



Limited liability Company (*Naamloze Vennootschap*)  
Zinkstraat 1, 2490 Balen (Belgium)  
Company number VAT BE 0888.728.945 RLP Antwerp, division Turnhout

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**Report by the Committee of Independent Directors  
in accordance with Article 7:97 of the Belgian Code of Companies and Associations**

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## **1. Introduction**

Ms Carole Cable, Ms Anne Fahy and Ms Jane Moriarty, independent directors to the Board of Directors of Nyrstar NV (the “**Company**”, “**Nyrstar**” or “**NNV**”) (together, the “**Committee**”), have been requested to prepare all necessary steps to be able to comply with article 7:97 of the Belgian Code of Companies and Associations (the “**BCCA**”) in connection with the recommendation to the Board of Directors of the Company (the “**Board**”) in respect of the put option the Company holds to sell its 2% equity holding in NN2 Newco Ltd. (“**NN2**”) (the “**Put Option**”) and whether to exercise the Put Option or not (the “**Decision**”). For these purposes, the Committee has contemplated, among other things:

1. The current valuation of the former subsidiaries of the Company (the “**Operating Group**” or “**Nyrstar Group**”) and the equity value to be assessed for the 2% equity holding in NN2 by the Company.
2. The financial consequences of (not) exercising the Put Option for the Company and possible other consequences related to this decision of (not) exercising the Put Option.
3. The potential outcomes under alternative options to the exercise of the Put Option, including the ability of the Company to sell the 2% stake in NN2 to a third party and the likely sales proceeds that the Company may be able to generate from such a sale.
4. Benefits and disadvantages for the Company if the Board resolves to exercise the Put Option, including taking into account the alternative investments that the Board could consider to pursue with the proceeds of the Put Option (including, the financial viability of the Company over at least the next 24 months, post 31 July 2022, if the Company decides to not exercise the Put Option).

Pursuant to this, the Committee has prepared this report (the “**Report**”) in line with article 7:97, §3 BCCA.

The Company on behalf of the Committee has engaged Moore Corporate Finance NV (“**Moore CoFi**”) as independent expert in line with article 7:97, §3 BCCA to advise the Committee of Independent Directors in examining the benefits and disadvantages to the

Company, taking all relevant circumstances into account and considering also the annual results of the Operating Group, of the exercise or non-exercise of the Put Option, in accordance with an engagement letter which has been agreed between Moore CoFi and the Committee dated 15 November 2021. This letter has also been accepted by the Company for acceptance of the payment of the fees and expenses which will be payable by the Company to Moore CoFi according to article 7:97 BCCA. Moore CoFi has confirmed that it is independent from the Company, from members of the Trafigura Group and from selected shareholders of the Company and that to the best of knowledge no conflicts of interest exist with parties identified in the statement. On the basis of the information provided to it by Moore CoFi and the Company, the Committee has established that Moore CoFi satisfies the independence requirements in article 7:97, §3 BCCA. The output of Moore CoFi's work is an Expert Report ("**Expert Report**") which sets out their opinion of the Decision in light of the facts made available to them. The Expert Report is attached to this report as Annex 1.

In preparing the Expert Report Moore CoFi has, among other things, reviewed certain publicly available business and historic financial information relating to the Company and the Operating Group as well as other market data to review the credibility of the information and projections by a Q&A process involving the Company and the Nyrstar Group management and has confirmed that it found no material indication to doubt such credibility. Moore CoFi has also reviewed all the information made available by Nyrstar and by the Nyrstar Group.

The Committee has also asked the management of the Company to review and confirm specific elements, which it has done in its note to the Committee attached to this report as Annex 2.

## **2. Task of the Committee**

Article 7:97, §1 jo. §3 BCCA requires that, prior to any decision or transaction between (a subsidiary of) a listed company and any affiliated company of a listed company, a committee of three independent directors provides an assessment thereof. Such committee shall be assisted by one or more independent experts appointed by the committee.

Further pursuant to article 7:97, §2 BCCA, the committee of independent directors must:

- (a) detail the nature of the decision or transaction,
- (b) estimate its financial impact,
- (c) assess its benefits and disadvantages for the Company and its shareholders; and
- (d) advise whether the proposed transaction may imply a disadvantage to the Company that, in light of its current policies, would be manifestly illegitimate, or if the committee does not believe the decision to be manifestly illegitimate but nevertheless to create a disadvantage for the Company, identify the advantages of the decision that outweigh any disadvantages.

The committee of independent directors must issue a note of written substantiated advice to the board of directors, mentioning each of the above-mentioned elements.

### 3. Description of the proposed decision

#### 3.1. *Background*

##### 3.1.1. *Restructuring*

As a result of the restructuring of the Nyrstar group, which became effective on 31 July 2019 (the “**Restructuring**”), Trafigura Group Pte. Ltd., via its indirect 98% ownership of the new holding company NN2, became the ultimate parent company of the Operating Group, with the remaining 2% stake in NN2 (and thereby in the Operating Group) being owned by the Company (the “**Company Equity Interest**”).

##### 3.1.2. *NNV – Trafigura Deed*

On 19 June 2019, the Company, Trafigura Pte Ltd (“**Trafigura**”) and Nyrstar Holdings Limited (“**Nyrstar Holdings**”, a Trafigura special-purpose vehicle incorporated, amongst other things, for the purpose of implementing the Restructuring) entered into a deed confirming their agreement in respect of the terms of the ongoing relationship between the Company and the Trafigura group (the “**NNV-Trafigura Deed**”).

Pursuant to the NNV-Trafigura Deed, the Company and Trafigura agreed that Trafigura would grant to the Company an option to require a Trafigura entity to purchase the Company’s entire Company Equity Interest, being the Put Option. The terms of the Put Option are set out in a separate deed, dated 25 June 2019, between the Company, Trafigura and Nyrstar Holdings (the “**Put Option Deed**”). Under the terms of the Put Option Deed, the Company can put all (but not only a part) of its Company Equity Interest to Trafigura at a price equal to EUR 20 million. The Put Option expires on 31 July 2022, subject to limited triggers allowing earlier termination of the Put Option before 31 July 2022.

##### 3.1.3. *Limited recourse loan facility (LRLF)*

On 23 July 2019, the Company entered into a EUR 13.5 million committed, limited recourse, loan facility provided to it by NN2 (the “**LRLF**”). The LRLF is made available in two separate tranches: (i) up to EUR 8.5 million to be applied towards the Company’s ongoing ordinary course activities (“**Facility A**”) and (ii) up to EUR 5 million intended for the payment of certain litigation defence costs (“**Facility B**”). This LRLF includes mandatory prepayment provisions which are applicable as of the date on which the Company ceases to own the Company Equity Interest resulting in the Company having to prepay certain amounts outstanding under Facility A and B. This is subject to a limited recourse provision whereby the recourse to the Company in respect of repayment of funds drawn or any other obligation under the LRLF is limited to the Company’s net assets. If the net asset position is negative or insufficient to discharge the obligations of the Company under the LRLF, such obligations would be limited to the amount of the net assets of the Company. As described below, the limited recourse mechanism would need to be considered by the Company if it exercises the Put Option.

### *3.1.4. Evaluation Put Option exercise*

In a press release of 18 November 2021, the Company announced that it had appointed Moore CoFi to prepare an independent expert report on the exercise or non-exercise of the Put Option and stated that the Committee would also duly consider any substantiated third-party bids, including of the Company's shareholders other than Trafigura and/or of other stakeholders and third parties it may receive in respect of the Company Equity Interest. As outlined in the annual report and financial statements issued on 13 April 2022 as well as in its press release of 27 May 2022 and during the Company's annual general shareholders' meeting held on 28 June 2022 (the "**AGM**"), the Company confirmed that it had not received any bids. Following the AGM and as confirmed by the Committee during the AGM, the Committee conveyed the questions and comments of the Company's shareholders to the Expert and these questions and comments were also discussed with the Expert and with Company's management.

### **3.2. Proposed decision**

The Committee proposes to the Board to exercise the Put Option before the expiration date on 31 July 2022 and thereby sell its Company Equity Interest for EUR 20 million in accordance with the terms and conditions of the Put Option.

## **4. Minority shareholders' comments**

Certain minority shareholders have raised questions and comments in the framework of the Decision for the Expert at the occasion of the Company's annual shareholders meeting on 28 June 2022 (see minutes on the Company's website).

Certain questions and comments of the minority shareholders were addressed by the Company at the annual shareholders' meeting on 28 June 2022 as shown in the minutes of said annual shareholders meeting that are published on the Company's website. In addition to the responses that were provided to the minority shareholders at said annual shareholders meeting, the Committee has discussed these questions and comments with the Company's management, such that the comments could be and were considered in the memoranda prepared by management and included in Annexes B and C. The Committee also conveyed the questions and comments to the Expert. To the minority shareholders' questions:

- The Committee has reconfirmed with Trafigura that the only changes in the NN2 group structure compared with the structure in place at the time of the completion of the restructuring in July 2019 were the disposals of the Langlois mine, the Myra Falls mine and the liabilities relating to the closed mining sites with historical legacy obligations (Breakwater). Such assets and (environmental) liabilities were transferred to Trafigura. (For the avoidance of doubt, this question had already been discussed several times prior to the 28 June 2022 shareholders' meeting and the comments raised by the minority shareholders.)
- The Expert had also already inquired with Trafigura directly, in the framework of its Expert Report, about the current performance of the Operating Group in the current economic environment.

- The Committee has focused on comparing the 31 July 2019 valuation used in the Restructuring with the current and expected performance of the Operating Group for the purpose of ensuring that the 2022 valuation is based on reasonable assumptions. As requested by the minority shareholders, the Committee has now also requested the Company's management to compare the forecasts included in the 2019 Noteholders presentation (which dates from 15 April 2019, i.e. earlier than 31 July 2019) with the current and expected performance of the Operating Group. Management's assessment is included in Annex B.
- As to the minority shareholders' question to benchmark the Operating Group's performance with its peers, the Committee clarifies that in context of its EBITDA multiple analysis, the Expert has compared the Operational Group's key financial metrics including the market capitalisation, enterprise value, EBITDA margin, revenue growth, EBITDA growth, EBITDA margin, debt-to-equity ratios with those of peers and determined the appropriate trading multiples for the valuation. A full benchmarking of the performance of the Operating Group and similar companies is not included in the scope of our Moore CoFi's work as such analysis would not be required under Art 7:97 of the Belgian Company Code.
- As requested by the minority shareholders, the Committee has also requested management to compare the profitability forecast in the 2019 Noteholders presentation with the current actual and forecast profitability of the Operating Group and compare the valuation of the Operating Group as at the completion of the restructuring in July 2019 with the current valuation prepared by the Expert. Using the information rights granted to the Company by Trafigura in the framework of the Restructuring, management has compared the key assumptions used by the Expert in its valuation with the assumptions presented in the 2019 Noteholders presentation in order to assess whether the assumptions used by the Expert, as provided by Trafigura, are reasonable. Management has also compared the annual financial performance assumed in the 2019 Noteholders presentation with the actual and forecast financial performance of the Operating Group, as provided by Trafigura and assessed the reliability of the forecast provided by Trafigura. Management's assessment is included in Annex B.
- Minority shareholders have requested the Committee to ask the Expert to prepare the valuation of the Operational Group as of 31 July 2019. The Committee finds this to be an unreasonable and unnecessary request as the valuation as of 31 July 2019 has been done by both Duff & Phelps and Grant Thornton as well as by the Company itself at the occasion of the Restructuring (effective 31 July 2019), and such valuation has been subjected to the procedure set forth in article 524 Belgian Companies Code. There is no need or requirement of doing this exercise again. In addition, the Expert has been engaged by the Committee to perform an independent valuation as at 31 July 2022 to assist the Committee's recommendation to the Board of Directors in relation to the exercise or not exercise of the Put Option in the circumstances existing now (and a remaking of a valuation already done in 2019 is not relevant for this analysis).

## 5. Opinion of the independent expert

The Expert Report attached in Annex 1 contains the following conclusion:

*“Exercising the Put Option would ensure the financial viability of the Company over at least the next 24 months (and based on the information provided by the Company until completion of the assumed liquidation process).”*

*Not exercising the Put Option would create substantially higher risks as regards the financial viability of the Company over the next 24 months:*

- *we are not aware of any cash generating activity of the Company that would generate enough financial means to cover the Companies' recurring expenses (except drawing on the Limited Recourse Loan Facility, whereby this Facility is limited in amount and in time);*
- *In our opinion, there is very little chance to achieve a better net financial result from selling the 2% equity holding to another potential buyer or to Trafigura or under any other possible disposal agreement.*

*Consequently, the benefits for the Company if the Board resolves to exercise the Put Option provide a certain degree of financial security limiting its liquidity risks for the foreseeable future and avoiding bankruptcy. Based on the performed valuation, the exercise price of the Put Option (m€ 20) is significantly higher than the amount a third party would be likely willing to pay. The disadvantages are that the Companies' major asset will be realised and thus its purpose will be reduced to managing the proceeds of the Put Option and the management of the ongoing legal and other regulatory proceedings.*

*The alternative investments that the Board could consider to pursue with the proceeds of the Put Option, if exercised, are investments in cash deposits, short-term investment grade corporate bonds, index funds and/or other investments contemplated by Nyrstar NV's corporate purpose clause. We believe that investments beyond that scope would not be advisable unless fitting in a newly defined (and agreed upon) long term strategic plan for the Company.*

The conclusion in Moore CoFi's opinion is subject to the assumptions, limitations and other caveats set out in full in the opinion attached at [Annex 1](#).

## **6. Opinion of the Committee**

### **6.1. Assessment of the financial consequences of the Decision**

The financial consequences of the Decision consist of the following main components:

#### **6.1.1. Value of the Company Equity Interest**

This section summarises the various valuation methods that were applied by Moore CoFi (of which a more detailed overview is included in the Expert Report in [Annex 1](#)), the input received from the Company's management and the Committee's assessment of Moore CoFi's and the Company's management input.

##### **6.1.1.1. Discounted Cash Flow Analysis (DCF)**

Moore CoFi has prepared a valuation that discounts the projected free cash flow generated by the operations of the Operating Group over a certain period of time ("**Forecast Period**") whereby the calculations are based on the business plan 2022-2027. At the end of the Forecast Period, the perpetual value of the Company is calculated. The free cash flows are

discounted using the Weighted Average Cost of Capital ("**WACC**"), which is computed based on returns by providers of equity and financial debt.

Based on this analysis, Moore CoFi arrived at an enterprise value of NN2 in the range of \$1,575 million and \$1,906 million applying a WACC in the range of 10.18% and 11.68%. To obtain the share value, this enterprise value had to be reduced by the net financial debt position of NN2 of \$1,599 million. By deducting this net financial debt position of NN2 and the bridge result assumed to be the interim result until the valuation cut-off date of 31 May 2022 of negative \$123 million, the share value of 100% of the shares of NN2 is calculated in the range \$0 million and \$184 million. Converting the share value from US dollar to EUR (FX rate of 1.0713) the Company Equity Interest is valued in the range of EUR 0 million and EUR 3.4 million.

#### 6.1.1.2. EBITDA Multiple Analysis

A second valuation was performed by Moore CoFi calculating the value of the Company as a multiple of a selected parameter, in this case the EBITDA parameter (enterprise value / normalised EBITDA). Both historical and forward-looking EBITDA amounts were used and multiplied with trading and transaction multiples given the high number of listed peers and the availability of relevant historical transactions. The analysis was based on two EBITDA references: (i) historical: the normalised EBITDA of 2021 equal to \$221 million and (ii) forward-looking: the EBITDA of 2022 amounting to \$290 million.

The different methodologies result in an enterprise value between \$1,147 million and \$1,210 million, which is reduced with the net financial debt position of \$1,599 and the bridge result assumed to be the interim result until the valuation cut-off date of 31 May 2022 of negative \$123 million and the adjustment for the working capital position of \$-46 million to arrive at the total share value of \$0 million. The Company Equity Interest is therefore valued at EUR 0 million on 31 July 2022.

#### 6.1.1.3. Corrected Net Assets

Lastly, Moore CoFi calculated the value based on the corrected net assets which is equal to the net equity resulting from the total value of the individual assets less the provisions and liabilities. The corrected net assets method was considered as NN2 generates low return on assets due to the nature of its business. Based on this calculation one arrives at an equity position on 30 September 2021 equal to \$23.5 million. To make the bridge between the equity position on 30 September 2021 and the valuation date of 31 July 2022, the equity position is modified with the interim result until the valuation cut-off date of 31 May 2022 of \$-89 million, resulting in the share value equal to EUR 0 million. Based on this corrected net assets methodology the Company Equity Interest on 31 July 2022 is valued at EUR 0 million.

#### 6.1.1.4. Outcome valuation

Moore CoFi applied various valuation methods to determine the value of the Company Equity Interest. Based on these methods, the fair market value of the Company Equity Interest on 31 July 2022 is set in the following range: EUR 0 million and EUR 3.4 million which is significantly lower than the Put Option price, i.e. EUR 20 million.

#### 6.1.1.5. Comparison with the valuation of the Company Equity Interest at the time of the Restructuring

In view of the material difference between the outcome of Moore CoFi's valuation described above and the outcome of the valuation of the Company Equity Interest at the time of the Restructuring, the Committee has asked Moore CoFi and the Company's management to review and explain such difference, if possible, including whether such difference would be due to the assets transferred out of the Operating Group to Trafigura since the completion of the Restructuring as has been raised as a question by a minority shareholder at the general shareholders' meeting.

As set out in the Company's management report attached in Annex 2, which the Committee has analysed and endorses, in 2019 management of the Company prepared its own valuation of the 2% investment in NN2 and has recognised the value of the investment of EUR 15.4 million on Company's balance sheet. In this assessment, management also considered the outcome of the detailed independent valuation performed by Duff & Phelps that valued the investment at EUR 15.0 million. Given the very detailed nature of the 2019 Duff & Phelps valuation that considered individual balance sheets of all subsidiaries, the comparison with this valuation and the valuation prepared by Moore in 2022 is considered by the Company's management as impossible. The comparison of the valuation prepared by Moore and the 2019 in-house valuation is also considered by the Company's management as very difficult for various reasons. These reasons include the fact that the valuations are prepared in a different format and the information provided by Trafigura was structured differently to the information available in 2019 (e.g. the corporate costs in 2019 have been separated while the corporate costs have been allocated to individual sites in the information provided by Trafigura). Furthermore, the working capital was separately added to the 2019 in-house valuation with the deferred income, representing prepayment for future deliveries of market metal, included as a part of net debt. Moore's valuation does not separately add initial working capital adjustments based on their valuation methodology.

A further difference between the 2019 valuation of the Operating Group and that conducted by Moore CoFi is the impact of foreign exchange rates as the USD weakened between 2019 and 2022 from approximate USD/EUR 1.15 in September 2019 to approximately USD/EUR 1.00 in July 2022.

Additionally, the 2019 valuation includes some mining assets that have been disposed by NN2 in 2020, namely the Myra Falls mine and Langlois mines, together with respective legacy environmental obligations of the closed mines sites. However, it is noted that the valuation of these assets together with the mining corporate costs separated in 2019 was only EUR 1.8 million (2% of which amounted to EUR 0.04 million). As such, the absence of these mining assets from the valuation results is de minimis to the final valuation outcome.

	100%	2%
Langlois	-11.50	-0.23
Myra Falls	106.40	2.13
Legacy sites obligations	-29.00	-0.58
Mining corporate costs	-64.10	-1.28
<b>Total</b>	<b>1.80</b>	<b>0.04</b>



When comparing net debt of the Operating Group between 2019 and the 2022 valuations, applying the FX rate of 1.1642 from September 2021 results in a decrease of net debt from 2019 to 2022 by EUR 173.9 million (2% share of EUR 3.5 million).

	\$m		€m		€m		€m
	2021	FX rate (30/9/21)	2021		2019		Dif
<b>Adjusted net debt</b>	<b>-1'599.0</b>	<b>1.1642</b>	<b>-1'373.5</b>		<b>-1'547.4</b>		<b>173.9</b>

However, when applying the current FX rate of 1.00, the net debt increases by EUR 51.6 million (2% share of EUR 1.0 million)

	\$m		€m		€m		€m
	2021	FX rate (30/9/21)	2021		2019		Dif
<b>Adjusted net debt</b>	<b>-1'599.0</b>	<b>1.0000</b>	<b>-1'599.0</b>		<b>-1'547.4</b>		<b>-51.6</b>

	\$ 000's		€ 000's		€ 000's		€ 000's
	2021	FX rate (30/9/21)	2021		2019		Dif
<b>Net Debt</b>	<b>-1'599.0</b>	<b>1.0500</b>	<b>-1'522.9</b>		<b>-1'547.4</b>		<b>24.5</b>

Additionally, Moore CoFi has estimated in their report additional increase in the net debt from 30 September 2021 to their valuation cut-off date of 31 May 2022 by USD 123 million further decreasing the valuation of the Operating Group in 2022.

#### 6.1.1.6. Assessment by the Committee

The Committee has reviewed the valuation by Moore CoFi and Moore CoFi's assessment of the information it has based its valuation on, taking into account the valuation of the Company Equity Interest performed in 2019 in the context of the Restructuring and input from the Company's management. The Committee considers that the valuation range of Nil to EUR 3.4 million as determined by Moore CoFi is reasonable, including when considering the volatility of some of the macro-economics included in the valuation model, and that the value of the Company Equity Interest is substantially below the EUR 20 million exercise price of the Put Option and that the transfer of certain mining assets does not impact this analysis. The Committee therefore considers that the amount of EUR 20 million the Company would receive upon exercising the Put Option results in a significant financial advantage to the Company, compared to deciding not to exercise it.

#### 6.1.2. Limited Recourse Loan Facility (LRLF)

The LRLF as described above states that immediately upon receipt of any disposal proceeds, including amongst other things, the proceeds resulting from the exercise of the put option, the Company shall procure that these proceeds are applied to prepay any amount outstanding under Facility B and if (i) any disposal proceeds remain after any required prepayment of Facility B, and (ii) the aggregate amount of all amounts outstanding under Facility A exceeds

EUR 5.0 million to prepay such Facility A amounts to or towards an aggregate amount of EUR 5.0 million. Without consideration of the limited recourse, it would mean that under Facility A, the amount to be repaid by the Company would be a difference between the amount expected to be drawn at 31 July 2022 of approx. EUR 6,143k and the amount of EUR 5,000 K, i.e. the amount to be repaid would be EUR 1,143 K.

The LRLF contains a limited recourse clause which states that the facility is only repayable to the extent the Company has sufficient net assets (total assets less total liabilities, calculated in accordance with the terms of the LRLF). If the net assets (as defined in the LRLF) are negative or insufficient to discharge the obligations of the Company under the LRLF, such obligations shall be deemed to be limited to the amount of net assets.

At the time of the exercise of the Put Option, all actual, contingent and prospective liabilities would need to be factored in when calculating the net asset position. It is in the corporate benefit of the Company that for the purposes of the mandatory prepayment these liabilities are calculated on a worst case scenario basis, and not (i) in accordance with IFRS or Belgian GAAP, nor (ii) based upon the Company's assessment of the likelihood of such contingent or prospective liabilities eventually materialising (which in respect of the contingent or prospective liabilities the Committee understands that the Company, based upon its own assessment of all facts and based upon the external legal advice it has over the years received, considers to be very unlikely). Based on the Company's estimates (Annex 1), the estimated net asset position at 31 July 2022 ranges between EUR -6,014,560 and EUR -19,664,560 while the estimated balance of Facility A of the LRLF at 31 July 2022 is EUR 6,143,071 and the estimated amount of the Facility B of the LRLF at 31 July 2022 is EUR 3,643,049, total EUR 9,786,121. As the net asset position is estimated to be negative even taking into account the receipt of the proceeds of the Put Option, the Company would not need to make repayments of the LRLF if and when such proceeds are received. The Company will, however, continue to monitor the development of its net asset position until the completion of the liquidation process to consider whether any repayment of the LRLF needs to be made.

The Committee therefore considers that, although exercising the Put Option and completion of the sale of the Company's 2% stake (subject to any applicable mandatory regulatory conditions) would give NN2 (as lender under the LRLF) the ability to cancel available commitments under the LRLF and would trigger the mandatory prepayment provisions under the LRLF, however due to the current negative net asset position of the Company, the limited recourse provisions are applicable. This means that the Company need not make immediate repayments of the LRLF if and when exercising the Put Option. As a result, the amount of EUR 20 million the Company would receive having exercised the Put Option would, as long as the net asset position of the Company remains negative, remain fully available to the Company.

## **6.2. *Alternative options in the case of not exercising the Put Option***

### *Selling to a third party now*

In case of not exercising the Put Option, other investor groups could be contacted including investors in industry peers, investors in other relevant companies and special situation

investors (see Expert Report in [Annex 1](#) for a more detailed description and the report from management in [Annex 2](#), which the Committee has analysed and endorses). It seems however highly unlikely that the Company, if it wishes to sell the Company Equity Interest, would find a third party willing to buy the Company Equity Interest through a formal sale process at a substantially higher price than the one it would receive in return for exercising the Put Option.

The Committee is of such opinion in alignment with the Expert Report and management based on the following reasons:

- The Company has already approached the market with a press release on 18 November 2021 which stated that the Committee would also duly consider any substantiated third-party bids. The Company has confirmed in its annual report published on 13 April 2022 and in its press release of 27 May 2022 that no bids were received. Also at the AGM, whereas various questions were asked, no indications of interest in the Company Equity Interest were received. At the date of this report, no offer has been received.
- Moore CoFi have noted in their expert opinion that it is unlikely that such an offer would be forthcoming. Furthermore, the Company has also sought informal advice from external parties as to the potential for third parties to make an offer at a price greater than EUR 20 million. Mr. Simms has spoken informally with some of his metals & mining focussed investment banks contacts in London (including BMO and DB) and they have unanimously advised that it is extremely unlikely that a superior offer would be received for the 2% stake in NN2. The various investment banks approached all advised that a formal opinion could not be provided by them as to the potential to receive proceeds for the 2% stake without first conducting a formal market sounding exercise. Such a market sounding by an investment bank would be at a cost to the Company which would clearly be disproportionate to the likely benefit.
- Investors in industry peers and other relevant companies might not be familiar with taking a minority stake in a subsidiary of a larger entity that also concerns a special situation.
- There is a substantial amount of litigation initiated by minority shareholders of the Company that relate to the restructuring described above and that may have an impact on any third party acquiror, as a result of which investors may be unwilling to acquire the Company Equity Interest.
- Special situation investors might have a lack of specific sector knowledge.
- Since the Company Equity Interest only concerns 2%, the rights of the shareholders of this minority equity stake are limited.
- There is limited time to find a potential buyer and perform a due diligence process prior to the execution date of the Put Option.
- There is rather limited information available to be able to perform a full scope due diligence.

- There are several costs related to a sales process of the minority stake to a third party
- Most importantly, based on Moore CoFi's evaluation, the probability of a higher sales price than EUR 20 million for the Company Equity Interest seems unlikely.

### *Maintaining the Company Equity Interest*

Moore CoFi has in its Expert Report addressed the consequences of the Company not exercising the Put Option on the liquidity of the Company. It is clearly stated in the Moore Expert Report that if the Company does not exercise the Put Option or alternatively would not sell Company Equity Interest but would rather keep owning it in expectation of future dividends or a future sale for more than EUR 20 million, the Company would only be able to cover its ongoing operating costs until April 2023, based on the Company's management estimate that Moore has reviewed. Beyond this date, the Company would be prohibited from further drawing on the unused portion of the LRLF and would become insolvent. The Committee concludes that such position is indeed reasonable.

This conclusion also makes it impossible for the Company to contemplate any possible future sale of the 2% interest in case the Company would forecast any dividends in future years that may be received from NN2. Regardless of the liquidity challenges described above, the Committee does not consider it realistic and in the best interest to the Company to wait for possible value increases of the Company's equity interest in NN2 or possible dividends that may be distributed by NN2 in the future, given the persisting loss making nature of the NN2's operations in the current market environment and the planned significant capital investments of the NN2 as publicly announced.

Based on the above, the most favourable option for the Company is to exercise the Put Option rather than exploring alternative options.

## **6.3. Assessment of the benefits and disadvantages for the Company and the Company's shareholders**

### *6.3.1. Benefits*

The exercise price of the Put Option equals to EUR 20 million. Based on the valuation performed as described above and in the Expert Report (see [Annex 1](#)) as well as the analysis of alternative options available to the Company, it seems unlikely that a third party, or Trafigura, now or in the future, would be willing to pay a higher amount for this equity stake as valuation of the Company Equity Interest is much lower than EUR 20 million. Moreover, organising a sale process for third parties, now or in the future, or the negotiations with Trafigura in the future, would take a lot of time and would result in the Company incurring material costs to organise such a sale process. Not exercising the Put Option would therefore in the opinion of the Committee likely result in the insolvency of the Company by April 2023.

On the other hand, the Company will receive EUR 20 million in return for the Put Option which, based on the input from Moore CoFi and the Company's management, which the Committee has analysed and endorses, will provide the Company with sufficient headroom to cover its expected outstanding liabilities. After repayment of these outstanding liabilities, the Company

may choose to invest the surplus in other assets or distribute such surplus to its shareholders (subject to any repayment required under the terms of the LRLF and any legal constraints resulting from the ongoing discussions between shareholders and / or board).

After the receipt of funds resulting from the exercise of the Put Option, the Committee recommends that the Company forms a more defensive investment strategy to invest the proceeds from the Put Option in assets that are liquid and low-risk profile. Alternative investments that the Company could consider are investments in cash deposits, short-term investment grade corporate bonds and/or index funds.

### *6.3.2. Disadvantages*

The Company has an agreement with NN2 whereby NN2 commits to the provision of certain ongoing operational and administrative services to the Company for a period of three years as from the Restructuring effective date of 31 July 2019 (the '**Ongoing Services**'). Any disposal of the equity stake the Company holds in NN2 triggers early termination of the Ongoing Services including exercising the Put Option. The effect of this disadvantage, however, will be minimal as the Ongoing Services period automatically expires on 31 July 2022 which is also the expiration date of the Put Option. The exercise of the Put Option implicates that the Company will not receive any future dividends from NN2 (if any) as result of the sale of the Company Equity interest. It also means that the Company will be responsible for any costs and charges resulting from a transaction by exercising the Put Option.

The most important disadvantage is that the Company will no longer have the option to dispose the Company Equity Interest to a third party or NN2 at a potentially higher price than the Put Option exercise price of EUR 20 million. Given the valuation of the Company Equity Interest, the fact that the Operating Group does not forecast in the next five years to achieve the level of EBITDA required to exceed a EUR 20 million valuation; the holding costs of waiting to potentially secure the additional value would likely outweigh any benefit even if it were to occur; and the absence of alternative options available to the Company, as described, it is however very unlikely that the Company would find a third party (including Trafigura) who is willing to pay more than the exercise price or that NN2 would be willing to do so or that there would be any increase in value of the Company Equity Interest prior to the date that the Company is forecasted to meet the bankruptcy conditions.


The Company will also no longer benefit from the additional drawings on the LRLF as a result of the exercise of the Put Option. It is however clearly stated in the Moore CoFi Expert Report that if the Company does not exercise the Put Option or alternatively would not sell Company Equity Interest but would rather keep owning it in expectation of future dividends or a future sale for more than EUR 20 million, and benefiting from the LRLF, the Company would only be able to cover its ongoing operating costs until April 2023. Beyond this date, the Company would be prohibited from further drawing on the unused portion of the LRLF and would become insolvent. This was confirmed by the Company's Management, and the Committee concludes that such position is indeed reasonable.

Based on this, the Committee is of the opinion that the decision to exercise the Put Option will provide the Company and its shareholders with more benefits than disadvantages and therefore considers the Decision to be beneficial to the Company.

## 7. Conclusion of the Committee

On the basis of the considerations set out above, including the Expert Report, the information provided in Annex 2 as well as the comments made by minority shareholders, the Committee is of the opinion that the decision to exercise the Put Option is not such as to imply a disadvantage to the Company that, in light of its current policies, would be manifestly illegitimate.

Furthermore, the Committee is of the opinion that it is unlikely that the decision to exercise the Put Option would lead to disadvantages for the Company which will not be outweighed by the benefits for the Company of such decision.



By:

/signed/ Anne Fahy  
Independent Director



By:

/signed/ Carole Cable  
Independent Director



By:

/signed/ Jane Moriarty  
Independent Director

Annex 1  
Expert Report

[see *separate document*]

Annex 2

Management reports in respect of information provided by NN2 and in respect of LRLF  
prepayment

*[see separate document]*