

## **EXPLANATORY NOTES TO THE AGENDA AND DRAFT RESOLUTIONS**

### **ANNUAL GENERAL MEETING TO BE HELD ON 31<sup>st</sup> MAY 2022**

As per items of the agenda of the AGM:

#### **1. OPENING AND ANNOUNCEMENTS; ELECTION OF THE CHAIRMAN AND SECRETARY OF THE ANNUAL GENERAL MEETING**

The following resolutions shall be proposed to be adopted:

*“The General Meeting has elected [to be filled in] the Chairman of the General Meeting.”*

*“The General Meeting has elected [to be filled in] the Secretary and the minute taker of the General Meeting.”*

#### **2. CONSIDERATION OF THE ANNUAL REPORT 2021; ADOPTION OF THE ANNUAL FINANCIAL STATEMENTS (STAND-ALONE AND CONSOLIDATED) AND ALLOCATION OF THE FINANCIAL RESULT**

The annual report 2021 is published on the Company’s website at <https://www.photonenergy.com/en/investor-relations.html> and is also made available at the Company’s office. The following resolutions shall be proposed to be adopted:

*“The General Meeting hereby approves the Annual Financial Statements of the Company for 2021 and approves the transfer of profit in the amount of **EUR 3,667 thousand** to the retained earnings in the shareholders equity.”*

*“The General Meeting hereby approves the Consolidated Financial Statements of the Company for 2021 and approves the transfer of the consolidated loss in the amount of **EUR 6,433 thousand** to the retained earnings in the shareholders equity.”*

#### **3. CONSIDERATION OF THE REMUNERATION REPORT PROPOSED BY THE SUPERVISORY BOARD AND ADVISORY VOTE ON REMUNERATION REPORT; ADOPTION OF CHANGE OF REMUNERATION POLICY**

The Remuneration Report has been prepared in accordance with Dutch law and has been published on the Company’s website as part of the Annual Report (page 64 of the Annual Report 2021). The following resolution shall be proposed to be adopted:

*„The General Meeting hereby approves the Remuneration Report for 2021. “*

The Supervisory Board presents a change to Article 4.2 of the Remuneration Policy. According to Article 135a (par 2) of the Dutch Civil Code, the resolution to adopt the remuneration policy requires a majority of at least three quarters of the votes cast, unless the Articles of Association prescribe a lower majority. The following resolution shall be proposed to be adopted.

*„Article 4.2 of the Remuneration Policy shall be changed as follows:*

4.2 *An annual variable remuneration (short-term incentive) linked to companies KPIs and adequate to competitive market levels can be awarded to the Management Board members. The variable remuneration shall be paid after the publication of the audited annual accounts.*

*In alignment with the Company's strategy, the Supervisory Board, at its discretion, will consider short or longer-term goals and their respective weights and targets for the respective bonus period; a part of the variable remuneration may therefore reflect a period longer than one performance year.*

*The Supervisory Board shall also consider the following:*

- *the Company's strategy*
- *Historical performance and business outlook*
- *Long term value creation*
- *Stakeholders expectations*

*No share-based (stock option plans) remuneration is awarded to the Management Board members. The Management Board members as employees are entitled to participate in ESSP as referred to in Article 2.3 in line with the Group's policy."*

#### **4. GRANTING DISCHARGE TO THE MEMBERS OF THE MANAGEMENT BOARD OF THE COMPANY**

The following resolution shall be proposed to be adopted:

*"The General Meeting hereby discharges and releases the Management Board of the Company from liability for its conduct performed in and relating to the financial year of 2021."*

#### **5. GRANTING DISCHARGE TO THE MEMBERS OF THE SUPERVISORY BOARD OF THE COMPANY**

The following resolution shall be proposed to be adopted:

*"The General Meeting hereby discharges and releases the Supervisory Board of the Company from liability for its conduct performed in and relating to the financial year of 2021."*

#### **6. EXTENSION OF THE SUPERVISORY BOARD TO THREE MEMBERS AND APPOINTMENT OF THE MEMBERS OF THE SUPERVISORY BOARD**

In accordance with Article 24.1 of the Company's Articles of Association, the Supervisory Board proposes to the General Meeting that the Supervisory Board consist of three members and nominates the following candidate as the third Supervisory Director. The candidate is proposed to serve on the Supervisory Board for 4 years from the date of the general meeting until the date of the annual general meeting in 2026. The candidate for the Supervisory Board is considered independent in accordance with the Dutch corporate governance code.

*Ariel Sergio Davidoff*

*Ariel Sergio Davidoff (54 years, Swiss national) is a partner at Lindemannlaw, an international law firm based in Zurich. The law firm focuses on UHNW entrepreneurs and regulated clients, such as banks, external asset managers and mutual funds. Ariel serves on a small number of boards of successful companies.*

*Prior to joining Lindemannlaw, Ariel held various positions in the banking industry in Switzerland and Lichtenstein, including the position of CEO. In addition, he recently co-funded several companies in the Swiss financial sector. Due to his regulatory, economic and legal background, Ariel's main areas of expertise are governance, risk management and audit.*

*Ariel holds various degrees, including a Doctorate of Business Administration by the University from Southern Australia, Adelaide, an MBA from the University of Rochester, NY and an LL.M. in International business law from the University of Zurich. He has also successfully completed the Certified Board Member Certificate of Advanced Studies at the University of Berne, Switzerland.*

*Ariel shall be an independent member of the Company's Supervisory Board as defined by the Dutch Corporate Governance Code.*

The following resolution shall be proposed to be adopted:

***“The Supervisory Board shall consist of 3 (three) members. The General Meeting hereby appoints Mr. Ariel Sergio Davidoff to the Supervisory Board for a period of 4 years from this day until the day of the annual general meeting to be held in the fourth year after the day of his appointment.”***

## **7. APPOINTMENT OF THE AUDITOR**

In accordance with Article 31.2 of the Company's Articles of Association, the general meeting is authorized to give assignment to the auditor. The Supervisory Board/Audit Committee has independently evaluated the performance of PricewaterhouseCoopers as the external auditor for the financial year 2021, and the effectiveness of the audit process. Based on that, the Supervisory Board proposes the reappointment of PricewaterhouseCoopers as the external auditor for the financial year 2022.

The following resolution shall be proposed to be adopted:

***“The General Meeting hereby appoints PricewaterhouseCoopers (PwC), with its office at Thomas R. Malthusstraat 5, 1066 JR Amsterdam, to be the Company's auditor for the financial year 2022.”***

## **8. GRANTING AUTHORIZATION TO THE MANAGEMENT BOARD TO ACQUIRE SHARES IN THE SHARE CAPITAL OF THE COMPANY**

This proposal concerns the authorization of the Management Board under Article 9.3 of the Articles of Association. If adopted, this authorization will replace the authorization granted to the Management Board by the annual general meeting 2021. The following resolution shall be proposed to be adopted:

*“The general meeting hereby authorizes the Management Board to acquire shares in the share capital of the Company for consideration, for a period of 18 months, commencing on this date and consequently ending on 30th November, 2023. The Management Board is authorized to acquire the maximum number of shares permitted by law and the Company’s Articles of Association. The shares may be acquired by purchase on public markets on which the shares are traded, or through a private contractual transaction between the Company on one side, and a selling shareholder on the other side. The price for the shares must be at least equal to the nominal value of shares and may not exceed the average of closing prices of shares during the five trading days prior to the date of the purchase, published by Warsaw Stock Exchange, increased by ten percent.”*

#### **9. GRANTING AUTHORIZATION TO THE MANAGEMENT BOARD TO ISSUE SHARES AND TO GRANT RIGHTS TO SUBSCRIBE FOR THE SHARES**

Under Article 6.1 of the Articles of Association, the general meeting may designate the Management Board for a specified period of not more than five years as the competent body to issue shares and grant subscription rights. Upon the designation, the number of shares that may be issued shall be determined. The designation may at any time be extended for a period of not more than five years. Unless provided otherwise upon the designation, it may not be revoked. As long as the designation is in force, the general meeting shall not be authorised to resolve to issue shares. The Management Board proposes that it is authorized to issue shares and grant subscription rights for up to 10 million shares in the authorized share capital of the Company. The following resolution shall be proposed to be adopted:

*„The general meeting hereby designates the Management board of the Company for a period of five years, commencing on this date and consequently ending on 31<sup>st</sup> May, 2027, as competent to issue shares and to grant rights to subscribe for shares; this authorization to issue shares and to grant rights to subscribe shares is granted with respect to a maximum of 10 million shares of the authorized share capital of the Company.”*

#### **10. GRANTING AUTHORIZATION TO THE MANAGEMENT BOARD TO LIMIT/EXCLUDE PRE-EMPTION RIGHTS OF SHAREHOLDERS WITH RESPECT TO NEWLY ISSUED SHARES**

Pre-emption rights may, in accordance with Article 7.3 of the Company’s Articles, be limited or excluded by the Management Board if it was designated by resolution of the general meeting for a specified period of not more than five years as competent to limit or exclude pre-emption rights. Such a designation may only be made if the Management Board was previously designated as competent to issue shares or is simultaneously designated as such. The designation may at any time be extended for a period of not more than five years. Unless provided otherwise upon the designation, it may not be revoked. The designation shall terminate in any event if the designation of the management board as competent to issue shares terminates. A resolution of the general meeting to limit or exclude pre-emption rights or to designate the management board competent to limit or exclude pre-emption rights shall require a majority of at least eighty percent (80%) of the votes cast. The following resolution shall be proposed to be adopted provided that the Management Board was authorized to issue shares pursuant to the previous item:

*„The general meeting hereby designates the Management Board of the Company for a period of five years, commencing on this date and consequently ending on 31<sup>st</sup> May, 2027, as competent to limit or exclude pre-emption rights with respect to up to 10 million shares in the authorized capital of the Company, issued pursuant to the Management Board’s resolution.“*