

## **TERMS AND CONDITIONS OF THE BONDS**

**THIS DOCUMENT IS NOT AN OFFER TO SELL SECURITIES OR THE SOLICITATION OF ANY OFFER TO BUY SECURITIES.**

**SOLELY FOR THE PURPOSES OF THE PRODUCT GOVERNANCE REQUIREMENTS CONTAINED WITHIN: (A) EU DIRECTIVE 2014/65/EU ON MARKETS IN FINANCIAL INSTRUMENTS, AS AMENDED (“MIFID II”); (B) ARTICLES 9 AND 10 OF COMMISSION DELEGATED DIRECTIVE (EU) 2017/593 SUPPLEMENTING MIFID II; AND (C) LOCAL IMPLEMENTING MEASURES (TOGETHER, THE “MIFID II PRODUCT GOVERNANCE REQUIREMENTS”), AND DISCLAIMING ALL AND ANY LIABILITY, WHETHER ARISING IN TORT, CONTRACT OR OTHERWISE, WHICH ANY “MANUFACTURER” (FOR THE PURPOSES OF THE MIFID II PRODUCT GOVERNANCE REQUIREMENTS) MAY OTHERWISE HAVE WITH RESPECT THERETO, THE BONDS HAVE BEEN SUBJECT TO A PRODUCT APPROVAL PROCESS, WHICH HAS DETERMINED THAT: (I) THE TARGET MARKET FOR THE BONDS IS ELIGIBLE COUNTERPARTIES AND PROFESSIONAL CLIENTS ONLY, EACH AS DEFINED IN MIFID II; AND (II) ALL CHANNELS FOR DISTRIBUTION OF THE BONDS TO ELIGIBLE COUNTERPARTIES AND PROFESSIONAL CLIENTS ARE APPROPRIATE. ANY PERSON SUBSEQUENTLY OFFERING, SELLING OR RECOMMENDING THE BONDS (A “DISTRIBUTOR”) SHOULD TAKE INTO CONSIDERATION EACH MANUFACTURER’S TARGET MARKET ASSESSMENT; HOWEVER, A DISTRIBUTOR SUBJECT TO MIFID II IS RESPONSIBLE FOR UNDERTAKING ITS OWN TARGET MARKET ASSESSMENT IN RESPECT OF THE BONDS (BY EITHER ADOPTING OR REFINING EACH MANUFACTURER’S TARGET MARKET ASSESSMENT) AND DETERMINING APPROPRIATE DISTRIBUTION CHANNELS.**

**THE TARGET MARKET ASSESSMENT IS WITHOUT PREJUDICE TO THE REQUIREMENTS OF ANY CONTRACTUAL OR LEGAL SELLING RESTRICTIONS IN RELATION TO THE BONDS.**

**FOR THE AVOIDANCE OF DOUBT, THE TARGET MARKET ASSESSMENT DOES NOT CONSTITUTE: (A) AN ASSESSMENT OF SUITABILITY OR APPROPRIATENESS FOR THE PURPOSES OF MIFID II; OR (B) A RECOMMENDATION TO ANY INVESTOR OR GROUP OF INVESTORS TO INVEST IN, OR PURCHASE, OR TAKE ANY OTHER ACTION WHATSOEVER WITH RESPECT TO THE BONDS.**

**THE BONDS ARE NOT INTENDED TO BE OFFERED, SOLD OR OTHERWISE MADE AVAILABLE TO AND SHOULD NOT BE OFFERED, SOLD OR OTHERWISE MADE AVAILABLE TO ANY RETAIL INVESTOR IN THE EUROPEAN ECONOMIC AREA (“EEA”) OR THE UNITED KINGDOM. FOR THESE PURPOSES, A RETAIL INVESTOR MEANS A PERSON WHO IS ONE (OR MORE) OF: (I) A RETAIL CLIENT AS DEFINED IN POINT (11) OF ARTICLE 4(1) OF MIFID II; OR (II) A CUSTOMER WITHIN THE MEANING OF DIRECTIVE (EU) 2016/97, WHERE THAT CUSTOMER WOULD NOT QUALIFY AS A PROFESSIONAL CLIENT AS DEFINED IN POINT (10) OF ARTICLE 4(1) OF MIFID II. CONSEQUENTLY, NO KEY INFORMATION DOCUMENT REQUIRED BY REGULATION (EU) NO 1286/2014, AS AMENDED (THE “PRIIPS REGULATION”) FOR OFFERING OR SELLING THE BONDS OR OTHERWISE MAKING THEM AVAILABLE TO RETAIL INVESTORS IN THE EEA OR THE UNITED KINGDOM HAS BEEN PREPARED AND THEREFORE OFFERING OR SELLING THE BONDS OR OTHERWISE MAKING THEM AVAILABLE TO ANY RETAIL INVESTOR IN THE EEA OR THE UNITED KINGDOM MAY BE UNLAWFUL UNDER THE PRIIPS REGULATION.**

*The following, subject to completion and amendment, is the text of the terms and conditions of the Bonds.*

## 1 General

### 1.1 Description

Each Bond evidenced by this certificate is one of a duly authorised issue of debt securities of Just Eat Takeaway.com N.V., a limited liability company (*naamloze vennootschap*) incorporated under the laws of The Netherlands (the “**Issuer**”), designated as its €300,000,000 1.25 per cent. convertible bonds due 2026 (the “**Bonds**”, which expression shall include any Further Bonds issued pursuant to Section 15.6). The Bonds will mature on 30 April 2026 (the “**Maturity Date**”). The Bonds are issued in denominations of €100,000 each. The Bonds are constituted by a Trust Deed (the “**Trust Deed**”) dated 30 April 2020 between the Issuer and Stichting Trustee Just Eat Takeaway.com (the “**Trustee**” which expression shall include all persons for the time being the trustee or trustees under the Trust Deed) as trustee for the holders of the Bonds. The Issuer has also entered into a paying, transfer and conversion agency agreement (the “**Agency Agreement**”) dated 30 April 2020 with ABN AMRO Bank N.V., as principal paying, transfer and conversion agent (the “**Principal Paying, Transfer and Conversion Agent**”) and Bank of America Merrill Lynch International Designated Activity Company as registrar in respect of the Bonds (the “**Registrar**”) and the other paying and conversion agents named therein (the “**Conversion Agents**” and, together with the Principal Paying, Transfer and Conversion Agent and the Registrar, collectively, the “**Agents**”, which term shall include successors and assigns of any such Agent as the context requires). The holders of the Bonds are entitled to the benefit of, are bound by, and are deemed to have notice of, all the provisions of the Trust Deed and are deemed to have notice of those applicable to them of the Agency Agreement. The Issuer has also entered into a calculation agency agreement dated 30 April 2020 (the “**Calculation Agency Agreement**”) with Conv-Ex Advisors Limited (the “**Calculation Agent**”, which expression shall include any successor as calculation agent under the Calculation Agency Agreement) whereby the Calculation Agent has been appointed to make certain calculations in relation to the Bonds. Copies of the Trust Deed, Agency Agreement and Calculation Agency Agreement are available for inspection by holders of the Bonds during usual office hours at the office of the Trustee at Hoogoorddreef 15, 1101 BA, Amsterdam, the Netherlands, and at the specified offices of the Principal Paying, Transfer and Conversion Agent and the Registrar.

### 1.2 Definitions

Capitalised terms used herein are defined in Section 14. Capitalised terms used but not defined in these terms and conditions (these “**Conditions**”) shall have the meanings attributed to them in the Trust Deed unless the context requires otherwise or unless otherwise stated.

## 2 Status of the Bonds and Negative Pledge

### 2.1 Status

The Bonds constitute direct, unconditional, unsubordinated and (subject to Section 2.2) unsecured obligations of the Issuer and shall at all times rank *pari passu* and without preference among themselves and at least equally with all other unsecured and unsubordinated obligations of the Issuer, present and future (subject to any obligations preferred by mandatory provisions of law).

### 2.2 Negative Pledge

So long as any Bond remains outstanding (as defined in the Trust Deed), the Issuer will not, and will ensure that none of its Material Subsidiaries will, create or permit to subsist any mortgage, charge, lien, pledge or other security interest, upon the whole or any part of its present or future undertaking, assets or revenues (including any uncalled capital) to secure any Capital Markets Indebtedness or to secure any guarantee or indemnity in respect of any Capital Markets Indebtedness, without at the same time or prior thereto providing the Bonds with the same security as is created or subsisting to

secure any such Capital Markets Indebtedness, guarantee or indemnity or such other security as either (i) the Trustee shall in its absolute discretion deem not materially less beneficial to the interest of the Bondholders or (ii) shall be approved by an Extraordinary Resolution of the Bondholders.

In this Section 2.2, “**Capital Markets Indebtedness**” means any present or future indebtedness (whether being principal, interest or other amounts) which is in the form of, or represented or evidenced by, bonds, notes, debentures, loan stock or other securities, whether issued for cash or in whole or in part for a consideration other than cash, which for the time being are, or are intended to be or capable of being, quoted, listed or dealt in or traded on any stock exchange or over-the-counter or other securities market.

### 3 Payments

#### 3.1 Principal

Unless previously redeemed, converted, settled or purchased and cancelled as provided herein, the principal amount of each Bond will be payable on the Maturity Date. The amount due on the Maturity Date shall be 100 per cent. of its principal amount (the “**Redemption Price**”).

#### 3.2 Interest

(a) *Generally*

The Bonds bear interest from and including the Closing Date at a rate of 1.25 per cent. per annum, payable semi-annually in arrear in equal instalments on 30 April and 30 October in each year and on the Maturity Date (each an “**Interest Payment Date**”), commencing on 30 October 2020. The interest payable on each Interest Payment Date will be the interest accrued (a) in respect of the interest period commencing on the Closing Date, from and including the Closing Date to but excluding such Interest Payment Date; and (b) in respect of each subsequent interest period, from and including the most recent prior Interest Payment Date to which interest on the Bonds has been fully paid or duly provided for, to but excluding such Interest Payment Date (each, an “**Interest Period**”). The amount of interest payable in respect of a Bond for any period (a “**Short Period**”) which is shorter than an Interest Period shall be calculated on the basis of the number of days in such Short Period from (and including) the first day of such Short Period to (but excluding) the last day of such Short Period divided by the product of (x) the number of days from (and including) the first day of such Short Period to (but excluding) the Interest Payment Date falling after the first day of such Short Period and (y) the number of Interest Periods normally ending in any year.

(b) *Accrued Interest*

In respect of any Bonds for which a Conversion Notice has been given, interest shall cease to accrue with effect from the Interest Payment Date immediately preceding the relevant Conversion Date (or, if none, the Closing Date) and, subject as provided below, no interest shall be paid on such Bonds in respect of any period commencing on or after such Interest Payment Date (or, as the case may be, the Closing Date) to which interest on the Bonds has been fully paid or duly provided for.

In respect of Bonds for which the Issuer has given a Redemption Notice and subsequently Conversion Rights have been exercised, interest shall accrue at the rate provided in Section 3.2(a) above to but excluding the Conversion Date if the Redemption Notice is given on or after the 15<sup>th</sup> Business Day prior to a Dividend Determination Date in respect of any Cash or Stock Dividend on the Shares, and the redemption date specified in such notice falls on or prior to 14 Business Days after the first Interest Payment Date following such Dividend Determination Date. The Issuer shall pay any such interest by not later than 14 days after the

relevant Conversion Date by transfer to a euro account with a bank in a city in which banks have access to the TARGET System in accordance with instructions given by the relevant Bondholder in the relevant Conversion Notice. However, no such interest shall be paid if the relevant Cash or Stock Dividend on the Shares has resulted in an adjustment to the Conversion Price and which is applicable to the relevant exercise of Conversion Rights.

Where a Bond is redeemed pursuant to Section 4.1, 4.2, 4.3 or 4.4, interest on such Bond will accrue up to, but excluding, the due date for redemption thereof unless payment of principal is improperly withheld or refused, in which event interest will continue to accrue at the rate specified in Section 3.2(a) (both before and after judgment) up to, but excluding, the Relevant Date.

(c) *Repayment of Certain Amounts*

If any Bondholder shall have received any interest payment to which it was not entitled by virtue of Section 3.2(d) below, such Bondholder shall promptly repay the amount of such interest payment to the Issuer by wire transfer in immediately available funds or in such other manner notified by the Issuer to such Bondholder.

(d) *Record Date*

The interest payable on any Interest Payment Date will be paid to the Person in whose name the Bonds are registered at 5:00 p.m. (local time in the place of payment) on the Record Date. In these Conditions, “**Record Date**” means the date falling five Business Days before the due date for any payment.

### **3.3 Due Date not a Business Day**

Notwithstanding any other provision of the Bonds or the Agency Agreement, if the date on which any principal, interest or other payment obligation is due falls on a day that is not a Business Day, the Issuer shall have until (and including) the next succeeding Business Day to satisfy its payment obligation, and any such payment shall be given the same force and effect as if made on the date on which such principal, interest or other payment obligation was due. Bondholders shall not be entitled to any further interest or other payments for such delay.

### **3.4 Overdue Payment Obligations**

Any overdue principal of or interest on the Bonds, or any other overdue amount on any payment obligation hereunder, will bear interest payable on demand at a rate per annum equal to EURIBOR but not less than zero, from and including the date of default to but excluding the date when paid.

### **3.5 Payment Procedures**

The Issuer will, unless otherwise specified in these Conditions, discharge its payment obligations hereunder by paying to the Principal Paying, Transfer and Conversion Agent under the Agency Agreement, and causing the Principal Paying, Transfer and Conversion Agent to tender to each Bondholder, on or before the due date thereof for value as of such due date an amount of euros in immediately available funds that is sufficient to satisfy such payment obligation. All amounts payable to any Bondholder hereunder, or to the Principal Paying, Transfer and Conversion Agent under the Agency Agreement will, unless otherwise specified in these Conditions, be paid to such account as appears on the Bonds Register at 5:00 p.m. (local time in the place of payment) on the Record Date or as the Principal Paying, Transfer and Conversion Agent shall notify to the Issuer, as the case may be, in accordance with the terms of the Agency Agreement. Bonds in individual certificated form shall be presented and surrendered for payment on maturity at the office of the Principal Paying, Transfer and Conversion Agent or such other establishment as notified to the Bondholders from time to time in accordance with Section 15.7.

## 4 Redemption

### 4.1 Redemption at the Option of the Issuer

On giving not less than 30 nor more than 60 days' notice (an "**Optional Redemption Notice**") to the Principal Paying, Transfer and Conversion Agent, the Trustee and to the Bondholders in accordance with Section 15.7, the Issuer may elect to redeem all but not some only of the Bonds on the date (the "**Optional Redemption Date**") specified in the Optional Redemption Notice at the Redemption Price, together with accrued but unpaid interest up to (but excluding) the Optional Redemption Date:

- (a) at any time on or after the First Call Date and up to but excluding the Second Call Date, if the Parity Value on each of at least 20 Trading Days in any period of 30 consecutive Trading Days ending not more than seven Trading Days prior to the giving of the relevant Optional Redemption Notice, shall have equalled or exceeded €150,000, as verified by the Calculation Agent;
- (b) at any time on or after the Second Call Date, if the Parity Value on each of at least 20 Trading Days in any period of 30 consecutive Trading Days ending not more than seven Trading Days prior to the giving of the relevant Optional Redemption Notice, shall have equalled or exceeded €130,000, as verified by the Calculation Agent or
- (c) at any time on or after the Physical Settlement Date if, prior to the date the relevant Optional Redemption Notice is given, Conversion Rights and/or Investor Cash Settlement Rights shall have been exercised and/or purchases (and corresponding cancellations) and/or redemptions effected in respect of 85 per cent. or more in principal amount of the Bonds originally issued (which shall for this purpose include any Further Bonds).

"**First Call Date**" means 15 May 2023.

"**Second Call Date**" means 15 May 2024.

### 4.2 Redemption for Taxation Reasons

At any time the Issuer may, having given not less than 30 nor more than 60 days' notice (a "**Tax Redemption Notice**") to the Principal Paying, Transfer and Conversion Agent, the Trustee and the Bondholders in accordance with Section 15.7, redeem (subject to the second following paragraph) all but not some only of the Bonds outstanding on the date (the "**Tax Redemption Date**") specified in the Tax Redemption Notice at the Redemption Price plus accrued interest to but excluding the Tax Redemption Date, if (a) the Issuer satisfies the Trustee immediately prior to the giving of such notice that the Issuer has or will become obliged to pay additional amounts in respect of payments of interest on the Bonds pursuant to Section 6 as a result of any change in, or amendment to, the laws or regulations of any Taxing Jurisdiction or any political subdivision or any authority thereof or therein having power to tax, or any change in the general application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after 23 April 2020, and (b) such obligation cannot be avoided by the Issuer taking reasonable measures available to it, provided that no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Issuer would be obliged to pay such additional amounts were a payment in respect of the Bonds then due. Prior to the publication of any notice of redemption pursuant to this paragraph, the Issuer shall deliver to the Trustee (1) a certificate signed by a member of the board of management (*lid van de raad van bestuur*) of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred, and (2) an opinion of independent legal or tax advisers of recognised standing to the effect that such change or amendment has occurred and that the Issuer has or will become

obliged to pay such additional amounts as a result thereof (irrespective of whether such amendment or change is then effective).

On the Tax Redemption Date the Issuer shall (subject to the next following paragraph) redeem the Bonds at the Redemption Price, together with accrued interest to such date.

If the Issuer gives a Tax Redemption Notice, each Bondholder will have the right to elect that its Bonds shall not be redeemed and that the provisions of Section 6 shall not apply in respect of any payment of interest to be made on such Bonds which falls due after the relevant Tax Redemption Date, whereupon no additional amounts shall be payable in respect thereof pursuant to Section 6 and payment of all amounts of such interest on such Bonds shall be made subject to the deduction or withholding of any taxation in the relevant Taxing Jurisdiction required to be withheld or deducted. To exercise such right, the holder of the relevant Bond must complete, sign and deposit at the specified office of the Principal Paying, Transfer and Conversion Agent or any Conversion Agent, a duly completed and signed notice of election, in the form for the time being current, obtainable from the specified office of the Principal Paying, Transfer and Conversion Agent or any Conversion Agent together with the relevant Bonds on or before the day falling 10 days prior to the Tax Redemption Date.

#### **4.3 Redemption due to non-satisfaction of Share Settlement Condition**

The Issuer (A) may, at any time after a Shareholders' Meeting has been held (at which Shareholder Resolutions have been presented) but the Shareholder Resolutions have not been passed, and (B) shall, if the Shareholder Resolutions have not been passed on or before the Long Stop Date, having given (not later than the date falling 10 Business Days following the Long Stop Date (the "**Shareholder Event Notice Deadline**")) notice (a "**Shareholder Event Notice**") to the Principal Paying, Transfer and Conversion Agent, the Trustee and the Bondholders in accordance with Section 15.7, redeem all but not some only of the Bonds outstanding on the date (the "**Fair Bond Value Redemption Date**") falling three Business Days after the end of the Fair Bond Value Calculation Period at an amount per Bond equal to the Fair Bond Value Redemption Price.

#### **4.4 Redemption at the Option of Bondholders upon a Change of Control**

Following the occurrence of a Change of Control, the holder of each Bond will have the right to require the Issuer to redeem that Bond on the Change of Control Put Date at its Redemption Price, plus accrued interest to but excluding the Change of Control Put Date. To exercise such right, the holder of the relevant Bond must deliver such Bond if in individual certificated form to the specified office of the Principal Paying, Transfer and Conversion Agent or any Conversion Agent, together with a duly completed and signed notice of exercise in the form for the time being current obtainable from the specified office of the Principal Paying, Transfer and Conversion Agent or any Conversion Agent (a "**Change of Control Put Exercise Notice**"), at any time during the Change of Control Period. The "**Change of Control Put Date**" shall be the fourteenth calendar day after the expiry of the Change of Control Period.

Payment in respect of any such Bond shall be made by transfer to a euro account with a bank in a city in which banks have access to the TARGET System as specified by the relevant Bondholder in the relevant Change of Control Put Exercise Notice.

A Change of Control Put Exercise Notice, once delivered, shall be irrevocable and the Issuer shall redeem all Bonds the subject of Change of Control Put Exercise Notices delivered as aforesaid on the Change of Control Put Date.

Within 14 calendar days following the occurrence of a Change of Control, the Issuer shall give notice thereof to the Bondholders in accordance with Section 15.7 (a "**Change of Control Notice**"). The Change of Control Notice shall contain a statement informing Bondholders of their entitlement to

exercise their Investor Cash Settlement Rights or Conversion Rights, as the case may be, as provided in these Conditions and their entitlement to exercise their rights to require redemption of their Bonds pursuant to this Section 4.4.

The Change of Control Notice shall also specify:

- (a) all information material to Bondholders concerning the Change of Control;
- (b) the Conversion Price immediately prior to the occurrence of the Change of Control and the Change of Control Conversion Price applicable pursuant to Section 5.4(c) during the Change of Control Period on the basis of the Conversion Price in effect immediately prior to the occurrence of the Change of Control;
- (c) the Closing Price of the Shares as at the latest practicable date prior to the publication of the Change of Control Notice;
- (d) the Change of Control Period;
- (e) the Change of Control Put Date; and
- (f) such other information relating to the Change of Control as the Trustee may reasonably require.

The Trustee shall not be required to monitor or take any steps to ascertain whether a Change of Control or any event which could lead to a Change of Control has occurred or may occur and will not be responsible or liable to Bondholders or any other person for any loss arising from any failure by it to do so.

#### **4.5 Redemption Notices**

The Issuer shall not give an Optional Redemption Notice or Tax Redemption Notice at any time during a Change of Control Period or an Offer Period or which specifies a date for redemption falling in a Change of Control Period or an Offer Period or the period of 21 days following the end of a Change of Control Period or Offer Period (whether or not the relevant notice was given prior to or during such Change of Control Period or Offer Period), and any such notice shall be invalid and of no effect (whether or not given prior to the relevant Change of Control Period or Offer Period) and the relevant redemption shall not be made.

Any Redemption Notice shall be irrevocable. Any such notice shall specify (i) the Optional Redemption Date, the Tax Redemption Date or, as the case may be, the expected Fair Bond Value Redemption Date which shall be a Business Day, (ii) the Conversion Price, the aggregate principal amount of the Bonds outstanding and the Closing Price of the Shares, in each case as at the latest practicable date prior to the publication of the Redemption Notice and (iii) the last day on which Investor Cash Settlement Rights or Conversion Rights, as applicable, may be exercised by Bondholders.

“**Offer Period**” means any period commencing on the date of first public announcement of an offer or tender (howsoever described) by any person or persons in respect of all or a majority of the issued and outstanding Shares and ending on the date that offer or tender ceases to be open for acceptance or, if earlier, on which that offer or tender lapses or terminates or is withdrawn.

## **5 Conversion Rights and Investor Cash Settlement Rights**

### **5.1 Conversion Rights, Investor Cash Settlement Rights and Conversion Price**

(a) *Conversion Rights and Investor Cash Settlement Rights*

Subject as provided in these Conditions, each Bond shall entitle the Bondholder to require the Issuer to:

- (i) if the Issuer shall have given a Physical Settlement Notice and provided that the relevant Conversion Date falls during the Conversion Period, convert each Bond into the relevant number of Shares as provided in Section 5.3 (“**Conversion Rights**”), as determined by the Calculation Agent by reference to the conversion price (the “**Conversion Price**”) in effect on the relevant Conversion Date; and
- (ii) upon the occurrence of a Change of Control (if any) where the relevant Conversion Date falls within the Change of Control Period and prior to the Physical Settlement Date, settle such Bond at the relevant Cash Alternative Amount (the “**Investor Cash Settlement Right**”).

Subject to and as provided in these Conditions and following the Physical Settlement Date (if any), Conversion Rights may only be exercised from the later of (i) such Physical Settlement Date (inclusive) and (ii) 10 June 2020 (inclusive) in each case, until (and including) the earlier of (a) the seventh Business Day preceding the Maturity Date or (b) if the Bonds have been called for redemption prior to the Maturity Date, the seventh Business Day preceding the relevant redemption date.

The period during which Conversion Rights may (subject as provided herein) be exercised by a Bondholder is referred to as the “**Conversion Period**”. Investor Cash Settlement Rights may not be exercised at any time if the relevant Conversion Date would fall during the Conversion Period.

The Issuer shall, not later than 5 Business Days following the Long Stop Date (or, if the Share Settlement Condition is satisfied prior to the Long Stop Date, not later than 5 Business Days following satisfaction of the Share Settlement Condition) give notice to the Bondholders in accordance with Section 15.7 and to the Principal Paying, Transfer and Conversion Agent, the Registrar and the Calculation Agent:

- (1) where the Share Settlement Condition has been satisfied, stating that with effect from and including the Physical Settlement Date specified in such notice, Conversion Rights shall be exercisable (such notice, the “**Physical Settlement Notice**”); or
- (2) where the Share Settlement Condition has not been satisfied, stating that the Share Settlement Condition has not been satisfied and that it intends to redeem the Bonds by publishing a Shareholder Event Notice in accordance with Section 4.3(i).

(b) *Conversion Price*

The initial Conversion Price is €121.80 per Share. The Conversion Price is subject to adjustment in the circumstances described in Section 5.4.

## 5.2 Procedures for Exercising Investor Cash Settlement Rights and Conversion Rights

(a) *Delivery of Conversion Notice on exercise of Investor Cash Settlement Rights and Conversion Rights*

Subject to the terms and conditions of this Section 5.2, each Bondholder may exercise its Investor Cash Settlement Rights or Conversion Rights by giving at its own expense to the Conversion Agent a conversion notice (and, if required under Section 5.2(c) below, the



relevant Bond certificate) substantially in the form set forth in the Agency Agreement (a “**Conversion Notice**”). The Business Day following the day on which such Conversion Notice shall have been received (or, if such day is not a Business Day, the following Business Day) by the Conversion Agent shall be the “**Conversion Date**” and shall be deemed to be the date on which Investor Cash Settlement Rights or, as the case may be, Conversion Rights, have been exercised. Copies of the Conversion Notice can be obtained during normal business hours at the registered office of the Conversion Agent. Shares to be delivered following an exercise of Conversion Rights will be delivered as provided in Section 5.3(c). Once delivered to the Conversion Agent, a Conversion Notice will be irrevocable unless an Event of Default shall have occurred and is continuing on the Delivery Date of any Additional Shares, in which case the relevant Bondholders shall be entitled to revoke the relevant Conversion Notice by giving notice to the Conversion Agent.

(b) *Write-down of Global Bond Certificate*

If the Bondholder is a Central Securities Depository (as defined below) and the certificate evidencing the Bonds being converted is the Global Bond Certificate, the Bondholder must certify to the Conversion Agent that the principal amount of such global certificate will be written down upon the conversion to reflect such conversion as provided in the Agency Agreement.

(c) *Surrender of Bond Certificates*

Any other Bondholder must surrender any certificate evidencing the Bonds being converted to the Conversion Agent on or before the Conversion Date.

### **5.3 Delivery of Shares and Payment of Cash Alternative Amount**

(a) *Delivery of Shares*

Where Conversion Rights shall have been exercised, the Issuer shall deliver to the relevant Bondholder or Bondholders such number of Shares equal to the Reference Shares in respect of such exercise, thereby satisfying by way of set off the obligation to pay up the issue price of the Shares (which issue price shall be equal to the principal amount of the Bonds to be converted).

(b) *Fractions*

Fractions of Shares will not be issued or transferred and delivered and no cash payment or other adjustment will be made in lieu thereof.

If a Conversion Right in respect of more than one Bond is exercised at any one time such that Shares to be issued and delivered in respect of such exercise are to be delivered to the same person, the number of Shares to be issued and delivered in respect thereof shall be calculated by the Calculation Agent on the basis of the aggregate principal amount of such Bonds, and rounded down to the nearest whole number of Shares in accordance with, and subject to, the definition of Reference Shares.

(c) *Procedures for Delivery of Shares*

Following the exercise of Conversion Rights by a Bondholder, the Issuer shall deliver, or procure the delivery, to the relevant Bondholder or Bondholders the Reference Shares (if any) on the relevant Delivery Date by crediting the account with the financial institution specified by in the relevant Conversion Notice with the Reference Shares, for so long as Euronext Amsterdam is the Relevant Exchange. If Euronext Amsterdam is not the Relevant Exchange, then delivery of the Reference Shares following the exercise of Conversion Rights shall be

made in such manner and through such clearing system or depository or other arrangement or facility as may be customary at the relevant time for delivery and settlement of transactions in the Shares on the Relevant Exchange at such time, as may be notified by the Issuer to Bondholders.

All Shares delivered to Bondholders on exercise of Conversion Rights will be fully paid and non-assessable on the relevant Delivery Date. In these Conditions, “**non-assessable**” (which term has no equivalent in Dutch) means that neither the Issuer nor any other Person has any right to require the holder of a Share to pay to the Issuer or any other Person any additional or further amount solely as a result of its holding of such Share.

“**Delivery Date**” means, in respect of any exercise of Conversion Rights, the date on which the relevant Reference Shares are issued and/or delivered to the relevant Bondholder, which shall be no later than the date falling five Trading Days following the relevant Conversion Date (or, in the case of Additional Shares, no later than the date falling five Trading Days following the relevant Reference Date).

(d) *Settlement Disruption Event*

If a Settlement Disruption Event occurs between the Conversion Date and the Delivery Date, and delivery of any Shares cannot be effected on the Delivery Date, then solely for purposes of this Section 5.3 the Delivery Date will be postponed until the first succeeding calendar day on which delivery of the Shares can take place through a national or international settlement system or in any other commercially reasonable manner.

(e) *No Payment or Adjustment for Accrued Dividends*

Shares made available to Bondholders on exercise of their Conversion Rights will rank *pari passu* in all respects with the fully paid Shares in issue on the relevant Delivery Date, except that Bondholders will not be entitled to receive any dividend or other distribution declared payable to holders of Shares by reference to a record date falling prior to the Delivery Date. No interest or other amount or adjustment will be paid or made in respect of any such dividend or dividends.

(f) *Ranking*

Where a Bondholder shall have exercised its Conversion Rights, the relevant Bondholder or Bondholders shall be entitled to all dividends, distributions and other entitlements determined by reference to a record date on or after the relevant Delivery Date.

(g) *Cash Alternative Amount*

The Issuer will pay the Cash Alternative Amount, together with any other amount due in satisfaction of the relevant exercise of Investor Cash Settlement Rights, by not later than five Trading Days following the last day of the Cash Alternative Calculation Period by transfer to a euro account with a bank in a city in which banks have access to the TARGET System in accordance with instructions given by the relevant Bondholder in the relevant Conversion Notice. The Bondholder must include sufficient details about the account and the financial institution in the Conversion Notice to permit the Issuer to make or to cause to be made such delivery by credit to such account.

## 5.4 Adjustment of Conversion Price

(a) *Non-Merger Events*

The Conversion Price will be adjusted by (unless otherwise specified) the Calculation Agent as follows under the following circumstances (each, an “**Adjustment Event**”):

(i) **Stock Split or Consolidation**

If there shall have occurred a subdivision or consolidation of the Shares (except for a Merger Event) into a greater or lesser number of Shares, the Conversion Price will be adjusted as of the date on which such event occurred by multiplying the Conversion Price then in effect by Formula 1 in Section 5.4(b) below.

(ii) **Granting of Rights or Warrants for Shares**

If the Issuer grants or causes to be granted a right, warrant or other security to existing holders of Shares as a class giving them the right to purchase or subscribe for additional Shares, (for the avoidance of doubt, other than constituting a Cash or Stock Dividend), the Conversion Price will be adjusted as of the Ex-Date of such grant (or, if later, as of the first date on which the adjusted Conversion Price is capable of being determined in accordance with these Conditions) by multiplying the Conversion Price then in effect by Formula 2 in Section 5.4(b) below.

(iii) **Sale of Shares at a Substantial Discount**

If the Issuer issues Shares for no consideration or sells Shares for cash, or causes Shares to be sold for cash, for a price that is less than 95 per cent. of the Current Market Price for the Shares on the date of first public announcement of the terms of such sale (other than in the circumstances the subject of Section 5.4(a)(ii) or 5.4(a)(iv)), the Conversion Price will be adjusted as of the date of issuance of the Shares by multiplying the Conversion Price then in effect by Formula 3 in Section 5.4(b) below.

(iv) **Free Distributions of Shares**

If the Issuer makes or causes to be made a free distribution of Shares by way of capitalisation of profits or reserves to existing holders of Shares as a class (other than constituting a Cash or Stock Dividend), the Conversion Price will be adjusted as of the Ex-Date of such distribution by multiplying the Conversion Price then in effect by Formula 1 in Section 5.4(b) below.

(v) **Free Distribution of an Equity-Linked Security**

If the Issuer makes or causes to be made a free distribution or dividend of securities that are convertible, exchangeable or otherwise exercisable into the Shares to existing holders of Shares as a class (other than in the circumstances the subject of Section 5.4(a)(ii)), the Conversion Price will be adjusted as of the Ex-Date of such free distribution or dividend (or, if later, as of the first date on which the adjusted Conversion Price is capable of being determined in accordance with these Conditions) by multiplying the Conversion Price then in effect by Formula 2 in Section 5.4(b) below.

(vi) **Granting of Rights or Warrants for an Equity-Linked Security**

If the Issuer grants or causes to be granted a right, warrant or other security to existing holders of Shares as a class giving them the right to purchase or subscribe for securities that are convertible, exchangeable or otherwise exercisable into the Shares, (other than in the circumstances the subject of Section 5.4(a)(v)) the Conversion Price will be adjusted as of the Ex-Date of such grant (or, if later, as of the first date on which the adjusted Conversion Price is capable of being determined in accordance with these Conditions) by multiplying the Conversion Price then in effect by Formula 2 in Section 5.4(b) below.

(vii) **Issuance of Equity-Linked Securities at a Substantial Discount**

If the Issuer issues for no consideration or issues and sells for cash, or causes to be issued and sold for cash, securities that are convertible, exchangeable or otherwise exercisable into, or grants rights or options to purchase or subscribe, Shares (other than in the circumstances the subject of Section 5.4(a)(v) or Section 5.4(a)(vi)) and the price per equity-linked security (determined on a per Share basis by reference to the initial conversion or exchange price or ratio) together with any other consideration received or receivable by the Issuer in respect of such equity-linked security (determined on a per Share basis as aforesaid) is less than 95 per cent. of the Current Market Price for the Shares on the date of first public announcement of the terms of such newly issued equity-linked securities, the Conversion Price will be adjusted as of the date of issuance of such equity-linked security by multiplying the Conversion Price then in effect by Formula 3 in Section 5.4(b) below.

(viii) **Granting of Rights or Warrants for other Property**

If the Issuer grants a right, warrant or other security giving the right to purchase at less than Fair Market Value (determined as at the Ex-Date of such grant), any other property (not covered by another Section of this Section 5.4(a)) to existing holders of Shares, the Conversion Price will be adjusted as of the Ex-Date of such grant (or, if later, as of the first date on which the adjusted Conversion Price is capable of being determined in accordance with these Conditions) by multiplying the Conversion Price then in effect by Formula 2 in Section 5.4(b) below.

(ix) **Cash or Stock Dividend**

If a Cash or Stock Dividend is paid or made on the Shares, where the Ex-Date in respect of such Cash or Stock Dividend falls on or after the Closing Date, then the Conversion Price will be adjusted as of the Ex-Date of such Cash or Stock Dividend (or, if later, as of the first date on which the adjusted Conversion Price is capable of being determined in accordance with these Conditions), by multiplying the Conversion Price then in effect by Formula 5 in Section 5.4(b) below.

(x) **Spin-off or Subdivision of Shares into Classes**

If the Issuer distributes, or causes to be distributed, to existing holders of Shares (a “**Spin-off Event**”) equity securities of any entity other than the Issuer (the “**Spin-off Securities**”), or subdivides (a “**Reclassification**”) the Shares into two or more separately quoted classes of equity securities (such new classes of equity securities, the “**Reclassified Securities**”), then one of the following adjustments will be made (as appropriate and subject as provided therein), as selected by the Issuer (in consultation with an Independent Financial Adviser) from among the options applicable to such event, effective as of the Ex-Date of any Spin-off Event or as of the effective date of any Reclassification (or, if later, as of the first date on which the adjusted Conversion Price or other applicable adjustment pursuant to this Section 5.4(a)(x) is capable of being determined in accordance with these Conditions):

- (1) in the case of a Spin-off Event or a Reclassification where the Spin-off Securities or Reclassified Securities, as the case may be, are publicly traded on a Recognised Exchange, the Shares shall thereafter comprise the securities comprising either the Shares immediately prior to such adjustment together with the Spin-off Securities (in the case of a Spin-off Event) or the Reclassified Securities (in the case of a Reclassification), in either case in the same amount as the Bondholder would have been entitled to receive had he converted the

Bonds into Shares immediately prior to the record date of such Spin-off Event or the effective date of such Reclassification;

- (2) in the case of a Spin-off Event, the Conversion Price will be adjusted by multiplying the Conversion Price then in effect by the fraction expressed by Formula 2 in Section 5.4(b) below;
- (3) in the case of a Spin-off Event, where the Spin-off Securities are publicly traded on a Recognised Exchange, within five Trading Days after the Ex-Date of the Spin-off Event, the Issuer will deliver the Spin-off Securities to each Bondholder in the same amount as the Bondholder would have been entitled to receive had he converted the Bonds into Shares immediately prior to the record date of such Spin-off Event or the effective date of such Reclassification; or
- (4) in the case of a Spin-off Event, where the Spin-off Securities are publicly traded on a Recognised Exchange, within five Trading Days after the Ex-Date of the Spin-off Event, the Issuer will pay to each Bondholder an amount in cash in euros (rounded to the nearest €0.01, with €0.005 rounded upwards) equal to the number of such Spin-off Securities as such Bondholder would have been entitled to receive had he converted the Bonds into Shares immediately prior to the record date of such Spin-off Event multiplied by the Fair Market Value of the Spin-off Securities on a per Share basis.

If the Issuer selects option (1):

- (y) in the case of a Spin-off Event, each Bond will thereafter be convertible into the Shares and the relevant Spin-off Securities (in the amount determined as provided in option (1) subject to adjustment *mutatis mutandis* as provided in these Conditions and for such purposes the initial Conversion Price in respect of such Spin-off Securities upon the relevant Spin-off Event shall be calculated by dividing the principal amount of each Bond by the number of Spin-off Securities the holder of such Bond would have been entitled to receive had he converted the Bonds into Shares immediately prior to the record date of such Spin-off Event).

No adjustment shall be made to the Conversion Price in respect of the Shares as a result of such Spin-off Event.

- (z) in the case of a Reclassification, the Bonds will thereafter be convertible into each class of the Reclassified Securities (in each case in the amount determined as provided in option (1) subject to adjustment *mutatis mutandis* as provided in these Conditions) and for such purposes the initial Conversion Price in respect of each class of Reclassified Securities upon the Reclassification shall be calculated by dividing the principal amount of each Bond by the number of such Reclassified Securities as the holder of such Bond would have been entitled to receive had he converted the Bonds into Shares immediately prior to the effective date of such Reclassification. If the Issuer shall select option (3) or (4) the Bonds will continue to be convertible into Shares as provided in these Conditions and no adjustment shall be made to the Conversion Price as a result of the relevant Spin-off Event.

(xi) **Share Buybacks by means of a Tender or Exchange Offer above Market**

If the Issuer or any of its Subsidiaries commences a tender or exchange offer for the Shares and the Fair Market Value of the cash and other consideration offered per Share (determined as at the Expiration Time) exceeds the value of “P” in Formula 4 in Section 5.4(b) below, the Conversion Price will be adjusted as of the Trading Day immediately following the Expiration Time (as defined below) (or, if later, as of the first date on which the adjusted Conversion Price is capable of being determined in accordance with these Conditions) by multiplying the Conversion Price then in effect by the fraction expressed by Formula 4 in Section 5.4(b) below. For the avoidance of doubt, this clause does not apply to on-market buybacks by the Issuer other than by means of a tender or exchange offer (such as on-market buybacks that are part of a buyback programme).

(b) *Adjustment Formulae*

The formulae to be applied in Section 5.4(a) above to adjust the Conversion Price are as follows:

Formula 1 (Sections 5.4(a)(i) and 5.4(a)(iv) above):

$$\frac{X}{Y}$$

where:

X = the number of Shares outstanding immediately prior to the occurrence of such event.

Y = the number of Shares outstanding immediately after the occurrence of such event.

Formula 2 (Sections 5.4(a)(ii), 5.4(a)(v), 5.4(a)(vi), 5.4(a)(viii) and 5.4(a)(x)(2) above):

$$\frac{P - d}{P}$$

where:

P = the Current Market Price on the first day on which the Shares are traded on the Relevant Exchange ex the relevant distribution, dividend, rights, warrants or other securities or other property.

d = the Fair Market Value per Share of the distribution, dividend, rights, warrants or securities or other property the subject of the relevant grant, as the case may be, such Fair Market Value as aforesaid being determined as at the first day on which the Shares are traded on the Relevant Exchange ex such distribution, dividend, rights, warrants or other securities or other property.

Formula 3 (Sections 5.4(a)(iii) and 5.4(a)(vii) above):

$$\frac{X + (Z \times c/P)}{X + Z}$$

where:

- X = the number of Shares outstanding immediately prior to the date of first public announcement of the terms of the relevant issue or sale.
- P = the Current Market Price on the date of first public announcement of the terms of the relevant issue or sale.
- Z = the number of (i) Shares to be sold or (ii) Shares into which such other securities to be sold or issued are convertible, exchangeable or otherwise exercisable.
- c = the Fair Market Value (determined as of the date of such first public announcement) of (i) the sale price per security of the Shares to be sold or (ii) the sale price of the securities to be sold or issued that are convertible, exchangeable or otherwise exercisable into the Shares, together with the Fair Market Value (determined as of the date of such first public announcement) of any other consideration received or receivable in respect of such securities, in each case determined on a per Share basis by reference to the initial issue, sale, conversion or exchange price or ratio, as the case may be (and in any such case if the relevant Shares or securities are issued for no consideration, the sale price shall be zero).

Formula 4 (Section 5.4(a)(xi) above):

$$\frac{N_1 \times P}{A + (N_2 \times P)}$$

where:

- $N_1$  = the number of Shares outstanding at the latest time (the “**Expiration Time**”) tenders or exchanges may be made pursuant to such tender or exchange offer (as it shall have been amended), inclusive of all Shares validly tendered or exchanged and not withdrawn as of the Expiration Time (the “**Purchased Shares**”).
- $N_2$  = the number of Shares outstanding at the Expiration Time, exclusive of any Purchased Shares.
- P = the Current Market Price of the Shares on the date of first public announcement of the terms of the tender or exchange offer.
- A = the Fair Market Value (determined as at the Expiration Time) of the aggregate consideration payable to holders of Shares based on the acceptance (up to any maximum specified in the terms of the tender or exchange offer) of the Purchased Shares.

Formula 5 (Section 5.4(a)(ix) above):

$$\frac{P - d}{P}$$

- P = the Current Market Price of the Shares on the Ex-Date in respect of the relevant Cash or Stock Dividend.
- d = the Fair Market Value of the relevant Cash or Stock Dividend per Share as at the Ex-Date of such Cash or Stock Dividend.

(c) *Change of Control*

If a Change of Control occurs, the Conversion Price (the “**Change of Control Conversion Price**”) in respect of any Bonds in respect of which Investor Cash Settlement Rights or Conversion Rights are exercised and the Conversion Date falls during the Change of Control Period, will be determined as set out below:

$$\text{COCCP} = \text{OCP} / (1 + (\text{CP} \times c/t))$$

where:

COCCP	=	means the Change of Control Conversion Price
OCP	=	means the Conversion Price in effect on the relevant Conversion Date
CP	=	means 40 per cent.
c	=	means the number of days from and including the date the Change of Control occurs to but excluding the Maturity Date
t	=	means the number of days from and including the Closing Date to but excluding the Maturity Date

(d) *Merger Events*

If, in respect of a Merger Event, the consideration for the Shares consists (or, at the option of the holder of the Shares, may consist) of New Securities, Other Consideration or Combined Consideration, then on or after the Merger Date each Bond shall be convertible into the number of New Securities, the amount of Other Consideration or the amount of Combined Consideration, as the case may be, to which a holder of the number of Shares which would have been required to be delivered had such Bond been converted immediately prior to the Merger Event would be entitled upon consummation of the Merger Event. Where pursuant to the foregoing the Bonds will be convertible into property including or comprising New Securities, the initial Conversion Price in respect of such New Securities shall be calculated by dividing the principal amount of each Bond by the number of such New Securities (determined as provided above), all as determined by an Independent Financial Adviser.

(e) *Other Adjustments*

No adjustment to the Conversion Price will be required other than those specified above. However, if the Issuer (following consultation with the Calculation Agent) determines in good faith that an adjustment should be made to the Conversion Price (or that a determination should be made as to whether an adjustment should be made) as a result of one or more events or circumstances not referred to above in this Section 5.4 (even if the relevant event or circumstances are specifically excluded from the operation of any or all of Sections 5.4(a) and 5.4(c) above), the Issuer shall, at its own expense and acting reasonably, in consultation with the Calculation Agent, request an Independent Financial Adviser to determine as soon as practicable what adjustment (if any) to the Conversion Price is fair and reasonable to take account of such events or circumstances and the date on which such adjustment should take effect. Upon such determination, such adjustment (if any) shall be made and shall take effect in accordance with such determination.

(f) *Procedures*



Except as otherwise provided, the Calculation Agent (or, to the extent so specified in these Conditions, an Independent Financial Adviser) will make all adjustments to the Conversion Price pursuant to Sections 5.4(a), 5.4(c), 5.4(d) and 5.4(e) above, and its calculation shall be binding on all parties except in the event of bad faith or manifest or proven error.

The Calculation Agent shall act solely as agent of the Issuer and will not thereby assume any obligation towards, or relationship of agency or trust with, and shall not incur any liability in respect of anything done or omitted to be done when acting in such Calculation Agency capacity as against the Trustee or the Bondholders, and the Calculation Agent shall not be required or be under any duty to monitor whether any event or other circumstance shall have occurred that would give rise to an adjustment to the Conversion Price. The Calculation Agent shall not be under any duty to monitor whether any event or circumstance has occurred or exists or may occur or exist which would entitle the Bondholders to exercise Investor Cash Settlement Rights or Conversion Rights.

The Calculation Agent may consult, at the expense of the Issuer, on any matter (including but not limited to, any legal matter), any legal or other professional adviser and it shall be able to rely upon, and it shall not be liable and shall incur no liability as against the Trustee or the Bondholders in respect of anything done, or omitted to be done, relating to that matter in good faith in accordance with, that adviser's opinion.

Any Independent Financial Adviser appointed pursuant to these Conditions will not assume any obligation towards or relationship of agency or trust with, and shall not be liable and shall incur no liability in respect of anything done, or omitted to be done in good faith, in accordance with these Conditions as against the Trustee or the Bondholders.

All references in the foregoing provisions to the number of Shares outstanding shall exclude Shares held by or on behalf of the Issuer or any Subsidiary.

None of the foregoing adjustment provisions shall apply to any bona fide plan for the benefit of employees, directors or consultants of the Issuer or any of its Subsidiaries now or hereafter in effect.

The Conversion Price resulting from any adjustment provided for in Section 5.4(a), 5.4(c) or 5.4(e) above will be rounded down to the nearest 0.0001, subject to Section 5.4(g).

(g) *De Minimis Exception*

No adjustment to the Conversion Price pursuant to Sections 5.4(a), 5.4(c) and 5.4(e) above will be made if the adjustment would result in a change in the Conversion Price of less than 1 per cent. of the then prevailing Conversion Price, provided that any adjustment that would otherwise be required to be made and any amount by which the Conversion Price has been rounded down pursuant to Section 5.4(f) above will be carried forward and taken into account in any subsequent adjustment.

(h) *Notice*

The Issuer shall give notice to the Principal Paying, Transfer and Conversion Agent, the Trustee and the Bondholders in accordance with Section 15.7 of any change (or, at the Issuer's discretion, any prospective change) to the Conversion Price as soon as reasonably practicable following such change (or, if the notice is given in respect of a prospective change, at such time as the Issuer shall determine).

(i) *No Adjustment*

No adjustment will be made to the Conversion Price pursuant to this Section 5.4 where Shares or other securities (including rights, warrants and options) are issued, offered, exercised, allotted, purchased, appropriated, modified or granted to, or for the benefit of, employees or former employees (including directors holding or formerly holding executive office or non-executive office or the personal service company of any such person) or their spouses or relatives, in each case, of the Issuer or any of its Subsidiaries or any associated company or to a trustee or trustees to be held for the benefit of any such person, in any such case pursuant to any share or option scheme or pursuant to any dividend reinvestment plan or similar plan or scheme.

For the avoidance of doubt, other than an adjustment to the Conversion Price in respect of a consolidation of Shares pursuant to Section 5.4(a)(i), no adjustment to the Conversion Price shall result in an increase thereof.

The Conversion Price shall not in any event be reduced to below the nominal value of the Shares or any minimum value permitted by applicable laws or regulations or be reduced so that on conversion of the Bonds, Shares would fall to be issued in circumstances not permitted by applicable laws or regulations. The Issuer undertakes that it shall not take any action, and shall procure that no action is taken, that would otherwise result in an adjustment to the Conversion Price to below such nominal value or any minimum level permitted by applicable laws or regulations or that would otherwise result in Shares that would be required to be issued or transferred and delivered in circumstances not being permitted by applicable laws or regulations.

(j) *Retroactive Adjustment*

If a Retroactive Adjustment occurs in relation to any exercise of Conversion Rights, the Issuer shall procure that there shall be issued or transferred and delivered to the relevant Bondholder, in accordance with the instructions contained in the relevant Conversion Notice, such additional number of Shares (if any) (the “**Additional Shares**”) as, together with the Shares issued or transferred and delivered on the relevant exercise of Conversion Rights, is equal to the number of Shares which would have been required to be issued or transferred and delivered on such exercise if the relevant adjustment to the Conversion Price had been made and become effective immediately prior to the relevant Conversion Date, all as determined in good faith by the Calculation Agent or an Independent Adviser, provided that if in the case of Section 5.4(a)(i), 5.4(a)(ii), 5.4(a)(iv), 5.4(a)(v), 5.4(a)(vi), 5.4(a)(viii), 5.4(a)(ix) or 5.4(a)(x) the relevant Bondholder shall be entitled to receive the relevant Shares, Cash or Stock Dividends or Securities in respect of the Shares to be issued or transferred and delivered to it, then no such Retroactive Adjustment shall be made in relation to the relevant event and the relevant Bondholder shall not be entitled to receive Additional Shares in relation thereto.

## **5.5 Stamp, Transfer, Registration or other Taxes or Duties**

The Issuer shall pay all capital, stamp, issue, registration, transfer and other taxes or duties imposed by The Netherlands, or any jurisdiction in which the Issuer may be domiciled or resident or to whose taxing jurisdiction the Issuer may generally be subject or the jurisdiction where the Relevant Exchange is located, payable upon delivery of Shares on exercise of Conversion Rights (“**Specified Taxes**”). If the Issuer shall fail to pay any Specified Taxes, the relevant Bondholder shall be entitled to tender and pay the same and the Issuer as a separate and independent stipulation, covenants to reimburse and indemnify each Bondholder in respect of any payment thereof and any penalties payable in respect thereof.

A Bondholder exercising Conversion Rights must pay directly to the relevant authorities any capital, stamp, issue, registration, transfer and other taxes or duties arising on the exercise of such Conversion Rights, other than any Specified Taxes. A Bondholder must also pay all, if any, taxes imposed on it and arising by reference to any disposal or deemed disposal by it of a Bond or interest therein in connection with the exercise of Investor Cash Settlement Rights or Conversion Rights by it.

Any duties or taxes payable by a Bondholder pursuant to this Section 5.5 in the jurisdiction of the Conversion Agent with whom the relevant Conversion Notice is deposited shall be required to be paid to such Conversion Agent as a condition precedent to conversion. None of the Issuer, the Trustee or any Agent will impose any charge upon the exercise of Investor Cash Settlement Rights or Conversion Rights.

## **5.6 Repurchase of Bonds**

The Issuer and any Subsidiary may at any time purchase Bonds at any price in the open market or in privately negotiated transactions, provided that such purchases are in compliance with applicable law and stock exchange regulations. All Bonds which are so purchased will forthwith be cancelled and may not be reissued or resold, and the principal amount of the Global Bond Certificate will be reduced.

## **6 Withholding Taxes**

All payments of principal, interest and other amounts made by the Issuer in respect of the Bonds (including any Cash Alternative Amounts) will be made without deduction or withholding for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied, collected, withheld or assessed by or on behalf of any Taxing Jurisdiction, unless the withholding or deduction of such taxes, duties, assessments or governmental charges is required by law or regulation or by the official interpretation thereof. If any corporation assumes the Issuer's rights and obligations under the Bonds, the term "**Taxing Jurisdiction**" will include each jurisdiction in which such corporation is resident for tax purposes from the time it assumes the Issuer's rights and obligations.

In the event that any such withholding or deduction is required to be made, the Issuer will pay such additional amounts as will result in the receipt by the Bondholders of the amounts which would otherwise have been receivable had no such withholding or deduction been required, except that no such additional amount shall be payable in respect of interest on any Bond to a Bondholder (or to a third party on behalf of a Bondholder) who is subject to such taxes, duties, assessments or governmental charges in respect of such Bond by reason of its having some connection with such Taxing Jurisdiction otherwise than merely by holding the Bond or by the receipt of amounts in respect of the Bond.

References in these Conditions to principal and/or interest and/or any other amounts payable in respect of the Bonds shall be deemed also to refer to any additional amounts which may be payable under this Section 6 or any undertaking or covenant given in addition thereto or in substitution therefor pursuant to the Trust Deed.

The provisions of this Section 6 shall not apply in respect of any payments of interest which fall due after the relevant Tax Redemption Date in respect of any Bonds which are the subject of a Bondholder election pursuant to Section 4.2.

## **7 Covenants**

So long as any Bond remains outstanding, save with the approval of an Extraordinary Resolution or with the prior written approval of the Trustee where, in its opinion, it is not materially prejudicial to the interest of the Bondholders to give such approval:

- (a) *Covenant not to Merge, Consolidate, Amalgamate, Sell, Lease or Transfer Assets under Certain Conditions:* The Issuer will not consolidate or amalgamate with or merge into any other corporation or corporations (other than where the Issuer is the continuing entity), or sell, lease, or transfer all or substantially all its assets, unless (A) the corporation formed by such consolidation or amalgamation, or into which the Issuer shall have been merged, or which shall have acquired such assets upon any such sale, lease or transfer shall have expressly assumed the due and punctual payment of the principal of and interest on all the Bonds and the due and punctual performance and observance of all of the covenants and conditions of the Bonds to be performed or observed by the Issuer and (B) (x) each Bond shall thereafter be convertible into the class and amount of Shares and other securities, property and assets (including cash) receivable upon such consolidation, amalgamation or merger or sale, lease or transfer by a holder of the number of Shares which would have been required to be delivered had such Bond been converted into Shares immediately prior to such merger, consolidation, amalgamation, sale, lease or transfer or (y) if, in the case of any such sale, lease or transfer, no such Shares or other securities, property or assets are receivable by holders of Shares, the Bonds will be convertible into Shares or common stock or the like (comprising equity securities) of the corporation which shall have acquired the relevant assets on such basis and with a Conversion Price (subject to adjustment as provided in these Conditions) as determined in good faith by an Independent Financial Adviser. For the purposes thereof, the Issuer shall execute and deliver to each of the Agents a supplement to the Agency Agreement satisfactory to the Principal Paying, Transfer and Conversion Agent. Such supplement will provide for adjustments which will be as nearly equivalent as may be practicable to the adjustments provided for in these Conditions. The provisions of this Section 7(a) will apply in the same way to any subsequent merger, consolidation, amalgamation, sale, lease or transfer. In case of any such consolidation, merger, sale, lease or transfer, and following such an assumption by the successor corporation, such successor corporation will succeed to and be substituted for the Issuer with the same effect as if it had been named herein. In the event of any such sale, lease or transfer, following such an assumption by the successor corporation, the Issuer will be discharged from all obligations and covenants under the Bonds and the Agency Agreement and may be liquidated and dissolved.
- (b) *Reservation of Share Capital:* The Issuer undertakes that it will, at all times following the date on which the Physical Settlement Notice is given, maintain treasury shares or authorised share capital, free of pre-emption rights sufficient in aggregate for the issuance of Shares that would be required to be delivered to Bondholders on exercise of Conversion Rights in respect of all outstanding Bonds from time to time.
- (c) *Listing of Shares:* The Issuer undertakes to use all reasonable endeavours to ensure that the Shares issued upon exercise of the Conversion Rights will be admitted to listing and trading on the Relevant Exchange and will be listed, quoted or dealt in on any other stock exchange or securities market on which the Shares may then be listed or quoted or dealt in.
- (d) *Listing of Bonds:* The Issuer undertakes to use its reasonable endeavours to cause the Bonds to be admitted to trading on the Open Market (*Freiverkehr*) of the Frankfurt Stock Exchange or another EEA or United Kingdom stock exchange or trading platform (the “**Admission**”) no later than 30 May 2020 and use its reasonable endeavours to maintain such Admission for so long as any of the Bonds remain outstanding.
- (e) *Terms and Conditions:* The Issuer undertakes that by no later than the Closing Date it will (i) publish a copy of these Conditions (including a legend regarding the intended target market for the Bonds) on its website and (ii) thereafter (and for so long as any of the Bonds remain outstanding) maintain the availability of these Conditions (as the same may be amended in accordance with their terms) on such website.

- (f) *Independent Financial Adviser*: The Issuer undertakes, whenever a function expressed in these Conditions to be performed by an Independent Financial Adviser falls to be performed, to appoint and (for so long as such function is required to be performed) maintain an Independent Financial Adviser.

## 8 Events of Default

If any of the following events (each an “**Event of Default**”) occurs and is continuing, the Trustee at its discretion may, and if so requested by a meeting of Bondholders shall, give notice to the Issuer at its registered office that the Bonds are, and they shall accordingly immediately become, due and repayable at their Redemption Price together with accrued interest (if any) to the date of payment or, in the case of a failure to give a Physical Settlement Notice if required to do so under Section 5.1, the Fair Bond Value Redemption Price (provided that for such purpose the Fair Bond Value Calculation Period shall be deemed to commence on the Trading Day following the Shareholder Event Notice Deadline):

- (a) *Payment Default*: the Issuer fails to pay the principal of or interest on or any other amount in respect of any Bonds (including any Cash Alternative Amount) when the same becomes due and payable and such failure continues for a period of 10 days; or
- (b) *Conversion*: there is a failure to issue or transfer and deliver Shares upon exercise of Conversion Rights when the same is required to be delivered or otherwise a failure to duly and punctually comply with any of the Issuer’s obligations in respect of the exercise of Conversion Rights and such default continues for a period of seven days; or
- (c) *Breach of Agreement*: a default in the observance or performance of any other covenant or agreement contained in these Conditions or the Trust Deed which default continues for a period of 30 days after the Issuer receives written notice specifying the default (and demanding that such default be remedied) from the Trustee; or
- (d) *Cross-Default*: (i) any other present or future indebtedness of the Issuer or any of its Material Subsidiaries for or in respect of moneys borrowed or raised becomes (or becomes capable of being declared) due and payable prior to its stated maturity by reason of any actual or potential default, event of default or the like (howsoever described), or (ii) any such indebtedness is not paid when due or, as the case may be, within any originally applicable grace period, or (iii) the Issuer or any of its Material Subsidiaries fails to pay when due any amount payable by it under any present or future guarantee for, or indemnity in respect of, any moneys borrowed or raised provided that the aggregate amount of the relevant indebtedness, guarantees and indemnities in respect of which one or more of the events mentioned above in this Section 8(d) have occurred equals or exceeds €15,000,000 or its equivalent (as reasonably determined by the Trustee); or
- (e) *Insolvency*:
- (i) the Issuer or any Material Subsidiary:
    - (A) is unable or admits inability to pay its debts generally as they fall due;
    - (B) suspends making payments on any of its debts generally; or
    - (C) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling all or a material part of its indebtedness.
  - (ii) a moratorium is declared in respect of any indebtedness of the Issuer or any Material Subsidiary; or
- (f) *Insolvency Proceedings*:

- (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Issuer or any Material Subsidiary other than a solvent liquidation or reorganisation of any Material Subsidiary (other than the Issuer);
- (ii) a composition, compromise, assignment or arrangement with any creditor of the Issuer or any Material Subsidiary;
- (iii) the appointment of a liquidator (other than in respect of a solvent liquidation of the Issuer or any Material Subsidiary), receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Issuer or any Material Subsidiary or any of its assets, which, in the case of an involuntary case or proceeding, remains unstayed and in effect for a period of 90 consecutive days; or
- (iv) any analogous procedure or step to those described in (i) to (iii) above is taken in any jurisdiction; or

This paragraph (f) shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 30 days of commencement.

- (g) *Creditors' Process*: any expropriation, attachment, sequestration, distress or execution affects any material part of the asset or assets of the Issuer or any Material Subsidiary provided that it shall not be an Event of Default under this paragraph (g) if the relevant expropriation, attachment, sequestration, distress or execution is released or discharged within, in respect of an interlocutory attachment (*conservatoir beslag*), 30 days and, in respect of any other attachment, 14 days; or
- (h) *Analogous Proceedings*: there occurs, in relation to any Material Subsidiary, in any jurisdiction to which it or any of its assets are subject, any event which reasonably corresponds with any of those mentioned in Section 8(e) to 8(g) above; or
- (i) *Illegality*: it is or will become unlawful for the Issuer to perform or comply with any one or more of its obligations under any of the Bonds or the Trust Deed; or
- (j) *Cessation of Business*: the Issuer or any Material Subsidiary ceases (or threatens to cease) to carry on all or a substantial part of its business.

## 9 Meetings of Bondholders, Modification and Waiver

### 9.1 Meetings of Bondholders

The Trust Deed contains provisions for convening meetings of Bondholders to consider matters affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of any of these Conditions or any provisions of the Trust Deed. Such a meeting may be convened by the Issuer or the Trustee and shall be convened by the Issuer if requested in writing by Bondholders holding not less than 10 per cent. in principal amount of the Bonds for the time being outstanding. The quorum for any meeting convened to consider an Extraordinary Resolution will be one or more persons holding or representing a clear majority in principal amount of the Bonds for the time being outstanding, or at any adjourned meeting one or more persons being or representing Bondholders whatever the principal amount of the Bonds so held or represented, unless the business of such meeting includes consideration of proposals, *inter alia*, (i) to change the Maturity Date or the dates on which interest is payable in respect of the Bonds, (ii) to modify the circumstances in which the Issuer or Bondholders are entitled to redeem the Bonds pursuant to Section 4.1, 4.2, 4.3 or 4.4 (other than removing the right of the Issuer to redeem the Bonds pursuant to Section 4.1 or 4.2), (iii) to reduce or cancel the principal amount of, or interest on, the Bonds or to reduce the amount payable on redemption of the Bonds, (iv) to modify the basis for calculating the interest payable in respect of

the Bonds, (v) to modify the provisions relating to, or cancel, Investor Cash Settlement Rights or Conversion Rights or the rights of Bondholders to receive Shares or a Cash Alternative Amount on exercise of Investor Cash Settlement Rights or Conversion Rights, as applicable, pursuant to these Conditions (other than a reduction to the Conversion Price), (vi) to increase the Conversion Price (other than in accordance with these Conditions), (vii) to modify the basis for calculating the Cash Alternative Amount, (viii) to change the currency of the denomination of the Bonds or of any payment in respect of the Bonds, (ix) to change the governing law of the Bonds, the Trust Deed or the Agency Agreement, or (x) to modify the provisions concerning the quorum required at any meeting of Bondholders or the majority required to pass an Extraordinary Resolution, in which case the necessary quorum will be one or more persons holding or representing not less than two-thirds, or at any adjourned meeting not less than one-half, in principal amount of the Bonds for the time being outstanding. Any Extraordinary Resolution duly passed by the Bondholders shall be binding on all Bondholders (whether or not they were present at any meeting at which such resolution was passed and whether or not they voted on such resolution).

The Trust Deed provides that (i) a resolution in writing signed by or on behalf of the holders of not less than 75 per cent. of the aggregate principal amount of Bonds outstanding (which may be contained in one document or several documents in the same form, each signed by or on behalf of one or more Bondholders) or (ii) consents given by way of electronic consent through the relevant clearing system(s) (in a form satisfactory to the Trustee) by or on behalf of the holders of not less than 75 per cent. of the aggregate principal amount of the Bonds outstanding, shall, in any such case, be effective as an Extraordinary Resolution passed at a meeting of Bondholders duly convened and held.

## **9.2 Modification and Waiver**

The Trustee may agree, without the consent of the Bondholders, to (i) any modification of any of the provisions of the Trust Deed, any trust deed supplemental to the Trust Deed, the Agency Agreement, any agreement supplemental to the Agency Agreement, the Bonds or these Conditions which in the Trustee's opinion is of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of law, and (ii) any other modification to the Trust Deed, any trust deed supplemental to the Trust Deed, the Agency Agreement, any agreement supplemental to the Agency Agreement, the Bonds or these Conditions (except as mentioned in the Trust Deed), and any waiver or authorisation of any breach or proposed breach, of any of the provisions of the Trust Deed, any trust deed supplemental to the Trust Deed, the Agency Agreement, any agreement supplemental to the Agency Agreement, the Bonds or these Conditions which is, in the opinion of the Trustee, not materially prejudicial to the interests of the Bondholders. The Trustee may, without the consent of the Bondholders, determine that any Event of Default should not be treated as such, provided that in the opinion of the Trustee, the interests of Bondholders will not be materially prejudiced thereby. Any such modification, authorisation, waiver or determination shall be binding on the Bondholders and, if the Trustee so requires, shall be notified to the Bondholders promptly in accordance with Section 15.7.

## **9.3 Entitlement of the Trustee**

In connection with the exercise of its functions (including but not limited to those referred to in this Section 9) the Trustee shall have regard to the interests of the Bondholders as a class but shall not have regard to any interests arising from circumstances particular to individual Bondholders (whatever their number) and, in particular but without limitation, shall not have regard to the consequences of the exercise of its trusts, powers or discretions for individual Bondholders resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory, and the Trustee shall not be entitled to require, nor shall any Bondholder be entitled to claim, from the Issuer or any other person any indemnification or

payment in respect of any tax consequence of any such exercise upon individual Bondholders, except to the extent provided for in these Conditions or the Trust Deed.

## 10 Enforcement

The Trustee may at any time, at its discretion and without notice, take such proceedings, actions or steps (including lodging an appeal in any proceedings) against the Issuer as it may think fit to enforce the provisions of the Trust Deed and the Bonds, but it shall not be bound to take any such proceedings, actions or steps in relation to the Trust Deed or the Bonds unless (i) it shall have been so directed by an Extraordinary Resolution of the Bondholders or so requested in writing by the holders of at least one-quarter in principal amount of the Bonds then outstanding, and (ii) it shall have been indemnified and/or secured and/or prefunded to its satisfaction. Notwithstanding the above:

- (a) the Trustee may refrain from taking any proceedings, actions or steps in any jurisdiction if the taking of such action in that jurisdiction would, in its opinion based upon legal advice in the relevant jurisdiction, be contrary to any law of that jurisdiction; and
- (b) the Trustee may refrain from taking any proceedings, actions or steps in any jurisdiction if in its opinion based upon legal advice in the relevant jurisdiction it would or may render it liable to any person in that jurisdiction or, it would or may not have the power to do the relevant thing in that jurisdiction by virtue of any applicable law in that jurisdiction or if it is determined by any court or other competent authority in that jurisdiction that it does not have such power.

No Bondholder shall be entitled to (i) take any proceedings, actions or steps against the Issuer to enforce the performance of any of the provisions of the Trust Deed or the Bonds or (ii) take any other proceedings, actions or steps (including lodging an appeal in any proceedings) in respect of or concerning the Issuer, in each case unless the Trustee, having become bound so to take any such proceedings, actions or steps, fails so to do within a reasonable period and the failure shall be continuing.

## 11 The Trustee

The Trust Deed contains provisions for the indemnification of the Trustee and for its relief from responsibility, including:

- (a) provisions relieving it from taking any proceedings, actions or steps unless indemnified and/or secured and/or prefunded to its satisfaction; and
- (b) provisions limiting or excluding its liability in certain circumstances.

The Trustee is entitled to enter into business transactions with the Issuer and any entity related to the Issuer without accounting for any profit.

The Trust Deed provides that, when determining whether an indemnity or any security or pre-funding is satisfactory to it, the Trustee shall be entitled (i) to evaluate its risk in any given circumstance by considering the worst-case scenario and (ii) to require that any indemnity or security or prefunding given to it by the Bondholders or any of them be given on a joint and several basis and be supported by evidence satisfactory to it as to the financial standing and creditworthiness of each counterparty and/or as to the value of the security and an opinion as to the capacity, power and authority of each counterparty and/or the validity and effectiveness of the security.

The Trustee may rely without liability to Bondholders on a report, confirmation or certificate or any advice of any accountants, financial advisers, financial institution or other expert, whether or not addressed to it and whether their liability in relation thereto is limited (by its terms or by any engagement letter relating thereto entered into by the Trustee or in any other manner) by reference to a monetary cap, methodology or otherwise. The Trustee may accept and shall be entitled to rely on any such report, confirmation or certificate



or advice and such report, confirmation or certificate or advice shall be binding on the Issuer, the Trustee and the Bondholders.

## 12 Agents

### 12.1 Agent to the Issuer

The Agents and the Calculation Agent, when acting in that capacity, act solely as agents of the Issuer (and, if applicable after an Event of Default has occurred, of the Trustee) and do not assume any obligation towards or relationship of agency or trust for or with any Bondholder or any Person holding an interest in respect of any Bond through an account with a financial intermediary or otherwise.

### 12.2 Appointment and Termination of Agents and the Calculation Agent

The Issuer has initially appointed the Principal Paying, Transfer and Conversion Agent, the Registrar, the Conversion Agents and the Calculation Agent for the Bonds as stated above. The Issuer may at any time, with the approval of the Trustee, appoint additional or other Agents or Calculation Agent and terminate the appointment of such Agents or Calculation Agent. Notice of any such termination or appointment and of any change in the office through which any Agent will act will be promptly given to each Bondholder in the manner described in Section 15.7 hereof.

### 12.3 Duty to Maintain Office

As long as the Bonds, including in the event that some but not all Bonds originally issued, are outstanding, the Issuer shall maintain a Principal Paying, Transfer and Conversion Agent and a Calculation Agent which shall each be a financial institution of international repute or a financial adviser with appropriate expertise.

## 13 Securities Holding Structure

### 13.1 Form and Custody of Bonds

The entire issue of the Bonds will be initially evidenced by a global certificate (the “**Global Bond Certificate**”) in fully registered form which will be deposited on the Closing Date with and registered in the name of a common depository or its nominee for Euroclear Bank SA/NV (“**Euroclear**”) and Clearstream Banking S.A. (“**Clearstream, Luxembourg**”) and together with Euroclear, the “**Central Securities Depositories**” and each a “**Central Securities Depository**”).

### 13.2 Multi-Tiered Holding System

As long as the Global Bond Certificate is on deposit with the Central Securities Depositories or any of their respective successors, then:

- (a) any Person wishing to acquire, hold or transfer an interest in respect of the Bonds must do so through an account with a Central Securities Depository or any of their respective successors or another securities intermediary holding an equivalent interest in respect of the Bonds directly or indirectly through a Central Securities Depository or any of its successors;
- (b) there will be one or more financial intermediaries standing between each such accountholder and the underlying Bonds;
- (c) the Issuer and the Trustee will have the right to treat the Central Securities Depositories or their respective successors or agents as the holders or Persons exclusively entitled to receive interest and other payments or property in respect of or in exchange for the Bonds, including the Shares, and otherwise to exercise all the rights and powers with respect to any Bond;
- (d) the obligation of the Issuer to make payments of interest and principal (except as provided by a Bondholder pursuant to a Change of Control Put Exercise Notice or Conversion Notice) and

other amounts with respect to any Bond shall be discharged at the time payment in the appropriate amount is made in accordance with the Agency Agreement to a Central Securities Depository or its successor or agent;

- (e) the obligation of the Issuer to deliver Shares upon the exercise by any Bondholder of any Conversion Rights shall be discharged at the time the Shares are delivered to a Central Securities Depository or its successor or agent in accordance with Section 5.3; and
- (f) any Person that acquires, holds or transfers interests in respect of any Bond through accounts with a Central Securities Depository or with any other financial intermediary will be subject to the laws and contractual provisions governing such Person's relationship with its financial intermediary, as well as the laws and contractual provisions governing the relationship between its financial intermediary and each other financial intermediary, if any, standing between itself and the Global Bond Certificate and, the Bonds Register to determine (A) the legal nature of its interest in respect of any Bond and whether such interest is protected against the insolvency of its financial intermediary or any financial intermediary standing between such investor and the underlying Bonds and, the Bonds Register, (B) whether a Central Securities Depository or its successor, and each other securities intermediary, if any, standing between such Person and the underlying Bonds and, the Bonds Register, is required to enforce the payment and other terms of the Bonds against the Issuer or to put its accountholders in a position to do so directly and (C) whether such Person's financial intermediary and each financial intermediary, if any, standing between such Person and the underlying Bonds and, the Bonds Register, is required to pass on to such Person the benefits of ownership of any Bonds.

### **13.3 Right to Obtain Individual Certificates in Exchange for the Global Bond Certificate**

Except as described in this Section 13.3, the Global Bond Certificate will not be exchangeable for individual certificates each evidencing a single Bond or less than the entire issue of the Bonds. Subject to the foregoing sentence, if (A) a Central Securities Depository or its successor notifies the Issuer that it is unwilling or unable to continue as depository and a successor depository is not appointed within 14 days, (B) an Event of Default shall have occurred and the maturity of the Bonds shall have been accelerated in accordance with the terms of the Bonds or (C) the Issuer shall have decided in its sole discretion that the Bonds should no longer be evidenced solely by the Global Bond Certificate, then upon having prepared a deed or deeds with a fixed date, governed by Dutch law, between the relevant Bondholder, the relevant Central Securities Depository and the relevant accountholders of such Central Securities Depository with an interest in such Bonds:

- (a) the Issuer will promptly and in any event not later than 10 Business Days thereafter cause individual certificates each evidencing a single Bond or such other number of Bonds as specified by the Central Securities Depositories or their respective successors to be duly executed, authenticated and delivered to the Central Securities Depositories or their respective successors and, registered in the name of the relevant Central Securities Depository or its nominee, against surrender of the Global Bond Certificate by the Central Securities Depositories or their respective successors;
- (b) notwithstanding any other provision of these Conditions or the Agency Agreement, the individual certificates so delivered to the Central Securities Depositories or their respective successors may be delivered by them to their respective accountholders in such amounts as shall correspond to the amount of Bonds credited to the accounts of such accountholders on the records of the Central Securities Depositories or their respective successors at the time of such delivery and, the Issuer will register the Bonds evidenced by such individual certificates in such names and amounts as the Central Securities Depositories or their respective

successors shall specify to the Issuer or the Principal Paying, Transfer and Conversion Agent, which specification shall serve as notification of transfer (*mededeling*); and

- (c) if for any reason individual certificates are not issued, authenticated and delivered to the Central Securities Depositories or their respective successors in accordance with Sections 13.3(a) and 13.3(b) above, then:
- (i) each Central Securities Depository or its respective successor may provide to each of its accountholders a statement of each accountholder's interest in the Bonds evidenced by the Global Bond Certificate held by such Central Securities Depository or its successor, together with a copy of the Global Bond Certificate; and
  - (ii) notwithstanding any other provision of these Conditions or of the Agency Agreement, each such accountholder or its successors and assigns without prejudice to Section 10 above, (x) shall have a claim, directly against the Issuer, for the payment of any amount due or to become due in respect of such accountholder's interest in the Bonds evidenced by the Global Bond Certificate, and shall be empowered to bring any claim, to the extent of such accountholder's interest in the Bonds evidenced by the Global Bond Certificate and to the exclusion of such Central Securities Depository or its successor, that as a matter of law could be brought by the holder of the Global Bond Certificate and the Person in whose name the Bonds are registered and (y) may, without the consent and to the exclusion of such Central Securities Depository or its successor, file any claim, take any action or institute any proceeding, directly against the Issuer, to compel the payment of such amount or enforce any such rights, as fully as though the interest of such accountholder in the Bonds evidenced by the Global Bond Certificate were evidenced by an individual certificate in such accountholder's actual possession and as if an amount of Bonds equal to such accountholder's stated interest were registered in such accountholder's name and without the need to produce the Global Bond Certificate in its original form. This Section 13.3(c)(ii) constitutes an unconditional and irrevocable third party stipulation (*derdenbeding*, as used in Article 6:253 of The Netherlands Civil Code).

For purposes of this Section 13.3, the account records of a Central Securities Depository or its successor will, in the absence of manifest error, be conclusive evidence of the identity of each accountholder that has any interest in the Bonds evidenced by the Global Bond Certificate held by such Central Securities Depository or its successor and the amount of such interest. Individual certificates will be issued in denominations of €100,000 of that amount and, when delivered against surrender of such Global Bond Certificate shall be issued in registered form without coupons.

#### **13.4 Direct Holding System**

Subject to Section 13.2, if the Global Bond Certificate is exchanged for individual certificates each evidencing a single Bond or less than the entire issue of Bonds, then:

- (a) the Issuer and the Trustee will have the right to treat each Bondholder as the holder and Person exclusively entitled to receive interest and other payments or property in respect of or in exchange for the Bonds, including the Shares, and otherwise to exercise all the rights and powers with respect to any Bond;
- (b) the obligation of the Issuer to make payments of interest and principal and other amounts with respect to the Bonds shall be discharged at the time payment in the appropriate amount is made in accordance with the Agency Agreement to each Bondholder; and

- (c) the obligation of the Issuer to deliver Shares upon the exercise by any Bondholder of any Conversion Rights shall be discharged at the time the Shares are delivered to such Bondholder in accordance with Section 5.3.

### 13.5 Lost, Stolen or Mutilated Certificates

In case any certificate evidencing one or more Bonds shall become mutilated, defaced or apparently destroyed, lost or stolen, the Issuer may execute, and, upon the request of the Issuer, the Registrar shall authenticate and deliver, a new certificate evidencing such Bonds, bearing a number not contemporaneously outstanding, in exchange and substitution for the mutilated or defaced certificate evidencing such Bonds or in lieu of and in substitution for the apparently destroyed, lost or stolen certificate evidencing such Bonds. In every case the applicant for a substitute certificate evidencing such Bonds shall furnish to the Issuer and to the Registrar such security or indemnity as may be required by them to indemnify and defend and to save each of them and any agent of the Issuer or the Registrar harmless and, in every case of destruction, loss or theft, evidence to their satisfaction of the apparent destruction, loss or theft of such certificate evidencing such Bonds and of the ownership thereof. Upon the issuance of any substitute certificate evidencing such Bonds, the Issuer may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Registrar) connected therewith together with such indemnity or security as is reasonably required by the Issuer and the Registrar.

## 14 Definitions

As used herein, the following capitalised terms have the meanings set forth below:

“**Additional Shares**” has the meaning set forth in Section 5.4(j)

“**Agency Agreement**” has the meaning set forth in Section 1.1.

“**Agents**” has the meaning set forth in Section 1.1.

“**Bond Market Price**” means, in respect of any Trading Day, as determined by an Independent Financial Adviser, the arithmetic average of the Mid-Market Bond Prices in respect of such Trading Day from at least three Leading Institutions as such Independent Financial Adviser shall consider appropriate (or such lesser number of such Leading Institutions (if any) as such Independent Financial Adviser is able to obtain a Mid-Market Bond Price from), provided that where such Independent Financial Adviser is able to obtain only one such Mid-Market Bond Price, the Bond Market Price shall be such Mid-Market Bond Price, and provided further that where such Independent Financial Adviser is not able to obtain any Mid-Market Bond Price, the Bond Market Price shall be considered (by such Independent Financial Adviser in making its determination) not to be available in respect of such Trading Day.

“**Bondholder**” means any Person who is registered as the owner of such Bonds on the Bonds Register.

“**Bonds**” has the meaning set forth in Section 1.1.

“**Bonds Register**” means the register of the Bonds maintained by the Registrar to register ownership of the Bonds.

“**Business Day**” means a calendar day other than a Saturday or a Sunday which in Amsterdam is neither a public holiday nor a calendar day on which banking institutions are closed and, in the case of payments in euro, on which the TARGET System is open and, in the case of surrender of a certificate evidencing a Bond, in the place where such certificate is surrendered.

“**Calculation Agent**” has the meaning set forth in Section 1.1.

“**Capital Markets Indebtedness**” has the meaning set forth in Section 2.2.

“**cash**” includes any promise or undertaking to pay cash or any release or extinguishment of, or set-off against, a liability to pay a cash amount.

“**Cash Alternative Amount**” means, in respect of any exercise of Investor Cash Settlement Rights, an amount (rounded to nearest €0.01, with €0.005 rounded upwards) calculated by the Calculation Agent in accordance with the following formula and which shall be payable by the Issuer to a Bondholder in respect of the Reference Shares:

$$CAA = \sum_{n=1}^N \frac{1}{N} \times S \times P_n$$

where:

CAA= the Cash Alternative Amount;

S = the Reference Shares;

P<sub>n</sub> = the Volume Weighted Average Price of a Share on the nth Trading Day of the Cash Alternative Calculation Period translated, if not in euro, into euro at the Prevailing Rate on such Trading Day; and

N = 25, being the number of Trading Days in the Cash Alternative Calculation Period,

provided that:

- (a) if any dividend or other entitlement in respect of the Shares is announced, whether on or prior to or after the relevant Conversion Date in circumstances where the record date or other due date for the establishment of entitlement in respect of such dividend or other entitlement shall be on or after the relevant Conversion Date and if on any Trading Day in the Cash Alternative Calculation Period the Volume Weighted Average Price determined as provided above is based on a price ex-such dividend or ex-such other entitlement, then such Volume Weighted Average Price shall be increased by an amount equal to the Fair Market Value of any such dividend or other entitlement per Share as at the Ex-Date in respect of such dividend or entitlement, determined on a gross basis and disregarding any withholding or deduction required to be made for or on account of tax, and disregarding any associated tax credit, all as determined by the Calculation Agent (provided that if such Fair Market Value as aforesaid is not (but for the operation of this proviso) capable of being determined in accordance with these Conditions on or before the date falling two Business Days prior to the day on which the Cash Alternative Amount is to be paid in accordance with these Conditions, the relevant Volume Weighted Average Price as aforesaid shall be adjusted in such manner as shall be determined by an Independent Financial Adviser by no later than such date as aforesaid);
- (b) if any Adjustment Event is announced, whether on or prior to or after the relevant Conversion Date in circumstances where the Deemed Record Date in respect thereof shall be prior to the relevant Conversion Date but the relevant adjustment to the Conversion Price is not yet in effect on the relevant Conversion Date, and if any Trading Day in the Cash Alternative Calculation Period falls on or after the Deemed Ex-Date in respect of such Adjustment Event, then the Volume Weighted Average Price on any such Trading Day shall be divided by the adjustment factor subsequently determined by the Calculation Agent to be applicable in respect of the relevant Conversion Price adjustment (provided that if such adjustment factor is not (but for the operation of this proviso) capable of being determined in accordance with these Conditions on or before the date falling two Business Days prior to the day on which the Cash Alternative Amount is to be paid in accordance with these Conditions, such

adjustment factor shall (solely for the purpose of this definition) be determined by an Independent Financial Adviser by no later than such date as aforesaid); and

- (c) if any doubt shall arise as to the calculation of the Cash Alternative Amount or if such amount cannot be determined as provided above, the Cash Alternative Amount shall be equal to such amount as is determined in such other manner as an Independent Financial Adviser shall consider in good faith to be appropriate to give the intended result.

**“Cash Alternative Calculation Period”** means, in respect of any exercise of Investor Cash Settlement Rights, the period of 25 consecutive Trading Days commencing on the second Trading Day following the Conversion Date.

**“Cash or Stock Dividend”** means (i) any dividend or distribution paid or payable solely in cash on a Share, and (ii) any dividend or distribution which shall be treated to be paid or payable in cash on a Share pursuant to the following provisions:

- (a) (i) where a dividend or distribution in cash is announced which is to be, or may at the election of a holder or holders of a Share be, satisfied by the issue or delivery of Shares or other property or assets; or
- (ii) where a capitalisation of profits or reserves is announced which is to be, or may at the election of a holder or holders of a Share be, satisfied by the payment of cash,

then the dividend, distribution or capitalisation in question shall be treated as a dividend or distribution in cash of an amount equal to the greater of:

- (x) the Fair Market Value of such cash amount as at the Ex-Date in relation to such dividend or distribution; and
  - (y) the Current Market Price of such Shares, or, as the case may be, the Fair Market Value of such other property or assets, as at the Ex-Date in relation to such dividend or distribution or capitalisation or, in any such case, if later, the date on which the number of Shares (or amount of such other property or assets, as the case may be) which may be issued or delivered is determined; or
- (b) where there shall be (other than in the circumstances the subject of paragraph (a) above) any issue of Shares by way of capitalisation of profits or reserves where such issue is expressed to be, or in lieu of, a dividend or distribution in cash (whether or not a cash dividend or distribution equivalent or amount is announced or would otherwise be payable to holders of the Shares, whether at their election or otherwise), then the issue in question shall be treated as a dividend or distribution in cash of an amount equal to the Current Market Price of such Shares as at the Ex-Date in respect of such dividend or entitlement in relation to such issue or, if later, the date on which the number of Shares to be issued is determined.

**“Central Securities Depositories”** has the meaning set forth in Section 13.1.

A **“Change of Control”** shall occur if a person or persons acting together acquires or acquire directly or indirectly (i) more than 50 per cent. of Voting Rights or (ii) the right to appoint and/or remove all or a majority of the members of the executive board (*raad van bestuur*) or supervisory board (*raad van commissarissen*) of the Issuer.

**“Change of Control Conversion Price”** has the meaning set forth in Section 5.4(c).

**“Change of Control Notice”** has the meaning set forth in Section 4.4.

**“Change of Control Period”** means the period commencing on the occurrence of a Change of Control and ending 60 calendar days following the Change of Control or, if later, 60 calendar days following the date on which a Change of Control Notice is given to Bondholders as required by Section 4.4.

**“Change of Control Put Date”** has the meaning set forth in Section 4.4.

**“Change of Control Put Exercise Notice”** has the meaning set forth in Section 4.4.

**“Closing Date”** means 30 April 2020.

**“Closing Price”** means, in respect of a Share, Security, Reclassified Security or, as the case may be, a Spin-off Security, option, warrant or other right or asset, on any Trading Day, the closing price of a Share, Security, Reclassified Security, or, as the case may be, a Spin-off Security, option, warrant or other right or asset published by or derived from Bloomberg page HP (setting “Last Price”, or any other successor setting and using values not adjusted for any event occurring after such Trading Day; and for the avoidance of doubt, all values will be determined with all adjustment settings on the DPDF Page, or any successor or similar setting, switched off) in respect of such Share, Security, Reclassified Security, Spin-off Security, options, warrants or other rights or assets and such Relevant Exchange (and for the avoidance of doubt such Bloomberg page for the Shares as at the Closing Date is TKWY NA Equity HP) if any, or, in any other case, such other pricing source (if any) as shall be determined to be appropriate by an Independent Financial Adviser on such Trading Day and translated, if not in the Relevant Currency, into the Relevant Currency at the Prevailing Rate on such Trading Day, provided that if on any such Trading Day (for the purpose of this definition, the **“Original Date”**) such price is not available or cannot otherwise be determined as provided above, the Closing Price of a Share, Security, Reclassified Security, a Spin-off Security, option, warrant or other right or asset, as the case may be, in respect of such Trading Day shall be the Closing Price, determined as provided above, on the immediately preceding Trading Day on which the same can be so determined, and further provided that if such immediately preceding Trading Day falls prior to the fifth day before the Original Date, an Independent Financial Adviser shall determine the Closing Price in respect of the Original Date in good faith, all as determined by (where specifically provided above) an Independent Financial Adviser or (in any other case) the Calculation Agent.

**“Combined Consideration”** means New Securities in combination with Other Consideration.

**“Conditions”** has the meaning set forth in Section 1.2.

**“Conversion Agent”** has the meaning set forth in Section 1.1.

**“Conversion Date”** has the meaning set forth in Section 5.2.

**“Conversion Notice”** has the meaning set forth in Section 5.2.

**“Conversion Period”** has the meaning set forth in Section 5.1.

**“Conversion Price”** has the meaning set forth in Section 5.1.

**“Conversion Rights”** has the meaning set forth in Section 5.1.

**“Current Market Price”** means, in respect of a Share at a particular date, the arithmetic average of the daily Volume Weighted Average Price of a Share on each of the five consecutive Trading Days ending on the Trading Day immediately preceding such date, as determined by the Calculation Agent, provided that:

- (a) for the purposes of determining the Current Market Price pursuant to Section 5.4(a)(ii) or (iii) (and pursuant to Formulas 2 and 3 when used in the application thereof) in circumstances where the relevant event relates to an issue of Shares, if at any time during the said five Trading Day period (which may be on each of such five Trading Days) the Volume Weighted Average Price shall have been based on a price ex-dividend (or ex- any other entitlement) and/or during some other part of that period (which may be on each of such five Trading Days) the Volume Weighted Average Price shall

have been based on a price cum-dividend (or cum- any other entitlement), in any such case which has been declared or announced, then:

- (i) if the Shares to be so issued do not rank for the dividend (or entitlement) in question, the Volume Weighted Average Price on the dates on which the Shares shall have been based on a price cum-dividend (or cum- any other entitlement) shall for the purpose of this definition be deemed to be the amount thereof reduced by an amount equal to the Fair Market Value of any such dividend or entitlement per Share as at the Ex-Date in respect of such dividend or entitlement (or, where on each of the said five Trading Days the Volume Weighted Average Price shall have been based on a price cum-dividend (or cum-any other entitlement), as at the date of first public announcement of such dividend or entitlement), in any such case, determined by the Calculation Agent on a gross basis and disregarding any withholding or deduction required to be made on account of tax, and disregarding any associated tax credit; or
  - (ii) if the Shares to be so issued or transferred and delivered (if applicable) do rank for the dividend or entitlement in question, the Volume Weighted Average Price on the dates on which the Shares shall have been based on a price ex-dividend (or ex- any other entitlement) shall for the purpose of this definition be deemed to be the amount thereof increased by an amount equal to the Fair Market Value of any such dividend or entitlement per Share as at the Ex-Date in respect of such dividend or entitlement, in any such case, determined by the Calculation Agent on a gross basis and disregarding any withholding or deduction required to be made for or on account of tax, and disregarding any associated tax credit; and
- (b) if any day during the said five Trading Day period was the Ex-Date in relation to any dividend (or any other entitlement) the Volume Weighted Average Prices that shall have been based on a price cum- such dividend (or cum- such entitlement) shall for the purpose of this definition be deemed to be the amount thereof reduced by an amount equal to the Fair Market Value of any such dividend or entitlement per Share as at the Ex-Date in respect of such dividend or entitlement.

**“Deemed Ex-Date”** means in respect of any Adjustment Event (i) the Ex-Date in relation to any Adjustment Event pursuant to Sections 5.4(a)(i), 5.4(a)(ii), 5.4(a)(iv), 5.4(a)(v), 5.4(a)(vi), 5.4(a)(viii), 5.4(a)(ix) or 5.4(a)(x) or (ii) the relevant date of first public announcement as referred to in Sections 5.4(a)(iii) or 5.4(a)(vii) (or the Trading Day immediately following the Expiration Time as referred to in Sections 5.4(a)(xi)) in respect of which an adjustment is required to be made to the Conversion Price pursuant to Sections 5.4(a)(iii) or 5.4(a)(vii) (or, as the case may be, Section 5.4(a)(xi)).

**“Deemed Record Date”** means in respect of any Adjustment Event (i) the record date or other due date for the establishment of entitlement in respect of the relevant Adjustment Event pursuant to Sections 5.4(a)(i), 5.4(a)(ii), 5.4(a)(iv), 5.4(a)(v), 5.4(a)(vi), 5.4(a)(viii), 5.4(a)(ix) or 5.4(a)(x) or (ii) (in respect of any other Adjustment Event) the Deemed Ex-Date in respect thereof.

**“Delivery Date”** has the meaning set forth in Section 5.3(c).

**“Dividend Determination Date”** means the record date or other due date for establishment of entitlement in respect of the relevant Cash or Stock Dividend.

**“equity securities”** means, in relation to any entity, its issued share capital, excluding any part of that capital which does not carry any right to participate beyond a specified amount in a distribution of dividends or assets.

**“euro”** and **“€”** means the currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty establishing the European Community, as amended.



“**Euronext Amsterdam**” means Euronext in Amsterdam, a regulated market of Euronext Amsterdam N.V. or any successor thereof.

“**Event of Default**” has the meaning set forth in Section 8.

“**Ex-Date**” means, in respect of any Cash or Stock Dividend, other dividend, distribution, entitlement, capitalisation, resignation, reclassification, sub-division, issue, offer, grant or other entitlement, the first date on which the Shares are traded ex- such relevant Cash or Stock Dividend, other dividend, distribution, entitlement, capitalisation, resignation, reclassification, sub-division, issue, offer, grant or other entitlement on the Relevant Exchange (or, in the case of a dividend which is a purchase or redemption of Shares (or, as the case may be, any depositary or other receipts or certificates representing Shares), the date on which such purchase or redemption is made).

“**Expiration Time**” has the meaning set forth in Section 5.4(b).

“**Extraordinary Resolution**” has the meaning set forth in the Trust Deed.

“**Fair Bond Value**” means, as determined by an Independent Financial Adviser, the arithmetic average of (A) the Bond Market Price on each Trading Day comprised in the Fair Bond Value Calculation Period and on which such Bond Market Price is available, subject to such Bond Market Price being available in respect of a minimum of three Trading Days, or (B) (where (A) does not apply) in respect of each Trading Day comprised in the Fair Bond Value Calculation Period, the Bond Market Price on each Trading Day on which such Bond Market Price is available (if any) or (if no such Bond Market Price is available in respect of such Trading Day) the fair mid-market value as at the close of business on such Trading Day (as determined by such Independent Financial Adviser on the basis of a commonly accepted market valuation method and taking account of such factors as it considers appropriate) per €100,000 in principal amount of the Bonds.

“**Fair Bond Value Calculation Period**” means the period of five consecutive Trading Days commencing on the second Trading Day following the date on which the Shareholder Event Notice is given to the Bondholders in accordance with Section 15.7.

“**Fair Bond Value Redemption Date**” has the meaning set forth in Section 4.3.

“**Fair Bond Value Redemption Price**” means an amount per Bond equal to the greater of (i) 102 per cent. of the principal amount of each Bond, together with accrued but unpaid interest to (but excluding) the Fair Bond Value Redemption Date and (ii) 102 per cent. of the Fair Bond Value, together with accrued but unpaid interest to (but excluding) the Fair Bond Value Redemption Date.

“**Fair Market Value**” means, on any date (the “**FMV Date**”):

- (a) in the case of a Cash or Stock Dividend, the amount of such Cash or Stock Dividend, as determined in good faith by the Calculation Agent;
- (b) in the case of any other cash amount, the amount of such cash, as determined in good faith by the Calculation Agent;
- (c) in the case of Securities (including Shares), Reclassified Securities, Spin-Off Securities, options, warrants or other rights or assets that are publicly traded on a Relevant Exchange of adequate liquidity (as determined in good faith by the Calculation Agent or an Independent Financial Adviser), the arithmetic mean of (i) in the case of Shares or (to the extent constituting equity securities) other Securities, Reclassified Securities or Spin-Off Securities, the daily Volume Weighted Average Prices of the Shares or such other Securities, Reclassified Securities or Spin-Off Securities and (ii) in the case of other Securities, Reclassified Securities or Spin-Off Securities (to the extent not constituting equity securities), options, warrants or other rights or assets, the Closing Prices of such Securities, Reclassified Securities, Spin-Off Securities, options, warrants or other rights or assets, in the case of both (i) and (ii) during the period of five Trading Days on the Relevant Exchange for such Securities,

Reclassified Securities, Spin-Off Securities, options, warrants or other rights or assets commencing on such FMV Date (or, if later, the date (the “**Adjusted FMV Date**”) which falls on the first such Trading Day on which such Securities, Reclassified Securities, Spin-Off Securities, options, warrants or other rights or assets are publicly traded, provided that where such Adjusted FMV Date falls after the fifth day following the FMV Date, the Fair Market Value of such Securities, Reclassified Securities, Spin-Off Securities, options, warrants or other rights or assets shall instead be determined pursuant to paragraph (d) below, and no such Adjusted FMV Date shall be deemed to apply) or such shorter period as such Securities, Reclassified Securities, Spin-Off Securities, options, warrants or other rights or assets are publicly traded, all as determined in good faith by the Calculation Agent;

- (d) in the case of Securities, Reclassified Securities, Spin-Off Securities, options, warrants or other rights or assets that are not publicly traded on a Relevant Exchange of adequate liquidity (as aforesaid) or where otherwise provided paragraph (c) above to be determined pursuant to this paragraph (d), an amount equal to the fair market value of such Securities, Reclassified Securities, Spin-Off Securities, options, warrants or other rights or assets as determined in good faith by an Independent Financial Adviser, on the basis of a commonly accepted market valuation method and taking account of such factors as it (acting reasonably) considers appropriate, including the market price per Share, the dividend yield of an Share, the volatility of such market price, prevailing interest rates and the terms of such Securities, Reclassified Securities, Spin-Off Securities, options, warrants or other rights or assets, and including as to the expiry date and exercise price (if any) thereof.

Such amounts shall, if necessary, be translated into the Relevant Currency (if not expressed in the Relevant Currency on the FMV Date (or, as the case may be, the Adjusted FMV Date)) at the Prevailing Rate on the FMV Date (or, as the case may be, the Adjusted FMV Date), all as determined in good faith by the Calculation Agent. In addition, in the case of (i) and (ii) above, the Fair Market Value shall be determined on a gross basis and disregarding any withholding or deduction required to be made for or on account of tax, and disregarding any associated tax credit.

“**Further Bonds**” means any further Bonds issued pursuant to Section 15.6 and consolidated and forming a single series with the then outstanding Bonds.

“**Global Bond Certificate**” has the meaning set forth in Section 13.1.

“**indebtedness**” shall be construed so as to include any obligation for the payment or repayment of money, whether present or future, actual or contingent.

“**Independent Financial Adviser**” means an independent institution with appropriate expertise, which may be the initial Calculation Agent, appointed by the Issuer (other than where the initial Calculation Agent is appointed) in consultation with the Calculation Agent and (other than where the initial Calculation Agent is appointed) approved in writing by the Trustee or, if the Issuer fails to make such appointment and such failure continues for a reasonable period (as determined by the Trustee in its sole discretion) and the Trustee is indemnified and/or secured and/or prefunded to its satisfaction against the costs, fees and expenses of such adviser and otherwise in connection with such appointment, appointed by the Trustee (without liability for so doing) following notification to the Issuer.

“**Interest Payment Date**” has the meaning set forth in Section 3.2.

“**Interest Period**” has the meaning set forth in Section 3.2.

“**Investor Cash Settlement Right**” has the meaning set forth in Section 5.1.

“**Judgment Currency**” has the meaning set forth in Section 15.4.

**“Leading Institution”** means an investment bank or any other bank or financial institution of recognised standing which is a leading European convertible bond dealer or a market maker in pricing European corporate convertible bond issues.

**“Long Stop Date”** means 30 July 2020.

a **“Material Subsidiary”** means any Subsidiary:

- (a) whose (i) total assets or (ii) total revenues (consolidated in the case of a Subsidiary which itself has subsidiaries) represent five per cent. or more of the consolidated total assets of the Issuer and its Subsidiaries or, as the case may be, consolidated total revenues of the Issuer and its Subsidiaries, in each case as calculated by reference to the then latest audited financial statements of such Subsidiary (consolidated or, as the case may be, unconsolidated) and the then latest audited consolidated financial statements of the Issuer provided that:
- (i) in the case of a Subsidiary acquired or an entity which becomes a Subsidiary after the end of the financial period to which the then latest audited consolidated financial statements of the Issuer relate, the reference to the then latest audited consolidated financial statements of the Issuer for the purposes of the calculation of the above shall until the consolidated audited financial statements of the Issuer are published for the financial period in which the acquisition is made or, as the case may be, in which such entity becomes a Subsidiary, be deemed to be a reference to the then latest consolidated financial statements of the Issuer adjusted in such manner as may be deemed appropriate by the Issuer to consolidate the latest audited financial statements (consolidated or, as the case may be, unconsolidated) of such Subsidiary in such financial statements;
  - (ii) if, in the case of any Subsidiary, no audited financial statements (consolidated or, as the case may be, unconsolidated) are prepared, then the determination of whether or not such Subsidiary is a Material Subsidiary shall be determined by reference to its unaudited annual financial statements (if any) or on the basis of pro forma financial statements (in each case consolidated or, as the case may be, unconsolidated); and
  - (iii) if the latest financial statements of any Subsidiary are not prepared on the basis of the same accounting principles, policies and practices of the latest consolidated audited financial statements of the Issuer, then the determination of whether or not such Subsidiary is a Material Subsidiary shall be based on pro forma financial statements or, as the case may be, consolidated financial statements of such Subsidiary prepared on the basis of same accounting principles, policies and practices as adopted in the latest consolidated audited financial statements of the Issuer, or on an appropriate restatement of or adjustment to the relevant financial statements of such Subsidiary; or
- (b) to which is transferred all or substantially all of the business, undertaking and assets of a Subsidiary which immediately prior to such transfer is a Material Subsidiary, whereupon the transferor Subsidiary shall immediately cease to be a Material Subsidiary and the transferee Subsidiary shall immediately cease to be a Material Subsidiary under the provisions of this sub-paragraph (b) upon publication of its next audited financial statements but so that such transferor Subsidiary or such transferee Subsidiary may be a Material Subsidiary on or at any time after the date on which such audited financial statements have been published by virtue of the provisions of sub-paragraph (a) above or (as a result of another transfer to which this sub-paragraph (b) applies) before, on or at any time after such date by virtue of the provisions of this sub-paragraph (b).

**“Maturity Date”** has the meaning set forth in Section 1.1.

“**Merger Date**” means, in respect of any Merger Event, the date on which all holders of the Shares (other than, in the case of a takeover offer, any Shares owned or controlled by the offeror) have agreed or irrevocably become obligated to transfer their Shares.

“**Merger Event**” means any (i) consolidation, amalgamation or merger of the Issuer with or into another entity (other than a consolidation, amalgamation or merger where the Issuer is the continuing entity) or (ii) a statutory split up (other than a Spin-off Event).

“**Mid-Market Bond Price**” means, in respect of any Trading Day and from any Leading Institution, the average of the prices (per €100,000 in principal amount of the Bonds) provided by such Leading Institution for (x) the purchase by such Leading Institution (bid price), and (y) the purchase from such Leading Institution (ask price), in each case in respect of the Bonds as at the close of business on such Trading Day, all as determined by an Independent Financial Adviser.

“**New Securities**” means equity securities (whether of the Issuer or a third party) which are publicly traded on a Recognised Exchange.

“**Optional Redemption Date**” has the meaning set forth in Section 4.1.

“**Optional Redemption Notice**” has the meaning set forth in Section 4.1.

“**Other Consideration**” means cash, securities (other than New Securities) or other property (whether of the Issuer or a third party).

“**Parity Value**” means, in respect of any Trading Day, the amount determined in good faith by the Calculation Agent and calculated as follows:

$$PV = N \times VWAP$$

where:

PV = the Parity Value.

N = €100,000 divided by the Conversion Price in effect on such Trading Day, provided that if (A) such Trading Day falls on or after the Deemed Ex-Date in respect of an Adjustment Event, and (B) such adjustment is not yet in effect on such Trading Day, the Conversion Price in effect on such Trading Day shall for the purpose of this definition only be multiplied by the adjustment factor subsequently determined by the Calculation Agent to be applicable in respect of the relevant Conversion Price adjustment.

VWAP = the Volume Weighted Average Price of a Share on such Trading Day translated, if not in euro, into euro at the Prevailing Rate on such Trading Day.

“**Person**” means an individual, a corporation, a limited liability company, a partnership, an association, a trust or any other entity or organisation, including a government or political subdivision or an agency or instrumentality thereof.

“**Physical Settlement Date**” means the date specified as such in any Physical Settlement Notice, which shall be not earlier than 10 nor later than 20 Business Days after the date on which the Physical Settlement Notice is given.

“**Physical Settlement Notice**” has the meaning set forth in Section 5.1.

“**Prevailing Rate**” means in respect of any pair of currencies on any day, the spot mid-rate of exchange between the relevant currencies prevailing as at or about 12 noon (Amsterdam time) on that day (for the purpose of this definition, the “**Original Date**”) as appearing on or derived from Bloomberg page BFIX (or any successor page) in respect of such pair of currencies, or, if such a rate cannot be so determined, the rate prevailing as at 12 noon (Amsterdam time) on the immediately preceding day on which such rate can be so

determined, provided that if such immediately preceding day falls earlier than the fifth day prior to the Original Date or if such rate cannot be so determined (all as determined in good faith by the Calculation Agent), the Prevailing Rate in respect of the Original Date shall be the rate determined in such other manner as an Independent Financial Adviser shall consider appropriate.

**“Principal Paying, Transfer and Conversion Agent”** has the meaning set forth in Section 1.1.

**“Purchased Shares”** has the meaning set forth in Section 5.4(b).

**“Reclassification”** has the meaning set forth in Section 5.4(a)(x).

**“Reclassified Securities”** has the meaning set forth in Section 5.4(a)(x).

**“Recognised Exchange”** means a regulated and regularly operating stock exchange.

**“Record Date”** has the meaning set forth in Section 3.2(d).

**“Redemption Notice”** means an Optional Redemption Notice, a Tax Redemption Notice or a Shareholder Event Notice.

**“Redemption Price”** has the meaning set forth in Section 3.1.

**“Reference Date”** means, in relation to a Retroactive Adjustment, the date as of which the relevant Retroactive Adjustment takes effect or, in any such case, if that is not a Trading Day, the next following Trading Day.

**“Reference Shares”** means, in respect of the exercise of Investor Cash Settlement Rights or Conversion Rights by a Bondholder, the number of Shares (rounded down, if necessary, to the nearest whole number of Shares) determined in good faith by the Calculation Agent by dividing the aggregate principal amount of the Bonds being the subject of the relevant exercise of Investor Cash Settlement Rights or Conversion Rights by the Conversion Price in effect on the relevant Conversion Date, except that where the Conversion Date falls on or after the date an adjustment to the Conversion Price takes effect pursuant to Sections 5.4(a)(i), (ii), (iv), (v), (vi), (viii), (ix) or (x) in circumstances where the relevant Delivery Date falls on or prior to the record date or other due date for establishment of entitlement in respect of the relevant event giving rise to such adjustment, then the Conversion Price in respect of such exercise shall be such Conversion Price as would have been applicable to such exercise had no such adjustment been made.

**“Relevant Currency”** means, at any time, the currency in which the Shares are quoted or dealt in at such time on the Relevant Exchange.

**“Relevant Date”** means, in respect of any Bond, whichever is the later of:

- (i) the date on which payment in respect of it first becomes due; and
- (ii) if any payment is improperly withheld or refused, the earlier of (a) the date on which payment in full of the amount outstanding is made or (b) the date falling seven days after the date on which notice is given to Bondholders that, upon further presentation of the Bond, where required pursuant to these Conditions, being made, such payment will be made, provided that such payment is in fact made as provided in these Conditions.

**“Relevant Exchange”** means:

- (i) in respect of the Shares, Euronext Amsterdam or, if the Shares cease to be listed and admitted to trading on Euronext Amsterdam, the principal stock exchange or securities market on which the Shares are, at or following the time of such cessation, listed, admitted to trading or quoted or dealt in, and
- (ii) in respect of any Securities (other than Shares), Reclassified Securities, Spin-Off Securities, options, warrants or other rights or assets, the principal stock exchange or securities market on which such

Securities, Reclassified Securities, Spin-Off Securities, options, warrants or other rights or assets are then listed, admitted to trading or quoted or dealt in,

where “**principal stock exchange or securities market**” shall mean the stock exchange or securities market on which such Shares, Securities, Reclassified Securities, Spin-Off Securities, options, warrants or other rights or assets are listed, admitted to trading or quoted or dealt in, provided that if such Shares, Securities, Reclassified Securities, Spin-Off Securities, options, warrants or other rights or assets are listed, admitted to trading or quoted or dealt in (as the case may be) on more than one stock exchange or securities market at such time, then “principal stock exchange or securities market” shall mean that stock exchange or securities market on which such Shares, Securities, Reclassified Securities, Spin-Off Securities, options, warrants or other rights or assets are traded at such time as determined by the Calculation Agent (if the Calculation Agent determines that it is able to make such determination) or (in any other case) by an Independent Financial Adviser by reference to the stock exchange or securities market with the highest average daily trading volume in respect of such Shares, Securities, Reclassified Securities, Spin-Off Securities, options, warrants or other rights or assets.

A “**Retroactive Adjustment**” shall occur if (i) the Delivery Date in relation to the conversion of any Bond shall be after the Deemed Record Date in respect of any Adjustment Event and (ii) the Conversion Date falls before the relevant adjustment to the Conversion Price becomes effective under Section 5.4(a).

“**Securities**” means any securities including, without limitation, shares in the capital of the Issuer, or options, warrants or other rights to subscribe for or purchase or acquire shares in the capital of the Issuer.

“**Settlement Disruption Event**” means an event beyond the control of the Issuer as a result of which any Central Securities Depository or any of their respective successors or any other central securities depository cannot settle the book-entry transfer of the Shares on such date.

“**Share Settlement Condition**” means the approval at a Shareholders’ Meeting of the Shareholder Resolutions.

“**Shareholder Event Notice**” has the meaning set forth in Section 4.3.

“**Shareholder Resolutions**” means resolutions in respect of the designation of the management board of the Issuer to be the corporate body authorised to, subject to approval of the supervisory board of the Issuer, resolve on the issue of Shares and/or granting of rights to acquire Shares and the disapplication of pre-emptive rights in respect thereof to enable the issue of Shares in connection with the conversion of the Bonds.

“**Shareholders**” means the holders of Shares.

“**Shareholders’ Meeting**” means a general meeting of Shareholders.

“**Shares**” means the ordinary shares in the capital of the Issuer with, as at the Closing Date, a nominal value €0.04 each.

“**Short Period**” has the meaning set forth in Section 3.2.

“**Spin-off Event**” has the meaning set forth in Section 5.4(a)(x).

“**Spin-off Securities**” has the meaning set forth in Section 5.4(a)(x).

“**Subsidiary**” means a subsidiary (*dochtermaatschappij*) as defined in Section 2:24a of Book 2 of the Dutch Civil Code.

“**TARGET**” means the Trans-European Automated Real-Time Gross Settlement Express Transfer System (known as TARGET 2) or any successor thereto.

“**TARGET System**” means the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET2) System.

“**Tax Redemption Date**” has the meaning set forth in Section 4.2.

“**Tax Redemption Notice**” has the meaning set forth in Section 4.2.

“**Taxing Jurisdiction**” means, in respect of any entity, the jurisdiction in which it is resident for tax purposes generally or any political subdivision or territory or possession or taxing authority thereof or therein.

“**Trading Day**” means any calendar day (other than a Saturday or Sunday) on which the Relevant Exchange is open for business and on which the Shares, other Securities, Reclassified Securities, Spin-Off Securities, options, warrants or other rights or assets (as the case may be) are capable of being dealt in (other than a day on which trading is scheduled to or does close prior to the regular closing time), provided that, unless otherwise specified or the context otherwise requires, a “Trading Day” shall be a Trading Day in respect of the Shares.

“**Trustee**” has the meaning set forth in Section 1.1.

“**Volume Weighted Average Price**” means, in respect of a Share, Security, Reclassified Security or, as the case may be, a Spin-Off Security, on any Trading Day, the volume weighted average price on such Trading Day on the Relevant Exchange of a Share, Security, Reclassified Security or, as the case may be, a Spin-Off Security, as published by or derived from Bloomberg page HP (or any successor page) (setting “Weighted Average Line”, or any other successor setting and using values not adjusted for any event occurring after such Trading Day; and for the avoidance of doubt, all values will be determined with all adjustment settings on the DPDF Page, or any successor or similar setting, switched off) in respect of such Share, Security, Reclassified Security or, as the case may be, Spin-Off Security and such Relevant Exchange (and for the avoidance of doubt such Bloomberg page for the Shares as at the Closing Date is TKWY NA Equity HP), if any or, in any such case, such other pricing source (if any) as shall be determined in good faith to be appropriate by an Independent Financial Adviser on such Trading Day and translated, if not in the Relevant Currency, into the Relevant Currency at the Prevailing Rate on such Trading Day, provided that if on any such Trading Day (for the purposes of this definition, the “**Original Date**”) such price is not available or cannot otherwise be determined as provided above, the Volume Weighted Average Price of a Share, Security, Reclassified Security or Spin-Off Security, as the case may be, in respect of such Trading Day shall be the Volume Weighted Average Price, determined as provided above, on the immediately preceding Trading Day on which the same can be so determined and further provided that if such immediately preceding Trading Day falls prior to the fifth day before the Original Date, an Independent Financial Adviser shall (acting reasonably) determine the Volume Weighted Average Price in respect of the Original Date in good faith, all as determined by (where specifically provided above) an Independent Financial Adviser or (in any other, case) the Calculation Agent.

“**Voting Rights**” means the right generally to vote at a general meeting of shareholders of the Issuer (irrespective of whether or not, at the time, stock of any other class or classes shall have, or might have, voting power by reason of the happening of any contingency) or to elect the majority of the members of the board of management or supervisory board of the Issuer.

References to any issue or offer or grant to existing holders of Shares “**as a class**” shall be taken to be references to an issue or offer or grant to all or substantially all existing holders of Shares, other than those to whom, by reason of the laws of any territory or requirements of any recognised regulatory body or any other stock exchange or securities market in any territory or in connection with fractional entitlements, it is determined not to make such issue or offer or grant.

## **15 Miscellaneous**

### **15.1 Authentication**

The Bonds evidenced by this certificate shall not become valid or obligatory until the certificate of authentication hereon shall have been duly signed by the Registrar acting under the Agency Agreement.

### **15.2 Repayment of Funds**

All monies paid by the Issuer to the Principal Paying, Transfer and Conversion Agent or Conversion Agent for payment of principal or interest on any Bond which remain unclaimed at the end of two years after such payment has been made will be repaid to the Issuer and all liability of such Agent with respect thereto will cease, and, to the extent permitted by law, the Bondholders shall thereafter look only to the Issuer for payment as a general unsecured creditor thereof.

### **15.3 Prescription**

Claims for payment on the Bonds which are not exercised within five years from the due date of the relevant payment will lapse and revert to the Issuer.

### **15.4 Indemnification of Judgment Currency**

The Issuer will indemnify each Bondholder against loss incurred by such Bondholder as a result of any judgment or order being given or made for any amount due under the Bonds and such judgment or order being expressed and paid in a currency other than euro (the “**Judgment Currency**”) and as a result of any variation as between (i) the rate of exchange at which euro is converted into the Judgment Currency for the purpose of such judgment or order and (ii) the spot rate of exchange in euro at which the Bondholder on the date of payment of such judgment or order is able to purchase euro with the amount of the Judgment Currency actually received by the Bondholder.

### **15.5 Descriptive Headings**

The descriptive headings appearing in these Conditions are for convenience of reference only and shall not alter, limit or define the provisions hereof.

### **15.6 Further Issues**

The Issuer may from time to time without the consent of the Bondholders create and issue further bonds having the same terms and conditions in all respects as the outstanding Bonds or in all respects except for the amount and due date for first payment of interest on them and the first date on which Conversion Rights may be exercised and so that such further issue shall be consolidated and form a single series with the outstanding Bonds. Any further bonds forming a single series with the outstanding Bonds constituted by the Trust Deed or any deed supplemental to it shall, and any other notes, bonds or debentures may, with the consent of the Trustee, be constituted by a deed supplemental to the Trust Deed. The Trust Deed contains provisions for convening a single meeting of the Bondholders and the holders of notes, bonds or debentures of other series in certain circumstances where the Trustee so decides.

### **15.7 Notices**

#### *(a) Notice to the Issuer*

Any notice or demand to or on the Issuer may be given or served by being deposited in the mail, first class postage prepaid (if available), and addressed to:

Just Eat Takeaway.com N.V.  
Oosterdoksstraat 80,  
1011 DK Amsterdam



The Netherlands

Attention: Brent Wissink / Jitse Groen

or such other address as the Issuer may provide to the Bondholders, the Trustee and the Agents in writing.

(b) *Notice to the Trustee*

Any notice or demand to or on the Trustee may be given or served by being deposited in the mail, first class postage prepaid (if available), and addressed to:

Stichting Trustee Just Eat Takeaway.com  
Hoogoorddreef 15  
1101 BA  
Amsterdam  
The Netherlands

Attention: The Directors

or such other address as the Trustee may provide to a Bondholder, the Issuer or the Agents in writing.

(c) *Notice to Agents*

Any notice or demand to or on the Agents may be given or served by being deposited in the mail, first class postage prepaid (if available), and addressed to:

The Principal Paying, Transfer and Conversion Agent:

ABN AMRO Bank N.V.  
Gustav Mahlerlaan 10  
1082 PP Amsterdam  
The Netherlands

Attention: Equity Capital Markets

The Registrar:

Bank of America Merrill Lynch International Designated Activity Company  
Bank of America Merrill Lynch  
Block D, Central Park  
Leopardstown  
D18 N924  
Ireland

Attention: Asset Services, Common Depository/Registrar

or such other address as the Agents may provide to a Bondholder, the Issuer or the Trustee in writing.

(d) *Notice to Bondholders*

Where these Bonds or the Trust Deed requires any notice to be given to a Bondholder then unless specified otherwise in these Conditions, such notice shall be given as follows: (A) (x) in the case of Bonds evidenced by the Global Bond Certificate on deposit with a Central Securities Depository, such notice shall be delivered in writing to such Central Securities

Depository (and the date on which such notice is so delivered shall be the date on which such notice shall be deemed to have been given) and (y) in the case of Bonds evidenced by individual certificates in registered form, such notice shall be given by publication on the website of the Issuer (and the date on which such notice is so published shall be the date on which such notice shall be deemed to have been given), and (B) so long as the Bonds are listed on any stock exchange or trading platform (and the rules of that stock exchange or trading platform so require), published in a manner which complies with the rules and regulations of such stock exchange or trading platform) (and the date on which such notice is so published shall be the date on which such notice shall be deemed to have been given).

If any notice is required to be given more than once or on different dates pursuant to this Section 15.7(d), then such notice shall be deemed to have been given on the first date on which such notice is deemed to be given as provided above.

In addition, at the direction of the Issuer and if the Calculation Agent determines in its sole discretions it is able to do so, the Calculation Agent will request Bloomberg to publish the relevant notice on the relevant page for the Bonds (at the expense (if any) of the Issuer) for information purposes only.

### **15.8 Governing Law and Jurisdiction**

The Bonds (including, for the avoidance of doubt, the second paragraph of this Section 15.8), the Trust Deed and the Agency Agreement, and any non-contractual obligations arising out of or in connection with them, shall be governed by, and construed in accordance with, the law of The Netherlands.

Any dispute in connection with or arising from the Bonds, the Trust Deed and the Agency Agreement or their implementation and any non-contractual obligations arising out of or in connection with them, will be exclusively decided by the competent courts of Amsterdam, The Netherlands, subject to the authority of the Trustee, if it considers this expedient, to agree to prorogation (*prorogatie*).