



LIMITED LIABILITY COMPANY ("NAAMLOZE VENNOOTSCHAP")  
Registered Office: Zinkstraat 1, 2490 Balen, Belgium  
Company Number VAT BE 0888.728.945 RPR/RPM Turnhout

## EXPLANATORY NOTE

**Extraordinary and Special General Meetings**  
to be held on Monday December 23, 2013 at 4:00 p.m.

### Introduction

This explanatory note has been prepared on behalf of the Board of Directors of Nyrstar NV in connection with the various items on the agenda of the extraordinary and special general shareholders' meetings of the Company, to be held on December 23, 2013.

As the quorum required for the deliberation and/or voting on items 1 and 2 in the agenda of the extraordinary general shareholders' meeting held on Thursday November 14, 2013, was not reached, the extraordinary general shareholders' meeting constitutes the second extraordinary general shareholders' meeting for the items referred to in the agenda of the extraordinary general shareholders' meeting, and no quorum is required for the deliberation and voting on said items. After the agenda of the extraordinary general shareholders' meeting has been treated, the meeting will be shortly suspended in order to be continued as a special general shareholders' meeting. There is no quorum requirement for the deliberation and voting on the item referred to in the agenda of the special general shareholders' meeting.

Pursuant to article 533bis, §2, d) of the Belgian Company Code, this note contains for each of the items on the agenda of the aforementioned general shareholders' meetings a proposed resolution or, if the item does not require a resolution, a commentary on behalf of the Board of Directors.

For further information on date, hour and venue of the general shareholders' meetings, the manner in which the holders of securities issued by the Company can participate to the meetings and background documentation regarding the meetings, reference can be made to the notice convening the extraordinary and special general shareholders' meetings.

## EXTRAORDINARY GENERAL MEETING

**Agenda and proposed resolutions:** The agenda and proposed resolutions of the extraordinary general shareholders' meeting of the Company, which, as the case may be, can be amended at the meeting on behalf of the Board of Directors, are as follows:

### 1. Special reports

*Explanation:* This agenda item relates to the submission and acknowledgement of the special reports of the Board of Directors and the Statutory Auditor in connection with the proposed resolutions set out in agenda item 2 regarding the proposal to approve the physically settled conversion right attached to the Bonds (as defined in section 2 of the agenda), the disapplication of the preferential subscription right of the Company's shareholders in connection with such conversion right, and the potential issuance of new shares at a price below the fractional value of the Company's shares at the time of conversion of the Bonds. Copies of these documents are available on the Company's website and at the Company's registered office, as indicated in the notice convening the extraordinary general shareholders'

meeting.

In the aforementioned reports, further information is provided on the issue of the Bonds, the reasons for the issue of the Bonds, the conversion price of the Bonds, the disapplication of the preferential subscription right of the shareholders and the financial consequences of the transaction for the shareholders.

Submission and acknowledgment of:

- (a) the special report of the Board of Directors of the Company in accordance with, as far as needed and applicable, Articles 582, 583 and 596 of the Belgian Company Code in connection with the proposed physically settled conversion right attached to the Bonds (as defined in section 2 of the agenda), the disapplication of the preferential subscription right of the Company's shareholders in connection with such conversion right, and the potential issuance of new shares at a price below the fractional value of the Company's shares at the time of conversion of the Bonds;
- (b) the special report of the Statutory Auditor of the Company in accordance with Articles 582 and 596 of the Belgian Company Code in connection with the proposed disapplication of the preferential subscription right of the existing shareholders in connection with the approval of the physically settled conversion right attached to the Bonds and the potential issuance of new shares at a price below the fractional value of the Company's shares at the time of conversion of the Bonds.

## 2. Approval of the physically settled conversion right attached to Bonds

*Proposed resolution:* The general shareholders' meeting decides to approve the physically settled conversion right attached to the senior unsecured convertible bonds due 2018 (the "**Bonds**"), which have been issued by the Company on September 25, 2013 for an aggregate principal amount of EUR 120 million and have been placed with institutional investors following an accelerated book-building procedure. In view hereof, the general shareholders' meeting decides as follows:

- (a) Terms and conditions of the Bonds: As far as needed and applicable, the general shareholders' meeting takes note of the terms and conditions of the Bonds as described and specified in Annex A to the special report of the Board of Directors mentioned in section 1(a) of the agenda (the "**Conditions**") and of which, for the sake of completeness, a copy will remain attached to the present minutes.

The main terms of the Conditions can, for information purposes, be summarised as follows:

- **Issuer of the Bonds:** the Company (Nyrstar NV).
- **Aggregate principal amount of the Bonds:** EUR 120 million in total. Each Bond will have a principal amount of EUR 100,000.00.
- **Final maturity date:** The Bonds will have a term of five years as of their issuance on September 25, 2013 until September 25, 2018.
- **Interest:** 4.25%, payable semi-annually in arrears.
- **Physically settled conversion right:** If the physically settled conversion right attached to the Bonds is approved by the extraordinary general shareholders' meeting, each Bond (unless previously redeemed, purchased or cancelled) can be convertible into shares at the option of the holders of the Bonds on any day during the Conversion Period as defined in the Conditions.

- **Call option for the Company:** If the physically settled conversion right attached to the Bonds is not approved by an extraordinary general shareholders' meeting on or before January 31, 2014 (the "**Long-stop Date**"), the Issuer may, by giving a notice to the holders of the Bond, elect to redeem all but not only some of the Bonds, at the greater of (i) 102% of the principal amount of the Bonds, together with accrued interest and (ii) 102% of the fair value of the Bonds together with accrued interest.
- **Cash settled conversion right:** If the physically settled conversion right attached to the Bonds is not approved by an extraordinary general shareholders' meeting on or before the Long-stop Date and the Company does not elect to redeem the Bonds, each Bond shall entitle the holder to require the Company to redeem such Bond in cash at an amount equal to the Cash Alternative Amount as defined in the Conditions.
- **Redemption at the option of the Company:** The Company will have in certain other circumstances the right to redeem the outstanding Bonds. Further reference is made to the Conditions of the Bonds.
- **Redemption at the option of the holders of the Bonds upon a change of control:** The holders of the Bonds will have the right, at their option, to require the Company to redeem their outstanding Bonds following the occurrence of a change of control over the Company if the Company's general shareholders' meeting has approved the terms of the Bonds that are triggered by a change of control over the Company in accordance with Article 556 of the Belgian Company Code. Further reference is made to the Conditions of the Bonds.
- **Early redemption:** If the Company's general shareholders' meeting has not approved the terms of the Bonds that are triggered by a change of control over the Company in accordance with Article 556 of the Belgian Company Code and filed the resolutions with the clerk of the Commercial Court of Turnhout on or before the Long-stop Date, the Company shall redeem all but not some only of the Bonds, at the greater of (i) 102% of the principal amount of the Bonds, together with accrued interest and (ii) 102% of the fair value of the Bonds together with accrued interest.
- **Conversion price:** Each Bond can be converted into new and/or existing shares of the Company on the basis of a conversion price of EUR 4.9780 per share. The conversion price is subject to customary adjustments, including in respect of dividend or other distributions made by the Company in relation to the Company's shares. The maximum number of new shares of the Company to be issued upon conversion of one Bond will be calculated as the fraction, (i) the numerator of which is the principal amount of the Bond (i.e. EUR 100,000.00), and (ii) the denominator of which shall be the applicable conversion price.
- **Underlying shares:** The shares to be issued upon conversion of the Bonds (as the case may be) will have the same rights and benefits as, and rank *pari passu* in all respects with, the existing and outstanding shares of the Company at the moment of their issuance and will be entitled to distributions in respect of which the relevant record date or due date falls on or after the date of issue of the shares.
- **Listing of the underlying shares:** The Company will undertake to obtain the listing of the underlying shares on NYSE Euronext Brussels as soon as reasonably practicable and no later than on the conversion of the Bonds.
- **Transferability of the Bonds:** The Bonds will be freely transferable.

- **Listing of the Bonds:** An application will be made to admit the Bonds to trading on the Open Market segment (*Freiverkehr*) of the Frankfurt Stock Exchange, which is not a regulated market in the meaning of Article 2, 3° of the Belgian Act of August 2, 2002, regarding the supervision of the financial sector and the financial services.
  - **Increase of the share capital of the Company:** If the physically settled conversion right attached to the Bonds is approved by the extraordinary general shareholders' meeting, then, upon conversion of the Bonds into new shares, the Company's share capital will be increased, as further specified in the Conditions.
- (b) Approval of the physically settled conversion right attached to the Bonds: The general shareholders' meeting decides to approve the Conversion Rights attached to the Bonds, as defined and further specified in the Conditions. As a result, the Bonds can be converted into a number of new shares of the Company on the basis of the applicable conversion price of the Bonds, which shall be subject to customary adjustments, all as further set out in the Conditions of the Bonds.
- (c) Underlying shares: Subject to the terms of the Conditions, the new shares to be issued upon conversion of the Bonds (as the case may be) will have the same rights and benefits as, and rank *pari passu* in all respects with, the existing and outstanding shares of the Company at the moment of their issuance and will be entitled to distributions in respect of which the relevant record date or due date falls on or after the date of issue of the shares.
- (d) Disapplication of the statutory preferential subscription right: The general shareholders' meeting decides to approve, as far as necessary and applicable, the disapplication of the preferential subscription right of the existing shareholders in connection with the approval of the physically settled conversion right attached to the Bonds.
- (e) Conditional capital increase and issue of new shares: In view of the approval of the physically settled conversion right attached to the Bonds, the general shareholders' meeting decides subject to, and to the extent of, the conversion of the Bonds into new shares, to increase the Company's share capital and to issue the relevant number of new shares issuable upon the conversion of the Bonds as provided for in the Conditions. Subject to, and in accordance with, the provisions of the Conditions, upon conversion of the Bonds and the issue of new shares, the aggregate conversion price of the Bonds so converted (as determined by the Conditions and taking into account the number of shares to be issued upon conversion of the Bonds) will be allocated to the share capital of the Company. To the extent that the amount of the applicable conversion price of the Bonds, per share to be issued, exceeds the fractional value of the shares of the Company immediately preceding the capital increase resulting from the conversion of the Bonds concerned, a part of the conversion price per share to be issued equal to such fractional value will be booked as share capital, and the balance of the aggregate conversion price will be booked as issue premium. As far as needed and applicable, the general shareholders' meeting approves the issuance of shares below the fractional value of the Company's existing shares at the time of conversion of the Bonds into new shares. Following the capital increase and the issue of new shares, each of the shares (existing and new) will represent the same fraction of the Company's share capital.
- (f) Issue premium: Pursuant to Article 7 of the Company's Articles of Association, any issue premiums that are booked in connection with the Bonds (including the issue premium, if any, booked at the occasion of the issuance or booking of the Bonds) will be accounted for on a non-distributable account on the liabilities side of the Company's balance sheet under its net equity and the account on which the issue premium will be booked will, like the share capital, serve as the guarantee for third parties and can only be reduced on the basis of a lawful resolution of the general

shareholders' meeting passed in the manner required for an amendment to the Company's Articles of Association.

- (g) Powers of attorney: The Board of Directors is authorised to implement and execute the resolutions passed by the general shareholders' meeting in connection with the Bonds, and to take all steps and carry out all formalities that shall be required by virtue of the Conditions of the Bonds, the Company's Articles of Association and applicable law in order to issue or transfer the shares upon exercise of the physically settled conversion right. Furthermore, each Director shall have the power, upon conversion of Bonds, to proceed with the recording of (i) the capital increase and issue of new shares resulting from such conversion, (ii) the allocation of the share capital and (as applicable) the issue premium, and (iii) the amendment of the Company's Articles of Association in order to reflect the new share capital and number of outstanding shares following the conversion of Bonds.

### **SPECIAL GENERAL MEETING**

**Agenda and proposed resolutions:** The agenda and proposed resolution of the special general shareholders' meeting of the Company, which, as the case may be, can be amended at the meeting on behalf of the Board of Directors, are as follows:

#### **Election of a new independent director**

Taking into account the advice of the Nomination and Remuneration Committee, the Board of Directors recommends that Ms. Carole Cable be elected as independent director of the Company. Ms. Cable is currently the joint head of Brunswick's energy and resources practice, specialising in the metals and mining sector. Prior to her current position, she was at Credit Suisse and JPMorgan in institutional equity research and sales, specializing in Global Mining and Asia ex Japan. Previously, she also worked for an Australian listed mining company. Ms. Cable holds a Bachelors of Science degree from the University of New South Wales, Australia. Ms. Cable is currently also on the Board of Women in Mining UK.

*Proposed resolution:* Ms. Carole Cable is elected as independent director within the meaning of Article 526ter of the Belgian Company Code and provision 2.3 of the Belgian Code on Corporate Governance, for a term up to and including the annual general meeting to be held in 2017 which will decide upon the financial statements for the financial year to end on December 31, 2016. It appears from information available to the Company and from information provided by Ms. Carole Cable that she satisfies the applicable requirements with respect to independence. Her mandate as director shall be remunerated as set out in relation to non-executive directors in the remuneration report for the financial year ended on December 31, 2012 that was approved by the shareholders on the general shareholders' meeting held on April 24, 2013, and pursuant to the principle as approved by the shareholders at the general shareholders' meeting held on April 27, 2011.

\* \* \*

Done on November 22, 2013

On behalf of the Board of Directors