

Majority Shareholder:

**FORTENOVA GRUPA dioničko društvo za upravljanje**

Marijana Čavića 1

10000 Zagreb

Croatia

Company:

**POSLOVNI SISTEM MERCATOR d.d.**

Dunajska cesta 107

1000 Ljubljana

Slovenia

# **REPORT**

## **OF THE MAJORITY SHAREHOLDER ON SQUEEZE-OUT OF MINORITY SHAREHOLDERS**

Ljubljana, 2 November 2021

**FORTENOVA GRUPA dioničko društvo za upravljanje** (short company name FORTENOVA GRUPA d.d.), with registered seat in Zagreb, Croatia, and business address at Marijana Čavića 1, 10000 Zagreb, Croatia, registration number (MBS) 081179147, OIB: 88035992407 (the »**Majority Shareholder**«), represented by chief executive director Fabris Peruško and executive director James Pearson, proposes to the company **POSLOVNI SISTEM MERCATOR d.d.** (short company name MERCATOR, d.d.), with registered seat in Ljubljana, Slovenija, and business address at Dunajska cesta 107, 1000 Ljubljana, Slovenia, registration number 5300231000, tax ID number SI 45884595 (the »**Company**«), that the general meeting of the Company (the »**General Meeting**«) adopts a resolution on transfer of shares of all other shareholders of the Company to the Majority Shareholder in exchange for appropriate cash consideration (the »**Resolution on Squeeze-out**«). In accordance with second paragraph of Article 386 of Companies Act (»**ZGD-1**«)<sup>1</sup>, the Majority Shareholder has drawn-up the following report in this regard.

## **1. LEGAL BASIS FOR TRANSFER OF SHARES**

Pursuant to Article 384 of ZGD-1, the majority shareholder who holds shares representing at least 90% of the share capital of a joint stock company, from which treasury shares are deducted, has the right to request that the general meeting of the joint-stock company decides on the transfer of shares of other minority shareholders to the Majority Shareholder for the payment of appropriate cash consideration. The squeeze-out of minority shareholders from the Company is regulated by Articles from 384 to 388 of ZGD-1.

Pursuant to the first paragraph of Article 385 of ZGD-1, the amount of cash consideration must be determined by the majority shareholder by mutatis mutandis application of the provisions of the fifth and sixth sentence of the second paragraph of Article 556 of ZGD-1, according to which the appropriate cash consideration must take into account the asset value and profitability of the company in the moment when the general meeting adopts the resolution on squeeze-out. Interest is paid out on the cash consideration at a fixed interest rate of 5% p.a. from the publication of the resolution on squeeze-out (further claims for damage compensation are not excluded). The management of the company must provide the Majority Shareholder with all necessary information and supporting documents.

The following conditions must be met for squeeze-out of minority shareholders from the Company:

- 1.1 The majority shareholder must be the holder of shares representing at least 90% of the share capital of the company.

Pursuant to the second paragraph of Article 384 of ZGD-1, the provisions of the second paragraph of Article 528 of ZGD-1 shall apply mutatis mutandis to determine the proportional share of shares belonging to the company's majority shareholder. In accordance with the second paragraph of Article

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<sup>1</sup> Official Gazette of the Republic of Slovenia, no. 65/09 – as amended.

528 of ZGD-1, treasury shares are deducted from the share capital when calculating the proportional share of the Majority Shareholder.

At the time of preparation of this report, the Majority Shareholder holds 5,594,167 shares of the Company, which represent 89.398% (rounded to 3 decimal places) share in the registered share capital of the Company. The Company holds 42,192 treasury shares at the time of the preparation of this report, which represents 0.674% (rounded to 3 decimal places) share in its share capital.

Having regard to the rule of the second paragraph of Article 528 of ZGD-1 in connection with the second paragraph of Article 384 of ZGD-1 for determining the proportional share of shares belonging to the Majority Shareholder of the company, the share of the Majority Shareholder represents 90.005% (rounded to 3 decimal places) of the share capital of the Company.

1.2 The Majority Shareholder must propose the adoption of a resolution on the transfer of the shares of minority shareholders to the Majority Shareholder for the payment of appropriate cash consideration.

The Majority Shareholder has requested the convening of the general meeting pursuant to Articles 295 and 296 of ZGD-1.

1.3 The Majority Shareholder must submit a statement of the bank pursuant to the second paragraph of Article 385 of ZGD-1 to the Company.

The Majority Shareholder has submitted a statement of bank ERSTE&STEIERMÄRKISCHE BANK d. d., Jadranski trg 3a, Rijeka, Croatia, pursuant to the second paragraph of Article 385 of ZGD-1 dated 29. 10. 2021 to the Company together with the request for convening of the General Meeting. The copy of this statement of the bank is an appendix to this report of the Majority Shareholder.

1.4 The appropriateness of the amount of cash consideration offered by the Majority Shareholder must be reviewed by one or more auditors appointed by the court on the proposal of the Majority Shareholder.

The appropriateness of the amount of the cash consideration offered by the Majority Shareholder was reviewed by auditor, company PIT Leitner, revizijska družba d.o.o., Špruha 19, 1236 Trzin appointed by the District Court in Ljubljana on the proposal of the Majority Shareholder with a decision ref. no. Ng 56/2021 of 27 October 2021 in accordance with second paragraph of Article 386 of ZGD-1. Opinion of the auditor PIT Leitner, revizijska družba d.o.o. on the appropriateness of the amount of the cash consideration dated 3 November 2021 is an appendix to this report of the Majority Shareholder.

1.5 Notice of convening the general meeting, whereupon the decision on the transfer of shares, held by minority shareholders of the Company onto the Majority Shareholder will be made, must be published

Pursuant to Article 296 of ZGD-1 the Majority Shareholder addressed a request to convene the general meeting to the management of the Company. The request contains information on the company name and seat of the Majority Shareholder, as well as the amount of cash consideration, which the Majority Shareholder offers.

- 1.6 Prior to the general meeting, the shareholders shall be allowed to examine all documents for the general meeting at the Company's head office.

From the day when the General Meeting is convened until including the day of the General Meeting, the management of the Company shall allow any shareholder of the Company to examine all documents for the General Meeting. Pursuant to fourth paragraph of Article 386 of ZGD-1 upon the request of a shareholder a copy of the proposal for a resolution to transfer shares, this report by the Majority Shareholder and auditor's report on the appropriateness of the amount of cash consideration shall be provided to him free of charge, no later than on the business day following such request

- 1.7 The management of the Company must file an application for registration of the Resolution on Squeeze-out to transfer shares.

After the registration of this resolution in the court register the Majority Shareholder is, on basis of power of attorney included in the adopted Resolution on squeeze-out, authorised to file an order and conclude an agreement for the transfer of shares from the accounts of the minority shareholders onto the account of the Majority Shareholder at the central securities clearing corporation.

## **2. REASONS TO EXCLUDE MINORITY SHAREHOLDERS**

In a company, where the capital ratio is such that the individual shareholder holds more than 90 percent of the voting rights in the company, the minority shareholders *de iure* holders of property and managerial rights from the shares, whereas they are unable to effectively exercise the latter due to the ownership structure. Considering the above, the legislation considers minority shareholders as persons who no longer have an effective managerial interest, while still holding the property interest. This starting point is also considered in the institute of the squeeze-out of the minority shareholders from the company, where the property rights of minority shareholders are robustly protected through the obligation of the Majority Shareholder to pay appropriate consideration, i.e., the price for the shares of the excluded shareholders.

Main goals of the squeeze-out of minority shareholders from a Company are:

- 2.1 Managing the Company with only one shareholder will be easier, cheaper, and more efficient; this way, with the participation of the Majority Shareholder, it will be easier for the Company to assume business risks without transferring them to minority shareholders.
- 2.2 Assumption of responsibility and overall risks in the management, supervision and administration of this activity in the event of expected other institutional changes,

2.3 Taking responsibility for diversifying risks, managing the capital structure and ensuring adequate profitability to ensure the long-term existence of this activity,

2.4 The proposed squeeze-out allows minority shareholders to transfer their shares at a price that represents an appropriate cash consideration for their shares

### **3. JUSTIFICATION OF THE APPROPRIATENESS OF CASH CONSIDERATION**

Pursuant to second paragraph of Article 385 of ZGD-1 and the provisions of fifth and sixth sentence of second paragraph of Article 556 of ZGD-1 applied mutatis mutandis the Majority Shareholder offers EUR 36 for each share of the Company as a cash consideration to the minority shareholders.

Majority Shareholder determined the consideration for the share transfer at the amount of EUR 36 per share on basis of opinion of the certified business appraiser, KPMG d.o.o., which issued its opinion that the market value of 100 % of the Company's capital share ranges between EUR 28 per share and EUR 36 per share on basis of valuation rules in the event of share transfer from the minority shareholders to the Majority Shareholder (asset value and profitability of the Company). The Majority Shareholder offers appropriate cash consideration for the share transfer to the minority shareholders in the amount of EUR 36, which is at upper edge of the estimated value range.<sup>2</sup>

Pursuant to second paragraph of Article 386 of ZGD-1 the appropriateness of the cash consideration offered by the Majority Shareholder, was assessed and confirmed also by the auditor, company PIT Leitner, revizijska družba d.o.o., Špruha 19, 1236 Trzin, which was appointed by the court following the Majority Shareholder's proposal.

Pursuant to second paragraph of Article 23 of the Book-Entry Securities Act (ZNVP-1, »Zakon o nematerializiranih vrednostnih papirjih«) the Majority Shareholder will execute the pay out of the appropriate cash consideration through central securities clearing corporation, i.e., KDD - Centralna klirinško depotna družba, d.o.o.

FORTENOVA GRUPA dioničko društvo za upravljanje

Chief executive director and member of the  
Management Board  
Fabris Peruško

Executive Officer  
James Pearson

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<sup>2</sup> The amount of the offered cash consideration, EUR 36 per share, is also not lower than the price per share at which the Majority Shareholder has thus far acquired the Company's shares firstly based on agreements with previous shareholders, and then on the basis of a mandatory takeover bid and finally on the basis of non-cash contributions for the increase of the share capital.