

Justification of the Management Board of the Trakcja PRKił S.A. decision for re-voting the resolution on conditional increase of the Company's share capital through the issue of series D shares and exclusion in full of the pre-emptive rights of the existing shareholders in relation to series D shares, and amendment of the Statute.

On 11 December 2019, the subject of the Extraordinary General Assembly of Shareholders of Trakcja PRKił S.A. was, inter alia, Resolution No. 4 on conditional increase of the Company's share capital through the issue of series D shares and exclusion in full of the pre-emptive rights of the existing shareholders in relation to series D shares, and amendment of the Statute.

The Management Board of Trakcja PRKił S.A. (hereinafter referred to as the "Company") decided to convene again the Extraordinary General Assembly of the Company's Shareholders due to legal doubts as to the quorum required at the General Assembly dated 11 December 2019 for the adoption of Resolution No. 4, in particular whether the quorum should be calculated with respect to the amount of the share capital as at the record date or as at the date of the said Assembly.

On the record date, i.e. 25 November 2019, the total number of the Company's shares amounted to 51 399 548, and such number was also disclosed on that date in the Register of Entrepreneurs of the National Court Register (hereinafter referred to as the "KRS").

On 29 November 2019, i.e. after the date of registration of participation in the General Assembly dated 11 December 2019, but before the date of the said Assembly, the increase of the Company's share capital and the amendment of the Company's Statute were entered in KRS. As a result of this entry the total number of the Company's shares increased from 51 399 548 to 86 450 976.

According to art. 406 of the Commercial Companies Code, the only shareholders entitled to participate in the General Assembly dated 11 December 2019 were the persons being the Company's shareholders on the date of registration of participation in the said Assembly. In fact, the shareholders representing in total 21 934 026 shares of the Company were present at the General Assembly dated 11 December 2019.

As a result of the above described events, the Company had legal doubts as to whether Resolution No. 4 of the General Assembly dated 11 December 2019 was adopted correctly.

Pursuant to art. 449 in conjunction with art. 445 § 1 of the Commercial Companies Code, the presence of shareholders representing at least one third (1/3) of the share capital was required to adopt resolution No. 4 of the General Assembly dated 11 December 2019. And the said Assembly was attended by shareholders representing a total of 21 934 026 shares, which accounted for 42.67% of the share capital as at the date of registration of participation in this Assembly. However, due to the registration by KRS of the Company's share capital increase between the date of registration of participation in the General Assembly of Company's Shareholders and the date of its holding on 11 December 2019, the above-mentioned number of shares constituted 25.37% of the share capital only.

The Company consulted three renowned law firms which provided divergent answers to the question of the rules for determining the quorum required under Article 449 in conjunction with Article 445 § 1 of the Commercial Companies Code. In view of the impossibility of resolving the legal doubts that arose and the risk that Resolution No. 4 of the General Assembly dated 11 December 2019 would be deemed non-existent, the Management Board of the Company decided to convene the Extraordinary General Assembly of the Company's Shareholders in order to adopt a resolution on the conditional increase of the Company's share capital through the issue of series D shares and to exclusion in full

the pre-emptive rights of the existing shareholders in relation to series D shares, and amendment of the Statute.

The Management Board of the Company also points out that Resolution No. 5 of the General Assembly dated 11 December 2019 on the adoption of the new Supervisory Board Bylaws is a valid and legally binding resolution, as no quorum was required for its adoption under Art. 449 in conjunction with Art. 445 § 1 of the Commercial Companies Code.

Similarly, Resolution No. 3 of the General Assembly dated 11 December 2019 regarding the issue of series F and G bonds convertible into series D shares, the complete exclusion of the pre-emptive rights of the existing shareholders with respect to series F and G bonds convertible into shares, is a valid and legally binding resolution, as no quorum under Art. 449 in conjunction with Art. 445 § 1 of the Commercial Companies Code was required for its adoption. However, it requires an amendment to the extent to which it refers to the resolution on a conditional increase of the Company's share capital through the issue of series D shares and the exclusion in full the pre-emptive rights of the existing shareholders in relation to series D shares, and an amendment of the Statute.