

## **public limited liability company smartphoto group**

Listed company

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(RPR Ghent, department Dendermonde)

<b>SPECIAL REPORT OF THE BOARD OF DIRECTORS OF MARCH 25, 2022 IN ACCORDANCE WITH ARTICLE 7:198 AND FURTHER OF THE BELGIAN CODE OF COMPANIES AND ASSOCIATIONS</b>
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### **1. INTRODUCTION**

This report was drafted by the Board of Directors in accordance with article 7:199 of the Belgian Code of Companies and Associations (the CCA) and relates to the proposal to the shareholders to renew, at the Extraordinary General Meeting scheduled for May 11, 2022 (or May 31, 2022 if the required attendance quorum is not reached on May 11, 2022), the authorisation to the Board of Directors with respect to the authorized capital up to a maximum (cumulative) amount of 41,381,403.63 euro, in accordance with the terms and conditions set out below.

The purpose of this special report is to inform the shareholders of the specific circumstances in which the Board of Directors wishes to make use of the authorisation with respect to the authorized capital and the purposes it wishes to achieve in doing so.

### **2. PROPOSED AUTHORISATION WITH RESPECT TO THE AUTHORIZED CAPITAL**

The current authorisation to the Board of Directors was granted by the Extraordinary General Meeting of May 9, 2018 and published in the Annexes to the Belgian Official Gazette of May 31, 2018.

The proposal of the Board of Directors concerns a renewal of the current authorisation which also contains the changes resulting from the implementation of the CCA. The Board of Directors refers to the proposed resolution in the convocation to the Extraordinary General Meeting, which contains the proposed amendment to the Articles of Association in its entirety.

Capital increases under this authorisation will be carried out in accordance with the conditions specified by the Board of Directors, as set out in the proposed article 36 of the Articles of Association, specifically authorizing the Board of Directors, in accordance with article 7:200 CCA, to carry out such capital increases by incorporation of reserves, the issue of subscription rights and convertible bonds, with limitation or cancellation of the statutory preferential subscription right, as the case may be in favor of one or more specific persons, other than members of the personnel of the company or its subsidiaries.

The authorisation is granted for a period of five years from the date of publication of the amendment to the Articles of Association in the Appendices to the Belgian Official Gazette.

In the event that the company receives a communication from the Financial Services and Markets Authority that it has been notified of a public takeover bid for the securities of the company, the Board of Directors may, in accordance with article 7:202, second paragraph, 2° CCA, only make use of its authorisation with respect to the authorized capital if the aforementioned notification was received no later than three years after the date of the Extraordinary General Meeting that renewed the authorisation.

### **3. SPECIFIC CIRCUMSTANCES AND PURPOSES CONCERNING THE USE OF THE AUTHORIZED CAPITAL**

The Board of Directors is of the opinion that it may be appropriate to make use of the authorized capital whenever the specific circumstances surrounding the implementation of a capital increase require so. The technique of the authorized capital provides increased flexibility, confidentiality, cost saving and speed of execution that may be required to ensure the best possible governance (and capitalisation) of the company. In certain circumstances, the relatively complex and time-consuming procedure of convening an Extraordinary General Meeting for a capital increase may impede a rapid and efficient response to certain developments on the capital markets or certain opportunities or necessities that present themselves to the company.

The Board of Directors may, for instance, consider making use of the authorized capital in the following circumstances:

- (i) in the event of a public takeover bid or imminent public takeover bid for the securities of the company;
- (ii) in the event an existing or new shareholder, acting alone, together with affiliated persons, or in mutual agreement, exceeds the threshold of 10% of the securities carrying voting rights;
- (iii) to finance an investment that is of strategic importance to smartphoto group NV or its affiliated companies;
- (iv) in case of urgent necessity to restore the financial position of smartphoto group NV or one of its affiliated companies;
- (v) in the event of an imbalance between the company's equity capital and the borrowed capital, in order to safeguard the solid solvency of the company (more specifically in the circumstances described in articles 7:228 and 7:229 CCA);
- (vi) in the context of granting an optional dividend, regardless of whether (all or part of) the dividend is paid directly in shares or the dividend is paid in cash and the funds received can subsequently be used entirely or partially to subscribe for new shares, in each case, with or without an additional cash payment; and
- (vii) when the convocation to a Shareholders' Meeting may lead to a premature announcement of the transaction in question, which may be detrimental to the company.

Since it is impossible to give in advance an exhaustive list of the specific circumstances in which, and the purposes for which the Board of Directors may use the authorized capital, the circumstances and purposes cited above should not be taken to be limitative.

*Free Translation*

The Board of Directors shall be able to use the authorized capital insofar as this is in the interest of the company. In its decision concerning the use of the authorized capital, the Board of Directors will pay special attention to the continuity of operations of the company and/or its affiliated companies and to the therefore required stability of its shareholder structure.

With respect to the items (i) and (ii) mentioned above, the Board of Directors will in light of the actual circumstances examine whether or not the potential acquisition of control or participation by a third party serves the interests of the company and its shareholders and, where appropriate, whether the deployment of the authorized capital under those circumstances constitutes a suitable defense or deterrent.

With respect to the items (iii) up to (and including) (vii) mentioned above, the Board of Directors will examine whether there are sufficient reasons that justify the deployment of the authorized capital (e.g. speed of execution or confidentiality) and whether use of the authorized capital, also taking into account the condition of the financial markets, is an appropriate measure.

The conditions set out in this report governing the use of the authorized capital and the specific circumstances in which, and the purposes for which the authorized capital may be used, should be interpreted in the broadest sense.

On behalf of the Board of Directors, March 25, 2022