

# Agenda



for the annual General Meeting of Shareholders of TKH Group NV, to be held at Restaurant 't Hagen, Scholtenhagenweg 36 in Haaksbergen (the Netherlands) on Tuesday 7 May 2013 at 2.30 p.m.

## 1 Opening

## 2 Annual report 2012, financial statements 2012, dividend and discharge

- a. Discussion of the report of the Executive Board and the financial statements for the 2012 financial year
- b. Proposal to adopt the annual financial statements prepared by the Executive Board for the 2012 financial year
- c. Explanation of the policy concerning reserves and dividend\*
- d. Proposal to adopt the dividend for 2012 and the time at which the dividend will be made available for payment\*
- e. Proposal to discharge the members of the Executive Board for their management responsibilities
- f. Proposal to discharge the members of the Supervisory Board for their supervisory responsibilities

## 3 Vacancies Supervisory Board\*

- a. Notification of the vacancies in the Supervisory Board and the Supervisory Board profiles to the General Meeting
- b. Opportunity for the General Meeting to make a recommendation, taking into account the Supervisory Board profile
- c. Notification of the nomination by the Supervisory Board to re-appoint Mr H.J. Hazewinkel as a member of the Supervisory Board, in the position of chairman, if the General Meeting does not make use of its right of recommendation
- d. Proposal to the General Meeting to re-appoint Mr H.J. Hazewinkel as member of the Supervisory Board, in the position of chairman, if the General Meeting does not make use of its right of recommendation.
- e. Notification of the nomination by the Supervisory Board to re-appoint Mr P.P.F.C. Houben as a member of the Supervisory Board, if the General Meeting does not make use of its right of recommendation
- f. Proposal to the General Meeting to re-appoint Mr P.P.F.C. Houben as member of the Supervisory Board, if the General Meeting does not make use of its right of recommendation

## 4 Appointment of the auditor\*

## 5 Authorisation of the Executive Board to acquire shares in the company\*

## 6 Extension of the designation of the Executive Board as the body authorised to decide to:\*

- a1. issue ordinary shares
- a2. restrict or exclude the right of pre-emption of shareholders with respect to the issue of shares referred to under a1.
- b1. issue cumulative financing preference shares
- b2. restrict or exclude the right of pre-emption of shareholders with respect to the issue of shares referred to under b1.
- c. issue cumulative protection preference shares

## 7 Large two tier structure ('structuurregime')

## 8 Proposal to amend the articles of association\*

- a. amendment due to the introduction of the mitigated two tier structure ('beperkt structuurregime')
- b. amendment due to changes in Dutch legislation

## 9 Any other business and close

\* see explanatory note

# Explanatory notes

## Item 2

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- c. TKH's policy is aimed at securing an attractive return for the shareholder, which is reflected in an appropriate dividend policy. Healthy balance sheet ratios are very important for the continuity of the company. In determining the distributable dividend TKH takes into account the amount of profit the company needs to retain to carry out its plans in the medium term while maintaining solvency of at least 35%. In light of the growth targets for the coming years, TKH will strive for a pay-out of between 40% and 70%.
- d. The General Meeting of Shareholders will be asked to approve the payment of a dividend of € 0.65 per (depository receipt for a) share (2011: € 0.75). This represents a pay-out ratio of 50.8% of the net profit before amortisation and one-off income and expenses and 84.4% of the net profit. The

proposal is for an optional dividend either in cash or in stock, to be charged to the reserves. The determination of the stock dividend will take place one day after the optional period expires on the basis of the average share price during the final five days of trading of said optional period, which ends on 27 May 2013. The dividend will become payable in either cash or stock on 30 May 2013. This proposal also incorporates the proposal to the General Meeting to designate the Executive Board, for a period of six months commencing on 7 May 2013, as the company body authorized to resolve, subject to approval by the Supervisory Board, to issue the number of ordinary shares required to distribute the stock dividend and to preclude the pre-emption rights with respect to said share issue.

## Item 3

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Mr H.J. Hazewinkel and Mr P.P.F.C. Houben will retire at the end of the General Meeting of Shareholders 2013 in accordance with the schedule of retirement. Both, Mr Hazewinkel and Mr Houben, are qualified for reappointment and are available for a further period of four years. The so-called telescope system will be used, as usual, as a consequence of which the entire procedure for the appointment of a new member of the Supervisory Board will be completed in one meeting.

The procedure is as follows:

- a. Notification is given to the General Meeting of the vacancies occurred as a result of the retirement of Messrs H.J. Hazewinkel and P.P.F.C. Houben in accordance with the schedule of retirement. The special right of recommendation, as described in article 19.8 of the articles of association of the company, does not apply for these vacancies. These vacancies will be filled in accordance with the profile of the Supervisory Board. The profile for the Supervisory Board is available on the website of the company: [www.tkhgroup.com](http://www.tkhgroup.com).
- b. The General Meeting is given the opportunity to recommend candidates to the Supervisory Board for nomination being namely those who comply with the Supervisory Board profile. The central works council has been informed about the vacancy and informed the company not to make use of its right of recommendation.
- c. The Supervisory Board will -also on the basis of the profile of the Supervisory Board- notify the General Meeting that the Supervisory Board nominates Mr H.J. Hazewinkel as candidate for re-appointment as a member of the Supervisory Board, if the General Meeting does not make use of its right of recommendation. The Supervisory Board has discussed this reappointment and members of the Supervisory Board are unanimously of the opinion that the knowledge and experience of Mr Hazewinkel are in accordance with the desired expertise as set out in the profile drawn up by the Supervisory Board. Based on his international experience in the field of management and supervision, his knowledge and experience in finance and his quality as chairman of the

Supervisory Board that he has shown during the last period, Mr Hazewinkel is of considerable added value for the Supervisory Board. Mr Hazewinkel, 63 years, was formerly chairman of the Executive Board of VolkerWessels, and is vice-chairman of the Supervisory Board of Royal Boskalis Westminster NV, member of the Supervisory Board of Heisterkamp Beheer BV and Schiphol Group NV, chairman of the Supervisory Board of Soweco NV, member of the executive committee of Stichting ING Aandelen and of Stichting Administratiekantoor "Slagheek", member of the Supervisory Board of the Dutch Symfonie Orchestra and non-executive partner Base Strategy & Finance. This nomination will take place in compliance with the limitation of the number of supervisory functions as prescribed by the Dutch law 'Wet Bestuur en Toezicht' which entered into force as of 1 January 2013. Mr Hazewinkel does not own any shares in TKH.

The central works council has been given a timely opportunity, prior to the date of the convocation of the General Meeting, to determine their point of view in respect of the proposal, as referred to in article 2:158 paragraph 4 of the Dutch Civil Code. The chairman of the Central Works Council, or a member of the Central Works Council designated by the chairman, may give an explanation at the General Meeting of the point of view of the central works council.

- d. If the General Meeting does not make use of its right of recommendation, the Supervisory Board will notify the General Meeting to nominate Mr H.J. Hazewinkel to be re-appointed as a member of the Supervisory Board for a period up to the expiration of the first General Meeting which will be held four years after the appointment. The Supervisory Board has indicated to appoint Mr Hazewinkel as chairman, pursuant to Article 19 paragraph 2 of the articles of association.
- e. The Supervisory Board will - also on the basis of the profile of the Supervisory Board- notify the General Meeting that the Supervisory Board nominates Mr P.P.F.C. Houben as candidate

for re-appointment as a member of the Supervisory Board, if the General Meeting does not make use of its right of recommendation. The Supervisory Board has discussed this reappointment and the members of the Supervisory Board are unanimously of the opinion that the knowledge and experience of Mr Houben are in accordance with the desired expertise as set out in the profile drawn up by the Supervisory Board. Based on his international experience in the field of management, finance and economics and his experience in a stock listed company, Mr Houben is of considerable added value for TKH. Mr Houben is 62 years, and former chairman of the Executive Board and CEO of Wavin NV. Mr Houben is chairman of the 'Nederlandse Vereniging Participatiemaatschappijen', chairman of the Supervisory Board of Unit4 and member of the Supervisory Board of Stork Technical Services. This nomination will take place in compliance with the limitation of the number of supervisory functions as prescribed by the Dutch law 'Wet Bestuur en Toezicht' which entered into force as of 1 January 2013. Mr Houben does not own any shares in TKH. The Central Works Council has been given a timely opportunity, prior to the date of the convocation of the General Meeting, to determine their point of view in respect of the proposal, as referred to in article 2:158 paragraph 4 of the Dutch Civil Code. The chairman of the Central

Works Council, or a member of the Central Works Council designated by the chairman, may give an explanation at the General Meeting of the point of view of the Central Works Council.

- f. If the General Meeting does not make use of its right of recommendation, the Supervisory Board will notify the General Meeting to nominate Mr P.P.F.C. Houben to be re-appointed as a member of the Supervisory Board for a period up to the expiration of the first General Meeting which will be held four years after the appointment.

A curriculum vitae and the information as referred to in article 2:142 paragraph 3 Dutch Civil Code, of Messrs Hazewinkel and Houben are available on the website of the company ([www.tkhgroup.com](http://www.tkhgroup.com)) and will be available for inspection at the office of the company, as from today up to the day of the General Meeting.

After the re-appointments, the Supervisory Board will be assembled in such manner that all members of the Supervisory Board will be independent in the manner of the condition set out in the best practice provision III.2.2 of the Corporate Governance Code.

## Item 4

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In accordance with Article 32.1 of the articles of association, the company will propose to the General Meeting that Deloitte Accountants be appointed to audit the TKH Group's annual

financial statements for 2013. The audit will be carried out under the responsibility of Mr B.E. Savert CPA, partner at Deloitte Accountants.

## Item 5

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A proposal to authorise the Executive Board for a period of 18 months from 7 May 2013, within the limits of the law and the articles of association, to acquire for valuable consideration, on the stock market or otherwise, shares or depository receipts of shares in the company with a maximum of 10% of the issued capital of TKH at the date of acquisition. TKH shall not hold as a result of the acquisition of shares in its own capital more than 10% of the issued capital at the date of acquisition.

The price of the to acquire (depository receipts) of shares will be, on the one hand, an amount equal to the par value that they represent and, on the other hand, an amount equal to one hun-

dred and ten percent (110%) of the market price. Market price is defined as the average of the highest price on each of the five trading days preceding the date of acquisition of a depository receipt as shown in the Official Price List of NYSE Euronext Amsterdam N.V. The price of the priority shares shall be equal to the par value. The price of the cumulative financing preference shares and the cumulative protection preference shares shall be the sum that TKH would have to pay on the grounds of the provisions of the articles of association of TKH if the shares were being withdrawn.

## Item 6

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A proposal to designate the Executive Board for a period of 18 months commencing on 7 May 2013 as the body that is authorised, with the approval of the Supervisory Board, to issue ordinary shares, cumulative financing preference shares and cumulative protection preference shares, including the granting of rights to subscribe for shares, having regard to the following provisions.

The designation shall apply:

- (i) for the ordinary shares and the cumulative financing preference shares, up to and including ten percent (10%) of the total nominal value of the shares that have been placed at the time of the issue, plus ten percent (10%) of the total nominal value of the shares that have been placed at the time of the issue if the issue takes place in the context of a merger or acquisition.

(ii) for cumulative protection preference shares, up to a maximum of the number of cumulative protection preference shares included in the authorised capital as prescribed now or in the future.

When cumulative protective preference shares are issued pursuant to a resolution of the Executive Board based on the delegation by the General Meeting mentioned above, a General Meeting shall be convened within 18 months after

that issue, in which a proposal to purchase or cancel these shares will be presented.

The extension of the designation of the Executive Board as the body authorised to issue shares, including the granting of rights to subscribe for shares, shall be voted on separately for each type of share. The same applies for the authorisation to exclude the right of pre-emption.

## Item 7

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TKH Group NV voluntarily applies the full large two tier structure ('volledig structuur regime'). In the General Meeting of 2009, it was agreed that this subject will again be put on the agenda when, during a consecutive period of two years, the number of employees in the Netherlands is 45% or less than 45% of the total number of employees. The percentage of employees of the TKH Group employed in the Netherlands was less than 45% in 2011 and 2012.

At the General Meeting, TKH will propose to resolve to introduce the mitigated two tier structure ('beperkt structuur regime'). The main difference between the full large two tier structure ('volledig structuur regime') and the mitigated two tier structure ('beperkt structuur regime') is that the members of the Executive Board will no longer be appointed and dismissed by the Supervisory Board, but by the General Meeting, which appointment will be made in accordance with the amended articles of associations at a binding nomination of the Supervisory Board

TKH feels it is important to stress the value of the large two tier structure ('structuur regime') for TKH and its business. The large two tier structure ('structuur regime') pre-eminently offer a good balance between TKH's various stakeholders and interests. With

the introduction of the mitigated two tier structure ('beperkt structuur regime') on the level of TKH Group NV, it will be prevented that the large two tier structure ('structuur regime') should apply to one or more Dutch subsidiary companies or a sub holding company should be established on which the large two tier structure ('structuur regime') will apply. Although a personal union between the different Supervisory Boards could be pursued, this one is also dependent on the involved works councils. If the large two tier structure ('structuur regime') would no longer apply in their entirety, agreements should be entered into with the Central Works Council and the various works councils within the TKH Group about their involvement at appointments of Supervisory Board members at the level of subsidiary companies or at the level of the sub holding company. This may lead to a situation that contravenes the group's policy.

The Central Works Council has been asked to give advice. The Central Works Council, in its positive advice, prefers the introduction of the mitigated two tier structure ('beperkt structuur regime') and the adjustment in this context of the articles of association.

## Item 8

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It is proposed to the articles of association. The amendment of the articles of association consists of two voting items:

- a. Amendment of the articles of association in relation to the introduction of the mitigated two tier structure ('beperkt structuur regime'), under the condition that the General Meeting gives its approval for the introduction of the mitigated two tier structure ('beperkt structuur regime').
- b. Amendment of the articles of association to bring it in line with the current Dutch legislation

In accordance with article 35, paragraph 1 of the articles of association of TKH, the proposal by the Executive Board for an amendment of the articles of association has been approved by the Supervisory Board.

The entire text of the proposal for the amendment of the articles of association and explanatory notes to the provisions being amended will be available for inspection by shareholders and holders of depositary receipts for shares at the offices of TKH, and shareholders and holders of depositary receipts for shares may request a copy free of charge from today until the day of the meeting and can also be downloaded from TKH's website ([www.tkhgroup.com](http://www.tkhgroup.com)).

The proposals for amendment of the articles of association contain also the proposal to authorize each director of TKH, and each (candidate) notary and notarial paralegal of Stibbe in Amsterdam, to sign the deed of amendment of the articles of association and furthermore to do anything else which, in the opinion of the authorized person is useful or necessary.