<u>Annex to agenda item 10</u>
Report of the Management Board on agenda item 10 on the exclusion of subscription rights when placing convertible bonds and/or bonds with warrants pursuant to section 221 (4) in conjunction with section 186 (4) sentence 2 of the *Aktiengesetz* (AktG — German Stock Corporation Act)

The authorization to issue convertible bonds and/or bonds with warrants resolved on in the 2019 Annual General Meeting will expire on May 21, 2024, and thus presumably before the Annual General Meeting taking place in fiscal year 2024. The authorization has not been exercised so far.

To ensure as much flexibility as possible in corporate financing and the access to debt capital, the authorization and the associated Contingent Capital 2019 regulated in Article 5 (4) of the Articles of Association will be terminated, the Management Board will be granted a new authorization to issue convertible bonds and/or bonds with warrants in a comparable scope, and a new Contingent Capital 2023 will be resolved.

Under agenda item 10, it is proposed to the Annual General Meeting to grant another authorization to issue convertible bonds and/or bonds with warrants or a combination of all of these instruments (hereinafter referred to collectively as "**Bonds**") and to create the corresponding Contingent Capital 2023. The corresponding authorization resolved on by the shareholders' meeting on May 22, 2019, will expire on May 21, 2024, and thus presumably before the Annual General Meeting taking place in fiscal year 2024. The authorization has not been exercised so far. It is therefore to be replaced by a new authorization to issue convertible bonds/bonds with warrants in a comparable scope. This is intended to authorize the Management Board to issue convertible bonds and/or bonds with warrants or a combination of all of these instruments in a total nominal amount of up to EUR 3,000,000,000. This authorization and the creation of the related Contingent Capital 2023 in the amount of up to EUR 50,000,000 (this is equivalent to 10% of the Company's current share capital) is intended to expand the Company's opportunities to finance its activities, which are explained in greater detail in the following, and give the Management Board, subject to the consent of the Supervisory Board, access to flexible and fast funding that is in the interests of the Company, especially if favorable capital market conditions were to arise. The authorization is to be issued for five years until May 31, 2028. The law allows contingent capital, the instrument underlying this authorization, to have a volume of up to 50% of the share capital. This instrument plays a key role in ensuring flexibility in financing decisions.

Advantages of the financing instrument

An adequate capital base is essential for the Company's business performance and a successful market presence. Depending on the market situation in question, the Company may issue bond types outlined above to leverage attractive financing opportunities and conditions and acquire additional capital for the Company at low interest rates. The conversion or option premiums received benefit the Company. Furthermore, issuing Bonds, where applicable in conjunction with other instruments such as a capital increase, allows the Company to expand its investor base. The possibility to provide for an obligation to exercise the conversion/option right or for a tender right of the issuer, and the possibility to fulfill these rights or obligations by delivering treasury shares, paying cash compensation, or delivering shares issued from authorized capital means these financing instruments can be designed with an even wider scope.

For flexibility reasons, the Company should also be able to issue Bonds through entities in which it holds a direct or indirect majority interest, as well as draw on the German capital market or on international capital markets, depending on the market environment in question, and also issue Bonds in the legal currency of an OECD country as well as in euros.

Conversion or option price

The conversion or option price for one share must be equivalent to at least 80% of the average value of the stock market price of the Company's shares in the XETRA trading system (or a comparable successor system with similar functions to the XETRA system) on the Frankfurt Stock Exchange on the last ten trading days before the day of the Management Board's resolution on the public announcement of the issuance of the Bonds. If shareholders have a subscription right to the bond in question, there is the alternative of setting the conversion or option price for one share using the average value of the stock market price of the Company's shares in the XETRA trading system (or a comparable successor system) from the beginning of the subscription period until the third day (included) prior to the announcement of the final conditions pursuant to section 186 (2) sentence 2 of the AktG, whereby the price must be equivalent to at least 80% of the calculated value. In case of Bonds with a conversion or option obligation or the right of the Company to grant the holders or creditors of the Bonds shares of the Company in lieu of cash payments due, in whole or in part, the conversion/option price must be equivalent to at least the minimum price stated above (80%) or correspond to the volume-weighted average value of the stock market price of the Company's shares in the XETRA trading system (or a comparable successor system) on the Frankfurt Stock Exchange (i) on the last ten trading days before the day of final maturity or (ii) on at least ten trading days immediately prior to the determination of the conversion/option price in accordance with the issuing terms, even if this average price is below the minimum price stated above (80%). Sections 9 (1) and 199 of the AktG, however, remain unaffected.

Notwithstanding the provisions in sections 9 (1) and 199 of the AktG, the conversion/option price may be adjusted as a result of a dilution or adjustment clause in line with more specific provisions and the terms underlying the bond in question if, for example, there are changes in the Company's share capital during the term of the bond (such as a capital increase, a capital decrease, or a share split). Protection against dilution and adjustment mechanisms may also be provided for in connection with dividend payments, the issuance of additional conversion bonds and/or bonds with warrants, transformation measures, and other extraordinary events occurring during the term of the bond, such as a change of control at the Company. Protection against dilution and adjustment mechanisms may, in particular, take the form of changing the conversion or option price, granting subscription rights to shares of the Company or to conversion bonds or bonds with warrants, or granting or adjusting cash components.

Further additions to issuing terms

The bond terms may also stipulate or allow for shares to be issued from authorized capital or for treasury shares to be issued in the event that the conversion or option rights are exercised or the corresponding obligations are fulfilled. Instead of or as well as allowing Company shares to be issued and to further improve flexibility, the bond terms may also stipulate or allow the Company to pay the equivalent value to the conversion or option holder or the corresponding obligated party in cash, either in full or in part, in the event that the conversion or option right is exercised or the corresponding obligations are fulfilled. These virtual Bonds allow the Company to obtain financing on terms similar to those available on the capital market without actually requiring a capitalization measure under corporation law. This accounts for the fact that increasing share capital when the conversion or option right is exercised or the corresponding obligations are fulfilled at some point in the future may be unfavorable. On top of this, the possibility to pay in cash means no new shares are issued and protects shareholders against their shareholding percentage decreasing in value or the value of their shares becoming diluted.

Provisions may also be made as to whether the conversion or option price or the conversion ratio is to be fixed when the Bonds are issued or calculated based on future stock market prices within a certain range during the term of the bond. To facilitate technical processing, an additional payment in cash may be set and/or provided for to add fractional amounts and/or offset these in cash.

Shareholders' subscription right and exclusion of subscription right

When issuing convertible bonds and/or bonds with warrants, shareholders are to be generally granted a subscription right. In order to make processing easier, the Company should use the option to have Bonds issued by a credit institution or a financial institution operating under section 53 (1) sentence 1 or section 53b (1) sentence 1 or (7) of the *Kreditwesengesetz* (KWG — German Banking Act) or a syndicate of such credit or financial institutions, in each case as determined by the Management Board, subject to an undertaking to offer the shares to shareholders for subscription (indirect subscription right).

However, the Management Board may, subject to the consent of the Supervisory Board, exclude the subscription right in mutatis mutandis application of section 221 (4) sentence 2 in conjunction with section 186 (3) sentence 4 of the AktG in the following cases.

Subject to the consent of the Supervisory Board, the Management Board may exclude shareholders' subscription right for fractional amounts that may result from the total amount issued and the definition of a practicable conversion or subscription ratio. This enables it to utilize the authorization it has been granted fully by rounding the amounts and makes it easier to implement shareholders' subscription rights.

In addition, subscription rights are to be excluded, subject to the consent of the Supervisory Board, where this is necessary for protection against dilution, in order to grant holders or creditors of bonds with conversion or option rights or conversion or option obligations that were or will be issued by the Company or by other entities in which the Company holds a direct or indirect majority interest a right to subscribe for new Bonds to the extent to which they would be entitled to such subscription rights as shareholders after exercising their conversion or option rights or, as the case may be, after fulfillment of their conversion or option obligations. The advantage of excluding the subscription right for the benefit of the holders/creditors of Bonds that have already been issued is that the conversion/option price does not need to be reduced for Bonds that have already been issued and are protected against dilution. This allows the Bonds to be placed in multiple tranches under more attractive conditions and enables a higher inflow of cash.

Furthermore, the Management Board is authorized, subject to the consent of the Supervisory Board, to exclude subscription rights if Bonds are issued against cash contributions, provided that after due examination the Management Board reaches the conclusion that the issue price for the Bonds is not significantly lower than the theoretical market price of the Bonds as calculated using recognized mathematical methods.

The exclusion of the subscription right allows the Company to leverage a favorable stock market environment quickly, even on short notice, and place a bond on the market quickly, flexibly, and under attractive conditions. By contrast, issuing Bonds with a subscription right is often less appealing because the issue price has to be fixed very early on in order to meet the subscription deadline. Since stock markets are becoming increasingly volatile, this means the Company is unable to leverage the stock market environment to the fullest and has a negative impact on the value of the bond. Generally speaking, favorable conditions that are in line with the market can only be fixed if the Company is not bound by these during an overly long offer period. Given the applicable statutory periods for issuing subscription rights, a significant safety margin must be deducted from the price on a regular basis. Section 186 (2) of the AktG does allow the subscription price (and thus the conditions of the bond in case of convertible bonds and/or bonds with option rights) to be published up to three days before the end of the subscription period at the latest. But this means the market risk exists over several days and results in the deduction of a safety margin as outlined in the terms of the bond. Irrespective of the above, subscription rights make it difficult to place Bonds with third parties and/or require additional effort because it is uncertain when those rights might be exercised. Lastly, the length of the subscription period prevents the Company from reacting quickly to changes in the market environment, making it difficult to raise capital.

When Bonds are issued against cash contributions and subscription rights are excluded, shareholders' interests are protected because the Bonds are issued at a price that is not significantly lower than the theoretical market value of the bond. The theoretical market value of the bond must be calculated in particular accordance with recognized mathematical methods. Management will keep any markdown on this market value as low as possible when fixing the price, taking the current capital market environment into account. This would result in the notional value of a subscription right to a bond falling to almost zero, so excluding these rights would not disadvantage shareholders financially in any major way. However, carrying out a book-building process also ensures that bond terms are established in line with the market, thus preventing any notable dilution of value. As part of this process, investors are asked to submit purchase applications based on temporary issuing terms and specify, for example, the interest rate they believe to be in line with the market and/or other economic components. This allows the total value of the bond to be determined in line with the market and ensures that excluding subscription rights does not result in any notable dilution of the value of the shares. Shareholders wishing to preserve their share of the Company's share capital can do so at virtually the same conditions by purchasing shares on the capital market. This guarantees adequate protection of their financial interests.

Furthermore, shareholders' voting rights interests are protected against undue dilution of the value of their shareholding because the notional value of the share capital attributable to the shares to be issued as a result of the Bonds to be issued against cash contributions under this authorization may not exceed 10% of the share capital either at the time the authorization becomes effective or — in the event that this amount is the lower one — when it is exercised. The 10% limit includes shares that (i) were issued or sold during the term of this authorization up to the time of it being exercised with the exclusion of subscription rights on the basis of other authorizations in direct or mutatis mutandis application of section 186 (3) sentence 4 of the AktG or (ii) were issued or are to be issued to service Bonds or participation rights with conversion or option rights or conversion or option obligations, provided that the Bonds or participation rights were issued during the term of this authorization up to the time of it being exercised with the exclusion of subscription rights in mutatis mutandis application of section 186 (3) sentence 4 of the AktG. This ensures that no Bonds are issued with the exclusion of shareholders' subscription rights if this would result in shareholders' subscription rights to new shares or treasury shares of the Company being excluded in an amount of more than 10% of the shares currently outstanding, taking into account capital increases or treasury shares being placed in direct, mutatis mutandis, or corresponding application of section 186 (3) sentence 4 of the AktG.

Finally, subscription rights may also be excluded if Bonds are issued against contributions in kind. Among other things, this allows the Company to use Bonds as acquisition currency where appropriate as part of mergers or to (directly or indirectly) acquire enterprises, parts of enterprises, or equity interests in enterprises. This authorization also allows the Company to quickly and flexibly react to favorable opportunities for business expansion in national and international markets by issuing Bonds as consideration for the acquisition in the interests of the Company and its shareholders, as well as of all other stakeholders. In each individual case, management will carefully consider whether to exercise this authorization whenever specific acquisition opportunities arise. It will only exclude shareholders' subscription rights if this is in the Company's beneficial interest.

In each individual case, the Management Board will carefully examine whether to exercise the authorization to issue Bonds and exclude subscription rights. These options will only be exercised if the Management Board considers this to be reasonable and in the beneficial interest of the Company and its shareholders.

The Management Board will report to the next Annual General Meeting each time it has exercised the authorization granted in agenda item 10.

Contingent Capital 2023

Contingent Capital 2023 is required to service the conversion/option rights associated with convertible bonds and/or bonds with warrants or to fulfill the corresponding obligations. The issue price corresponds to the conversion or option price. Contingent capital cannot be used for option or conversion rights as well as option or conversion obligations arising from Bonds that were issued against contributions in kind. These scenarios require either recourse to treasury shares or an increase in capital against contributions in kind.