

Convenience Translation



Formycon AG
Munich

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Annual General Meeting on 12 June 2024

**Report of the Management Board to the Annual General Meeting
on agenda item 10 on the reasons for the
exclusion of shareholders' subscription rights**

The Management Board of Formycon AG submits the following report pursuant to Sections 71(1) no. 8 sentence 5 second half-sentence, 186(4) sentence 2 of the German Stock Corporation Act (*Aktiengesetz, AktG*) on the reasons for the authorization of the Management Board to exclude subscription rights. This report is available from the date of convening the Annual General Meeting on the Company's website at

<https://www.formycon.com/en/investor-relations/annual-general-meeting-2024/>.

The report will also be available for inspection by shareholders at the Annual General Meeting.

Under agenda item 10, the Management Board and the Supervisory Board propose that the existing authorizations to acquire treasury shares be revoked and that the Management Board be authorized until 11 June 2029 (inclusive), with the approval of the Supervisory Board, to acquire treasury shares in the Company up to a total of 10% of the share capital existing at the time of the resolution by the Annual General Meeting or – if this value is lower – at the time the authorization is exercised

The Annual General Meeting on 27 June 2019 authorized the Management Board under agenda item 8 to acquire treasury shares in an amount of up to 10% of the share capital existing at the time of this resolution up to and including 26 June 2024. Furthermore, the Annual General Meeting on 30 June 2022 authorized the Company under agenda item 7 to acquire treasury shares in an amount of up to 10% of the share capital existing at the time of this resolution up to and including 29 June 2027. The Management Board has not made use of these two authorizations to date. The Company does not hold any treasury shares at the time of convening the 2024 Annual General Meeting.

The Company intends to be able to service claims from share participation or other share-based programs using treasury shares in the future. Against this background and in order to maintain the Company's future flexibility with regard to the acquisition and use of treasury shares, the previous authorizations to acquire treasury shares are to be cancelled and a new authorization to acquire and use treasury shares is to be granted.

The authorization may be exercised once or several times, in full or in partial amounts and in pursuit of one or several purposes. The treasury shares may be acquired by the Company itself and by dependent companies or companies in which the Company holds a majority interest or by third parties acting for the account of the Company or for the account of dependent companies or companies in which the Company holds a majority interest.

Treasury shares may be acquired via the stock exchange or by way of a public purchase offer. The principle of equal treatment of shareholders in accordance with Section 53a AktG must be observed in the acquisition. The proposed acquisition via the stock exchange or by way of a public purchase offer takes this into account. If the number of shares tendered in a public purchase offer exceeds the purchase volume envisaged by the Company, the shares will be purchased proportionately according to the ratio of shares tendered per shareholder. However, irrespective of the number of shares tendered by the shareholder, a preferential purchase of small quantities of up to 100 shares per shareholder may be provided for. This option serves to avoid fractional amounts when determining the quotas to be acquired and small residual holdings, thereby facilitating technical processing. Shares with a tender price set by the shareholder at which the shareholder is poised to sell the shares to the Company and which is higher than the purchase price set by the Company are not taken into account in the acquisition.

The Management Board is to be authorized, with the approval of the Supervisory Board, to use the treasury shares acquired by the Company for any permissible purpose, in particular also in the following manner:

- a) The proposed authorization stipulates that acquired treasury shares can be redeemed without a further resolution of the General Meeting or can be resold on the stock exchange or by way of an offer to all shareholders. The redemption of treasury shares generally leads to a reduction of the Company's share capital. However, the Management Board is also authorized to redeem treasury shares in the simplified procedure without a reduction of the share capital in accordance with Section 237(3) no. 3 AktG. This would increase the proportion of the remaining shares in the share capital in accordance with Section 8(3) AktG (calculated nominal amount) on a pro rata basis. In this case, the Management Board is also authorized to adjust the number of shares stated in the Articles of Association. The principle of equal treatment under stock corporation law is observed in both of the aforementioned disposal methods.
- b) The proposed authorization also provides that acquired treasury shares may be used to implement a scrip dividend in the context of which shares in the Company are issued (also partially and/or optionally) in return for the contribution of shareholders' dividend entitlements. This is intended to enable the Company to distribute a scrip dividend at optimal conditions. In the case of a scrip dividend, shareholders are offered the opportunity to contribute all or part of their entitlement to payment of the dividend arising from the Annual General Meeting's resolution on the appropriation of profits to the Company as a contribution in kind in order to receive new shares in the Company in return. The distribution of a scrip dividend can be carried out as a rights issue, in particular in compliance with the provisions of Section 186(1) AktG (minimum subscription period of two weeks) and Section 186(2) AktG (announcement of the issue amount no later than three days before the end of the subscription period). In individual cases, however, depending on the capital market situation, it may be preferable to organize the distribution of a scrip dividend in such a way that the Management Board offers new shares to all

shareholders entitled to dividends in compliance with the general principle of equal treatment (Section 53a AktG) in return for the contribution of their dividend entitlement and thus economically grants shareholders a subscription right, but legally excludes shareholders' subscription rights to new shares altogether. Such an exclusion of subscription rights enables the distribution of a scrip dividend without the aforementioned restrictions of Section 186(1) and (2) AktG and therefore on more flexible terms. In view of the fact that all shareholders will be offered the new shares and any excess dividend amounts will be settled in the form of a cash dividend payment, an exclusion of subscription rights in such a case appears justified and appropriate.

- c) In addition, the Management Board (or the Supervisory Board, insofar as members of the Management Board are affected) shall be able to use treasury shares in connection with share participation or other share-based programs. The share participation or other share-based programs serve to incentivize the program participants in a targeted manner and at the same time are intended to bind the participants to the Company:
- aa) They may be offered, promised or transferred to persons who are or were in an employment relationship with the Company or an affiliated Company within the meaning of Section 15 AktG, as well as to members of executive bodies of the Company or companies affiliated with the Company, either in return for payment or free of charge; the shares offered, promised or transferred may also be transferred to the beneficiaries after the termination of the executive body or employment relationship. The shares may also be transferred to a credit institution, a securities institution or a company operating in accordance with Section 53(1) sentence 1 or Section 53b(1) sentence 1 or (7) German Banking Act (*Kreditwesengesetz, KWG*) (financial institution) or a syndicate of such credit or financial institutions, which assumes the shares with the obligation to use them exclusively for the purposes set out in sentence 1. Shareholders' subscription rights are excluded in this respect.
 - bb) They may be offered for purchase and transferred to the beneficiaries to service the share options issued under the Company's share option program described under agenda item 7 of the Annual General Meeting of the Company on 10 December 2020 (Share Option Program 2020). Shareholders' subscription rights are excluded in this respect.
- d) It shall also be possible for the Management Board to offer and transfer treasury shares in return for contributions in kind, particularly in the context of business combinations or the acquisition of companies, operations, parts of companies or equity interests. The aforementioned shares may also be used for the termination or settlement of corporate litigation at affiliated companies of the Company. Shareholders' subscription rights are excluded in this respect. The authorization proposed for this reason is intended to strengthen the Company in the competition for interesting acquisition targets and enable it to react quickly, flexibly and in a liquidity-preserving manner to acquisition opportunities that arise. The proposed exclusion of shareholders' subscription rights takes this into account. The decision as to whether treasury shares or shares from authorized capital are used in individual cases is made by the Management Board, whereby it is guided solely by the interests of the Company and the shareholders. When valuing treasury shares and the consideration for them, the Management Board will ensure that the interests of the shareholders are adequately safeguarded. In doing so, the Management

Board will take into account the stock market price of the Company's shares; a schematic link to a stock market price is not envisaged, in particular so that negotiation results once achieved cannot be jeopardized again by fluctuations in the stock market price.

- e) The Management Board shall also be able to sell the acquired treasury shares to third parties for cash, excluding shareholders' subscription rights, provided that the price at which the treasury shares are sold is not significantly lower than the stock market price (including the listing in the Regulated Unofficial Market (*Freiverkehr*)) of a share in the Company at the time of sale. This authorization makes use of the option of simplified exclusion of subscription rights permitted under Section 71(1) no. 8 sentence 5 AktG in conjunction with Section 186(3) sentence 4 AktG. This enables the Management Board to seize favorable stock market situations quickly and flexibly and to achieve the highest possible resale price by setting a price close to the market, thereby regularly strengthening the shareholders' equity or attracting new groups of investors. The authorization is subject to the proviso that the shares issued with the exclusion of subscription rights may not exceed a total of 10% of the share capital, either at the time the resolution is adopted or at the time the authorization is exercised. Shares issued or sold during the term of the resale authorization in direct or corresponding application of Section 186(3) sentence 4 AktG are to be counted towards this limit. This also includes shares that were or can be issued to service convertible bonds or bonds with warrants or profit participation rights with conversion or option rights, provided that the underlying bonds are issued in the future during the term of this authorization up to this point in time with the exclusion of subscription rights in accordance with Section 186(3) sentence 4 AktG. The financial and voting right interests of the shareholders are adequately safeguarded when treasury shares are sold in this way. In principle, shareholders have the option of maintaining their shareholding quota under comparable conditions by purchasing shares on the stock exchange. By limiting the number of shares to be sold and the obligation to set the selling price of the new shares close to the market price, shareholders are adequately protected against a dilution in the value of their shares. At the same time, it is ensured that the consideration to be realized by the Company is appropriate.

- f) In addition, the Company shall also be able to utilize treasury shares to service acquisition obligations or acquisition rights to shares in the Company arising from and in connection with convertible bonds, bonds with warrants, profit participation rights and/or participating bonds (or combinations of these instruments) with conversion or option rights or conversion or option obligations issued by the Company or one of its Group companies. In order to provide the Company with the flexibility to repurchase the convertible bonds, bonds with warrants, profit participation rights and/or participating bonds (or combinations of these instruments) with conversion or option rights or conversion or option obligations issued by the Company or one of its Group companies ahead of schedule, the treasury shares shall also be able to be offered to their holders as consideration and transferred to them. To this end, the shareholders' subscription rights have to be excluded in each case. This also applies in the event of a sale of treasury shares through an offer to all shareholders for the possibility of also granting the creditors of such instruments subscription rights to the shares to the extent to which they would be entitled if the respective conversion or option rights or conversion or option obligations had already been exercised (protection against dilution).

- g) Finally, the Management Board is authorized to exclude any fractional amounts in the event of an offer to all shareholders. This is necessary for the technical processing of such an offer in order to avoid the issue of fractions of shares. The Management Board will utilize the shares excluded from shareholders' subscription rights as so-called free fractions either by selling them on the stock exchange or otherwise in the best possible way for the Company.

The authorization may be exercised with regard to shares in the Company that were acquired on the basis of this or previous authorizations to acquire treasury shares.

The Management Board will report on any utilization of this authorization at the next General Meeting in accordance with Section 71(3) sentence 1 AktG.

Martinsried/Planegg, May 2024

Formycon AG
The Management Board