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PKP CARGO S.A.
Management Board
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02-021 Warsaw

REQUEST TO PLACE A MATTER IN THE AGENDA OF THE ORDINARY SHAREHOLDER MEETING OF PKP CARGO S.A. WITH ITS REGISTERED OFFICE IN WARSAW CONVENED FOR 29 JUNE 2023

In connection with the publication, on 2 June 2023, of Current Report No. 21/2023 by PKP CARGO S.A. with its registered office in Warsaw (KRS: 0000027702, hereinafter referred to as the **“Company”**) on convening the Company’s Ordinary Shareholder Meeting for 29 June 2023 (hereinafter referred to as the **“Shareholder Meeting”**), acting in our capacity as authorized representatives of Polskie Koleje Państwowe S.A. with its registered office in Warsaw, Al. Jerozolimskie 142A (02-305 Warsaw), entered in the Register of Commercial Undertakings of the National Court Register kept by the District Court for the Capital City of Warsaw in Warsaw, 12th Commercial Division of the National Court Register, under file no. 0000019193, REGON 000126801, NIP 5250000251, with the share capital of PLN 10,150,715,600.00, paid up in full, a shareholder of the Company, holding directly, as at the date of this submission, 14,784,194 ordinary bearer shares in the Company carrying the right to 14,784,194 votes at the Company’s Shareholder Meeting, representing 33.01% of the Company’s share capital and 33.01% of the total number of votes in the Company, **we hereby request, pursuant to Article 401 § 1 of the Commercial Company Code, that the following item be placed on the agenda of the Shareholder Meeting:**

- **Adopt resolutions to amend the Articles of Association of PKP CARGO S.A.**

At the same time, attached hereto, we provide the pertinent draft resolutions of the Ordinary Shareholder Meeting of PKP CARGO S.A.

Draft resolutions of the Ordinary Shareholder Meeting of PKP CARGO S.A. with justification:

**“Resolution No./2023
of the Ordinary Shareholder Meeting of PKP CARGO S.A.
of 29 June 2023
to amend § 2 of the Company’s Articles of Association”**

Acting pursuant to Article 430 § 1 of the Commercial Company Code in conjunction with § 12 Section 1 of the PKP CARGO S.A. Articles of Association, the Ordinary Shareholder Meeting of PKP CARGO S.A. hereby resolves as follows:

§ 1

§ 2 of the PKP CARGO S.A. Articles of Association with the following wording:

The Company operates on the basis of the Commercial Company Code, the Act on Commercialization and Restructuring of PKP, these Articles of Association and other relevant regulations.”

shall read as follows:

- „1. The Company operates on the basis of the Commercial Company Code, the Act on Commercialization and Restructuring of PKP, these Articles of Association and other relevant regulations.”
2. The Company conducts its activity in accordance with the line of business specified in § 5, aimed at pursuing the PKP Group’s interests. The PKP Group’s interests and primary areas and directions of the PKP Group’s activity are defined in a separate agreement under which PKP S.A. carries out assignments related to the management of the corporate group, referred to as the PKP Group (hereinafter referred to as the “PKP Group Charter”).
3. The PKP Group is construed as PKP S.A. and entities that are parties to the PKP Group Charter.”.

§ 2

This Resolution shall come into force on the date of its adoption.”

Justification:

PKP CARGO S.A. has joined the PKP Group Charter, which is an agreement for the management of a subsidiary. The Ordinary Shareholder Meeting of PKP CARGO S.A. approved the execution of the agreement by Resolution No. 28/2022 of 29 June 2022. The amendments to the Company’s Articles of Association proposed in this item constitute the implementation of § 17 section 2 of the agreement whereunder the Company undertook to amend the PKP CARGO S.A. Articles of Association accordingly.

**“Resolution No./2023
of the Ordinary Shareholder Meeting of PKP CARGO S.A.
of 29 June 2023
to amend § 5 section 4 of the Company’s Articles of Association”**

Acting pursuant to Article 430 § 1 of the Commercial Company Code in conjunction with § 12 Section 1 of the PKP CARGO S.A. Articles of Association, the Ordinary Shareholder Meeting of PKP CARGO S.A. hereby resolves as follows:

§1

§ 5 section 4 of the PKP CARGO S.A. Articles of Association with the current wording:

“4. The Company performs tasks related to the universal duty to defend and to participate in civil defense (Act on Universal Duty to Defend the Republic of Poland (Ustawa o powszechnym obowiązku obrony Rzeczypospolitej Polskiej) of 21 November 1967 – Journal of Laws 2012, item 461, as amended). The coordination of tasks performed by the Company in respect to the universal duty to defend is subordinated to the President of the Management Board of PKP S.A. The tasks performed by the Company under the universal duty to defend are executed and financed on the terms and conditions described in separate regulations.

shall read as follows:

“4. The Company performs tasks related to the universal duty to defend and to participate in civil defense arising out of the provisions of general law. The coordination of tasks performed by the Company in respect to the universal duty to defend is subordinated to the President of the Management Board of PKP S.A. The tasks performed by the Company under the universal duty to defend are executed and financed on the terms and conditions described in separate regulations.

§ 2

This Resolution shall come into force on the date of its adoption.”

Justification:

§ 5 section 4 of the Articles of Association contains a reference to the Act of 21 November 1967 on the Universal Duty to Defend the Republic of Poland – Journal of Laws of 2012, item 461, as amended, which was repealed on 23 April 2022 by Article 823 of the Homeland Defense Act. The proposed amendment to the Articles of Association is an alignment of its wording with the applicable provisions of law.

**“Resolution No./2023
of the Ordinary Shareholder Meeting of PKP CARGO S.A.
of 29 June 2023**

to amend § 12 section 2 and § 25 section 3 of the Company’s Articles of Association

Acting pursuant to Article 430 § 1 of the Commercial Company Code in conjunction with § 12 Section 1 of the PKP CARGO S.A. Articles of Association, the Ordinary Shareholder Meeting of PKP CARGO S.A. hereby resolves as follows:

§ 1

In § 12 section 2 of the PKP CARGO S.A. Articles of Association, the semicolon ending the sentence in item 4 is replaced by a period, and item 5 is deleted in its current wording reading as follows:

“5) selecting or changing an audit firm to audit the Company’s financial statements and to provide additional services.”.

§ 2

In § 25 section 3 of the PKP CARGO S.A. Articles of Association, the period ending the sentence in item 22 is replaced by a semicolon and, immediately after item 22, item 23 is inserted reading as follows:

“23) selecting or changing an audit firm to audit the Company’s financial statements and to provide additional services.”.

§ 3

This Resolution shall come into force on the date of its adoption.”

Justification:

The proposed amendment consists of transferring the right to select or change an audit firm to audit the Company's financial statements and to provide additional services from the PKP CARGO S.A. Shareholder Meeting to the PKP CARGO S.A. Supervisory Board. The proposed amendment will streamline and accelerate the process of selecting or changing an audit firm, which may be of particular significance in cases where it is necessary to change an audit firm as a result of unexpected developments, such as the loss of legally required licenses by the audit firm. The proposed amendment is consistent with the market standard providing for the vesting of powers in the supervisory board to select and change an audit firm.

**“Resolution No./2023
of the Ordinary Shareholder Meeting of PKP CARGO S.A.
of 29 June 2023
to amend § 14 section 6 of the Company's Articles of Association”**

Acting pursuant to Article 430 § 1 of the Commercial Company Code in conjunction with § 12 Section 1 of the PKP CARGO S.A. Articles of Association, the Ordinary Shareholder Meeting of PKP CARGO S.A. hereby resolves as follows:

§ 1

§ 14 sec. 6 of the PKP CARGO S.A. Articles of Association with the current wording:

- „6. Appointment of Management Board members (including the President of the Management Board and the Management Board member mentioned in section 5 above) is governed by the following rules:
- 1) Management Board members (including the President of the Management Board and the Management Board member mentioned in sec. 5 above) will be appointed following a recruitment procedure the rules and course of which are set forth in these Articles of Association and the bylaws adopted by the Supervisory Board (“Bylaws for Appointing Management Board Members”) subject to the provisions of the Act on the Rules for Managing State Property; the Bylaws for Appointing Management Board Members define in particular the qualifications that will be evaluated when selecting candidates for respective positions in the Management Board; an amendment to the Bylaws for Appointing Management Board Members requires the consent of at least one Supervisory Board member who meets the independence criteria and has been appointed following the rules set forth in § 20 and 21 below;
 - 2) the Management Board members appointment procedure shall be carried out with participation of the nomination committee;
 - 3) unless the Supervisory Board decides otherwise, the recruitment procedure for the position of a Management Board member is prepared and organized and carried out by a professional personnel consultancy company (“Recruitment Consultant”) selected by a resolution adopted by the Supervisory Board on the terms and conditions set forth in the Bylaws for Appointing Management Board Members;
 - 4) The Recruitment Consultant taking part in the recruitment procedure shall prepare a written opinion containing at least an indication that the required criteria have been met and a recommendation for the individual candidates; in the event that none of the candidates meets the criteria required for a position of a Management Board member, the recruitment procedure will be closed without resolution and the Supervisory Board will launch a new recruitment procedure;
 - 5) appointment of a Management Board member is made only from among the candidates taking part in the recruitment procedure. The Nomination Committee will provide the Supervisory Board with a recommendation concerning the candidates taking into account information obtained in the course of the recruitment procedure;

- 6) the nomination committee accepts a report on the conducted recruitment procedure; the Company will make the report from the recruitment procedure available to the public, within 7 days of its acceptance, in the form and in accordance with the rules set forth in the Bylaws for Appointing Management Board Members, including in the form of a current report and by publication on the Company's website;
- 7) after each amendment of the Bylaws for Appointing Management Board Members, the nomination committee will prepare a written report with detailed information on the amendments;
- 8) The Company covers the costs of the recruitment procedure, including remuneration of the Recruitment Consultant;"

shall read as follows:

„6. The appointment of Management Board members, including the President of the Management Board and the Management Board member referred to in section 5, is governed by the following principles and the provisions of the Act on the Rules for Managing State Property:

- 1) The Supervisory Board, subject to the provisions of section 5, appoints Management Board members after conducting a recruitment procedure the purpose of which is to verify and evaluate the qualifications of candidates;
- 2) the recruitment procedure is conducted in accordance with the bylaws for appointing Management Board members adopted by the Supervisory Board, although prior to the initiation of the recruitment procedure for the position of a Management Board member the Supervisory Board may specify different rules to govern the recruitment procedure;
- 3) the Management Board members appointment procedure shall be carried out with participation of the nomination committee;
- 4) a notice of the recruitment procedure is published on the Company's website and in a national daily paper;
- 5) a candidate for a member of the Company's Management Board may be a person who fulfills the requirements laid down in the applicable mandatory provisions of law.”.

§ 2

This Resolution shall come into force on the date of its adoption.”

Justification:

The amendment proposed for § 14 section 6 of the Articles of Association is aimed at increasing the flexibility of the issues specified in the Articles of Association regarding the organization of the process of selection of PKP CARGO S.A. Management Board Members and aligning the content of the Articles of Association with the applicable laws and market standards. It should be noted that, as of 1 January 2019, the Regulation of the Council of Ministers of 18 March 2003 on conducting the recruitment procedure for the position of management board member in certain commercial companies, which established a number of conditions and guidelines regarding the recruitment procedure for the position of management board member, was repealed, and thus the legislature itself decided that this issue should be deformalized and that more liberty should be provided to the companies subject to these regulations. The PKP CARGO S.A. Supervisory Board (hereinafter also: “Supervisory Board”), acting as a collective body, is responsible for the selection of Management Board members, hence it seems appropriate to vest more powers in it in this regard. The Supervisory Board makes its decisions by a majority of votes, which is a sufficient safeguard for the Company's interests, and thus also the interests of the shareholders in terms of the correct and effective conduct of recruitment procedures.

**“Resolution No./2023
of the Ordinary Shareholder Meeting of PKP CARGO S.A.
of 29 June 2023
to amend § 15 of the Company's Articles of Association”**

Acting pursuant to Article 430 § 1 of the Commercial Company Code in conjunction with § 12 Section 1 of the PKP CARGO S.A. Articles of Association, the Ordinary Shareholder Meeting of PKP CARGO S.A. hereby resolves as follows:

§ 1

§ 15 of the PKP CARGO S.A. Articles of Association with the current wording:

“If the Management Board consists of one person, then the Company is represented by the President of the Management Board. If the Management Board consists of more than one person, then the Company is represented by two Management Board members acting jointly or by a Management Board member acting jointly with a commercial proxy.”

shall read as follows:

- „1. If the Management Board consists of one person then the Company is represented by the President of the Management Board. If the Management Board consists of more than one person, then the Company is represented by two Management Board members acting jointly or by a Management Board member acting jointly with a commercial proxy.
2. When conducting the Company’s business, members of the Company’s Management Board are required to be guided, within their powers, by the PKP Group’s interests.
3. The Company’s Management Board is required to comply with the provisions of the PKP Group Charter when conducting the Company’s business.”.

§ 2

This Resolution shall come into force on the date of its adoption.”

Justification:

PKP CARGO S.A. has joined the PKP Group Charter, which is an agreement for the management of a subsidiary. The Ordinary Shareholder Meeting of PKP CARGO S.A. approved the execution of the agreement by Resolution No. 28/2022 of 29 June 2022. The amendments to the Company’s Articles of Association proposed in this item constitute the implementation of § 17 section 2 of the agreement whereunder the Company undertook to amend the PKP CARGO S.A. Articles of Association accordingly.

**“Resolution No./2023
of the Ordinary Shareholder Meeting of PKP CARGO S.A.
of 29 June 2023
to amend § 16 section 4 of the Company’s Articles of Association”**

Acting pursuant to Article 430 § 1 of the Commercial Company Code in conjunction with § 12 Section 1 of the PKP CARGO S.A. Articles of Association, the Ordinary Shareholder Meeting of PKP CARGO S.A. hereby resolves as follows:

§1

§ 16 sec. 4 of the PKP CARGO S.A. Articles of Association with the current wording:

“4. Management Board resolutions are adopted by an absolute majority of votes. If an equal number of votes is cast “for” and “against” together with abstentions, the President of the Management Board shall have the casting vote.

shall read as follows:

“4. Management Board resolutions are adopted by a simple majority of votes. If an equal number of votes is cast “for” and “against”, the President of the Management Board has the casting vote.”

§ 2

This Resolution shall come into force on the date of its adoption.”

Justification:

The possibility of making changes in this respect is permitted by the Commercial Company Code. The provisions of Article 371 § 2 sentence 1 in fine of the Commercial Company Code are of a supplementary nature and stipulate that the articles of association may lay down different rules for the majority of votes required for valid adoption of resolutions by the management board. It should be recognized that the requirement provided for in Article 371 § 2 sentence 1 of the Commercial Company Code may be strengthened, for instance, by setting another qualified majority or even unanimity, or it may be weakened by introducing the requirement of a simple majority of votes (thus in: “Kodeks spółek handlowych. Komentarz” [Commercial Company Code. Commentary], edited by Zbigniew Jara, 2022, edition 4, and “Kodeks spółek handlowych. Komentarz” [Commercial Company Code. Commentary] by Jacek Bieniak et al., 2022, edition 8). In view of the Company’s interests, it seems justified to increase the flexibility of the decision-making by the PKP CARGO S.A. Management Board and introduce, as a rule, a simple majority of votes required to adopt a resolution by the Company’s Management Board.

**“Resolution No./2023
of the Ordinary Shareholder Meeting of PKP CARGO S.A.
of 29 June 2023
to amend § 16 section 10 of the Company’s Articles of Association”**

Acting pursuant to Article 430 § 1 of the Commercial Company Code in conjunction with § 12 Section 1 of the PKP CARGO S.A. Articles of Association, the Ordinary Shareholder Meeting of PKP CARGO S.A. hereby resolves as follows:

§1

§ 16 section 10 of the PKP CARGO S.A. Articles of Association with the current wording:

„10. Special powers of the President of the Management Board include performance defense tasks in the Company resulting from the regulations on general defense obligation.”.

shall read as follows:

„10. Special powers of the President of the Management Board include the performance of defense tasks in the Company resulting from the regulations on the general defense obligation.”.

§ 2

This Resolution shall come into force on the date of its adoption.”

Justification:

§ 16 section 10 of the Articles of Association contains a reference to the Act on the Universal Duty to Defend the Republic of Poland, which was repealed on 23 April 2022 by Article 823 of the Homeland Defense Act. The proposed amendment to the Articles of Association is an alignment of its wording with the applicable provisions of law.

**“Resolution No./2023
of the Ordinary Shareholder Meeting of PKP CARGO S.A.
of 29 June 2023
to amend § 17 section 1 of the Company’s Articles of Association”**

Acting pursuant to Article 430 § 1 of the Commercial Company Code in conjunction with § 12 Section 1 of the PKP CARGO S.A. Articles of Association, the Ordinary Shareholder Meeting of PKP CARGO S.A. hereby resolves as follows:

§ 1

§ 17 sec. 1 of the PKP CARGO S.A. Articles of Association with the current wording:

„1. The Management Board is obligated to submit to the Supervisory Board, at least on a quarterly basis, reports on material events in the Company’s activity. Each such report will also include a statement on the Company’s revenues, costs and financial result.

shall read as follows:

„1. The Management Board is required to submit to the Supervisory Board, at least on a quarterly basis, the information and reports referred to in Article 380¹ § 1 and 2 of the Commercial Company Code, within the dates specified by the Supervisory Board in the pertinent resolution.”.

§ 2

This Resolution shall come into force on the date of its adoption.”

Justification:

The proposed amendment is related to the amendments made in the Commercial Company Code. Because the pattern of cooperation between the Management Board and the Supervisory Board, as has been developed in recent years, works well, it seems that it does not require a different thorough regulation. However, we propose to clarify the provisions of the Articles of Association to the extent that the Management Board will be required to present the required information on a quarterly basis, on dates to be specified by the Supervisory Board in a pertinent resolution. Recently, the Company has not identified any situations that would result in an unfavorable impact on the method and scope of information flow between the Management Board and the Supervisory Board, thereby making any further regulation of this matter unnecessary.

**“Resolution No./2023
of the Ordinary Shareholder Meeting of PKP CARGO S.A.
of 29 June 2023
to amend § 24 of the Company’s Articles of Association**

Acting pursuant to Article 430 § 1 of the Commercial Company Code in conjunction with § 12 Section 1 of the PKP CARGO S.A. Articles of Association, the Ordinary Shareholder Meeting of PKP CARGO S.A. hereby resolves as follows:

§ 1

In § 24 of the PKP CARGO S.A. Articles of Association, sections 4 and 5 are added with the following wording:

“4. When performing their duties, Supervisory Board members are required to take into account the PKP Group’s interests.

5. The Supervisory Board is required to comply with the provisions of the PKP Group Charter when performing its duties.”.

§ 2

This Resolution shall come into force on the date of its adoption.”

Justification:

The PKP CARGO S.A. Management Board decided to join the PKP Group Charter, which is an agreement for the management of a subsidiary. The Ordinary Shareholder Meeting of PKP CARGO

S.A. approved the execution of the agreement by Resolution No. 28/2022 of 29 June 2022. The amendments to the Articles of Association proposed in this item constitute the implementation of § 17 section 2 of the agreement whereunder the Company undertook to amend the PKP CARGO S.A. Articles of Association accordingly.

**“Resolution No./2023
of the Ordinary Shareholder Meeting of PKP CARGO S.A.
of 29 June 2023
to amend § 25 section 3 item 18 of the Company’s Articles of Association”**

Acting pursuant to Article 430 § 1 of the Commercial Company Code in conjunction with § 12 Section 1 of the PKP CARGO S.A. Articles of Association, the Ordinary Shareholder Meeting of PKP CARGO S.A. hereby resolves as follows:

§1

§ 25 section 3 item 18 of the PKP CARGO S.A. Articles of Association with the current wording:

“18) giving consent for the Company to enter into: (i) a material agreement with a shareholder holding at least 5% of all the votes at the Shareholder Meeting, or (ii) an agreement whose value exceeds PLN 10,000,000 (ten million Polish zloty) with a related party within the meaning of the Finance Minister’s regulation issued pursuant to Article 60 Section 2 of the Act on Public Offerings, while validity of such a resolution requires that it is accepted by at least one of the Supervisory Board members satisfying the criteria of independence from the Company and from the entities with significant ties to the Company selected following the procedure of § 20 above and in consideration of § 21 above. This obligation does not apply to typical agreements concluded on an arm’s length basis as part of the Company’s operating activity, with a subsidiary, in which the Company holds the majority equity stake;

shall read as follows:

18) giving consent for the Company to enter into: (i) a material agreement with a shareholder holding at least 5% of all the votes at the Shareholder Meeting, or (ii) an agreement whose value exceeds PLN 10,000,000 (ten million Polish zloty) with a related party within the meaning of the Finance Minister’s regulation issued pursuant to Article 60(2) of the Act on Public Offerings. This obligation does not apply to typical agreements concluded on an arm’s length basis as part of the Company’s operating activity, with a subsidiary, in which the Company holds the majority equity stake;”.

§ 2

This Resolution shall come into force on the date of its adoption.”

Justification:

The amendment proposed for § 25 section 3 item 18 of the Articles of Association is aimed at increasing the flexibility of the issues specified in the Articles of Association regarding the Supervisory Board’s consent to the execution of agreements by the Company with two specified groups of counterparties by relaxing the criterion necessary for the PKP CARGO S.A. Supervisory Board to adopt the said resolution. The Supervisory Board is a collective body making its decisions by a majority of votes, which is a sufficient safeguard for the Company’s interests, and thus also the interests of the shareholders. Moreover, the Company enables the Supervisory Board to make use of professional and independent advisory services, which, in the Supervisory Board’s opinion, are or may be necessary for its effective exercise of supervision in the Company, including the assessment of the possible consequences of any transaction.

**“Resolution No./2023
of the Ordinary Shareholder Meeting of PKP CARGO S.A.
of 29 June 2023
to amend § 26 section 3 of the Company’s Articles of Association”**

Acting pursuant to Article 430 § 1 of the Commercial Company Code in conjunction with § 12 Section 1 of the PKP CARGO S.A. Articles of Association, the Ordinary Shareholder Meeting of PKP CARGO S.A. hereby resolves as follows:

§ 1

In § 26 section 3 of the PKP CARGO S.A. Articles of Association with the current wording:

„3. The Supervisory Board appoints the nominations committee, which consists of three Supervisory Board members, of which at least one Supervisory Board Member meeting the independence criteria and appointed in the manner specified in § 20 and 21 above, who serves as the chairperson.”

shall read as follows:

„3. The Supervisory Board appoints the nominations committee, which consists of at least three Supervisory Board members, of which at least one Supervisory Board Member meeting the independence criteria and appointed in the manner specified in § 20 and 21 above, who serves as the chairperson.”

§ 2

This Resolution shall come into force on the date of its adoption.”

Justification:

The amendment proposed for § 26 section 3 of the Articles of Association is aimed at increasing the flexibility of the issues specified in the Articles of Association regarding the composition of the Supervisory Board Nomination Committee. The proposed amendment results in the Supervisory Board taking over the burden of determining the number of members of the Supervisory Board Nomination Committee. The Supervisory Board, as the body exercising ongoing supervision over the Company’s operations, knows best the scope of duties and the intensity of work of any Supervisory Board committee, and thus it should be permitted to shape the composition of this committee in a more flexible manner. The proposed amendment also unifies the rules for determining the number of members in the committees of the Company’s Supervisory Board – as regards their composition, other committees of the Supervisory Board are defined by the phrase: “at least three members”.