

**Stabilus SE**  
*Societas europaea*  
Registered office: 2, rue Albert Borschette  
L-1246 Luxembourg  
R.C.S. Luxembourg: B 151589

(the “**Company**”)

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**EXPLANATORY REPORT OF THE MANAGEMENT BOARD OF THE COMPANY IN RELATION TO THE  
CONTEMPLATED TRANSFER OF THE COMPANY’S REGISTERED OFFICE FROM THE GRAND DUCHY OF  
LUXEMBOURG TO THE FEDERAL REPUBLIC OF GERMANY  
1 JULY 2022**

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- **Stefan Bauerreis**, being chief financial officer of the Company and member of the management board of the Company;
- **Dr. Michael Büchsner**, being chairman and member of the management board of the Company;
- **Andreas Schröder**, being a member of the management board of the Company;
- **Andreas Sievers**, being a member of the management board of the Company; and
- **Mark Wilhelms**, being a member of the management board of the Company,

being all members of and constituting the management board of Stabilus SE (the “**Management Board**”), a European public limited-liability company (*Societas Europaea* or “**SE**”) governed by the laws of the Grand Duchy of Luxembourg and by the Council Regulation (EC) No. 2157/2001 of 8 October 2001 on the Statute for a European company (SE) (the “**SE Regulation**”), having its registered office at 2, rue Albert Borschette, L-1246 Luxembourg, Grand Duchy of Luxembourg, and registered with the Luxembourg Trade and Companies Register under number B 151589.

## **RECITALS**

On 24 March 2022, the extraordinary general meeting of the Company’s shareholders has decided to convert the Company from a Luxembourg public limited-liability company (*société anonyme*) into an SE (the “**Conversion**”) in accordance with the draft terms of conversion as prepared by the Management Board (the “**Conversion Plan**”). The notarial deed relating to the Conversion was published on the *Recueil électronique des Sociétés et Associations - RESA*) on 5 April 2022 under number RESA\_2022\_072.7 and thereby became legally effective.

For the purpose of the Conversion, the Management Board had also drawn up an explanatory report pursuant to the provisions of article 420-21 of the law of 10 August 1915 on commercial companies as amended from time to time (the “**Law**”) as well as Article 37 para. (4) of the SE

Regulation, explaining and justifying the legal and economic aspects of the Conversion and indicating the implications of the Conversion for the Company's shareholders and for the employees. The Management Board had informed therein that *"After the Conversion, the Company would benefit from express rules set out in respect of a migration of the SE from the Grand Duchy of Luxembourg to the Federal Republic of Germany, as a second step. The transfer of the registered office of the Company from the Grand Duchy of Luxembourg to the Federal Republic of Germany, following the Conversion, would be another step to further simplify the overall group structure"*.

It is now intended to transfer the Company's registered office from the Grand Duchy of Luxembourg to the Federal Republic of Germany in accordance with the provisions of Article 491-1 et seqq. of the Law as well as Article 8 of the SE Regulation (the **"Transfer"**).

The Management Board has approved on 31 May 2022 a transfer proposal and, in accordance with Article 491-3 of the Law and Article 8 (3) of the SE Regulation, has drawn up this explanatory report in respect of the Transfer (the **"Report"**) on the date hereof.

## **I. Reasons for the Transfer**

The Transfer of the registered office of the Company from the Grand Duchy of Luxembourg to the Federal Republic of Germany following the Conversion would be another step to further simplify the overall group structure.

The Company's shares are listed on the Frankfurt Stock Exchange in the Prime Standard, which is a segment of the Regulated Market with additional admission follow-up duties. After the Transfer, the registered office of the Company would be in the same country in which its shares are listed.

Furthermore, after the Transfer the Company, as ultimate parent company of any entities forming part of the Stabilus group (the **"Group"**), would have its registered office in the same country as some of its major subsidiaries are registered.

The Transfer would reduce administrative complexity and cost, e.g., in the areas of accounting, financing, legal and tax and thus facilitate the management of the Company and the Group.

## **II. Consequences for the Company's activities**

The Management Board does not anticipate any consequences for the Company's current activities or its Group upon the Transfer.

### **III. Consequences for the shareholders**

The Company's corporate form will not change and it will remain organized as an SE in accordance with the SE Regulation and German law following the Transfer. The Management Board does not anticipate any negative consequences for the Company's shareholders, as the rights and obligations of the shareholders before the Transfer and upon the Transfer shall remain the same. The shares of the Company will continue to be listed on the Frankfurt Stock Exchange in the Prime Standard which is a segment of the Regulated Market with additional admission follow-up duties. Rights of shareholders remain substantially unchanged; each shareholder continues to hold the same number of shares he/she/it will have held before the Transfer.

### **IV. Legal, economic, tax-related and employment-related implications**

#### **1. Legal implications**

In accordance with Article 8 (1) of the SE Regulation, the transfer of a European company shall not result in the winding up, dissolution or liquidation of the Company or in the creation of a new legal person. Considering that there will be no change to the Company's legal personality, the Transfer is not anticipated to have any adversely effect on the rights of the creditors of the Company. It is not intended to grant any special rights or other advantages to the Company's shareholders before the Transfer, during the Transfer or after the Transfer.

#### **2. Economic implications**

The aim of the Transfer is to unite the registered office of the Company in the same country in which its shares are listed and where the some of the major subsidiaries are registered. The Transfer would reduce administrative complexity and facilitate the management of the Company and the Group. The Group structure and functions or Company's strategy are not expected to be impacted by the Transfer.

#### **3. Tax-related implications**

##### **a. Luxembourg tax-related implications**

As a result of the Transfer, the Company will have to determine its profits for Luxembourg tax purposes as if it were liquidated. This applies to any capital gains allocable to the participation in its subsidiaries. However, such gains in relation to future Stable II GmbH (currently Stable II S.à r.l.) are generally tax exempt given the participation exemption regime. Any capital gains in relation to Stabilus US Holding Corp., Stabilus Motion Controls GmbH, Stable HoldCo Australia Pty. Ltd. and 5.1% in ACE Stoßdämpfer GmbH (the "**Subsidiaries**") are generally taxable due to the non-applicability of the participation exemption regime given the envisaged previous purchases of shares in the Subsidiaries from Stable II S.à.r.l. at fair market values within intended 12 months. The tax amount payable depends on the development of the fair market value of the Subsidiaries between the time of the share sale from Stable II S.à r.l. to the Company and the Transfer. The fair market value development of the Subsidiaries is not expected to be significant, the effective tax burden is therefore not expected to be significant, neither. It is currently assumed that no significant corporate income tax burden is triggered at level of the Company for Luxembourg tax purposes. No adverse net worth tax consequences

are expected at the Company level either as the Transfer (taking place in 2022) will end the Company's net worth tax obligations and liabilities for 2023 and there should not be any exit tax consideration for Luxembourg net worth tax. No Luxembourg withholding tax applies on the deemed liquidation of the Company.

As a result of the Transfer, the following Luxembourg tax implications should be considered by the shareholders of the Company depending on their own situation which can be roughly summarized as follows:

- For the Luxembourg tax resident companies: the Transfer may trigger taxation at level of those shareholders unless entitled to the participation exemption regime or if a roll-over relief applies;
- The Luxembourg tax resident individuals should be taxable to income tax, unless a roll-over relief applies, on: (i) speculative capital gains ("speculative" meaning that a disposal of the shares takes place within six months after their acquisition) arising from the disposal of shares or (ii) gains realised upon the disposal of a substantial participation (i.e., a participation representing more than 10% at any point in time during the five years preceding the disposal, directly or indirectly (which for individuals includes shares held by spouse, partner or minor children)) after six months after their acquisition;
- For the non-Luxembourg resident shareholders (individuals, companies or collective bodies) without any form of taxable presence in Luxembourg:
  - no adverse tax consequences are expected in the absence of right to tax attributed to Luxembourg under an applicable double taxation treaty;
  - in the absence of an applicable double taxation treaty, Luxembourg only taxes speculative gains (same meaning as above) on a disposal of a substantial participation (i.e., participation of more than 10% at any point in time during the five preceding years, directly or indirectly (which for individuals includes shares held by spouse, partner or minor children)).

Notwithstanding the foregoing, the assessment of the tax consequences requires a consideration of the individual circumstances of the shareholder. It is therefore recommended that shareholders consult their own tax advisors with respect to their individual tax situation.

## **b. German tax-related implications**

As a result of the Transfer, the tax implications at the level of the Company may be summarized as follows:

- The Company becomes subject to resident taxation in Germany following the Transfer. As a result, the Company is generally subject to corporate income tax plus solidarity surcharge and trade tax with its worldwide income in Germany.
- The Company's assets (including the Company's participation in Stable II GmbH (former Stable II S.à.r.l.)) should basically be accounted at fair market value (*gemeiner Wert*) determined at the time of transfer for German tax purposes (i.e., tax balance sheet). The fair market value of the assets may deviate from the current tax book value at the level of the Company.

Potential tax consequences at the level of the indirect subsidiaries of the Company have not yet been investigated in detail.

The German tax effects of the Transfer at the level of the shareholders may be summarized as follows:

- German tax resident shareholders:
  - At the level of the German tax resident shareholders, no immediate income tax burden should be triggered for German tax resident shareholders.
  - Following the Transfer, dividends and capital gains remain subject to German resident taxation at level of the German tax resident shareholders basically to the same extent as before the Transfer (for 2022, dividend exemption privileges to be considered).
    - Depending on the individual situation of a German tax resident shareholder, Luxembourg could, however, have had a withholding taxation right with respect to dividends. In this case, Germany generally had to credit such withholding tax. After the Transfer, Luxembourg should no longer have a withholding taxation right.
    - With respect to capital gains realized before the Transfer, a Luxembourg taxation right should have been excluded by the double taxation treaty between Germany and Luxembourg for shareholders entitled to treaty benefits.
- Non-German tax resident shareholders:
  - Dividends received by a shareholder not tax resident in Germany will be subject to German withholding tax at 25% plus, if applicable, a maximum of 5.5% solidarity surcharge thereon (in total a maximum of 26.375%). However, (i) a corporate shareholder may apply for refund of German withholding tax exceeding 15% plus 5.5% solidarity surcharge thereon; (ii) in case the foreign corporate shareholder is resident in a EU member state holding directly at least 10% for an uninterrupted period of 12 months, German withholding tax is reduced to nil; (iii) in case the non-German shareholder is resident in a treaty jurisdiction, a refund to usually 15% (possibly further refunds possible) can be claimed according to the relevant double taxation treaty. Both the refund and the reduction of German withholding taxes depend on whether certain additional prerequisites can be fulfilled (e.g., formal and substance requirements such as under the German domestic anti-treaty shopping provision).
  - Capital gains from the sale of shares by a shareholder not resident in Germany are only taxable in Germany if the shareholder holds a qualifying shareholding (i.e., at least 1% of the capital within the last five years has been held directly or indirectly; gratuitous transfers from predecessors must be taken into account). In such cases, the relevant double taxation treaty usually provides for partial or complete exemption from German taxation. If the respective shareholder is subject to taxation with the capital gains in Germany and not protected by an applicable double taxation treaty, it is not conclusively clear whether the capital

gain is determined by using the historical acquisition costs of the shareholder or the fair market value of the shares in the Company at the time of Transfer.

Notwithstanding the foregoing, the assessment of the tax consequences requires a consideration of the individual circumstances of the shareholder. It is therefore recommended that shareholders consult their own tax advisors with respect to their individual tax situation.

#### **4. Employment-related implications**

The Company has currently three employees.

There is no collective bargaining agreement; nor is there any employee representation and nothing will change with regard to this as a result of the Transfer.

The Company shall conduct its business operations at the new head office at Koblenz, Federal Republic of Germany, as an independent business; there will be no operational integration into existing operations or the formation of a joint operation of companies affiliated with the Company.

In terms of individual employment law, the following changes will occur:

The current workforce in Luxembourg will be offered the same position in Germany. The necessary physical relocation to Germany shall have no detrimental effect on their overall remuneration package. Insofar, the Company plans to conclude new employment agreements with each of the three employees subject to German law and under preservation of the current level of remuneration. The current workforce will become subject to the German social security system after contemplation of a relocation to Germany. Employees not willing to relocate will be offered termination agreements on a mutual departure. If the conclusion of a termination agreement is not achievable, dismissals cannot be excluded.

For the avoidance of doubt: The relocation of the registered office to Germany does not affect employees in Company's subsidiaries.

The currently existing and/or to be elected SE works council shall remain unaffected by the Transfer, with the following exception: the term of office of the SE works council member from Luxembourg shall terminate upon the effectiveness of the Transfer. Insofar as the election procedure for the election of the Luxembourg representative on the SE works council has not yet been completed, this election procedure shall be terminated.

The Company has a supervisory board, however, without employees' co-determination. Even after the Transfer, no co-determined supervisory board is to be formed.

#### **V. Alternatives to the Transfer**

The Management Board has prior to the form-changing Conversion reviewed possible alternatives in detail. Currently, only the SE is available as a supranational legal form which provides for a certainty in a legal framework for transfers of the registered office of the Company. It underlines the importance of the Company's international business of the Company. The Management Board has therefore come to the conclusion that there is no alternative for implementing the objectives pursued following the form-changing Conversion.

Luxembourg, in July 2022

**Stabilus SE**

The Management Board