

**This document is a non-binding convenience translation of the German-language Supplementary Joint Reasoned Statement (*Ergänzende gemeinsame begründete Stellungnahme*) of the Management Board (*Vorstand*) and the Supervisory Board (*Aufsichtsrat*) of PNE AG pursuant to the German Securities Acquisition and Takeover Act (WpÜG)**

**IN CASE OF ANY DISCREPANCY BETWEEN THE ENGLISH AND THE GERMAN VERSION ONLY THE GERMAN VERSION IS BINDING**

**Mandatory publication pursuant to Sections 34, 27 (3) sentence 1 and section 14 (3) sentence 1 of the German Securities Acquisition and Delisting Special Act (*Wertpapiererwerbs- und Übernahmegesetz, WpÜG*)**

**Supplementary Joint Reasoned Statement  
of the Management Board and the Supervisory Board**

of

**PNE AG**

Peter-Henlein-Straße 2-4  
27472 Cuxhaven  
Germany

regarding the

**Amendment of the voluntary public takeover offer  
(cash offer in accordance with Section 29 of the German Securities Acquisition and  
Takeover Act) published on 27 November 2019**

by

**Photon Management GmbH**

Thurn- und Taxis-Platz 6  
60313 Frankfurt am Main  
Germany

**to the shareholders of PNE AG**

PNE Shares: ISIN DE000A0JBPG2  
Tendered PNE Shares: ISIN DE000A2YN6E7

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## I. GENERAL INFORMATION ABOUT THIS SUPPLEMENTARY JOINT REASONED STATEMENT

On 10 October 2019, Photon Management GmbH, a limited liability company (*Gesellschaft mit beschränkter Haftung*) established under German law, having its seat in Frankfurt am Main, with business address at Thurn- und Taxis-Platz 6, 60313 Frankfurt am Main, Germany, registered in the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Frankfurt am Main under HRB 116519 (the **Bidder**), submitted, in accordance with Sections 34, 29, 14 para. 2 sentence 1, para. 3 sentence 1 of the German Securities Acquisition and Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz — WpÜG*), through the publication of the offer document within the meaning of Section 11 WpÜG (the **Offer Document**), a voluntary public takeover offer (**Offer** or **Takeover Offer**) to the shareholders of PNE AG, a stock corporation (*Aktiengesellschaft*) established under German law, having its seat in Cuxhaven, with business address at Peter-Henlein-Straße 2-4, 27472 Cuxhaven, Germany, registered in the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Tostedt under HRB 110360 (hereinafter also referred to as the **Company**). The decision pursuant to Section 10 para. 1 sentence 1 WpÜG and the Offer Document are available at <http://www.photon-angebot.de>. The German Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht – BaFin*) approved the publication of the Offer Document on 31 October 2019.

The Offer is addressed to all shareholders of the Company (the **PNE Shareholders**) and concerns the acquisition of all no-par value registered shares held by them (ISIN DE000A0JBPG2 / WKN A0JBPG) not directly held by the Bidder, each representing a pro-rata amount of EUR 1.00 of the share capital and in each case together with all ancillary rights associated with these shares at the time of the settlement of the Offer (in particular the respective dividend entitlement) (each a **PNE Share** and collectively, the **PNE Shares**), against a cash consideration of EUR 4.00 per PNE Share (cash offer).

The Offer relates to all PNE Shares not directly held by the Bidder and will be implemented solely in accordance with German law and certain applicable securities law provisions of the United States of America.

On 11 November 2019, the management board (*Vorstand*) of the Company (**Management Board**) and the supervisory board (*Aufsichtsrat*) of the Company (**Supervisory Board**) published a joint reasoned statement (the **Reasoned Statement**) in accordance with Section 27 para. 3 in conjunction with Section 14 para. 3 sentence 1 WpÜG on the website of the Company at <https://www.pne-ag.com> under the heading "Investor Relations" | "Share" | "Takeover Offer". Copies of the Reasoned Statement are also kept available free of charge at PNE AG, Peter-Henlein-Straße 2-4, 27472 Cuxhaven, Germany. The internet address under which the Statement was published and the availability of copies of the Statement at the headquarter of the Company for distribution free of charge was announced in the Federal Gazette (*Bundesanzeiger*) on 11 November 2019.

On 27 November 2019, the Bidder published an amendment of the Takeover Offer (**Amended Offer**) in accordance with Sections 21 para. 1 sentence 1 no. 4, para. 2, 14 para. 3 sentence 1 WpÜG in German language (as well as a non-binding English translation thereof) on the internet. The Amended Offer was neither reviewed nor approved by BaFin. Furthermore, the Bidder will keep copies of the Amended Offer available for distribution free of charge through BNP Paribas Securities Services S.C.A., Zweigniederlassung Frankfurt, Europa-Allee 12, 60327 Frankfurt am Main, Germany, fax: +49 211 91091870, e-mail: [frankfurt.gct.operations@bnpparibas.com](mailto:frankfurt.gct.operations@bnpparibas.com). The announcement regarding (i) the internet address under which the Amended Offer was published and (ii) the availability of copies of the Amended Offer for distribution free of charge was published in the Federal Gazette (*Bundesanzeiger*) on 27 November 2019. Upon receipt of the Amended Offer, the Management

Board of the Company forwarded it to the Supervisory Board and to the employees of the Company without undue delay.

In the view of the Management Board and of the Supervisory Board, the Amended Offer does not give any reason to depart from the recommendation contained in their Reasoned Statement.

### **1. Legal basis of the Supplementary Statement**

Pursuant to Section 27 para. 1 sentence 1 WpÜG, the management board and the supervisory board of a target company must issue and publish a reasoned statement on a takeover offer and on each amendment thereof. The Management Board and the Supervisory Board have decided to issue their supplementary reasoned statement jointly (the **Supplementary Statement**).

### **2. Factual basis of the Supplementary Statement**

The Amended Offer relates to the waiver of the Closing Condition set forth in Section 11.1.1 of the Offer Document (Minimum Acceptance Threshold).

This Supplementary Statement does not relate to the entire Offer, but solely to the parts of the Takeover Offer that are affected by the Amended Offer. Thus, the Supplementary Statement must be read in conjunction with the Reasoned Statement.

The statements made in the Reasoned Statement with respect to the factual basis of that Statement and to the own responsibility of the PNE Shareholders also apply, *mutatis mutandis*, to this Supplementary Statement. Unless otherwise defined in this Supplementary Statement, defined terms shall have the same meaning as in the Reasoned Statement.

### **3. Publication of the Supplementary Statement**

This Supplementary Statement is published in accordance with Section 27 para. 3 and Section 14 para. 3 sentence 1 WpÜG on the website of the Company at <https://www.pne-ag.com> under the heading "Investor Relations" | "Share" | "Takeover Offer". Copies of the Supplementary Statement are also available free of charge at PNE AG, Peter-Henlein-Straße 2-4, 27472 Cuxhaven, Germany. The internet address under which the Statement is published and the availability of copies of the Statement at the headquarter of the Company for distribution free of charge will be announced in the Federal Gazette (*Bundesanzeiger*).

In addition to the original German-language version of this Supplementary Statement, the present non-binding English translation will also be published on the website mentioned above. However, the Management Board and the Supervisory Board assume no liability for the correctness and completeness of the English translation. Only the German version of the Supplementary Statement is binding.

## **II. AMENDMENT OF THE OFFER**

The Offer and the purchase agreements that will be entered into as a result of accepting the Offer will only be consummated if, *inter alia*, the Minimum Acceptance Threshold described in further detail in Section 11.1.1 of the Offer Document will be reached, thus, if at the time of the expiration of the Acceptance Period, the total number of Included PNE Shares exceeds 50% of the Relevant PNE Shares (50% of the Relevant PNE Shares plus one share).

The Bidder has now decided to waive the Closing Condition set forth in Section 11.1.1 of the Offer Document (Minimum Acceptance Threshold) and to amend the Takeover Offer accordingly. The consummation of the Amended Offer and the validity of the purchase agreements entered into as a result of accepting the Amended Offer are therefore no longer subject to the Closing Condition set forth in Section 11.1.1 of the Offer Document.

Apart from this, the Takeover Offer and the completion conditions contained therein remain unchanged.

### **III. EXTENSION OF THE ACCEPTANCE PERIOD**

As the Amended Offer was announced within the last two weeks prior to the expiry of the offer period, the Acceptance Period is extended by two weeks according to Section 21 para. 5 WpÜG and, therefore, will expire on

**December 12, 2019, at 24:00 hours (CET).**

This extension of the Acceptance Period also applies if the Amended Offer violates any laws.

Pursuant to section 21 para. 6 WpÜG, a further extension of the Acceptance Period due to another amendment of the Offer within the extended Acceptance Period is not possible. The Acceptance Period may only be extended again under certain conditions which are described by the Bidder under Section 4.3 of the Offer Document (Competitive Offer).

### **IV. POSTPONEMENT OF THE ADDITIONAL ACCEPTANCE PERIOD**

Due to the extension of the Acceptance Period, the Additional Acceptance Period (as described in Section 4.4 of the Offer Document) will be postponed. Assuming the publication of the results of the Amended Offer takes place on 17 December 2019, pursuant to Section 23 para. 1 sent. 1 no. 2 WpÜG, the Additional Acceptance Period would commence on 18 December 2019 and expire on 31 December 2019 at 24:00 hours (CET).

After the expiration of the Additional Acceptance Period, the Offer may no longer be accepted (with the exception of a possible Sell-Out Right as described in Section 15.6 of the Offer Document).

### **V. RIGHT OF WITHDRAWAL**

Furthermore, the Management Board and the Supervisory Board point out that the PNE Shareholders who have accepted the Takeover Offer before the publication of the Amended Offer may, at any time until the expiration of the Acceptance Period – extended as described in Section III of this Statement – withdraw their acceptance of the Offer (Section 21 para. 4 WpÜG). For further details on the exercise of the right of withdrawal, reference is made to Section 16 of the Offer Document.

PNE Shareholders who have validly accepted the Takeover Offer and have not changed their minds are not required to exercise their right of withdrawal or to take any other actions in order to obtain the Offer Consideration in accordance with the terms and conditions of the Amended Offer.

### **VI. CONSIDERATIONS OF THE MANAGEMENT BOARD AND OF THE SUPERVISORY BOARD REGARDING THE AMENDED OFFER**

#### **1. Increased consummation probability**

The Management Board and the Supervisory Board take the view that the waiver of the Closing Condition set forth in Section 11.1.1 of the Offer Document (Minimum Acceptance Threshold) will result in a significantly increased probability of the Offer being consummated because the consummation of the Amended Offer remains subject only to the Closing Conditions described in Section 11.1.4 to Section 11.1.10 of the Offer Document. In this regard, Management Board and Supervisory Board note, that at the date of this Supplementary Statement the Closing

Conditions set forth in Sections 11.1.2 and 11.1.3 of the Offer Document have been fulfilled, as published by the Bidder.

## **2. Investment Agreement and term**

The Bidder and the Company entered into the Investment Agreement (as defined in Section 1.2 of the Reasoned Statement) on 10 October 2019. The Investment Agreement sets forth the principal terms and conditions as well as the mutual intentions and the mutual understanding with regard to the Offer (including the formation of a long-term Strategic Partnership as defined in Section 8.1 of the Reasoned Statement). The material terms of the Investment Agreement are summarized in Section 4 of the Reasoned Statement.

Pursuant to the provisions of the Investment Agreement, the Company has the right to terminate the Investment Agreement if the Company lowers the Minimum Acceptance Threshold (as defined in Section 11.1.1 of the Offer Document) below the threshold of 50% plus one share. Management Board and Supervisory Board have independently and carefully analysed and evaluated the option to exercise the termination right. In this regard, they have in particular taken into account that a significant part of the obligations of the Company, such as the obligation to support the Offer, had already been fulfilled and, therefore, had not to be considered in this decision anyways. The additional commitment of the Management Board, that has been given in the Investment Agreement, to support the Bidder's taking private strategy, subject to the Management Board's fiduciary duties at the relevant point in time, by way of a delisting still only applies in the case that the Bidder acquires a share of more than 50% in the share capital of the Company during the term of the Investment Agreement, i.e. until April 2022. As long as the Bidder does not acquire such shareholding quota, there is no commitment of the Management Board to support the taking private strategy of the Bidder. For further details, reference is made to the comments in Section 8.2(e) and 8.3(f) of the Reasoned Statement.

Further, Management Board and Supervisory Board have taken into account that the following provisions of the Investment Agreement, which are in the interest of the Company, will become fully effective only after consummation of the Offer:

- commitment of the Bidder to support the Scale-Up Strategy;
- protection guarantees regarding existing business units, sites and business premises, employees and trademarks (for further details reference is made to Sections 8.2(b) to 8.2(d) of the Reasoned Statement);
- obligation not to directly or indirectly cause the Company to change its current dividend policy or to distribute an extraordinary dividend (for further details reference is made to Section 8.2(b) of the Reasoned Statement);
- limitation of the Bidder's right to nominate supervisory board members to a maximum of one third of the existing seats if the Bidder's shareholding remains between 20% and 50% as well as the assurance that the Company has at least one supervisory board member who was not nominated by the Bidder and is independent within the meaning of the Corporate Governance Code; and
- obligation of the Bidder to provide the Last Resort Financing and Bridge Financing (for further details reference is made to Section 8.4(b) of the Reasoned Statement).

These provisions are relevant for PNE AG even after the Bidder has waived the Minimum Acceptance Threshold as, in view of the Management Board and the Supervisory Board, it is likely that the Bidder will in any case represent a sufficient number of voting rights to reach the simple majority at future annual general meetings. Pursuant the notice of the Bidder dated

28 November 2019, the aggregated number of PNE Share, which have been tendered until that date, plus certain PNE Shares which have been acquired otherwise by the Bidder amount to approximately 38,57% of the share capital.

Thus, Management Board and Supervisory Board are of the view, after having independently and carefully analysed and evaluated the advantages and disadvantages of a termination of the Investment Agreement, that under the present circumstances it is in the best interest of the Company to keep the Investment Agreement in place.

### **3. Reference to the Reasoned Statement**

Apart from this, the considerations made by the Management Board and the Supervisory Board in the Reasoned Statement remain unchanged.

## **VII. RECOMMENDATION**

In the view of the Management Board and the Supervisory Board, the Amended Offer does not contain any statements that would give reason to depart from the recommendation made in Section 12 of the Reasoned Statement. Accordingly, based on the considerations stated in the Reasoned Statement, Management Board and Supervisory continue to recommend PNE Shareholders to accept the Offer.

Notwithstanding the above recommendations, each PNE Shareholder, in any event, continues to be responsible for making his own decision whether or not to accept the Offer, taking into account the overall circumstances, his personal situation and his own assessment of the possible future performance of the value and stock exchange price of the PNE Shares. Subject to applicable law, the Management Board and the Supervisory Board accept no liability should an PNE Shareholder suffer any economic disadvantages as a result of accepting or not accepting the Offer.

The Management Board and the Supervisory Board each discussed and approved, the Management Board unanimously and the Supervisory Board unanimously with one abstention, the contents of this Supplementary Statement on 29 November 2019.

Cuxhaven, 29 November 2019

**PNE AG**

**Management Board**

**Supervisory Board**