proposed authorization of the Management Board to exclude shareholders' subscription rights in the sale of the Company's treasury shares.

This report will be available on the Internet at <http://www.kloeckner.com/en/annual-general-meeting.html> from the date on which the Annual General Meeting is convened. It will also be available for inspection at the business premises of the Company, Am Silberpalais 1, 47057 Duisburg, Germany, and in the meeting room during the Annual General Meeting. The report is as follows:

In line with standard international practice, Section 71 (1) no. 8 of the German Stock Corporation Act is designed to enable companies to use the acquisition of treasury shares as an additional financial instrument. By resolution of the Annual General Meeting of May 25, 2012, the Company is authorized to acquire treasury shares. However, this authorization resolution expires as of May 24, 2017. To enable the Company to use the acquisition of treasury shares as an additional financial instrument to the fullest extent permitted by law, the Management Board and Supervisory Board propose to the Annual General Meeting that the Company be granted a new authorization to acquire and utilize treasury shares.

The authorization proposed under agenda item 9 will enable the Company to acquire until May 11, 2022, with the consent of the Supervisory Board, treasury shares of up to 10% of the share capital in issue or – if lower – the share capital at the time the authorization is exercised. This ensures the legally permissible maximum limit is observed. Acquisitions may only be made on the stock exchange or by way of a public purchase offer to all shareholders, in the latter case, the Company itself can issue a formal offer or call for the submission of sales offers. This ensures compliance with the obligations set out under Section 71 (1) no. 8 sentences 3 and 4 of the German Stock Corporation Act on the equal treatment of all shareholders. In the case of acquisition by way of a public purchase offer, acceptance will be based on quotas if the offer is oversubscribed or if more shares are offered to the Company than anticipated. A preferential acceptance of smaller quantities of up to 100 shares tendered or offered per shareholder and rounding in accordance with commercial principles may be provided for in order to simplify the technical settlement process.

The authorization proposed under agenda item 10 to acquire treasury shares using put or call options or future purchase contracts (collectively "Derivatives") gives the Company the ability to optimally structure a share buyback. As already made clear by the limit of 5% of the share capital, solely the methods of the share buyback shall be expanded. The authorization

is formulated so as to ensure that this form of acquisition also complies with the principle of the equal treatment of shareholders.

The authorization under agenda item 9 provides that the acquired treasury shares can be sold to third parties with the exclusion of shareholders' subscription rights, insofar as this is done for the purpose of acquiring companies, parts of companies and/or interests in companies or to service warrant-linked and/or convertible bonds. In these cases, the Management Board will be able to offer Company shares as consideration for the acquisition of such companies or interests in companies and/or to grant the holders of warrants and/or conversion rights shares to fulfill their claims without having to implement a capital increase.

As a result of national and international competition, there is increasing demand for the option of offering shares rather than cash as consideration for the acquisition of companies or interests in other companies. The authorization proposed under agenda item 9 gives the Company the necessary flexibility to use treasury shares as currency for acquisitions and thus the ability to react quickly and flexibly to attractive offers to acquire companies or interests in companies. The proposed authorization to exclude shareholders' subscription rights takes this into account.

The proposed authorization to utilize treasury shares also provides for the sale of treasury shares to third parties in ways other than on the stock exchange or by way of a public offer to all shareholders, as long as the treasury shares are sold for cash and at a price that is not significantly below the applicable market price. This is intended to ensure that the Company is able to issue shares to institutional investors, financial investors or other cooperating partners and, by setting prices close to the market rate, to achieve maximum sales value and strengthen the equity base to the greatest possible extent. While this type of sale excludes shareholders' subscription rights, this is legally admissible as it corresponds to the simplified exclusion of subscription rights of Section 186 (3) sentence 4 of the German Stock Corporation Act. The authorization may only be exercised for up to 10% of the share capital at the time of the resolution of the Annual General Meeting on this authorization, or – if lower – at the time the authorization proposed under agenda item 9 is exercised. This 10% threshold shall include shares of the Company and warrant-linked or convertible bonds of the Company or the Group companies issued on the basis of other authorizations that are issued or sold by the Company in direct or analogous application of Section 186 (3) sentence 4 of the German Stock Corporation Act during the term of this authorization for the acquisition and use of treasury shares up to the time of its exercise, with the exception of those shares intended to service convertible bonds issued on the basis of the resolution adopted as agenda item 6 of the Company's Annual General Meeting of May 24, 2013. This ensures that the statutory limit of 10% of the share capital for such a simplified exclusion of subscription rights (Section 186 (3) sentence 4 of the German Stock Corporation Act) is not exceeded.

To the extent that the authorization proposed under agenda item 9 provides for the option to exclude subscription rights in order to fulfill warrants or conversion rights and meet conversion obligations arising from warrant-linked and/or convertible bonds issued by the Company or Group companies, this enables the management to use already existing

treasury shares to meet commitments instead of otherwise available conditional capital. This currently affects the convertible bonds issued in 2016.

Ultimately, the Company should be given the ability to partially exclude shareholders' subscription rights in the event of a sale of treasury shares by way of an offer to all shareholders in favor of holders of warrant-linked and/or convertible bonds in order to grant such holders subscription rights to the shares to be sold in the quantity to which they would have been entitled had they exercised their warrants or conversion rights or fulfilled their conversion obligations. This avoids the reduction in the warrant or conversion price that would otherwise arise, thus strengthening the funds available to the Company. Redeeming treasury shares without further resolution by the Annual General Meeting ultimately enables the Company to use the share capital reduction associated with such redemption in order to quickly and flexibly adjust its equity to the demands of the capital market.

The above statements on the authorization to exclude subscription rights when utilizing treasury shares apply accordingly to treasury shares acquired using Derivatives in accordance with agenda item 10. The Management Board will report to the next Annual General Meeting on any use of the proposed authorizations to acquire and use treasury shares.

Duisburg, March 2017



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Gisbert Rühl



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Marcus A. Ketter



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Karsten Lork



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William A. Partalis

**Klöckner & Co SE**  
**The Management Board**

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