

## SCHEDULE 1

### 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 Pharming Group N.V., a limited liability company (*naamloze vennootschap*) incorporated under the laws of The Netherlands (the “**Issuer**”), designated as its €125,000,000 3.00 per cent. convertible bonds due 2025 (the “**Bonds**”, which expression shall include any Further Bonds issued pursuant to Section 15.6). The Bonds will mature on 21 January 2025 (the “**Maturity Date**”). The Bonds are issued in registered form in denominations of €100,000 each. The Bonds are constituted by a Trust Deed (the “**Trust Deed**”) dated 21 January 2020 between the Issuer and BNY Mellon Corporate Trustee Services Limited (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 21 January 2020 with The Bank of New York Mellon, London Branch, as principal paying, transfer and conversion agent (the “**Principal Paying, Transfer and Conversion Agent**”) and The Bank of New York Mellon SA/NV, Luxembourg Branch 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 their 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 provisions applicable to them under the Agency Agreement. The Issuer has also entered into a calculation agency agreement dated 21 January 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 (i) by holders of the Bonds during usual office hours at the office of the Trustee at One Canada Square, London E14 5AL, United Kingdom, and at the specified offices of the Principal Paying, Transfer and Conversion Agent and the Registrar and (ii) electronically from the Principal Paying, Transfer and Conversion Agent upon request to [corpsov2@bnymellon.com](mailto:corpsov2@bnymellon.com).

##### 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 Subsidiaries will, create or have outstanding any mortgage, charge, lien, pledge or other security interest, upon the whole or any part of their respective 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 interests 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 similar 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 or purchased and cancelled as provided herein, the principal amount of each Bond will be payable on the Maturity Date. The amount due in respect of each Bond 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 3.00 per cent. per annum, payable semi-annually in arrear in equal instalments on 21 January and 21 July in each year and on the Maturity Date (each an “**Interest Payment Date**”), commencing on 21 July 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).

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 or 4.3, 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) *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 these Conditions 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 the rate specified in Section 3.2(a) above but not less than zero, from and including the date of default to but excluding the date when paid.

**3.5 Fiscal Laws and FATCA**

All payments in respect of the Bonds are subject in all cases (i) to any applicable fiscal or other laws and regulations applicable thereto in the place of payment but without prejudice to Section 6 and (ii) any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the U.S. Internal Revenue Code of 1986, as amended (the “**Code**”), or otherwise imposed pursuant to Sections 1471 through 1474 of the Code and any regulations or agreements thereunder or official interpretations thereof (“**FATCA**”) or any law implementing an intergovernmental approach to FATCA (“**FATCA Withholding**”).

**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 Bondholders in accordance with Section 15.7 and to the Principal Paying, Transfer and Conversion

Agent and the Trustee, 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 13 February 2023, if the Parity Value on each of at least 20 dealing days in any period of 30 consecutive dealing days ending not more than five Business 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
- (b) at any time following the date on which Conversion Rights become exercisable if, prior to the date the relevant Optional Redemption Notice is given, Conversion 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).

#### 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 Bondholders in accordance with Section 15.7 and to the Principal Paying, Transfer and Conversion Agent and the Trustee, 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 14 January 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 up to (but excluding) the Tax Redemption 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. Any Bond so deposited shall be returned by the relevant Paying, Transfer and Conversion Agent or Conversion Agent to the relevant Bondholder on the Tax Redemption Date, endorsed to reflect the election made by such Bondholder, by uninsured post to, and at the risk of, the relevant Bondholder.

#### **4.3 Redemption at the Option of Bondholders upon a Put Event**

Following the occurrence of a Put Event, the holder of each Bond will have the right to require the Issuer to redeem that Bond on the Put Date at its Redemption Price, plus accrued interest to but excluding the Put Date. To exercise such right, the holder of the relevant Bond must deliver such Bond 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 currently obtainable from the specified office of the Principal Paying, Transfer and Conversion Agent or any Conversion Agent (a “**Put Exercise Notice**”), at any time during Put Period. The “**Put Date**” shall be the fourteenth calendar day after the expiry of the Put 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 Put Exercise Notice.

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

Within 14 calendar days following the occurrence of a Put Event, the Issuer shall give notice thereof to the Bondholders in accordance with Section 15.7 (a “**Put Notice**”). The Put Notice shall contain a statement informing Bondholders of their entitlement to exercise their Conversion Rights, as provided in these Conditions and their entitlement to exercise their rights to require redemption of their Bonds pursuant to this Section 4.3.

The Put Notice shall also specify:

- (a) all information material to Bondholders concerning the Put Event;
- (b) the Conversion Price immediately prior to the occurrence of the Put Event and, if applicable, the Change of Control Conversion Price applicable pursuant to Section 5.4(c) during the Put 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 Put Notice;
- (d) the Put Period;
- (e) the Put Date; and
- (f) such other information relating to the Put Event as the Trustee may reasonably require.

The Trustee shall not be required to monitor or take any steps to ascertain whether a Put Event or any event which could lead to a Put Event 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.

#### **4.4 Redemption Notices**

Any Redemption Notice shall be irrevocable. Any such notice shall specify (i) the Optional Redemption Date or the Tax Redemption Date, as the case may be, 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 Conversion Rights may be exercised by Bondholders.

## 5 Conversion Rights

### 5.1 Conversion Rights and Conversion Price

Subject as provided in these Conditions, each Bond shall entitle the Bondholder to convert each Bond into new and/or existing Shares as determined by the Issuer, credited as fully paid (“**Conversion Rights**”).

The number of Shares to be issued or transferred and delivered on exercise of a Conversion Right shall be equal to the Reference Shares in respect of such exercise.

The Issuer will procure that Shares to be issued or transferred and delivered on exercise of Conversion Rights will be issued or transferred and delivered to the relevant Bondholder or his nominee as specified in the relevant Conversion Notice in accordance with the provisions of Section 5.3.

The initial Conversion Price is €2.0028 per Share. The Conversion Price is subject to adjustment in the circumstances described in Section 5.4. The expression “Conversion Price” shall be construed accordingly.

Subject to and as provided in these Conditions, the Conversion Right in respect of a Bond may be exercised, at the option of the holder thereof, at any time subject to any applicable fiscal or other laws or regulations and as hereinafter provided) from the Closing Date to (and including) the date falling 7 Business Days prior to the Maturity Date (both days inclusive) or, if such Bond is to be redeemed pursuant to Section 4.1 or 4.2 prior to the Maturity Date, then up to (and including) the date falling 7 Business Days before the date fixed for redemption thereof pursuant to Section 4.1 or 4.2 unless there shall be a default in making payment in respect of such Bond on any such date fixed for redemption, in which event the Conversion Right shall extend up to the end of normal business hours (at the place aforesaid) on the date on which the full amount of such payment becomes available for payment and notice of such availability has been given to Bondholders or, if earlier, the Maturity Date or, if the Maturity Date is not a Business Day, the immediately preceding Business Day.

Conversion Rights may not be exercised (i) following the giving of notice by the Trustee pursuant to Section 8 that the Bonds are immediately due and payable or (ii) in respect of a Bond in respect of which the relevant Bondholder has exercised its right to require the Issuer to redeem that Bond pursuant to Section 4.3.

Conversion Rights may not be exercised by a Bondholder in circumstances where the relevant Conversion Date would fall during the period commencing on the Record Date in respect of any payment of interest on the Bonds and ending on the relevant Interest Payment Date (both days inclusive).

The period during which Conversion Rights may (subject as provided herein) be exercised by a Bondholder is referred to as the “**Conversion Period**”.

### 5.2 Procedures for Exercising Conversion Rights

#### (a) *Delivery of Conversion Notice on exercise of Conversion Rights*

Subject to the terms and conditions of this Section 5.2, each Bondholder may exercise its Conversion Rights by giving at its own expense to any Conversion Agent a conversion notice (and, if required under Section 5.2(b) 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 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 by credit to an account with a financial institution. 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. Once delivered to the Conversion Agent, a Conversion Notice will be irrevocable.

Conversion Rights may only be exercised in respect of the whole of a Bond.

(b) *Surrender of Bond Certificates*

A 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

(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 as is 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 on exercise of Conversion Rights or pursuant to Section 5.4(f) and no cash payment or other adjustment will be made in lieu thereof. However, if the Conversion Right in respect of more than one Bond is exercised at any one time such that Shares to be issued or transferred and delivered on conversion or pursuant to Section 5.4(f) are to be registered in the same name, the number of such Shares to be issued or transferred and delivered in respect thereof shall be calculated by the Calculation Agent on the basis of the aggregate principal amount of such Bonds being so converted and rounded down to the nearest whole number of Shares.

(c) *Procedures for Delivery of Shares*

Following the exercise of Conversion Rights by a Bondholder, the Issuer shall deliver, or procure the delivery of the Reference Shares (if any) on the relevant Delivery Date to the relevant Bondholder by crediting the account with the financial institution specified in the relevant Conversion Notice with the Reference Shares.

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 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 Business Days following the relevant Conversion 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 delivered 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 such 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 shall be entitled to all dividends, distributions and other entitlements of the Shares determined by reference to a record date on or after the relevant Delivery Date.

#### 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 Effective Date by multiplying the Conversion Price in effect immediately prior to the Effective Date by Formula 1 in Section 5.4(b) below.

“**Effective Date**” means, in respect of this Section 5.4(a)(i), the date on which such subdivision or consolidation takes effect.

(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 (other than constituting a Cash or Stock Dividend), the Conversion Price will be adjusted as of the Effective Date by multiplying the Conversion Price in effect immediately prior to the Effective Date by Formula 2 in Section 5.4(b) below.

“**Effective Date**” means, in respect of this Section 5.4(a)(ii), the later of (i) the Ex-Date in respect of such grant and (ii) the first date on which the result of Formula 2 in Section 5.4(b) below is capable of being determined in accordance with such Formula 2.

(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), and other than constituting a Cash or Stock Dividend), the Conversion Price will be adjusted as of the



Effective Date by multiplying the Conversion Price in effect immediately prior to the Effective Date by Formula 3 in Section 5.4(b) below.

“**Effective Date**” means, in respect of this Section 5.4(a)(iii), the date of issuance of the Shares.

(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 Effective Date by multiplying the Conversion Price in effect immediately prior to the Effective Date by Formula 1 in Section 5.4(b) below.

“**Effective Date**” means, in respect of this Section 5.4(a)(iv), the Ex-Date in respect of such distribution.

(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) and other than constituting a Cash or Stock Dividend), the Conversion Price will be adjusted as of the Effective Date by multiplying the Conversion Price in effect immediately prior to the Effective Date by Formula 2 in Section 5.4(b) below.

“**Effective Date**” means, in respect of this Section 5.4(a)(v), the later of (i) the Ex-Date in respect of such free distribution or dividend and (ii) the first date on which the result of Formula 2 in Section 5.4(b) below is capable of being determined in accordance with such Formula 2.

(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) and other than constituting a Cash or Stock Dividend) the Conversion Price will be adjusted as of the Effective Date by multiplying the Conversion Price in effect immediately prior to the Effective Date by Formula 2 in Section 5.4(b) below.

“**Effective Date**” means, in respect of this Section 5.4(a)(vi), the later of (i) Ex-Date in respect of such grant and (ii) the first date on which the result of Formula 2 in Section 5.4(b) below is capable of being determined in accordance with such Formula 2.

(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 other than constituting a Cash or Stock Dividend) and the price per equity-linked security, right or option (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, right or option (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 equity-linked securities, rights or options, the Conversion Price will be adjusted as of the Effective Date by multiplying the Conversion Price in effect immediately prior to the Effective Date by Formula 3 in Section 5.4(b) below.

“**Effective Date**” means, in respect of this Section 5.4(a)(vii), the date of issuance of such equity-linked security.

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

If the Issuer grants a right, warrant or other security to existing holders of Shares as a class giving them the right to purchase at less than Fair Market Value (determined as at the Ex-Date in respect of such grant), any other property (not covered by another Section of this Section 5.4(a), and other than constituting a Cash or Stock Dividend), the Conversion Price will be adjusted as of the Effective Date by multiplying the Conversion Price in effect immediately prior to the Effective Date by Formula 2 in Section 5.4(b) below.

“**Effective Date**” means, in respect of this Section 5.4(a)(viii), the later of (i) Ex-Date in respect of such grant and (ii) the first date on which the result of Formula 2 in Section 5.4(b) below is capable of being determined in accordance with such Formula 2.

(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 Effective Date, by multiplying the Conversion Price in effect immediately prior to the Effective Date by Formula 5 in Section 5.4(b) below.

“**Effective Date**” means, in respect of this Section 5.4(a)(ix), the later of (i) Ex-Date in respect of such Cash or Stock Dividend and (ii) the first date on which the result of Formula 5 in Section 5.4(b) below is capable of being determined in accordance with such Formula 5.

(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 Adviser) from among the options applicable to such event, effective as of the Effective Date:

- (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 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, the Issuer will, within five dealing days after the Ex-Date in respect of the Spin-off Event, 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
- (4) in the case of a Spin-off Event, where the Spin-off Securities are publicly traded on a Recognised Exchange, the Issuer will, within five dealing days after the Ex-Date in respect of the Spin-off Event, pay to each Bondholder an amount in cash in euros (rounded to the nearest €0.01, with €0.005 being 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 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 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.

“**Effective Date**” means, in respect of this Section 5.4(a)(x), the record date for such Spin-Off Event (or, as the case may be, the effective date for such Reclassification) (or, if the Issuer selects option (2) and if later, the first date on which the result of Formula 2 in Section 5.4(b) below is capable of being determined in accordance with such Formula 2).

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 Effective Date by multiplying the Conversion Price in effect immediately prior to the Effective Date by the fraction expressed by Formula 4 in Section 5.4(b) below. For the avoidance of doubt, this section does not apply to a purchase or redemption or buyback of share capital of the Issuer by or on behalf of the Issuer or any of its Subsidiaries pursuant to any general authority for such purchases, redemptions or buybacks approved by a general meeting of Shareholders and in accordance with the price limits specified in Article 3 of Commission Delegated Regulation (EU) 2016/1052 (or any successor regulation providing a safe harbour for share buybacks by an issuer under applicable market abuse rules).

“**Effective Date**” means, in respect of this Section 5.4(a)(xi), the later of (i) the dealing day immediately following the Expiration Time (as defined below) and (ii) the first date on which the result of Formula 4 in Section 5.4(b) below is capable of being determined in accordance with such Formula 4.

(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 Ex-Date in respect of 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, as the case may be, such Fair Market Value as aforesaid being determined as at the Ex-Date in respect thereof.

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 = (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 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 in respect 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 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 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 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.

If following consultation between the Issuer and the Calculation Agent any doubt shall arise as to the appropriate adjustment to the Conversion Price, and following consultation between the Issuer and an Independent Adviser, a written opinion of such Independent Adviser in respect thereof shall be conclusive and binding on the Issuer, the Bondholders, the

Calculation Agent and the Paying, Transfer and Conversion Agents and the Conversion Agents, save in the case of manifest error.

(f) *Retroactive Adjustments*

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) (ii), (iv), (v), (vi), (vii) or (ix) the relevant Bondholder shall be entitled to receive the relevant Shares, Cash or Stock Dividends, securities 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.

(g) *No Adjustment*

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.

No adjustment to the Conversion Price will be made to the extent that the Conversion Price for one Share would thereby be reduced below the nominal amount of each Share effective as of the date of such adjustment. Without prejudice to the foregoing, upon any event which, but for this Section 5.4(g), would result in an adjustment to the Conversion Price to an amount which is less than the nominal amount of each Share, in accordance with the foregoing provisions, the calculation of any subsequent adjustments will be made on the amount of the Conversion Price which would have resulted, had this Section 5.4(g) not applied. If the result of such adjustments is below the nominal amount per Share, the Conversion Price will be equal to the nominal amount of each Share. To the extent that an adjustment to the Conversion Price cannot occur as a result of this Section 5.4(g), the Issuer will not be obliged to compensate the Bondholders by a cash payment or in any other way.

(h) *Procedures*

Adjustments to the Conversion Price shall be determined and calculated by the Calculation Agent upon request from the Issuer and/or, to the extent so specified in the Conditions and upon request from the Issuer, by an Independent Adviser.

Adjustments to the Conversion Price calculated by the Calculation Agent or, where applicable, an Independent Adviser and any other determinations made by the Calculation Agent or, where applicable, an Independent Adviser, or an opinion of an Independent Adviser, pursuant to these Conditions shall in each case be made in good faith and shall be final and binding (in the absence of manifest error) on the Issuer, the Trustee, the Bondholders, the Calculation Agent (in the case of a determination by an Independent Adviser), the Paying, Transfer and Conversion Agents and the Conversion Agents.

The Calculation Agent may consult, at the expense of the Issuer, on any matter (including, but not limited to, any legal matter) relating to the performance of its obligations in respect

of the Bonds, any legal or other professional adviser as it reasonably believes is necessary and it shall be able to rely upon, and it shall not be liable and shall incur no liability as against the Trustee, the Bondholders, the Conversion Agents or the Paying, Transfer and Conversion Agents in respect of anything done, or omitted to be done, relating to that matter in good faith, in accordance with that adviser's opinion.

The Calculation Agent shall act solely upon the request from, and exclusively as agent of, the Issuer and in accordance with these Conditions. Neither the Calculation Agent (acting in such capacity) nor any Independent Adviser appointed in connection with the Bonds (acting in such capacity) will thereby assume any obligations towards or relationship of agency or trust and shall not be liable and shall incur no liability in respect of anything done, or omitted to be done in good faith, in its capacity as Calculation Agent as against the Trustee, the Bondholders, the Conversion Agents or the Paying Transfer and Conversion Agents.

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.

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(i).

(i) *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 (rounded down if applicable) 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(i) above will be carried forward and taken into account in any subsequent adjustment, and such subsequent adjustment shall be made on the basis that the adjustment not required to be made had been made at the relevant time and/or, as the case may be, that the relevant rounding down had not been made.

(j) *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).

(k) *Share or Option Schemes, Dividend Reinvestment Plans*

No adjustment will be made to the Conversion Price pursuant to this Section 5.4 where Shares or other securities (including, but not limited to, 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, consultants or former consultants 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 nominee to be held for the benefit of any such person, in any such case pursuant to any share or option or incentive scheme or pursuant to any dividend reinvestment plan or similar plan or scheme.

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

The Issuer shall pay all stamp, issue, registration, transfer, documentary and other similar taxes or duties payable in The Netherlands, or in any other jurisdiction in which the Issuer may be, from time



to time, domiciled, resident or otherwise has a taxable presence upon delivery of Shares on exercise of Conversion Rights (“**Transfer Taxes**”). If the Issuer shall fail to pay any Transfer Taxes, the relevant Bondholder shall be entitled to pay any such Transfer Taxes 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 Transfer 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 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 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 promptly be cancelled and may not be reissued or resold.

#### **5.7 Calculation of Damages**

Subject to applicable law and Condition 8, if the Issuer fails to deliver Shares upon an exercise of Conversion Rights, for the purposes of any damages claim, the value of the relevant claim shall be calculated on the basis of the Volume Weighted Average Price of a Share on the relevant Delivery Date.

### **6 Withholding Taxes**

All payments of principal, interest and other amounts made by the Issuer in respect of the Bonds 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 the jurisdiction in which the Issuer is resident for tax purposes (a “**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.

In that event, the Issuer will pay such additional amounts (the “**Additional Amounts**”) as will result in the receipt by the Bondholders of the amounts which would have been received by them had no such withholding or deduction been required, except that no such Additional Amounts shall be payable on account of any taxes or duties which:

- (a) are payable by reason of the Bondholder having, or having had, some personal or business connection with such Taxing Jurisdiction other than a connection arising from the mere holding of the Bond or receiving payments in respect of the Bond;
- (b) are made in regard to any FATCA Withholding; or
- (c) (with effect from 1 January 2021 only) are payable pursuant to the Dutch Withholding Tax Act 2021 (*Wet bronbelasting 2021*) (the “**Act**”) by reason of the Bondholder being related (*gelieerd*) to the Issuer within the meaning of the Act.

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.

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 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) *Covenant not to Issue or Pay Up any Securities:* The Issuer will not issue or pay up any Securities, in either case by way of capitalisation of profits or reserves, other than:
- (i) by the issue of fully paid Shares or other Securities to Shareholders and other holders of shares in the capital of the Issuer which by their terms entitle the holders thereof to receive Shares or other Securities on a capitalisation of profits or reserves; or
  - (ii) by the issue of fully paid Shares, issued wholly, ignoring fractional entitlements, in lieu of the whole or part of a Cash or Stock Dividend in cash; or

- (iii) by the issue of Shares or any equity share capital to, or for the benefit of, any employees or former employees, director or executive holding or formerly holding executive office (including directors holding or formerly holding executive office or non-executive office, consultants or former consultants or the personal service company of any such person) or their spouses or relatives, in each case the Issuer or any of its Subsidiaries or any associated company or to a trustee or nominees to be held for the benefit of any such person, in any such case pursuant to an employee, director or executive share or option or incentive scheme whether for all employees, directors, or executives or any one or more of them (a “**Permitted Issue**”),

unless, in any such case, the same constitutes a Cash or Stock Dividend or otherwise gives (or, in the case of an issue or payment of up of Securities in connection with a Change of Control, will give) rise (or would, but for the provisions of these Conditions relating to roundings, minimum adjustments or the carry forward of adjustments, give rise) to an adjustment to the Conversion Price or is (or, in the case of any issue or payment up of Securities in connection with a Change of Control, will be) otherwise taken into account for the purposes of determining whether such an adjustment should be made.

- (c) *Covenant not to Modify the Rights of Shares:* The Issuer will not modify the rights attaching to the Shares with respect to voting, dividends or liquidation nor issue any other class of equity share capital carrying any rights which are more favourable than the rights attaching to the Shares, but nothing in this Section 7(c) shall prevent:

- (i) the issue of any equity share capital to employees (including directors holding or formerly holding executive or non-executive office or the personal service company of any such person) whether of the Issuer or any of the Subsidiaries or associated companies by virtue of their office or employment or any consultant or former consultant of or expert or former expert of the Issuer or any of the Subsidiaries or associated companies pursuant to any scheme or plan approved by the Issuer or which is established pursuant to such a scheme or plan which is or has been so approved; or
- (ii) any consolidation, reclassification, redesignation or subdivision of the Shares or the conversion of a Share into stock or *vice versa*; or
- (iii) any modification of such rights which is not, in the opinion of an Independent Adviser acting in good faith, materially prejudicial to the interests of the holders of the Bonds upon which opinion the Trustee shall be entitled to rely absolutely without liability to any person; or
- (iv) any issue of equity share capital where the issue of such equity share capital results, or would, but for the provisions of these Conditions relating to roundings and minimum adjustments or the carry forward of adjustments or, where comprising Shares, the fact that the consideration per Share receivable therefor is at least 95 per cent. of the Current Market Price per Share, otherwise result, in an adjustment to the Conversion Price; or
- (v) any issue of equity share capital or modification of rights attaching to the Shares, where prior thereto the Issuer shall have instructed an Independent Adviser to determine in good faith what (if any) adjustments should be made to the Conversion Price as being fair and reasonable to take account thereof and such Independent Adviser shall have determined in good faith either that no adjustment is required or that an adjustment resulting in a decrease in the Conversion Price is required and, if so, the new Conversion Price as a result thereof and the basis upon which such adjustment is to be made and, in any such case, the date on which the adjustment shall take effect (and so that the adjustment shall be made and shall take effect accordingly); or

- (vi) the amendment of the articles of association of the Issuer following a Change of Control to ensure that any Bondholder exercising its Conversion Right where the Conversion Date falls on or after the occurrence of a Change of Control will receive the same consideration in respect of any Shares required to be issued or transferred and delivered to it on exercise of Conversion Rights as it would have received in respect of such Shares had it exercised its Conversion Right at the time of the occurrence of the Change of Control and had such Shares been tendered in the relevant offer (a “**Change of Control Conversion Right Amendment**”).
- (d) *Covenant not to Grant Other Securities Preferential Conversion, Exchange or Subscription Rights:* The Issuer will, except as part of any employee, director or executive (including, for this purpose, consultants or experts) share or option or incentive scheme, procure that no Securities (whether issued by the Issuer or any Subsidiary or procured by the Issuer or any Subsidiary to be issued or issued by any other person pursuant to any arrangement with the Issuer or any Subsidiary) issued without rights to convert into, or exchange or subscribe for, Shares shall subsequently be granted such rights exercisable at a consideration per Share which is less than 95 per cent. of the Current Market Price per Share on the date of the first public announcement of the proposed inclusion of such rights unless the same gives rise (or would, but for the provisions of these Conditions relating to roundings and minimum adjustments or the carry forward of adjustments, give rise) to an adjustment to the Conversion Price and that at no time shall there be in issue Shares of differing nominal values, save where such Shares have the same economic rights.
- (e) *Covenant not to Prevent the Issue of Shares as Fully Paid:* The Issuer will not make any issue, grant or distribution or take or omit to take any other action if the effect thereof would be that, on the exercise of Conversion Rights, Shares could not, under any applicable law then in effect, be legally issued as fully paid;
- (f) *Covenant not to Reduce Issued Share Capital or Share Premium Account:* The Issuer will not reduce its issued share capital, share premium account, or any uncalled liability in respect thereof, or any non-distributable reserves, except:
  - (i) pursuant to the terms of issue of the relevant share capital; or
  - (ii) by means of a purchase or redemption of share capital of the Issuer, in each case, to the extent permitted by applicable law; or
  - (iii) where the reduction does not involve any distribution of assets to Shareholders; or
  - (iv) solely in relation to a change in the currency in which the nominal value of the Shares is expressed; or
  - (v) to create distributable reserves (to which, in respect of any such creation of distributable reserves by the Issuer in respect of which consent is required, the Trustee will be deemed to have irrevocably given its consent (without being required to take any action or any liability in respect thereof) prior to such creation of distributable reserves occurring and, to the extent that express consent is required, the Bondholders authorise and direct the Trustee to give its consent (without any liability for so doing) to such creation of distributable reserves); or
  - (vi) by way of transfer to reserves as permitted under applicable law; or
  - (vii) where the reduction is permitted by applicable law and the Trustee is advised in writing by an Independent Adviser (and the Trustee shall be entitled to rely on such advice without liability to any person), acting as an expert and in good faith, that the interests of the Bondholders will not be materially prejudiced by such reduction; or

- (viii) where the reduction is permitted by applicable law and results (or, in the case of a reduction in connection with a Change of Control, will result) in (or would, but for the provisions of these Conditions relating to roundings or the carry forward of adjustments, result in) an adjustment to the Conversion Price or is (or, in the case of a reduction in connection with a Change of Control, will be) otherwise taken into account for the purposes of determining whether such an adjustment should be made,

provided that, without prejudice to the other provisions of these Conditions, the Issuer may exercise such rights as it may from time to time be entitled pursuant to applicable law to purchase, redeem or buy back its Shares and any depositary or other receipts or certificates representing Shares without the consent of Bondholders.

- (g) *Covenant to Give Notice to the Trustee and the Bondholders in the Event of an Offer for Shares:* The Issuer will, if any offer is made to all (or as nearly as may be practicable all) Shareholders (or all (or as nearly as may be practicable all) Shareholders other than the offeror and/or any associates of the offeror) to acquire the whole or any part of the issued Shares, or if any person proposes a scheme with regard to such acquisition, give notice in writing of such offer or scheme to the Trustee and the Bondholders at the same time as any notice thereof is sent to the Shareholders (or as soon as practicable thereafter) that details concerning such offer or scheme may be obtained from the Issuer on its website and, where such an offer or scheme has been recommended by the board of management of the Issuer, or where such an offer has become or been declared unconditional in all respects or such scheme has become effective, use reasonable endeavours to procure that a like offer or scheme is extended to the holders of any Shares issued during the period of the offer or scheme arising out of the exercise of Conversion Rights pursuant to these Conditions and/or to the holders of the Bonds (which like offer or scheme in respect of such Bondholders shall entitle any such Bondholders to receive the same type and amount of consideration it would have received had it held the number of Shares to which such Bondholder would be entitled assuming it were to exercise its Conversion Rights in the relevant Change of Control Period).
- (h) *Reservation of Share Capital:* The Issuer undertakes that it will, at all times, 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. Furthermore, the Issuer undertakes that it will propose to its 2020 general meeting and any subsequent general meeting thereafter, as applicable, the required resolution(s) to allow the Issuer sufficient authority from the general meeting to grant rights to subscribe for Shares and to exclude shareholders' pre-emption rights, to enable it to issue or deliver the Shares that it would be required to be issued or delivered to Bondholders on exercise of Conversion Rights in respect of all outstanding Bonds from time to time.
- (i) *Listing of Shares:* The Issuer undertakes to use reasonable endeavours to ensure that the Shares issued upon exercise of the Conversion Rights will be admitted to the Relevant Exchange (but this undertaking shall not be considered as being breached as a result of a Change of Control (whether or not recommended or approved by the board of management and supervisory board of the Issuer) that causes or gives rise to, whether following the operation of any applicable compulsory acquisition provision or otherwise, (including at the request of the person or persons controlling the Issuer as a result of the Change of Control) a de-listing of the Shares).
- (j) *Listing of Bonds:* The Issuer undertakes to make or cause to be made an application for the Bonds to be admitted to trading on the Open Market (*Freiverkehr*) of the Frankfurt Stock Exchange (or another internationally recognised, regularly operating, regulated or non-regulated stock exchange or securities market) (the “**Admission**”) within 30 calendar days following the Closing Date and to use reasonable endeavours to maintain such Admission to trading for so long as any of the Bonds remain

outstanding, save that if the Issuer is unable to maintain such Admission as aforesaid, the Issuer undertakes to use reasonable endeavours to obtain and maintain a listing and/or admission to trading for the Bonds on such other stock exchange as the Issuer may from time to time determine and the Issuer will promptly give notice to the Bondholders and the Trustee of any such listing or delisting of the Bonds by any of such stock exchanges.

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

The Issuer has undertaken in the Trust Deed to deliver to the Trustee annually and otherwise on request by the Trustee a certificate of two directors of the Issuer, as to there not having occurred an Event of Default since the date of the last such certificate or if such event has occurred as to the details of such event. The Trustee will be entitled to rely on such certificate and shall not be obliged to independently monitor compliance by the Issuer with the undertakings set forth in these Conditions nor be liable to any person for not so doing.

## 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 the holders of at least one-quarter in principal amount of the Bonds then outstanding or if so directed by an Extraordinary Resolution and provided in each case that it is indemnified and/or secured and/or prefunded to its satisfaction shall, give notice to the Issuer that the Bonds are, and they shall accordingly immediately become, due and repayable at (i) in the case of the occurrence and continuation of an Event of Default pursuant to paragraph (b) below, an amount equal to the higher of (A) the Parity Value of the Bonds subject of the relevant exercise of Conversion Rights had the date of the declaration of the relevant Event of Default been the Delivery Date and (B) the Redemption Price for the Bonds or (ii) in the case of any other Event of Default, the Redemption Price for the Bonds together, in each case, with accrued interest (if any) to the date of payment:

- (a) *Payment Default:* the Issuer fails to pay the principal of or interest on or any other amount in respect of any Bonds when the same becomes due and payable and such failure continues for a period of 10 calendar days; or
- (b) *Conversion:* the Issuer fails to 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 calendar 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 is incapable of remedy or, if in the opinion of the Trustee is capable of remedy, is not in the opinion of the Trustee remedied within 30 calendar days after notice of such default shall have been given to the Issuer by the Trustee; or
- (d) *Cross-Default:* (i) any other present or future indebtedness of the Issuer or any of its 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 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 €10,000,000 or its equivalent (on the basis of the middle spot rate for the relevant currency against the euro quoted by any leading bank on the day on which this paragraph operates); or

- (e) *Bankruptcy*: the Issuer or any Material Subsidiary of the Issuer (i) commences a voluntary case or proceeding under any Bankruptcy Law with respect to itself, (ii) consents to the entry of a judgment, decree or order for relief against it in an involuntary case or proceeding under any Bankruptcy Law, (iii) consents to the appointment of a Custodian of it or for substantially all of its property, (iv) consents to or acquiesces in the institution of a bankruptcy or an insolvency proceeding against it, (v) makes a general assignment for the benefit of its creditors, (vi) takes any corporate action to authorise or effect any of the foregoing, (vi) is unable to pay its debts, stops, suspends or threatens to stop or suspend all or a material part of (or a particular type of) its debts or (vii) proposes or makes a general assignment or an arrangement or composition with or for the benefit of the relevant creditors in respect of any of such debts or a moratorium is agreed or declared in respect of or affecting all or any part of (or of a particular type of) such debts; or
- (f) *Winding Up*: a court of competent jurisdiction enters a judgment, decree or order for relief in respect of the Issuer or any Material Subsidiary of the Issuer in an involuntary case or proceeding under any Bankruptcy Law, which shall (i) approve as properly filed a petition seeking reorganisation, arrangement, adjustment or composition in respect of the Issuer or any Material Subsidiary of the Issuer, (ii) appoint a Custodian of the Issuer or any Material Subsidiary of the Issuer or for substantially all of any of its property or (iii) order the winding-up or liquidation of its affairs; and such judgment, decree or order shall remain unstayed and in effect for a period of 90 consecutive days; or
- (g) *Judgments*: one or more judgments in an aggregate amount in excess of €10,000,000 (or the equivalent thereof in any other currency or currencies) shall have been rendered against the Issuer or any Subsidiary of the Issuer and such judgments remain undischarged, unpaid or unstayed for a period of 60 days after such judgment or judgments become final and no longer subject to appeal, *cassatie*, or similar proceedings; or
- (h) *Analogous Proceedings*: there occurs, in relation to any Material Subsidiary of the Issuer, 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;
- (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*: save in the case of a Material Subsidiary where such Material Subsidiary transfers all or substantially all of its business to the Issuer, another Material Subsidiary or another subsidiary which will immediately thereafter become a Material Subsidiary, the Issuer or any Material Subsidiary of the Issuer ceases (or threatens to cease) to carry on all or substantially all 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 more than one-half 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 or 4.3 (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, Conversion Rights or the rights of Bondholders to receive Shares on exercise of Conversion Rights 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 change the currency of the denomination of the Bonds or of any payment in respect of the Bonds, (viii) to change the governing law of the Bonds, the Trust Deed or the Agency Agreement, or (ix) 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-third, 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 the 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) a consent 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 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 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, the Trustee 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 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, be contrary to any law of a relevant jurisdiction; and
- (b) the Trustee may refrain from taking any proceedings, actions or steps in any jurisdiction if in its opinion it would or may render it liable to any person or, it would or may not have the power to do the relevant thing in a relevant jurisdiction by virtue of any applicable law in that jurisdiction or if it is determined by any court or other competent authority in a relevant 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 such failure is 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 act and rely without liability to Bondholders and without further investigation on a report, confirmation, certificate, opinion or any advice of any accountants, financial advisers, financial institution, an Independent Adviser 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 any other person or in any other manner) by reference to a monetary cap, methodology or otherwise. The Trustee may accept and shall be entitled to act and rely on any such report, confirmation, certificate, opinion or advice and such report, confirmation, certificate, opinion or advice shall be binding on the Issuer, the Trustee and the Bondholders.

## **12 Agents**

### **12.1 Agent of the Issuer**

The Agents and the Calculation Agent, when acting in that capacity, act solely as agents of the Issuer 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 Agents 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 Registration and Transfer of Bonds**

### **13.1 Registration**

The Issuer will cause a register (the “**Register**”) to be kept at the specified office of the Registrar outside the United Kingdom on which will be entered the names and addresses of the holders of the Bonds and the particulars of the Bonds held by them and of all transfers, redemptions and conversions of Bonds.

### **13.2 Transfer**

Bonds may, subject to the terms of the Agency Agreement and to Sections 13.3 and 13.4, be transferred by lodging the relevant Bond (with the form of application for transfer in respect thereof duly executed and duly stamped where applicable) at the specified office of the Registrar or any Paying, Transfer and Conversion Agent or Conversion Agent.

No transfer of a Bond will be valid unless and until entered on the Register. A Bond may be registered only in the name of, and transferred only to, a named person (or persons, not exceeding four in number).

The Registrar will within seven business days, in the place of the specified office of the Registrar, of any duly made application for the transfer of a Bond, register the relevant transfer and deliver a new Bond to the transferee at the specified office of the Registrar or (at the risk and, if mailed at the request of the transferee or, as the case may be, the transferor otherwise than by ordinary mail, at the expense of the transferee or, as the case may be, the transferor) mail the Bond by uninsured mail to such address as the transferee or, as the case may be, the transferor may request.

### 13.3 Formalities Free of Charge

Such transfer will be effected without charge subject to (i) the person making such application for transfer paying or procuring the payment of any taxes, duties and other governmental charges in connection therewith, (ii) the Registrar being satisfied with the documents of title and/or identity of the person making the application and (iii) such reasonable regulations as the Issuer may from time to time agree with the Registrar and the Trustee (and as initially set out in the Agency Agreement).

### 13.4 Closed Periods

Neither the Issuer nor the Registrar will be required to register the transfer of any Bond (or part thereof) (i) during the period of 15 days ending on and including the day immediately prior to the Maturity Date or any earlier date fixed for redemption of the Bonds pursuant to Section 4.1 or 4.2; (ii) in respect of which a Conversion Notice has been delivered in accordance with Section 5.2; (iii) in respect of which a Bondholder has exercised its right to require redemption pursuant to Section 4.3; or (iv) during the period of 15 days ending on (and including) any Record Date in respect of any payment of interest on the Bonds.

## 14 Definitions

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

“**Additional Amounts**” has the meaning set forth in Section 6.

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

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

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

“**Bankruptcy Law**” means Title 11, U.S. Code or any similar federal, state or foreign law for the relief of debtors and shall for the avoidance of doubt include the Dutch Bankruptcy Act (*Faillissementswet*) and/or any other proceedings listed in annex A or annex B to Council Regulation EC No. 136/2000 of 29 May 2000 on Insolvency Proceedings.

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

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

“**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.

“**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 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 respect of 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 respect of 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 or other property or assets 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 or, as the case may be, the Fair Market Value of such other property or assets, 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 (or amount of such other property or assets, as the case may be) to be issued is determined.

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 of the Issuer or (ii) the right to appoint and/or remove all or a majority of the members of the board of management (*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 Conversion Right Amendment**” has the meaning set forth in Section 7(c).

“**Closing Date**” means 21 January 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 dealing day in respect thereof, the closing price on the Relevant Exchange on such dealing day 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 (or any successor ticker page) (setting “Last Price”, or any other successor setting and using values not adjusted for any event occurring after such dealing 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 (all as determined by the Calculation Agent) (and for the avoidance of doubt such Bloomberg

page for the Shares as at the Closing Date is PHARM NA Equity HP) if available, or, in any other case, such other pricing source (if any) as shall be determined to be appropriate by an Independent Adviser on such dealing day, provided that:

- (i) if on any such dealing 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 dealing day shall be the Closing Price, determined by the Calculation Agent as provided above, on the immediately preceding such dealing day on which the same can be so determined, provided however that if such immediately preceding dealing day falls prior to the fifth day before the Original Date, the Closing Price in respect of such dealing day shall be considered to be not capable of being determined pursuant to this proviso (i); and
- (ii) if the Closing Price cannot be determined as aforesaid, the Closing Price of a Share, Security, option, warrant, or other right or asset, as the case may be, shall be determined as at the Original Date by an Independent Adviser in such manner as it shall determine in good faith to be appropriate,

and the Closing Price determined as aforesaid on or as at any dealing day shall, if not in the Relevant Currency, be translated into the Relevant Currency at the Prevailing Rate on such dealing day.

“**Code**” has the meaning set forth in Section 3.5.

“**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 dealing days ending on the dealing 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 dealing day period (which may be on each of such five dealing 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 dealing 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 dealing 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 for or on account of tax, and disregarding any associated tax credit; or

(ii) if the Shares to be so issued 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 dealing day period was the Ex-Date in respect of 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.

“**Custodian**” means any receiver, trustee, assignee, liquidator, sequestrator or similar official under any Bankruptcy Law.

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

A “**Delisting Event**” shall occur where the Shares cease to be listed, traded or publicly quoted on Euronext Amsterdam for any reason and are not immediately re-listed, re-traded or re-quoted on another internationally recognised, regularly operating and regulated stock exchange.

“**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 the 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, consolidation, 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, consolidation, 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 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 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, for which the daily Volume Weighted Average Price (disregarding for this purpose proviso (ii) to the definition thereof) can be determined, such daily Volume Weighted Average Price of the Shares or such other Securities, Reclassified Securities or Spin-Off Securities; and
  - (ii) in any other case, 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 dealing 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 dealing 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 in 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 Adviser, on the basis of a commonly accepted market valuation method and taking account of such factors as it 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 or the like (if any) thereof.

Such amounts shall (if not expressed in the Relevant Currency on the FMV Date (or, as the case may be, the Adjusted FMV Date)) be translated into the Relevant Currency 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.

“**FATCA**” has the meaning set forth in Section 3.5.

“**FATCA Withholding**” has the meaning set forth in Section 3.5.

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

“**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 Adviser**” means an independent institution with appropriate expertise, which may be the Calculation Agent, appointed by the Issuer at its own expense 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 liabilities, 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, which appointment shall be deemed to be made by 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.

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

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

- (i) whose (a) total assets or (b) total revenues or (c) operating result (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 the consolidated total revenues of the Issuer and its Subsidiaries or the consolidated operating result of the Issuer and its Subsidiaries, as the case may be, 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:
  - (a) 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;
  - (b) 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 (consolidated or, as the case may be, unconsolidated); and

- (c) 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 same accounting principles, policies and practices as adopted in the latest consolidated audited financial statements of the Issuer, or an appropriate restatement or adjustment to the relevant financial statements of each Subsidiary; or
- (ii) 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 become a Material Subsidiary under the provisions of this sub-paragraph (ii) 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 (i) above or (as a result of another transfer to which this sub-paragraph (ii) applies) before, on or at any time after such date by virtue of the provisions of this sub-paragraph (ii).

“**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).

“**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 dealing day, the amount determined in good faith by the Calculation Agent and calculated as follows:

$$PV = N \times VWAP$$

where:

$$PV = \text{the Parity Value.}$$

$$N = \text{€100,000 by the Conversion Price in effect on such dealing day (which shall be the Change of Control Conversion Price if such Change of Control Conversion Price would apply in respect of any exercise of Conversion Rights in respect of which the Conversion Date would fall on such dealing day), provided that if (A) such dealing day falls on or after (i) the Ex-Date in respect of any entitlement in respect of which an adjustment is required to be made to the Conversion Price pursuant to Section 5.4(a)(i), 5.4(a)(ii), 5.4(a)(iv),}$$

5.4(a)(v), 5.4(a)(vi), 5.4(a)(viii), 5.4(a)(ix) or 5.4(a)(x) or (ii) the relevant date of first public announcement (as applicable pursuant to Section 5.4(a)(iii), 5.4(a)(vii) or 5.4(a)(xi)) in respect of which an adjustment is required to be made to the Conversion Price pursuant to Section 5.4(a)(iii), 5.4(a)(vii) or 5.4(a)(xi), and (B) such adjustment is not yet in effect on such dealing day, the Conversion Price in effect on such dealing day shall for the purpose of this definition only be multiplied by the adjustment factor (as determined pursuant to the relevant formula in Section 5.4(b)) 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 (translated if necessary into euro at the Prevailing Rate) on such dealing day.

“**Permitted Issue**” has the meaning set forth in Section 7(b).

“**Person**” means an individual, a corporation, a limited liability company, a firm, a joint venture, an undertaking, a partnership, an association, a trust or any other entity or organisation, including a government or political subdivision or an agency or instrumentality thereof (in each case whether or not being a separate legal entity).

“**Prevailing Rate**” means in respect of any pair of currencies on any date, the spot mid-rate of exchange between the relevant currencies prevailing as at or about 12 noon (Amsterdam time) on that date (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 Adviser shall consider appropriate.

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

“**Proceedings**” has the meaning set forth in Section 15.8.

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

“**Put Date**” has the meaning set forth in Section 4.3.

“**Put Event**” means a Change of Control or a Delisting Event.

“**Put Exercise Notice**” has the meaning set forth in Section 4.3.

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

“**Put Period**” means the period commencing on the occurrence of a Put Event and ending 60 calendar days following the Put Event or, if later, 60 calendar days following the date on which a Put Notice is given to Bondholders as required by Section 4.3.

“**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 or a Tax Redemption Notice.

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

“**Reference Shares**” means, in respect of the exercise of 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 which are the subject of the relevant exercise of 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 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.

“**Register**” has the meaning set forth in Section 13.1.

“**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 amount payable is improperly withheld or refused, the earlier of (a) the date on which payment in full of the amount outstanding is made and (b) the date falling seven days after the date on which the Trustee or the Principal Paying, Transfer and Conversion Agent has given notice to Bondholders of receipt of all sums due in respect to all the Bonds up to that seventh day (except that there is failure in the subsequent payment to the relevant holders) as provided in these Conditions.

“**Relevant Exchange**” means:

- (i) in respect of the Shares, Euronext Amsterdam or, if at the relevant time the Shares are not at that time listed and admitted to trading on Euronext Amsterdam, the principal stock exchange or securities market on which the Shares are then 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 the relevant 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 then traded 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 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 date which is the record date in respect of any sub-division or consolidation, as is mentioned in Section 5.4(a)(i), or which is the record date or other due date for the establishment of entitlement for any such issue, distribution, grant or offer (as the case may be) as is mentioned in Section 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 which is the date of the first public announcement of the terms of any such issue or grant as is mentioned in Section 5.4(a)(iii) and 5.4(a)(vii) 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 and any other shares in the capital of the Issuer, and options, warrants or other rights to subscribe for or purchase or acquire Shares or any other 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 Euroclear Nederland or Clearstream Banking Netherlands or any of their respective successors or any other central securities depository cannot settle the book-entry transfer of the Shares on such date.

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

“**Shares**” means the ordinary shares in the capital of the Issuer with, as at the Closing Date, a nominal value €0.01 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 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**” has the meaning set forth in Section 6.

“**Transfer Taxes**” has the meaning set forth in Section 5.5.

“**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 dealing day in respect thereof, the volume weighted average price on such dealing 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 dealing 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 PHARM 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 Adviser on such dealing day, provided that:

- (i) if on any such dealing 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 dealing day shall be the Volume Weighted Average Price, determined as provided above, on the immediately preceding such dealing day on which the same can be so determined. provided however that if such immediately preceding dealing day falls prior to the fifth day before the Original Date, the Volume Weighted Average Price in respect of such dealing day shall be considered to be not capable of being determined pursuant to this proviso (i); and

- (ii) if the Volume Weighted Average Price cannot be determined as aforesaid, the Volume Weighted Average Price of a Share, Security, Reclassified Security or Spin-Off Security, as the case may be, shall be determined as at the Original Date by an Independent Adviser in such manner as it shall determine in good faith to be appropriate,

and the Volume Weighted Average Price determined as aforesaid on or as at any dealing day shall, if not in the Relevant Currency, be translated into the Relevant Currency at the Prevailing Rate on such dealing day.

“**Voting Rights**” means in relation to any entity the right generally to vote at a general meeting of shareholders of such entity (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 such entity.

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.

In making any calculation or determination of Closing Price, Current Market Price or Volume Weighted Average Price, such adjustments (if any) shall be made and as the Calculation Agent or an Independent Adviser considers appropriate in good faith to reflect any consolidation or sub-division of the Shares or any issue of Shares by way of capitalisation of profits or reserves, or any like or similar event.

## **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 against the Issuer for payment in respect of the Bonds shall be prescribed and become void unless made within 10 years (in the case of principal or any other amount (other than interest)) or five years (in the case of interest) from the appropriate Relevant Date in respect of such payment.

Claims in respect of any other obligation in respect of the Bonds, including delivery of Shares, shall be prescribed and become void unless made within 10 years following the due date for performance of the relevant obligations.

### **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 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 notes, bonds or debentures 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**

All notices required to be given to Bondholders pursuant to these Conditions will (unless otherwise provided in these Conditions) be given by publication through the electronic communication system of Bloomberg. The Issuer shall also ensure that all notices are duly published (if such publication is required) in a manner which complies with the rules and regulations of any stock exchange or other relevant authority on which the Bonds are for the time being listed and/or admitted to trading. Any such notice shall be deemed to have been given on the date of such publication or if required to be published in more than one manner or at different times, then such notice shall be deemed to have been given on the date of the publication in each required manner and time. If publication as provided above is not practicable, notice will be given in such other manner, and shall be deemed to be given on such date, as the Trustee may approve.

The Issuer shall send a copy of all notices given by it to Bondholders (or a Bondholder) or the Trustee pursuant to these Conditions simultaneously to the Calculation Agent.

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

#### *(a) Governing Law*

The Trust Deed, the Agency Agreement and the Bonds and any non-contractual obligations arising out of or in connection with them are governed by, and shall be construed in accordance with, English law.

#### *(b) Jurisdiction*

The courts of England are to have jurisdiction to settle any disputes which may arise out of or in connection with the Trust Deed or the Bonds and accordingly any legal action or proceedings arising out of or in connection with the Trust Deed or the Bonds (“**Proceedings**”) may be brought in such courts. The Issuer has in the Trust Deed irrevocably submitted to the jurisdiction of such courts and has waived any objection to Proceedings in such courts whether on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. This submission is made for the benefit of the Trustee and each of the Bondholders and shall not limit the right of any of them to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).

(c) *Agent for Service of Process*

The Issuer has irrevocably appointed Process Agent Limited at its registered office for the time being, currently at Kemp House, 152 – 160 City Road, London EC1V 2NX as its agent in England to receive service of process in any Proceedings in England. Nothing herein or in the Trust Deed shall affect the right to serve process in any other manner permitted by law.