

Put Option for the Company's 2% stake in NN2

1. Background

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 Newco Limited ("**NN2**"), became the ultimate parent company of the former (direct and indirect) subsidiaries of Nyrstar NV (the "**Company**") (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**").

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. The terms of this 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**").

On 18 November 2021, the Company advised that it had appointed Moore Corporate Finance, to prepare an independent expert's opinion for the independent directors of the Company ("**Committee of Independent Directors**"), in the framework of Article 7:97 of the Belgian Code of Companies and Associations ("**BCCA**").

The independent expert's opinion is to advise, considering also the annual results of the Operating Group, the Committee of Independent Directors in examining the benefit to the Company, taking all relevant circumstances into account, of the exercise or non-exercise of the Put Option. The Put Option expires on 31 July 2022, subject to limited triggers allowing earlier termination of the Put Option before 31 July 2022. The Company also advised that, in making its decision on whether or not to exercise the Put Option, the Committee of Independent Directors would also duly consider any substantiated third party bids that it may receive in respect of the Company Equity Interest (see below, under 6).

By seeking the assistance of an independent expert, the Committee of Independent Directors wishes to ensure that, if and when the board would decide on exercising the Put Option, it is well prepared to examine the proposed exercise decision in accordance with article 7:97 BCCA. It is expected that the board will decide as to whether or not to exercise the Put Option or potentially sell the Company Equity Interest to a third party prior to the expiry of the Put Option on 31 July 2022.

2. Summary of Put Option Deed

The main terms, as set out in the Put Option Deed, are summarised as follows:

- The Put Option price is EUR 20 million.
- The Put Option can be exercised by the Company during the "**Option Period**", i.e. until 31 July 2022, or earlier subject to certain limited triggers allowing earlier termination of the Put Option before 31 July 2022. The Company currently does not expect any such triggers to apply prior to 31 July 2022.

- The Put Option must be exercised by written notice, by the Company to the relevant Trafigura entity, given at any time during the Option Period (the “**Put Option Notice**”).
- The Company shall set out in the Put Option Notice details of any applicable “**Mandatory Conditions**”, i.e. any necessary approvals required in connection with the sale and purchase of the option shares by or under applicable law. The Company currently does not expect any such Mandatory Conditions to apply.
- Completion of the sale and purchase of the option shares (the “**Option Completion**”) shall take place on the tenth business day after the Mandatory Conditions are fulfilled.
- At Option Completion, Trafigura shall cause the option price to be paid by electronic funds transfer to the Company’s bank account at the same time of which the Company shall deliver, or procure that there is delivered to Trafigura a transfer in respect of the option shares in favour of Trafigura together with the share certificates relating to the option shares.
- The transfer is registered subject to their being duly stamped (any stamp duty owing on such transfer is to be paid by Trafigura or any other Trafigura entity that is purchasing the option shares).

3. Limited Recourse Loan Facility and Ongoing Services

On 23 July 2019, the Company entered into a EUR 13.5 million committed, limited recourse, loan facility (the “**Limited Recourse Loan Facility**”) provided to it by NN2 (as “**Lender**”). The Limited Recourse Loan Facility is made available in two separate tranches: (i) up to EUR 8.5 million to be applied towards the Company’s ongoing ordinary course operating activities (“**Facility A**”); and (ii) up to EUR 5 million intended for the payment or reimbursement of costs in respect of any litigation, proceedings, actions or claims (including tax claims) made, asserted or threatened against the Company, NN1 Newco Limited or any of their current or former directors or officers (each being a “**Claim**”) (“**Facility B**”). The Company has been reporting on the Limited Recourse Loan Facility with each publication of its (semi-)annual results.

The Limited Recourse Loan Facility includes mandatory prepayment provisions as of the date on which the Company ceases to own the Company Equity Interest (such date being the “**Company Exit Date**”) in respect of the proceeds from any disposal(s) of the Company Equity Interest which result(s) in the occurrence of the Company Exit Date (the “**Disposal Proceeds**”) (which are, for the avoidance of doubt, also triggered by the exercise of the Put Option). These provisions can be summarised as follows:

- Immediately upon receipt of any Disposal Proceeds, the Company shall procure that these shall be applied first to prepay any amount outstanding under Facility B, and secondly, 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 million, to prepay such Facility A amounts to or towards an aggregate amount of EUR 5 million.
- The Company shall also ensure that, if any distribution is paid to the Company’s shareholders on or after the Company Exit Date, an amount equal to that distribution is applied to repay or prepay any amount outstanding under Facility A before or simultaneously with such distribution.
- In accordance with the Limited Recourse Loan Facility, however, the recourse to the Company in respect of repayment of funds drawn or any other obligation thereunder is limited to the Company’s net assets, if any. If the net assets of the Company are negative or insufficient to discharge the obligations of the Company under the Limited Recourse Loan Facility, such obligations shall be deemed to be limited to the amount of the net assets of the Company.

- Finally, the occurrence of the Company Exit Date also entitles the Lender to cancel the whole or any part of the commitments still available under the Limited Recourse Loan Facility.

Accordingly, the exercise of the Put Option (or any other disposal of the Company Equity Interest) would not only result in a draw-stop under the Limited Recourse Loan Facility, but certain funds drawn under the Limited Recourse Loan Facility would need to be repaid with the Disposal Proceeds.

Furthermore, as agreed in the agreement for the sale and transfer between the Company and NN2, NN2 provides certain ongoing operational and administrative services to the Company, for a period of three years from the Restructuring effective date of 31 July 2019 (or less subject to agreed early termination triggers) (the “**Ongoing Services**”). The provision of the Ongoing Services to the Company is intended to reduce the Company’s operating costs in the period following the Restructuring effective date. The exercise of the Put Option or any other disposal of the Company Equity Interest is an early termination trigger of such Ongoing Services.

4. Moore

Moore Belgium is the largest independent professional services provider in Belgium. Moore Belgium provides services in the areas of Accountancy, Audit, Business Analytics, Business Consulting, Corporate Finance, Interim Management and Tax & Legal Services. As a member of Moore Global – a global accounting and consulting network – Moore Belgium assists its clients in more than 100 countries. More information about Moore Belgium can be found at www.moore.be. Moore has confirmed to be fully independent in accordance with Article 7:97 BCCA.

5. Information rights

Pursuant to the NNV-Trafigura Deed, the Company is entitled to request certain financial or other information from Trafigura in respect of any member of the Operating Group, which right the Company intends to use in considering the exercise of the Put Option or any third party bid for the Company Equity Interest.

6. Other bids

On 18 November 2021 the Company also advised that, in making its decision on whether or not to exercise the Put Option, the Committee of Independent Directors 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, that it may receive in respect of the Company Equity Interest. Trafigura does not have a right of first refusal in respect of the Company Equity Interest.

Any such bids for the 2% shareholding in NN2 were requested to be addressed to the Company prior to 15 February 2022. The Company has not received any bids.