



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

**SPECIAL BOARD REPORT OF THE BOARD OF DIRECTORS
IN ACCORDANCE WITH ARTICLE 633 OF THE BELGIAN COMPANIES CODE**
issued on 3 October 2019

In accordance with Article 633 of the Belgian Companies Code ("**BCC**"), the board of directors (the "**Board**") of Nyrstar NV (the "**Company**") has unanimously adopted the following report which will be submitted to the extraordinary general meeting of shareholders to be held on 5 November 2019 (the "**Extraordinary General Meeting**").

Introduction

Article 633 BCC provides that if, as a result of a loss sustained, the net assets have fallen below one-half of the share capital of a company, the general meeting must, unless more stringent provisions are included in the articles of association, convene within no more than a two-month period after the loss has been established in order to deliberate and resolve on the dissolution of the company and possibly on other measures announced in the agenda.

Article 633 BCC provides that the same obligation applies if, as a result of a loss sustained, the net assets of a company have fallen below one quarter of the share capital, provided that the dissolution of the company shall then take place when approved by one quarter of the votes cast at the meeting.

From the statutory accounts of the Company for the financial year that ended on 31 December 2018, submitted for approval to the annual general meeting of shareholders to be held on 5 November 2019, it appears that as a result of losses, the Company's net assets (*i.e.*, EUR 12,424,466.77) have fallen below one quarter of the Company's share capital (*i.e.*, EUR 114,134,760.97).

In view of the Extraordinary General Meeting, the Board has now prepared a special report in accordance with Article 633 BCC in which it sets out its proposal (the "**Report**").

In this Report, the Board sets out the Capital Structure Review and Restructuring of the Group (all as defined below) which have been implemented with a view to redress the financial situation of the Company and asks the shareholders to resolve upon the continuation of the activities of the Company. In addition, the Board proposes an absorption of these losses through a decrease of legal reserve, issue premiums and share capital, so as to align the amount of the share capital (and issue premiums and legal reserve) to the value of the Company's assets post-Restructuring.

Reasons for the losses and the decrease in net assets

The Restructuring

The Company initiated a review of its capital structure (the "**Capital Structure Review**") in October 2018 in response to the challenging financial and operating conditions being faced by the Company and its subsidiaries at that time (the "**Group**"). The Capital Structure Review identified a very substantial additional funding requirement that the Group was unable to meet without a material reduction of the Group's indebtedness. As a consequence, the Capital Structure Review necessitated negotiations between the Group's financial creditors in order to develop a deleveraging and funding plan as part of a comprehensive balance sheet recapitalisation. Accordingly, the Company entered

into a lock-up agreement dated 14 April 2019 (the “**Lock-Up Agreement**”) with representatives of its key financial creditor groups. The Lock-Up Agreement sets out the terms for the restructuring of the Group (the “**Restructuring**”), which has completed on 31 July 2019.

The Restructuring has resulted in, amongst a number of other steps:

- a transfer by the Company of (i) all its subsidiaries, excluding a newly incorporated English direct subsidiary, NN1 NewCo Limited (the “**Operating Group**”), and (ii) all receivables owed to the Company by the Operating Group, to NN2 NewCo Limited, a newly incorporated English indirect subsidiary (“**NN2**”);
- NN2 agreeing to use reasonable endeavours to procure the release of the Company from any obligations it owes to third parties under any parent company guarantees (“**PCGs**”), and pending the release of any such PCGs, NN2 indemnifying the Company for any and all liabilities in relation to such PCG in respect of the failure by the applicable member of the Operating Group to fully comply with its principal obligations;
- to the extent not covered by the release and/or indemnification of PCGs mentioned above, NN2 indemnifying the Company in respect of any and all liabilities, costs and expenses incurred in connection with certain other specified liabilities of the Company, including certain liabilities arising in relation to certain historic disposals by the Group and/or from certain historic mine closures;
- a scheme of arrangement under the UK Companies Act 2006, resulting in the release of the EUR 115 million convertible bonds issued by the Company due in 2022 (the “**Convertible Bonds**”), the Group’s EUR 500 million 6.875% senior notes due in 2024 (the “**2024 Notes**”), EUR 340 million 8.5% senior notes due in 2019 issued by Nyrstar Netherlands (Holdings) B.V. (“**NNH**”) (the “**2019 Notes**” and together with the 2024 Notes and the Convertible Bonds, the “**Notes**”), in exchange for the issuance of new securities to the holders of such Notes;
- Trafigura Group Pte. Ltd. (together with its affiliates, “**Trafigura**”) having been issued 98% of the outstanding share capital of NN2 and having as a result become the owner of 98% of the equity of the Operating Group with the Company owning the balance of 2%.

Impairment

The Company, as a holding company, derives the substantial majority of its operating income and cash flows from its subsidiaries (together, the “**Operating Group**”). The Company’s business, results of operations and financial condition are therefore currently dependent on the trading performance of members of the Operating Group.

The losses incurred and the resulting decrease in the net assets of the Company are primarily the result of the impairment in the value of the Company’s participations in the Operating Group from EUR 1,235,420,151 to EUR 15,395,253, to reflect the estimated fair market value (“**FMV**”) of the 2% interest in the Operating Group that the Company owns following the completion of the Restructuring (the “**Restructured Group**”), as set out in the report of the independent directors of 19 June 2019 in accordance with article 524 BCC (the “**524 Report**”) and in the annual report of the Board in accordance with article 96 BCC for the financial year that ended on 31 December 2018 (the “**Statutory Annual Report**”).

The impairment of the value of the Company’s participations in the Operating Group to the FMV of the 2% interest in the Restructured Group is justified by the fact that following implementation of the Restructuring, the Company is a holding company owning a 2% interest in the Operating Group. Following completion of the Restructuring, the Company’s main asset recognised on the balance sheet is therefore the value of its 2% investment in the NN2.

Further, the liquidity of the Company is supported by the funding and support agreements between Trafigura, NN2 and the Company that include providing the Company with a EUR 13.5 million committed limited recourse loan facility that the Company can use to finance its ongoing operating activities, also as described in the 524 Report and the Statutory Annual Report.

In view of the Restructuring redressing the Group’s assets and liabilities and the ongoing funding and support of the Company, which have completed on 31 July 2019, the Board proposes to continue the activities of the Company.

Decrease of legal reserves, issue premiums and capital

In addition, the Board proposes to decrease, through the absorption of losses, (i) the legal reserve from EUR 16,257,028.06 to EUR 1,129,496.98, (ii) the issue premiums account from EUR 1,216,395,875.47 to nil, and (iii) the share capital from EUR 114,134,760.97 to EUR 11,294,969.79, so as to align the amount of the legal reserve, the issue premiums and the share capital of the Company to the value of the Company's net assets post-Restructuring.

Conclusion

The Board believes that the Company should have adequate resources to continue in operational existence for the foreseeable future.

The Board confirms that, taking into account the Company's available cash, the Company's committed facilities and its cash flow projections for the 12 months following the Restructuring, the Company has sufficient liquidity to continue its operations for the next 12 months. The Company is not in a situation of cessation of payments.

The Board shall therefore request the general meeting of shareholders, in the scope of Article 633 BCC, to resolve upon the continuation of the activities of the Company and to approve decrease of legal reserve, the issue premiums and the share capital of the Company through the absorption of losses.

This report is available at the registered office of the Company and available for shareholders during the period of 30 days before the Extraordinary General Meeting.

Done at Balen, on 3 October 2019.

On behalf of the Board,

/signed/ Martyn Konig
Director

/signed/ Jane Moriarty
Director