

30 November 2020

## Notice under section 708A(12C)(e) of the Corporations Act 2001 (Cth)

Webjet Limited ABN 68 002 013 612 (**Webjet** or the **Company**) announced a consent solicitation on 16 November 2020 to holders of its €100,000,000 2.5 per cent. Senior Unsecured Convertible Notes due 2027 (**Original Issued Notes**), to solicit their consent to approve certain amendments to the Original Issued Notes, to provide for the Original Issued Notes to be convertible into fully paid ordinary shares in Webjet (**Shares**) on exercise of the Original Issued Notes' conversion right (**Physical Conversion Modification**).

The Physical Conversion Modification and the issue of replacement convertible notes by Webjet to give effect to the Physical Conversion Modification (**Replacement Convertible Notes**) was previously approved by shareholders of Webjet at its Annual General Meeting on 22 October 2020. The Physical Conversion Modification was approved by requisite holders of the Original Issued Notes as announced by Webjet on 25 November 2020.

Webjet advises that the Physical Conversion Modification has become effective, and the issue of the Replacement Convertible Notes has occurred, on the date of this notice. Webjet gives this notice, which incorporates the attached Terms and Conditions of the Replacement Convertible Notes, under section 708A(12C)(e) of the *Corporations Act 2001* (Cth) (**Corporations Act**) as it applies to Webjet, as notionally inserted by *ASIC Corporations (Sale Offers: Securities Issued on Conversion of Convertible Notes) Instrument 2016/82* (**Instrument 2016/82**) and as further modified by Instrument 20/1067 issued to Webjet by the Australian Securities and Exchange Commission (**ASIC**) on 13 November 2020 (**Instrument 20/1067**).

Details of the background to the Physical Conversion Modification can be found in the notice of meeting for Webjet's 2020 annual general meeting which is available at <a href="https://www.webjetlimited.com/asxannouncements/">https://www.webjetlimited.com/asxannouncements/</a>.

The Company hereby confirms that:

- (a) the Replacement Convertible Notes are issued without disclosure under Part 6D.2 of the Corporations Act:
- (b) this notice, together with the attached terms and conditions of the Replacement Convertible Notes, comprises a notice under section 708A(12C)(e) of the Corporations Act in respect of the Convertible Notes; and
- (c) this notice complies with section 708A(12D) of the Corporations Act as inserted by Instrument 2016/82 and as modified by Instrument 20/1067.

#### **Effect of the issue of the Replacement Convertible Notes**



The Replacement Convertible Notes comprise equity securities for the purposes of the Australian Securities Exchange (**ASX**) Listing Rules (**ASX Listing Rules**) and are convertible into Shares, whereas the Original Issued Notes comprised debt securities.

Each Replacement Convertible Note is convertible into Shares at a fixed conversion price of \$4.092 per Share. With a fixed exchange rate of \$1.6238 = EUR1.00, the maximum number of Shares that can be issued upon full conversion of the Replacement Convertible Notes (assuming no adjustment in the conversion price) is 39,682,306 Shares.

The conversion price is subject to adjustment in certain circumstances to provide compensation to the noteholders for the dilutive effect of certain corporate actions of the Company, including:

- (a) share consolidation or subdivision;
- (b) bonus share issues;
- (c) certain dividends and capital distributions; and
- (d) placements or rights issues of Shares and other securities convertible into Shares at less than 90 per cent of current market price.

The initial conversion price is also subject to adjustment in relation to a change of control event, with the conversion price decreased based on a formula taking into account the number of days from when the change of control occurs to the maturity of the Conversion Notes, to compensate holders for the value they lose as a result of the change of control.

The Replacement Convertible Notes will be debt obligations of Webjet, as was the case for the Original Issued Notes. They will therefore remain as liabilities in the accounts of Webjet.

#### Rights and liabilities attaching to Replacement Convertible Notes and Shares

The rights and liabilities attaching to the Replacement Convertible Notes are contained in the attached Terms and Conditions.

The rights attached to Shares are contained in Webjet's constitution (**Constitution**). The following is a summary (though not necessarily an exhaustive or definitive statement) of the rights attaching to Shares as set out in the Constitution:

Voting At meetings of the Company's shareholders, each holder of Shares is

entitled to receive notice of and attend and vote at general meetings of the Company. Each holder of Shares has one vote on a show of hands and

one vote for each Share they hold on a poll.

General meetings and notices Written notice of the time, date and place of a meeting of shareholders

must be sent to holders of Shares and to every director and the auditor of

the Company not less than 28 days before the meeting.

#### **Dividends**

The Company's directors may pay interim and final dividends in accordance with the Corporations Act and ASX Listing Rules.

The payment of a dividend does not require confirmation by a general meeting of the Company.

Subject to the rights of holders of any shares or other equity securities which confer special rights as to dividends, each Share in the Company confers on the holder the right to an equal share in dividends authorised by the Company's board of directors.

#### Issue of further shares

Subject to the Company's constitution, the ASX Listing Rules and the Corporations Act, the Company's directors have the right to issue shares (including preference shares) or to grant options to any person and in any number they think fit.

## Transfer of the Company's Ordinary Shares

Subject to the Constitution, the Corporations Act, the ASX Listing Rules or the ASX Settlement Operating Rules, the Company's Ordinary Shares are freely transferable. Subject to the Constitution, the Corporations Act, the ASX Listing Rules or the ASX Settlement Operating Rules, the Company's directors may decline to register a transfer of the Company's Ordinary Shares in any circumstances permitted by the ASX Listing Rules.

## Winding up

Subject to the rights of holders of any shares or other equity securities which confer special rights as to surplus assets, each Share in the Company confers on the holder the right to an equal share in the distribution of surplus assets of the Company.

Upon the liquidation of the Company, the surplus assets of the Company (if any) must be distributed among the shareholders in proportion to their shareholding.

With the approval of a special resolution of shareholders of the Company, the liquidator may divide among the Company's shareholders the whole or any part of the surplus assets of the Company and may attribute values to assets as the liquidator considers appropriate and determine how the division is to be carried out as between the shareholders or difference classes of shareholders.

## Alteration of capital

The Company may buy back its shares in any manner authorised or permitted by the Constitution, the Corporations Act and the ASX Listing Rules.

Rights and liabilities attaching to the Replacement Convertible Notes and Shares may also arise under the Corporations Act, the ASX Listing Rules and other laws.

## Compliance with disclosure obligations

The Company is a "disclosing entity" under the Corporations Act and, as such, is subject to regular reporting and disclosure obligations under both the Corporations Act and the ASX Listing Rules. Broadly, these obligations require:

- (a) the Company to notify ASX immediately of any information (subject to certain exceptions) of which it is, or becomes, aware and which a reasonable person would expect to have a material effect on the value of its securities. That information is available to the public from ASX; and
- (b) the preparation of yearly and half-yearly financial statements and a report of the Company's operations during the relevant account period, together with an audit or review report prepared by the Company's auditor. These documents are lodged with ASIC and ASX.

Copies of documents lodged by the Company in connection with its reporting and disclosure obligations may be obtained from, or inspected at, an office of ASIC. Copies of all documents announced to the ASX can be found at https://www.webjetlimited.com/asx-announcements/.

The Company will provide free of charge to any person who requests it during normal business hours:

- (a) the Annual Report for the period ending 30 June 2020 lodged with ASX on 19 August 2020;
- (b) the Half Yearly Report for the period ending 31 December 2019 lodged with ASX on 19 February 2020; and
- (c) the continuous disclosure notices given by the Company to notify ASX of information relating to the Company during the period from the date of lodgement of the Annual Report lodged with ASX on 19 August 2020, until the date of this notice. Those announcements are recorded below.

Date	Announcement
30/11/2020	Cleansing Notice – Convertible Notes
24/11/2020	Results of Consent Solicitation
17/11/2020	Consent Solicitation
16/11/2020	Change in substantial holding from MUFG
10/11/2020	Appendix 3G
6/11/2020	Change in substantial holding from MUFG
5/11/2020	Change in substantial holding from MUFG
22/10/2020	Results of Meeting

Date	Announcement
22/10/2020	Chair address and MD presentation
13/10/2020	Ceasing to be a substantial holder
30/09/2020	Change in substantial holding from MUFG
25/09/2020	Becoming a substantial holder
18/09/2020	Ceasing to be a substantial holder
18/09/2020	Notice of Annual General Meeting/Proxy Form
17/09/2020	Becoming a substantial holder
16/09/2020	Becoming a substantial holder
16/09/2020	Ceasing to be a substantial holder
15/09/2020	Becoming a substantial holder
14/09/2020	Appendix 3Y - Roger Sharp
14/09/2020	Appendix 3Y John Guscic
11/09/2020	Ceasing to be a substantial holder
07/09/2020	Becoming a substantial holder
04/09/2020	Becoming a substantial holder
02/09/2020	New Long Term Incentive plan
01/09/2020	Change in substantial holding from CBA
25/08/2020	Ceasing to be a substantial holder
20/08/2020	Becoming a substantial holder
19/08/2020	Change in Year End to 31 March



Date	Announcement
19/08/2020	Update - Dividend/Distribution - WEB
19/08/2020	Appendix 4G and Corporate Governance Statement
19/08/2020	2020 Annual Report

#### Information excluded from continuous disclosure notice

As at the date of this notice, the Company advises that it has fully complied with its disclosure obligations under the ASX Listing Rules and the Corporations Act, and, in particular, other than as set out in this notice, there is no information which the Company has excluded from any of its continuous disclosure notices given in accordance with the ASX Listing Rules and the Corporations Act as at the date of this notice which it would be reasonable for investors and their professional advisors to require for the purpose of making an informed assessment of:

- (a) the assets and liabilities, financial position and performance, profits and losses and prospects of the Company; and
- (b) the rights and liabilities attaching to the Shares.

#### **Consents**

Each of the persons named in this notice has consented to the inclusion of each statement it has made in the form and context in which the statement appears in this document and the offering circular (as applicable), has consented to the references to those statements in the form and context in which they are included in this document and has not withdrawn those consents as at the date of this notice.

This announcement has been authorised for release to ASX by the Managing Director.

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### **DISCLAIMER**

THIS ANNOUNCEMENT IS FOR INFORMATION PURPOSES ONLY AND DOES NOT CONSTITUTE AN OFFER TO BUY, OR SOLICITATION OF AN OFFER TO SELL, ANY SECURITIES AND NO SUCH OFFER, SOLICITATION, PURCHASE OR SALE SHALL BE MADE IN THE UNITED STATES OR ANY JURISDICTION WHERE SUCH OFFER, SOLICITATION OR SALE WOULD BE UNLAWFUL.

THE SECURITIES MENTIONED IN THIS ANNOUNCEMENT HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") AND MAY NOT BE OFFERED OR SOLD IN THE UNITED STATES EXCEPT PURSUANT TO REGISTRATION OR AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT. NO PUBLIC OFFERING OF ANY SECURITIES WILL BE MADE IN THE UNITED STATES.

## TERMS AND CONDITIONS OF THE NOTES

The following, subject to completion and amendment, and save for the paragraphs in italics, is the text of the Terms and Conditions of the Notes.

If the Notes were to be issued in definitive form, the terms and conditions set out on the reverse of each of such Notes (as the case may be) would be as follows. While the Notes are represented by a Global Certificate (as defined in the Trust Deed), they will be governed by the same terms and conditions except to the extent that such terms and conditions are appropriate only to securities in definitive form or are expressly varied by the terms of such Global Certificate.

The issue of the €100,000,000 2.50 per cent. Senior Unsecured Convertible Notes due 2027 (the "Notes", which expression shall, unless otherwise indicated, include any further Notes issued pursuant to Condition 18 and consolidated and forming a single series with the Notes) was (save in respect of any such further Notes) authorised by a resolution of the board of directors of Webjet Limited (ABN 68 002 013 612) (the "Issuer") passed on 1 July 2020. The Notes are constituted by a trust deed dated on or about 9 July 2020 (as amended and/or supplemented from time to time, the "Trust Deed") between the Issuer and The Hongkong and Shanghai Banking Corporation Limited (the "Trustee", which expression shall include its successors and all persons for the time being appointed as the trustee or trustees under the Trust Deed) as trustee for the holders (as defined below) of the Notes. The statements set out in these terms and conditions (these "Conditions") are summaries of, and are subject to, the detailed provisions of the Trust Deed, which includes the forms of the Notes. The Noteholders (as defined below) are entitled to the benefit of, and are bound by, and are deemed to have notice of, all the provisions of the Trust Deed and to have notice of those provisions applicable to them which are contained in the paying, transfer and conversion agency agreement dated on or about 9 July 2020 (as amended and/or supplemented from time to time, the "Agency Agreement") relating to the Notes between the Issuer, the Trustee, The Hongkong and Shanghai Banking Corporation Limited in its capacity as principal paying agent and principal conversion agent (the "Principal Paying and Conversion Agent", which expression shall include any successor as principal paying agent and principal conversion agent under the Agency Agreement), in its capacity as registrar (the "Registrar", which expression shall include any successor as registrar under the Agency Agreement) and in its capacity as transfer agent (the "Transfer Agent", which expression shall include any successor as transfer agent under the Agency Agreement) and any other paying agents, transfer agents and conversion agents for the time being (such persons, together with the Principal Paying and Conversion Agent and the Transfer Agent, together with any other paying agents, conversion agents and transfer agents for the time being appointed under the Agency Agreement are referred to below as the "Paying Agents", the "Conversion Agents" and the "Transfer Agents", respectively, which expressions shall include their successors as Paying Agents, Conversion Agents and Transfer Agents, respectively, under the Agency Agreement) (collectively, the Registrar, the Paying Agents, the Conversion Agents and the Transfer Agents are the "Agents"). Copies of the Trust Deed and the Agency Agreement are available for inspection at all reasonable times during normal business hours (being between 9.00 a.m. and 3.00 p.m., Hong Kong time) at the principal office for the time being of the Trustee (being, at the Closing Date, at Level 24, HSBC Main Building, 1 Queen's Road Central, Hong Kong) and at the specified office of the Principal Paying and Conversion Agent) following prior written request and proof of holding and identity to the satisfaction of the Trustee or, as the case may be, the Principal Paying and Conversion Agent.

Capitalised terms used but not defined in these Conditions shall have the meanings attributed to them in the Trust Deed unless the context otherwise requires or unless otherwise stated.

## 1 Form, Denomination, Title and Status

#### (a) Form and Denomination

The Notes are in registered form, serially numbered, in principal amounts of €100,000 and integral multiples of €100,000 thereof (an "Authorised Denomination"). A note certificate (each a "Certificate") will be issued to each Noteholder in respect of its registered holding of Notes.

Upon issue, the Notes will be represented by a global certificate (the "Global Certificate") registered in the name of a nominee of, and deposited with a common depositary for, Euroclear Bank SA/NV and Clearstream Banking S.A. The Conditions are modified by certain provisions contained in the Global Certificate. Except in the limited circumstances described in the Global Certificate, owners of interests in Notes represented by the Global Certificate will not be entitled to receive definitive Certificates in respect of their individual holdings of Notes. The Notes are not issuable in bearer form. See "Summary of Provisions Relating to the Notes in Global Form".

#### (b) Title

Title to the Notes will pass by transfer and registration in the Register as described in Condition 4. The holder (as defined in Condition 3) of any Note will (except as otherwise required by law or as ordered by a court of competent jurisdiction) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any interest in it or its theft or loss (or that of the related certificate, as applicable) or anything written on it or on the certificate representing it (other than a duly executed transfer thereof)) and no person will be liable for so treating the holder.

#### (c) Status

The Notes constitute direct, unconditional, unsubordinated and (subject to Condition 2) unsecured obligations of the Issuer ranking *pari passu* and rateably, without any preference among themselves. The payment obligations of the Issuer under the Notes rank equally with all its other existing and future unsecured and unsubordinated obligations, save for such obligations that may be preferred by provisions of law that are mandatory and of general application.

## 2 Negative Pledge

So long as any of the Notes remain outstanding (as defined in the Trust Deed), the Issuer will not create or permit to subsist, and will ensure that none of its Material Subsidiaries will create or permit to subsist, any mortgage, charge, lien, pledge or other form of encumbrance or security interest (including any security interest arising under section 12(1) or section 12(2) of the Personal Property Securities Act 2009 of Australia) (each a "Security Interest") upon the whole or any part of its present or future property or assets (including any uncalled capital) to secure any Relevant Indebtedness or to secure any guarantee of or indemnity in respect of any Relevant Indebtedness (other than a Permitted Security Interest) unless in any such case, before or at the same time as the creation of the Security Interest, any and all action necessary shall have been taken to ensure that:

- (a) all amounts payable by the Issuer under the Notes and the Trust Deed are secured equally and rateably with the Relevant Indebtedness or such guarantee or indemnity, as the case may be; or
- (b) such other Security Interest or guarantee or indemnity or other arrangement (whether or not including the giving of a Security Interest) is provided in respect of all amounts payable by the Issuer under the Notes and the Trust Deed either:

- (A) as the Trustee shall in its absolute discretion deem not materially less beneficial to the interests of the Noteholders; or
- (B) as shall be approved by an Extraordinary Resolution (as defined in the Trust Deed) of the Noteholders.

#### 3 Definitions

In these Conditions, unless otherwise provided:

- "Additional Ordinary Shares" has the meaning provided in Condition 6(c);
- "Alternative Stock Exchange" means at any time, in the case of the Ordinary Shares, if they are not at that time listed and traded on the ASX, the principal stock exchange or securities market on which the Ordinary Shares are then listed or quoted or dealt in;
- "Associate" has the meaning it has in section 128F(9) of the Income Tax Assessment Act 1936 of the Commonwealth of Australia;
- "ASX" means ASX Limited (ABN 98 008 624 691) or the market operated by it, as the context requires;
- "ASX Listing Rules" means the listing rules of the ASX from time to time;
- "Auditors" means the auditors for the time being of the Issuer or, if they are unable or unwilling to carry out any action requested of them under the Trust Deed or the Notes, such other firm of accountants as may be nominated by the Issuer and notified in writing to the Trustee for the purpose;
- "Australian Dollars" and "A\$" mean the lawful currency of the Commonwealth of Australia;
- "business day" means (other than in Condition 8), a day (other than a Saturday, a Sunday or a public holiday) on which commercial banks and foreign exchange markets are open for business in Hong Kong, Sydney and, if the term is used in relation to a particular place, that place;

#### "Cash Dividend" means:

- (i) any Dividend which is to be paid or made in cash (in whatever currency), but other than falling within paragraph (ii) of the definition of "Spin-Off"; and
- (ii) any Dividend determined to be a Cash Dividend pursuant to proviso (i) to the definition of "Dividend" and, for the avoidance of doubt, a Dividend falling within provisos (iii) or (iv) to the definition of "Dividend" shall be treated as being a Non-Cash Dividend;
- "Change of Control" means the occurrence of one or more of the following events:
- (i) an offer is made to all (or as nearly as may be practicable to all) Shareholders (or all (or as nearly as may be practicable to all) Shareholders other than the offeror and/or any associate (as defined in sections 11 and 12 of the Corporations Act) of the offeror) to acquire the whole or any part of the issued ordinary share capital of the Issuer (an "Offer") and such Offer having become or been declared unconditional in all respects, and the offeror has at any time during the relevant offer period a relevant interest (as defined in the Corporations Act) in more than 50 per cent. of the Ordinary Shares in issue; or
- (ii) any person proposes a scheme of arrangement (including an informal scheme or similar arrangement involving the Issuer) with regard to such Ordinary Shares (other than an Exempt Newco Scheme) (a "Scheme"), where such Scheme:

- (A) is approved by the Shareholders and all other classes of members or creditors whose approval is required for the scheme of arrangement to take effect; and
- (B) when implemented will result in a person having a relevant interest (as defined in the Corporations Act) in more than 50 per cent. of the Ordinary Shares that will be in issue after the scheme of arrangement is implemented; or
- (iii) an event occurs which has equivalent effect as the events set out in (i) or (ii) above of this definition, including if the Issuer announces a proposal whereby it or one or more of its Subsidiaries is to consolidate with or merge into or sell or transfer all or substantially all of the business or assets of the Issuer and its Subsidiaries (taken as a whole) to any other person or groups of persons;

"Change of Control Notice" has the meaning provided in Condition 6(g);

"Change of Control Period" has the meaning provided in Condition 6(b)(x);

"Closing Date" means 9 July 2020;

"Closing Price" means, in respect of an Ordinary Share or any Security, Spin-Off Security, option, warrant or other rights or assets on any Dealing Day, the closing price, as determined by the Issuer or, as the case may be, an Independent Adviser, on the Relevant Stock Exchange on such Dealing Day of an Ordinary Share or, as the case may be, such Security, Spin-Off Security, option, warrant or other right or asset published by or derived from "Bloomberg page HP" (or any successor 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 Ordinary Share, Security, Spin-Off Security, option, warrant or other right or asset (all as determined by an Independent Adviser) (and for the avoidance of doubt such Bloomberg page for the Ordinary Shares as at the Closing Date is "WEB AU" Equity HP), if available or, in any other case, such other source (if any) as shall be determined in good faith to be appropriate by an Independent Adviser on such Dealing Day and translated, if not in the Relevant Currency, into the Relevant Currency at the Prevailing Rate on such Dealing Day, provided that 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 an Ordinary Share, Spin-off Security, 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 as provided above, on the immediately preceding Dealing Day on which the same can be so determined, and further provided that if such immediately preceding Dealing Day falls prior to the fifth day before the Original Date, an Independent Adviser shall determine the Closing Price in respect of the Original Date in good faith, all as determined by an Independent Adviser;

"Conversion Date" has the meaning provided in Condition 6(h);

"Conversion Notice" has the meaning provided in Condition 6(h);

"Conversion Period" has the meaning provided in Condition 6(a);

"Conversion Period Commencement Date" has the meaning provided in Condition 6(a);

"Conversion Price" has the meaning provided in Condition 6(a);

"Conversion Right" has the meaning provided in Condition 6(a);

"Corporations Act" means the Corporations Act 2001 of Australia;

"Current Market Price" means, in respect of an Ordinary Share at a particular date, the average of the daily Volume Weighted Average Price of an Ordinary Share on each of the ten consecutive Dealing Days ending on

the Dealing Day immediately preceding such date as determined by the Issuer or, as the case may be, an Independent Adviser, provided that:

- (i) for the purposes of determining the Current Market Price pursuant to Condition 6(b)(iv) or Condition 6(b)(vi) in circumstances where the relevant event relates to an issue of Ordinary Shares, if at any time during the said ten Dealing Day period (which may be on each of such ten 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 ten 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:
  - (a) if the Ordinary Shares do not rank for the Dividend (or entitlement) in question, the Volume Weighted Average Price on the dates on which the Ordinary 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 Ordinary Share as at the Effective Date relating to such Dividend or entitlement (or, where on each of the said ten 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 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
  - (b) if the Ordinary Shares do rank for the Dividend or entitlement in question, the Volume Weighted Average Price on the dates on which the Ordinary 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 Ordinary Share as at the date of first public announcement of such Dividend (or entitlement), in any such case, 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;
- (ii) for the purposes of any calculation or determination required to be made pursuant to paragraphs (i)(A) or (iii)(A) of the definition of "Dividend", if on any of the said ten Dealing Days the Volume Weighted Average Price shall have been based on a price cum the relevant Dividend or capitalisation giving rise to the requirement to make such calculation or determination, the Volume Weighted Average Price on any such Dealing Day shall for the purposes of this definition be deemed to be the amount thereof reduced by an amount equal to the Fair Market Value of the relevant Cash Dividend, 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; and
- (iii) for any other purpose, if any day during the said ten Dealing Day period was the Effective Date in relation to 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 Ordinary Share as at the Effective Date relating to such Dividend or entitlement;

"Dealing Day" means a day on which the Relevant Stock Exchange is open for business and on which Ordinary Shares, Securities, Spin-Off Securities, options, warrants or other rights or assets (as the case may be) may be dealt in (other than a day on which the Relevant Stock Exchange is scheduled to or does close prior to its regular closing time);

- a "Delisting" occurs when the Ordinary Shares:
- (i) cease to be quoted, listed or admitted to trading on the ASX or the Alternative Stock Exchange (as relevant); or
- (ii) are suspended from trading on the ASX or the Alternative Stock Exchange (as the case may be) for a period of more than 20 consecutive Dealing Days;

"Dividend" means any dividend or distribution to Shareholders (including a Spin-Off) whether of cash, assets or other property, and however described and whether payable out of share premium account, profits, retained earnings or any other capital or revenue reserve or account, and including a distribution or payment to Shareholders upon or in connection with a reduction in capital (and for these purposes a distribution of assets includes without limitation an issue of Ordinary Shares, or other Securities credited as fully or partly paid up by way of capitalisation of profits or reserves), provided that:

- (i) where:
  - (A) a Dividend in cash is announced which is to be, or may at the election of a Shareholder or Shareholders be, satisfied by the issue or delivery of Ordinary Shares or other property or assets, or where an issue of Ordinary Shares to Shareholders by way of a capitalisation of profits or reserves is announced which is to be, or may at the election of a Shareholder or Shareholders be, satisfied by the payment of cash, then the Dividend or capitalisation in question shall be treated as a Cash Dividend of an amount equal to the greater of:
    - (x) the Fair Market Value of such cash amount (in the case of an issue of Ordinary Shares pursuant to a DRP, provided that the discount per Ordinary Share as determined and announced by the Issuer at which Ordinary Shares may be issued pursuant to a DRP in respect of such Dividend is equal to or less than 5 per cent.); and

(y)

(A) other than in the case of a DRP where the discount per Ordinary Share as determined and announced by the Issuer exceeds 5 per cent., the Current Market Price of such Ordinary Shares or, as the case may be, the Fair Market Value of such other property or assets in any such case (as at the first date on which the Ordinary Shares are traded ex- the relevant Dividend or capitalisation (as the case may be) or if later, the date on which the number of Ordinary Shares (or amount of such other property or assets, as the case may be) which may be issued or transferred and delivered is determined), save that where a Dividend in cash is announced which may at the election of a Shareholder or Shareholders be satisfied by the issue or delivery of Ordinary Shares or an issue of Ordinary Shares to Shareholders by way of capitalisation of profits or reserves is announced which may at the election of a Shareholder or Shareholders be satisfied by the payment of cash where the number of Ordinary Shares which may be issued or delivered is to be determined at a date or during a period following such announcement and is to be determined by reference to a publicly available formula based on the Closing Price or volume weighted average price or any like or similar pricing benchmark of the Ordinary Shares, without factoring in any discount to such price or benchmark, then such Dividend shall be treated as a Cash Dividend in an amount equal to the Fair Market Value of such cash amount on such date as such cash amount is determined as aforesaid; or

- (B) in the case of a DRP where the discount per Ordinary Share as determined and announced by the Issuer exceeds 5 per cent., the Fair Market Value of such cash amount (which may be an Extraordinary Dividend and adjusted for pursuant to Condition 6(b)(iii)) and the difference between the Current Market Price (as at the settlement date of a DRP) of an Ordinary Share and the price per Share of a DRP; or
- (C) there shall be any issue of Ordinary Shares to Shareholders by way of capitalisation of profits or reserves (including any share premium account or capital redemption reserve) where (other than in circumstances subject to (A) above of this proviso (i)) such issue is or is expressed to be in lieu of a Dividend (whether or not a cash Dividend equivalent or amount is announced) or a Dividend in cash that is to be satisfied (other than in circumstances subject to (A) above of this proviso (i)) by the issue or delivery of Ordinary Shares or other property or assets, the capitalisation or Dividend in question shall be treated as a Cash Dividend of an amount equal to the Current Market Price of such Ordinary Shares or, as the case may be, the Fair Market Value of such other property or assets as at the first date on which the Ordinary Shares are traded ex- the relevant capitalisation or, as the case may be, ex- the relevant Dividend on the Relevant Stock Exchange (or, if later, the date on which the number of Ordinary Shares or amount of such other property or assets, as the case may be, is determined), save that where a Dividend in cash is announced which is to be satisfied by the issue or delivery of Ordinary Shares where the number of Ordinary Shares to be issued or delivered is to be determined at a date or during a period following such announcement and is to be determined by reference to a publicly available formula based on the Closing Price or volume weighted average price or any like or similar pricing benchmark of the Ordinary Shares, without factoring in any discount to such price or benchmark, then such Dividend shall be treated as a Cash Dividend in an amount equal to the Fair Market Value of such cash amount on such date as such cash amount is determined as aforesaid;
- (ii) any issue of Ordinary Shares falling within Conditions 6(b)(i) or 6(b)(ii) shall be disregarded;
- (iii) a purchase or redemption or buy back of share capital of the Issuer by the Issuer or any Subsidiary of the Issuer shall not constitute a Dividend unless, in the case of a purchase or redemption or buy back of Ordinary Shares by or on behalf of the Issuer or its Subsidiaries, the weighted average price per Ordinary Share (before expenses) on any one day (a "Specified Share Day") in respect of such purchases or redemptions or buy backs (translated, if not in the Relevant Currency, into the Relevant Currency at the Prevailing Rate on such day) exceeds by more than 5 per cent. the average of the daily Volume Weighted Average Price of:
  - (A) an Ordinary Share on the Relevant Stock Exchange (as published by or derived from the Relevant Stock Exchange) on the five Dealing Days on which sales in Ordinary Shares were recorded immediately preceding the Specified Share Day; or
  - (B) where an announcement (excluding, for the avoidance of doubt for these purposes, any general authority for such purchases, redemptions or buy backs approved by a general meeting of Shareholders or any notice convening such a meeting of Shareholders) has been made of the intention to purchase, redeem or buy back Ordinary Shares at some future date at a specified price or where a tender offer is made, on the five Dealing Days on which sales in Ordinary Shares were recorded immediately preceding the date of such announcement or the date of first public announcement of such tender offer (and regardless whether or not a price per Ordinary Share, a

minimum price per Ordinary Share or a price range or a formula for the determination thereof is or is not announced at such time), as the case may be, in which case such purchase, redemption or buy back shall be deemed to constitute a Dividend in the Relevant Currency to the extent that the aggregate price paid (before expenses) in respect of such Ordinary Shares purchased, redeemed or bought back by the Issuer or, as the case may be, any of its Subsidiaries (translated where appropriate into the Relevant Currency as provided above) exceeds the product of:

- (x) 105 per cent. of the average of the daily Volume Weighted Average Price of an Ordinary Share determined as aforesaid; and
- (y) the number of Ordinary Shares so purchased, redeemed or bought back;
- (iv) if the Issuer or any of its Subsidiaries shall purchase, redeem or buy back any depositary or other receipts or certificates representing Ordinary Shares, the provisions of proviso (iii) of this definition shall be applied in respect thereof in such manner and with such modifications (if any) as shall be determined in good faith by an Independent Adviser;
- (v) where a dividend or distribution is paid or made to Shareholders pursuant to any plan implemented by the Issuer for the purpose of enabling Shareholders to elect, or which may require Shareholders, to receive dividends or distributions in respect of the Ordinary Shares held by them from a person other than, or in addition to the Issuer, such dividend or distribution shall for the purposes of these Conditions be treated as a dividend or distribution made or paid to Shareholders by the Issuer, and the foregoing provisions of this definition and the provisions of these Conditions shall be construed accordingly;
- (vi) where a Dividend in cash is declared which provides for payment by the Issuer to Shareholders in the Relevant Currency or an amount in cash is or may be paid in the Relevant Currency, whether at the option of Shareholders or otherwise, it shall be treated as a Cash Dividend in the amount of such Relevant Currency or, as the case may be, an amount in such Relevant Currency, and in any other case it shall be treated as a Cash Dividend or, as the case may be, an amount in cash in the currency in which it is payable by the Issuer; and
- (vii) a dividend or distribution that is a Spin-Off shall be deemed to be a Dividend paid or made by the Issuer, and any such determination shall be made 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;
- "DRP" means any dividend reinvestment plan implemented by the Issuer from time to time;
- "Euro" and "€" means the currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty establishing the European Community (signed in Rome on 25 March 1957), as amended by the Treaty on European Union (signed in Maastricht on 7 February 1992);
- "Equity Share Capital" means, in relation to any entity, its issued share capital excluding any part of that capital which, neither as regards dividends nor as regards capital, carries any right to participate beyond a specified amount in a distribution of assets on a winding up of the entity;
- "Exempt Newco Scheme" means a Newco Scheme where immediately after completion of the relevant Scheme of Arrangement the ordinary shares or units or equivalent of Newco (or depositary or other receipts or certificates representing ordinary shares or units or equivalent of Newco) are:
- (i) admitted to trading on the Relevant Stock Exchange; or
- (ii) admitted to listing on such other regulated, regularly operating, recognised stock exchange or securities market as the Issuer or Newco may determine;

"Fair Market Value" means, with respect to any property on any date, the fair market value of that property as determined in good faith by an Independent Adviser, provided that:

- (i) the Fair Market Value of a Cash Dividend shall be the amount of such Cash Dividend;
- (ii) the Fair Market Value of any other cash amount shall be the amount of such cash;
- (iii) where Spin-Off Securities, Securities, options, warrants or other rights are publicly traded in a market of adequate liquidity (as determined by an Independent Adviser), the fair market value:
  - (A) of such Spin-Off Securities or Securities shall equal the arithmetic mean of the daily Volume Weighted Average Prices of such Spin-Off Securities or Securities; and
  - (B) of such options, warrants or other rights shall equal the arithmetic mean of the daily closing prices of such options, warrants or other rights,

in the case of both paragraphs (a) and (b) of this proviso (iii) during the period of five Dealing Days on the relevant market commencing on such date (or, if later, the first such Dealing Day such Spin-Off Securities, Securities, options, warrants or other rights are publicly traded);

- (iv) where Spin-Off Securities, Securities, options, warrants or other rights are not publicly traded (as aforesaid), the Fair Market Value of such Spin-Off Securities, Securities, options, warrants or other rights shall be 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 Ordinary Share, the dividend yield of an Ordinary Share, the volatility of such market price, prevailing interest rates and the terms of such Spin-Off Securities, Securities, options, warrants or other rights, including as to the expiry date and exercise price (if any) thereof;
- (v) in the case of proviso (i) above to this definition, translated into the Relevant Currency (if declared or paid or payable in a currency other than the Relevant Currency) at the rate of exchange used to determine the amount payable to Shareholders who were paid or are to be paid or are entitled to be paid the Cash Dividend in the Relevant Currency; and in any other case, translated into the Relevant Currency (if expressed in a currency other than the Relevant Currency) at the Prevailing Rate on that date; and
- (vi) in the case of provisos (i) and (ii) above to this definition, disregarding any withholding or deduction required to be made on account of tax and any associated tax credit;

## "FATCA" means:

- (i) sections 1471 to 1474 of the U.S. Internal Revenue Code of 1986 or any associated regulations;
- (ii) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (i) above of this definition; or
- (iii) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (i) or (ii) of this definition with the U.S. Internal Revenue Service, the U.S. government or any governmental or taxation authority in any other jurisdiction;

"Final Maturity Date" means 9 July 2027;

"Fixed Exchange Rate" means €1.00=A\$1.6238;

"Indebtedness For Borrowed Money" means any present or future indebtedness (whether being principal, interest or other amounts) for or in respect of:

- (i) money borrowed or raised;
- (ii) liabilities under or in respect of any acceptance or acceptance credit; or
- (iii) any notes, bonds, debentures, debenture stock, loan capital, loan stock, certificates of deposit, commercial paper or other securities or instruments, offered, issued or distributed whether by way of public offer, private placing, acquisition consideration or otherwise and whether issued for cash or in whole or in part for a consideration other than cash;

"Independent Adviser" means an independent adviser with appropriate expertise selected and appointed by the Issuer at its own expense and notified in writing to the Trustee or, if the Issuer fails to make such appointment and such failure continues for a period of 30 calendar days (as determined by the Trustee in its sole discretion), the Trustee may, provided that the Trustee has been indemnified and/or secured and/or prefunded to its satisfaction against the costs, fees and expenses of and other amounts payable to such adviser and otherwise in connection with the making of such appointment, appoint an independent adviser (but the Trustee shall have no obligation to do so and shall have no liability in the event that it does so) and any such appointment by the Trustee shall be deemed to be made by the Issuer;

"Interest Payment Date" has the meaning provided in Condition 5(a);

"Market Price" means the Volume Weighted Average Price of an Ordinary Share, translated into Euro at the Prevailing Rate on the relevant Reference Date, as determined by the Issuer or, as the case may be, an Independent Adviser, provided that if any Dividend or other entitlement in respect of the Ordinary Shares is announced, whether on or prior to or after the relevant Conversion Date, in circumstances where the record date or other due date for the establishment of entitlement in respect of such Dividend or other entitlement shall be on or after the Conversion Date and if, on the relevant Reference Date, the Volume Weighted Average Price of an Ordinary Share is based on a price ex-Dividend or ex- any other entitlement, then such Volume Weighted Average Price shall be increased by an amount equal to the Fair Market Value of such Dividend or entitlement per Ordinary Share as at the date of first public announcement of such Dividend or entitlement (or if that is not a Dealing Day, the immediately preceding Dealing Day), determined on a gross basis and disregarding any withholding or deduction required to be made under or in connection with, or in order to ensure compliance with FATCA, or for or on account of tax, and disregarding any associated tax credit;

#### "Material Subsidiary" means any Subsidiary of the Issuer:

- (i) whose profits before taxation ("**pre-tax profit**") (consolidated in the case of a Subsidiary which itself has Subsidiaries) attributable to the Issuer, as shown by its latest audited profit and loss account, are at least 10 per cent. of the consolidated pre-tax profit as shown by the latest published audited consolidated profit and loss account of the Issuer and its consolidated Subsidiaries, including, for the avoidance of doubt, the Issuer and its consolidated Subsidiaries' share of profits of Subsidiaries not consolidated and of associated entities and after adjustments for minority interests; or
- (ii) whose gross assets (consolidated in the case of a Subsidiary which itself has Subsidiaries) attributable to the Issuer, as shown by its latest audited balance sheet, are at least 10 per cent. of the consolidated gross assets of the Issuer and its Subsidiaries as shown by the latest published audited consolidated balance sheet of the Issuer and its consolidated Subsidiaries, including the investment of the Issuer and its consolidated Subsidiary whose accounts are not consolidated with the consolidated audited accounts of the Issuer and of associated companies and after adjustment for minority interests,

provided that, in relation to paragraphs (i) and (ii) above of this definition:

- (A) in the case of a corporation or other business entity becoming a Subsidiary after the end of the financial period to which the latest consolidated audited accounts of the Issuer relate, the reference to the then latest consolidated audited accounts of the Issuer and its consolidated Subsidiaries for the purposes of the calculation above shall, until consolidated audited accounts of the Issuer for the financial period in which the relevant corporation or other business entity becomes a Subsidiary are published be deemed to be a reference to the then latest consolidated audited accounts of the Issuer and its Subsidiaries adjusted to consolidate the latest audited accounts (consolidated in the case of a Subsidiary which itself has Subsidiaries) of such Subsidiary in such accounts;
- (B) if at any relevant time in relation to the Issuer or any Subsidiary which itself has Subsidiaries no consolidated accounts are prepared and audited, pre-tax profit or gross assets of the Issuer and/or any such Subsidiary shall be determined on the basis of pro forma consolidated accounts prepared for this purpose by the Issuer for the purposes of preparing any certificate thereon to the Trustee; and
- (C) if the accounts of any Subsidiary (not being a Subsidiary referred to in proviso (a) above to this definition) are not consolidated with those of the Issuer, then the determination of whether or not such Subsidiary is a Material Subsidiary shall be based on a *pro forma* consolidation of its accounts (consolidated, if appropriate) with the consolidated accounts (determined on the basis of the foregoing) of the Issuer; or
- (iii) to which is transferred all or substantially all of the business, undertaking and assets of another Subsidiary which immediately prior to such transfer is a Material Subsidiary, whereupon:
  - (A) the transferor Material Subsidiary shall immediately cease to be a Material Subsidiary; and
  - (B) the transferee Subsidiary shall immediately become a Material Subsidiary, provided that on or after the date on which the relevant financial statements for the financial period current at the date of such transfer are published, whether such transferor Subsidiary or such transferee Subsidiary is or is not a Material Subsidiary shall be determined pursuant to the provisions of the paragraphs above of this definition.

A certificate prepared and signed by a director of the Issuer who is also an Authorised Signatory of the Issuer, stating that in his or her opinion, a Subsidiary is or is not, or was or was not, a Material Subsidiary shall, in the absence of manifest error, be conclusive and binding on all parties;

"Newco Scheme" means a scheme of arrangement or analogous proceeding (a "Scheme of Arrangement") which effects the interposition of a limited liability company or trust ("Newco") between the Shareholders of the Issuer immediately prior to the Scheme of Arrangement (the "Existing Shareholders") and the Issuer; provided that:

- (i) only ordinary shares or units or equivalent of Newco or depositary or other receipts or certificates representing ordinary shares or units or equivalent are issued to Existing Shareholders;
- (ii) immediately after completion of the Scheme of Arrangement the only holders of ordinary shares, units or equivalent of Newco or, as the case may be, the only holders of depositary or other receipts or certificates representing ordinary shares or units or equivalent of Newco are Existing Shareholders holding in the same proportions as immediately prior to completion of the Scheme of Arrangement;
- (iii) immediately after completion of the Scheme of Arrangement, Newco is (or one or more wholly-owned Subsidiaries of Newco are) the only shareholder of the Issuer;

- (iv) all Subsidiaries of the Issuer immediately prior to the Scheme of Arrangement (other than Newco, if Newco is then a Subsidiary of the Issuer) are Subsidiaries of the Issuer (or of Newco) immediately after completion of the Scheme of Arrangement; and
- (v) immediately after completion of the Scheme of Arrangement the Issuer (or Newco) holds, directly or indirectly, the same percentage of the ordinary share capital and Equity Share Capital of those Subsidiaries as was held by the Issuer immediately prior to the Scheme of Arrangement;
- "Non-Cash Dividend" means any Dividend which is not a Cash Dividend, and shall include a Spin-Off;
- "Noteholder" and, in relation to a Note, "holder" means the person in whose name a Note is registered in the Register (as defined in Condition 4(a));

#### "Offshore Associate" means an Associate of the Issuer:

- (i) which is a non-resident of Australia and does not receive payment in respect of Notes (or an interest in Notes) that such Associate acquired in carrying on a business in Australia at or through a permanent establishment of the Associate in Australia; or
- (ii) which is a resident of Australia and which receives payment in respect of Notes (or an interest in Notes) that such Associate acquired in carrying on a business in a country outside Australia at or through a permanent establishment of the Associate in that country,

and which, in either case, is not receiving payment in the capacity of a clearing house, paying agent, custodian, funds manager or responsible entity of a registered managed investment scheme;

"Optional Put Exercise Notice" has the meaning provided in Condition 7(e);

"Optional Redemption Date" has the meaning provided in Condition 7(b);

"Optional Redemption Notice" has the meaning provided in Condition 7(b);

"Ordinary Shares" means fully paid ordinary shares in the capital of the Issuer (ASX:WEB ISIN:AU000000WEB7);

"Permitted Security Interest" means a Security Interest in respect of property or assets of the Issuer or a Subsidiary of the Issuer, which:

- (i) existed at the Closing Date and was not created in contemplation of the issue of Notes; or
- (ii) existed before the relevant entity became a Subsidiary of the Issuer and was not created in contemplation of such entity becoming a Subsidiary of the Issuer and provided that the principal amount of such Relevant Indebtedness is not increased;
- a "person" includes any individual, company, corporation, firm, partnership, joint venture, undertaking, association, organisation, trust, state or agency of a state (in each case whether or not being a separate legal entity);

## "Prevailing Rate" means:

- (i) in respect of any pair of currencies (of which neither is Euro) on any calendar day, the spot rate of exchange between the relevant currencies prevailing as at or about 12:00 noon (London time) on that date as appearing on or derived from the Relevant Page; or
- (ii) in respect of any pair of currencies of which one is Euro and any other currency on any day, the European Central Bank reference rate for such pair of currencies on that day as appearing on or derived from the Relevant Page.

If such a rate cannot be determined as aforesaid, the Prevailing Rate shall be determined *mutatis mutandis* but with respect to the immediately preceding day on which such rate can be so determined or if such rate cannot be so determined by reference to the Relevant Page, the rate determined in such other manner as an Independent Adviser shall consider in good faith appropriate;

"Record Date" has the meaning provided in Condition 8(c);

"Redemption Amount" means 100.0 per cent. of the principal amount of the relevant Notes plus any interest accrued but unpaid to (but excluding) the relevant Redemption Date;

## "Redemption Date" means any of:

- (i) an Optional Redemption Date pursuant to Condition 7(b);
- (ii) a Tax Redemption Date pursuant to Condition 7(c);
- (iii) a Put Option Date pursuant to Condition 7(e); or
- (iv) a Relevant Event Redemption Date pursuant to Condition 7(f),

as applicable;

### "Redemption Notice" means any of:

- (i) an Optional Redemption Notice provided pursuant to Condition 7(b);
- (ii) a Tax Redemption Notice provided pursuant to Condition 7(c);
- (iii) an Optional Put Exercise Notice provided pursuant to Condition 7(e); or
- (iv) a Relevant Event Redemption Notice provided pursuant to Condition 7(f),

as applicable;

"Reference Date" means each date a relevant Retroactive Adjustment takes effect or if that is not a Dealing Day, as of 5.00 p.m. (Sydney time) on the next following Dealing Day;

"Relevant Currency" means Australian Dollars or, if at the relevant time or for the purposes of the relevant calculation or determination, the ASX is not the Relevant Stock Exchange, the currency in which the Ordinary Shares are quoted or traded on the Relevant Stock Exchange;

"Relevant Date" means, in respect of any Note, whichever is the later of:

- (i) the date on which payment in respect of it first becomes due; and
- (ii) if any amount of the money payable is improperly withheld or refused the date on which payment in full of the amount outstanding is made or (if earlier) the date on which notice is duly given by the Issuer to the Noteholders in accordance with Condition 17 that, upon further presentation of the Note, where required pursuant to these Conditions, being made, such payment will be made, provided that such payment is in fact made as provided in these Conditions;

#### a "Relevant Event" occurs when:

- (i) there is a Delisting; or
- (ii) there is a Change of Control;

"Relevant Event Redemption Date" has the meaning provided in Condition 7(f);

"Relevant Event Redemption Notice" has the meaning provided in Condition 7(f);

"Relevant Indebtedness" means any present or future indebtedness (whether being principal, premium, interest or other amounts) in the form of or evidenced by notes, bonds, debentures, debenture stock, loan stock or other securities, whether issued for cash or in whole or in part for a consideration other than cash, and which (in any case) are or are capable of being quoted, listed or ordinarily dealt in or traded on any recognised listing authority, stock exchange, securities quotation system or over-the-counter or other securities market. For the avoidance of doubt, syndicated or bilateral bank debt and any interest rate hedging entered into in connection with syndicated or bilateral bank debt is not "Relevant Indebtedness" for the purposes of this definition;

"Relevant Page" means the relevant page on Bloomberg or, if there is no such page, on Reuters or such other information service provider that displays the relevant information;

#### "Relevant Stock Exchange" means:

- (i) in the case of Ordinary Shares, the ASX or, if at the relevant time the Ordinary Shares are not at that time listed and admitted to trading on the ASX, the Alternative Stock Exchange; and
- (ii) in the case of Securities (other than Ordinary Shares), Spin-Off Securities, options, warrants or other rights or assets, the principal stock exchange or securities market on which such Securities (other than Ordinary Shares), Spin-Off Securities, options, warrants or other rights or assets are then listed, admitted to trading or quoted or dealt in;
- "Retroactive Adjustment" has the meaning provided in Condition 6(c);
- "Securities" means any securities including, without limitation, Ordinary Shares, or options, warrants or other rights to subscribe for or purchase or acquire Ordinary Shares;
- "Shareholders" means the holders of Ordinary Shares;
- "Specified Date" has the meaning provided in Conditions 6(b)(iv), 6(b)(vi), 6(b)(vii) and 6(b)(viii), respectively;

#### "Spin-Off" means:

- (i) a distribution of Spin-Off Securities by the Issuer to Shareholders as a class; or
- (ii) any issue, transfer or delivery of any property or assets (including cash or shares or securities of or in or issued or allotted by any entity) by any entity (other than the Issuer) to Shareholders as a class or, in the case of or in connection with a Newco Scheme, Existing Shareholders as a class (but excluding the issue and allotment of ordinary shares by Newco to Existing Shareholders as a class), pursuant in each case to any arrangements with the Issuer or any of its Subsidiaries;
- "Spin-Off Securities" means Equity Share Capital of an entity other than the Issuer or options, warrants or other rights to subscribe for or purchase Equity Share Capital of an entity other than the Issuer;
- "Subsidiary" means any entity which is a subsidiary of the Issuer within the meaning of Part 1.2 Division 6 of the Corporations Act or is a subsidiary of or otherwise controlled by the Issuer within the meaning of any approved accounting standard applicable to the Issuer;
- "TARGET Business Day" means a day (other than a Saturday, Sunday or public holiday) on which the TARGET System is operating;
- "TARGET System" means the Trans-European Automated Real-Time Gross Settlement Express Transfer system (known as TARGET2) which was launched on 19 November 2007 or any successor thereto;
- "Tax" or "Taxes" means any tax, levy, charge, excise, goods and services or value added tax, impost, rates, stamp, transaction or registration duty or similar charge, fee, deduction, compulsory loan or withholding, which

is assessed, levied, imposed or collected by any fiscal government agency and includes any interest, fine, penalty, charge, fee, expenses or other statutory charges or any other such amount imposed by any fiscal government agency on or in respect of any of the above;

"Tax Redemption Date" has the meaning provided in Condition 7(c);

"Tax Redemption Notice" has the meaning provided in Condition 7(c); and

"Volume Weighted Average Price" means, in respect of an Ordinary Share, Security or, as the case may be, a Spin-Off Security, option, warrant or other right or asset on any Dealing Day, the volume-weighted average price of an Ordinary Share, Security or, as the case may be, a Spin-Off Security published by or derived (in the case of an Ordinary Share) 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) for such Ordinary Share, Security, Spin-Off Security, option, warrant or other right or asset in respect of the Relevant Stock Exchange for such Ordinary Share, Security, Spin-Off Security, option, warrant or other right or asset (and for the avoidance of doubt such Bloomberg page for the Ordinary Shares where the Relevant Stock Exchange is the ASX shall be "WEB AU" Equity HP), if any or, in any such case, such other source as shall be determined in good faith to be appropriate by an Independent Adviser on such dealing day, provided that if on any such dealing day such price is not available or cannot otherwise be determined as provided above, the Volume Weighted Average Price of an Ordinary Share, Security, Spin-Off Security, option, warrant or other right or asset in respect of such dealing day shall be the Volume Weighted Average Price, determined as provided above, on the immediately preceding Dealing Day on which the same can be so determined, all determined by an Independent Adviser in such manner as it might otherwise determine in good faith to be appropriate.

References to any act or statute or any provision of any act or statute shall be deemed also to refer to any statutory modification or re-enactment thereof or any statutory instrument, order or regulation made thereunder or under such modification or re-enactment.

References to any issue or offer or grant to Shareholders or Existing Shareholders "as a class" or "by way of rights" shall be taken to be references to an issue or offer or grant to all or substantially all Shareholders or Existing Shareholders, as the case may be, other than Shareholders or Existing Shareholders, as the case may be, 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 as an Independent Adviser considers in good faith appropriate to reflect any consolidation or sub-division of the Ordinary Shares or any issue of Ordinary Shares by way of capitalisation of profits or reserves, or any like or similar event.

For the purposes of Conditions 6(a), 6(b), 6(c), 6(h), 6(i) and 11 only:

- (i) references to the "issue" of Ordinary Shares or Ordinary Shares being "issued" shall include the transfer and/or delivery of Ordinary Shares, whether newly issued and allotted or previously existing or held by or on behalf of the Issuer or any of its Subsidiaries; and
- (ii) Ordinary Shares held by or on behalf of the Issuer or any of its Subsidiaries (and which, in the case of Conditions 6(b)(iv) and 6(b)(vi), do not rank for the relevant right or other entitlement) shall not be considered as or treated as "in issue" or "issued" or entitled to receive the relevant Dividend, right or other entitlement.

## 4 Registration and Transfer of Notes

#### (a) 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 Notes and the particulars of the Notes held by them and of all transfers, redemptions and conversions of the Notes.

## (b) Transfer

Notes may, subject to the terms of the Agency Agreement and to Conditions 4(c) and 4(d), be transferred in whole or in part in an Authorised Denomination by lodging the relevant Certificate evidencing such Notes (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 Transfer Agent.

No transfer of a Note will be valid unless and until entered on the Register. A Note 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 (and the Issuer shall procure the Registrar to) within seven business days, in the place of the specified office of the Registrar, of any duly made application for the transfer of a Note register the relevant transfer and deliver a new Certificate to the transferee (and, in the case of a transfer of part only of a Note, deliver a Certificate for the untransferred balance to the transferor) 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 Certificate by uninsured mail to such address as the transferee or, as the case may be, the transferor may request in writing.

#### (c) Formalities Free of Charge

Such transfer will be effected without charge to the holder of the relevant Note subject to:

- (i) the person making such application for transfer paying or procuring the payment (or the giving of such indemnity and/or security and/or prefunding as the Issuer or any of the Agents may require) of any taxes, duties and other governmental charges in connection therewith;
- (ii) the Registrar or the relevant Transfer Agent being satisfied with the documents of title and/or identity of the person making the application; and
- (iii) compliance with the regulations referred to it in Condition 4(e).

Transfers of interests in the Notes evidenced by the Global Certificate will be effected in accordance with the rules and procedures of Euroclear Bank SA/NV or Clearstream Banking S.A. (each a "Relevant Clearing System").

### (d) Closed Periods

Neither the Issuer nor the Registrar will be required to register the transfer of any Note (or part thereof):

- (i) during the period of 15 days ending on and including the day immediately prior to the Final Maturity Date or any earlier date fixed for redemption of the Notes pursuant to Condition 7(b) or Condition 7(c);
- (ii) in respect of which a Conversion Notice has been delivered in accordance with Condition 6(h);
- (iii) in respect of which a holder shall have exercised its option to require the Issuer to redeem pursuant to Condition 7(e) or Condition 7(f); or

(iv) during the period of 15 days ending on (and including) any Record Date (as defined in Condition 8(c)) in respect of any payment of interest on the Notes.

#### (e) Regulations

All transfers of Notes and entries on the Register will be made subject to the detailed regulations concerning registration and transfer of Notes scheduled to the Agency Agreement. The regulations may be changed by the Issuer, with the prior written agreement of the Trustee and the Registrar, and by the Registrar, with the prior written agreement of the Trustee. A copy of the current regulations will be made available for inspection at all reasonable times during normal business hours (being between 9.00 a.m. and 3.00 p.m., Hong Kong time) at the specified office of the Registrar to any Noteholder following prior written request and proof of holding and identity to the satisfaction of the Registrar.

## (f) Restrictions on transfer

Notes may only be transferred if the offer or invitation giving rise to the transfer:

- (i) does not constitute an offer or invitation for which disclosure is required to be made to investors under Part 6D.2 or Chapter 7 of the Corporations Act;
- (ii) where received in Australia, is made to sophisticated or professional investors within the meaning of sections 708(8) or 708(11) of the Corporations Act;
- (iii) is not made to a person who is a "retail client" within the meaning of Section 761G of the Corporations Act; and
- (iv) complies with any applicable law or directive of the jurisdiction where transfer takes place.

#### 5 Interest

## (a) Interest Rate

The Notes bear interest from and including the Closing Date at the rate of 2.50 per cent. per annum (the "Interest Rate") calculated by reference to the outstanding principal amount thereof and payable semi-annually in arrear on 9 January and 9 July in each year (each an "Interest Payment Date"), commencing on the Interest Payment Date falling on 9 January 2021.

The amount of interest payable in respect of any period which is shorter than an Interest Period shall be calculated at the Interest Rate and on the basis of the number of days in the relevant period from (and including) the first day of such period to (but excluding) the last day of such period divided by the product of the number of days from (and including) the immediately preceding Interest Payment Date (or, if none, the Closing Date) to (but excluding) the next Interest Payment Date and the number of Interest Periods normally ending in any year.

In these Conditions, "Interest Period" means the period beginning on (and including) the Closing Date and ending on (but excluding) the first Interest Payment Date and each successive period beginning on (and including) an Interest Payment Date and ending on (but excluding) the next succeeding Interest Payment Date.

## (b) Accrual of Interest

Each Note will cease to bear interest:

- (i) where the Conversion Right shall have been exercised by a Noteholder, from and including the Interest Payment Date immediately preceding the relevant Conversion Date or, if none, the Closing Date (subject in any such case as provided in Condition 6(i)); or
- (ii) where such Note is, or is to be, redeemed or repaid pursuant to Condition 7 or Condition 10, from and including the due date for redemption or repayment thereof unless, upon due presentation thereof, payment of principal is improperly withheld or refused, in which event interest will continue to accrue at 4.50 per cent. per annum (both before and after judgment) but otherwise in accordance with Condition 5(a) until whichever is the earlier of:
  - (A) the day on which all sums due in respect of such Note up to that day are received by or on behalf of the relevant holder; and
  - (B) the day falling seven days after the Trustee or the Principal Paying and Conversion Agent has notified the Noteholders of receipt of all sums due in respect of all the Notes up to that seventh day (except to the extent that there is failure in the subsequent payment to the relevant holders under these Conditions).

## 6 Conversion Right and Conversion Period

#### (a) Conversion

#### (i) Conversion Period and Conversion Price:

Each Note shall entitle the holder to require the Issuer to convert such Note into new Ordinary Shares, credited as fully paid, subject to and as provided in these Conditions (a "Conversion Right"). Each holder consents to become a member of the Issuer and to be bound by the constitution of the Issuer in respect of any Ordinary Shares issued on exercise of a Conversion Right.

The number of Ordinary Shares to be issued on exercise of a Conversion Right shall (subject as aforesaid) be determined by dividing the principal amount of the Notes to be converted by the Conversion Price (as defined below) in effect on the relevant Conversion Date translated into Euro at the Fixed Exchange Rate.

The initial Conversion Price is A\$4.092 per Ordinary Share but will be subject to adjustment in the manner provided in Condition 6(b) (the "Conversion Price").

A Noteholder may exercise the Conversion Right in respect of a Note by delivering the Certificate evidencing such Note together with a duly completed Conversion Notice to the specified office of any Conversion Agent in accordance with Condition 6(h) whereupon the Issuer shall (subject as provided in these Conditions) procure the issue to the relevant Noteholder of Ordinary Shares credited as fully paid as provided in this Condition 6.

Subject to, and as provided in these Conditions, the Conversion Right in respect of a Note may be exercised, at the option of the holder thereof, subject to any applicable fiscal or other laws or regulations and as hereinafter provided, at any time on or after 30 November 2020 (the "Conversion Period Commencement Date"), provided that the relevant Conversion Date shall not fall later than on the date falling 5 business days (as defined in Condition 3) prior to the Final Maturity Date (both days inclusive) or, if such Note is to be redeemed pursuant to Condition 7(b) or Condition 7(c) prior to the Final Maturity Date, not later than the fifth business day (as defined in Condition 3) before the date fixed for redemption thereof pursuant to Condition 7(b) or Condition 7(c), unless there shall be default in making payment in respect of such Note on such

date fixed for redemption, in which event the Conversion Right may be exercised up to the date on which the full amount of such payment becomes available for payment and notice of such availability has been duly given in accordance with Condition 17 or, if earlier, the date falling five business days prior to the Final Maturity Date (the "Conversion Period") provided that, in each case, if such final date for the exercise of Conversion Rights is not a business day, then the period for exercise of Conversion Rights by Noteholders shall end on the immediately preceding business day.

Notwithstanding the foregoing, if a Change of Control occurs, the Conversion Right may be exercised at any time prior to the Conversion Period Commencement Date, in which case Noteholders exercising the Conversion Right prior to the Conversion Period Commencement Date shall, as a pre-condition to receiving the Ordinary Shares, be required to certify in the Conversion Notice, among other things, that it or, if it is a broker-dealer acting on behalf of a customer, such customer:

- (A) will, on conversion, become the beneficial owner of the Ordinary Shares; and
- (B) is located outside the United States (within the meaning of Regulation S under the U.S. Securities Act of 1933, as amended).

Conversion Rights in respect of a Note may not be exercised following the giving of a notice by the holder thereof pursuant to Condition 7(e) or Condition 7(f).

Conversion Rights may not be exercised following the giving of notice by the Trustee pursuant to Condition 10.

Save in the circumstances provided in Condition 6(i) in respect of any notice given by the Issuer pursuant to Conditions 7(b) or 7(c), Conversion Rights may not be exercised by a Noteholder 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 Notes and ending on the relevant Interest Payment Date (both days inclusive).

Conversion Rights may only be exercised in respect of an Authorised Denomination.

The Issuer will procure that Ordinary Shares to be issued on conversion will be issued to the holder of the Notes completing the relevant Conversion Notice or such holder's nominee as specified in the relevant Conversion Notice. Such Ordinary Shares will be deemed to be issued as of 5.00 p.m. (Sydney time) on the relevant Conversion Date. Any Additional Ordinary Shares to be issued pursuant to Condition 6(c) will be deemed to be issued as of 5.00 p.m. (Sydney time) on the date the relevant Retroactive Adjustment takes effect or if that is not a Dealing Day, as of 5.00 p.m. (Sydney time) on the next following Dealing Day (each such date, the "Reference Date").

- (ii) Fractions: Fractions of Ordinary Shares will not be issued on conversion or for the purposes of Condition 6(c) and no cash payment or other adjustment will be made in lieu thereof. However, if the Conversion Right in respect of more than one Note is exercised at any one time such that Ordinary Shares to be delivered on conversion or pursuant to Condition 6(c) are to be registered in the same name, the number of such Ordinary Shares to be issued or transferred and delivered in respect thereof shall be calculated on the basis of the aggregate principal amount of such Notes being so converted and rounded down to the nearest whole number of Ordinary Shares.
- (b) Adjustment of Conversion Price

Upon the happening of any of the events described below, the Conversion Price shall be adjusted as follows:

(i) consolidation, reclassification, redesignation or subdivision: if and whenever there shall be a consolidation, reclassification, redesignation or subdivision in relation to the Ordinary Shares which alters the number of Ordinary Shares in issue, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to such consolidation, reclassification, redesignation or subdivision by the following fraction:

 $\frac{A}{B}$ 

where:

- A is the aggregate number of Ordinary Shares in issue immediately before such consolidation, reclassification, redesignation or subdivision, as the case may be; and
- B is the aggregate number of Ordinary Shares in issue immediately after, and as a result of, such consolidation, reclassification, redesignation or subdivision, as the case may be.

Such adjustment shall become effective on the date the consolidation, reclassification, redesignation or subdivision, as the case may be, takes effect.

- (ii) **capitalisation of profits or reserves**: if and whenever the Issuer shall issue any Ordinary Shares to Shareholders credited as fully paid by way of capitalisation of profits or reserves (including any amount of any share premium account or capital redemption reserve) other than:
  - (1) where any such Ordinary Shares are or are to be issued instead of the whole or part of a Dividend in cash which the Shareholders would or could otherwise have elected to receive;
  - (2) where the Shareholders may elect to receive a Dividend in cash in lieu of such Ordinary Shares; or
  - (3) where any such Ordinary Shares are or are expressed to be issued in lieu of a Dividend (whether or not a Cash Dividend or equivalent amount is announced or would otherwise be payable to Shareholders, whether at their election or otherwise),

the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to such issue by the following fraction:

 $\frac{A}{B}$ 

where:

- A is the aggregate number of Ordinary Shares in issue immediately before such issue; and
- B is the aggregate number of Ordinary Shares in issue immediately after such issue.

Such adjustment shall become effective on the date of issue of such Ordinary Shares.

(iii) **Dividend**: if and whenever the Issuer shall pay or make any Dividend to the Shareholders, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

 $\frac{A-B}{A}$ 

where:

- A is the Current Market Price of one Ordinary Share on the Effective Date; and
- B is the portion of the Fair Market Value of the aggregate Dividend attributable to one Ordinary Share, with such portion being determined by dividing the Fair Market Value of the aggregate Dividend by the number of Ordinary Shares entitled to receive the relevant Dividend (or, in the case of a purchase, redemption or buy back of Ordinary Shares or any depositary or other receipts or certificates representing Ordinary Shares by or on behalf of the Issuer or any Subsidiary of the Issuer, by the number of Ordinary Shares in issue immediately following such purchase, redemption or buy back, and treating as not being in issue any Ordinary Shares, or any Ordinary Shares represented by depositary or other receipts or certificates, purchased, redeemed or bought back).

Such adjustment shall become effective on the Effective Date or, if later, the first date upon which the Fair Market Value of the relevant Dividend is capable of being determined as provided herein.

"Effective Date" means, in respect of this Condition 6(b)(iii), the first date on which the Ordinary Shares are traded ex-the relevant Dividend on the Relevant Stock Exchange or, in the case of a purchase, redemption or buy back of Ordinary Shares or any depositary or other receipts or certificates representing Ordinary Shares, the date on which such purchase, redemption or buy back is made or in the case of a Spin-Off, the first date on which the Ordinary Shares are traded ex- the relevant Spin-Off on the Relevant Stock Exchange.

Notwithstanding any other provision in these Conditions, the interim dividend of A\$0.09 per Ordinary Share declared by the Issuer on 20 February 2020 will not result in any adjustment to the Conversion Price when it is paid.

For the purposes of the above, Fair Market Value shall (subject as provided in paragraph (i) of the definition of "Dividend" and in the definition of "Fair Market Value") be determined as at the Effective Date.

In making any calculations for the purposes of this Condition 6(b)(iii), such adjustments (if any) shall be made as an Independent Adviser may determine in good faith to be appropriate to reflect:

- (x) any consolidation or sub-division of any Ordinary Shares or the issue of Ordinary Shares by way of capitalisation of profits or reserves (or any like or similar event) or any increase in the number of Ordinary Shares in issue in relation to the Relevant Period in question; or
- (y) any adjustment to the Conversion Price made in the Relevant Period in question.
- (iv) rights issues or options over Ordinary Shares: if and whenever the Issuer or any Subsidiary of the Issuer or (at the direction or request or pursuant to any arrangements with the Issuer or any Subsidiary of the Issuer) any other company, person or entity shall issue to Shareholders as a class by way of rights, or shall issue or grant to Shareholders as a class by way of rights, any options, warrants or other rights to subscribe for or purchase or otherwise acquire Ordinary Shares or any Securities which by their terms of issue carry (directly or indirectly) rights of conversion into, or exchange or subscription for, or the right to otherwise acquire any Ordinary Shares (or

shall grant any such rights in respect of existing Securities so issued), in each case at a price per Ordinary Share which is less than 90 per cent. of the Current Market Price per Ordinary Share on the date of the first public announcement of the terms of the issue or grant, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

$$\frac{A + B}{A + C}$$

where:

A is the number of Ordinary Shares in issue on the Effective Date;

B is the number of Ordinary Shares which the aggregate consideration (if any) receivable for the Ordinary Shares issued by way of rights or for the Securities issued by way of rights and upon exercise of rights of conversion into, or exchange or subscription for, or the right to otherwise acquire, Ordinary Shares, or for the options or warrants or other rights issued by way of rights and for the total number of Ordinary Shares to be issued on the exercise thereof, would purchase at such Current Market Price per Ordinary Share; and

C is the number of Ordinary Shares to be issued or, as the case may be, the maximum number of Ordinary Shares which may be issued upon exercise of such options, warrants or rights calculated as at the date of issue of such options, warrants or rights or upon conversion or exchange or exercise of rights of subscription or purchase (or other rights of acquisition) in respect thereof at the initial conversion, exchange, subscription, purchase or acquisition price or rate,

provided that if at the first date on which the Ordinary Shares are traded ex-rights, ex-options or ex-warrants on the Relevant Stock Exchange (as used in this Condition 6(b)(iv), the "**Specified Date**") such number of Ordinary Shares is to be determined by reference to the application of a formula or other variable feature or the occurrence of any event at some subsequent time, then for the purposes of this Condition 6(b)(iv), "C" shall be determined by the application of such formula or variable feature or as if the relevant event occurs or had occurred as at the Specified Date and as if such conversion, exchange, subscription, purchase or acquisition had taken place on the Specified Date.

Such adjustment shall become effective on the Effective Date (or, if later, the Dealing Day following the record date or other due date for establishment of the entitlement of Shareholders to participate in the relevant issue or grant).

"Effective Date" means, in respect of this Condition 6(b)(iv), the first date on which the Ordinary Shares are traded ex-rights, ex-options or ex-warrants on the Relevant Stock Exchange.

(v) rights issues of other Securities: if and whenever the Issuer or any Subsidiary of the Issuer or (at the direction or request or pursuant to any arrangements with the Issuer or any Subsidiary of the Issuer) any other company, person or entity shall issue any Securities (other than Ordinary Shares or options, warrants or other rights to subscribe for, purchase or otherwise acquire any Ordinary Shares or Securities which by their terms carry (directly or indirectly) rights of conversion into, or exchange or subscription for, or rights to otherwise acquire, Ordinary Shares) to all or substantially all Shareholders as a class by way of rights or grant to all or substantially all Shareholders as a class by way of rights, any options, warrants or other rights to subscribe for,

purchase or otherwise acquire any Securities (other than Ordinary Shares or options, warrants or other rights to subscribe for, purchase or otherwise acquire Ordinary Shares or Securities which by their terms carry (directly or indirectly) rights of conversion into, or exchange or subscription for, or rights to otherwise acquire, Ordinary Shares), the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

$$\frac{A - B}{A}$$

where:

- A is the Current Market Price of one Ordinary Share on the Effective Date; and
- B is the Fair Market Value on the Effective Date of the portion of the rights attributable to one Ordinary Share.

Such adjustment shall become effective on the Effective Date (or, if later, the Dealing Day following the record date or other due date for establishment of the entitlement of Shareholders to participate in the relevant issue or grant).

"Effective Date" means, in respect of this Condition 6(b)(v), the first date on which the Ordinary Shares are traded ex- the relevant Securities or ex-rights, ex-options or ex-warrants on the Relevant Stock Exchange.

(vi) issues at less than the Current Market Price: If and whenever the Issuer shall issue wholly for cash or for no consideration (otherwise than as mentioned in Condition 6(b)(iv) above and save in relation to an issue of Ordinary Shares pursuant to the DRP where the Conversion Price has been adjusted for pursuant to Condition 6(b)(iii)), any Ordinary Shares (other than Ordinary Shares issued on conversion of the Notes (which term shall for this purpose include any further Notes issued pursuant to Condition 18) or on the exercise of any rights of conversion into, or exchange or subscription for or purchase of or rights to otherwise acquire, Ordinary Shares) and other than where it is determined to constitute a Cash Dividend pursuant to paragraph (i) of the definition of "Dividend" or if and whenever the Issuer or any Subsidiary of the Issuer or (at the direction or request or pursuant to any arrangements with the Issuer or any Subsidiary of the Issuer) any other company, person or entity shall issue or grant (otherwise than as mentioned in Condition 6(b)(iv) above) wholly for cash or for no consideration any options, warrants or other rights to subscribe for or purchase or otherwise acquire any Ordinary Shares (other than the Notes, which term shall for this purpose include any further Notes issued pursuant to Condition 18), in each case at a price per Ordinary Share which is less than 90 per cent. of the Current Market Price per Ordinary Share on the date of the first public announcement of the terms of such issue or grant, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

$$\frac{A+B}{A+C}$$

where:

A is the number of Ordinary Shares in issue immediately before the issue of such Ordinary Shares or the grant of such options, warrants or rights;

- B is the number of Ordinary Shares which the aggregate consideration (if any) receivable for the issue of such additional Ordinary Shares or, as the case may be, for the Ordinary Shares to be issued or otherwise made available upon the exercise of any such options, warrants or rights, would purchase at such Current Market Price per Ordinary Share; and
- C is the number of Ordinary Shares to be issued pursuant to such issue of such Ordinary Shares or, as the case may be, the maximum number of Ordinary Shares which may be issued upon exercise of such options, warrants or rights calculated as at the date of issue of such options, warrants or rights,

provided that if at the time of issue or grant of such options, warrants or rights (as used in this Condition 6(b)(vi), the "Specified Date") such number of Ordinary Shares is to be determined by reference to the application of a formula or other variable feature or the occurrence of any event at some subsequent time, then for the purposes of this Condition 6(b)(vi), "C" shall be determined by the application of such formula or variable feature or as if the relevant event occurs or had occurred as at the Specified Date and as if such conversion, exchange, subscription, purchase or acquisition had taken place on the Specified Date.

Such adjustment shall become effective on the Effective Date.

"Effective Date" means, in respect of this Condition 6(b)(vi), the date of issue of such Ordinary Shares or, as the case may be, the issue or grant of such options, warrants or rights.

other issues at less than the Current Market Price: if and whenever the Issuer or any Subsidiary of the Issuer or (at the direction or request of or pursuant to any arrangements with the Issuer or any Subsidiary of the Issuer) any other company, person or entity (otherwise than as mentioned in Conditions 6(b)(iv), 6(b)(v) or 6(b)(vi) above and save in relation to an issue of Ordinary Shares pursuant to the DRP where the Conversion Price has been adjusted for pursuant to Condition 6(b)(iii)) shall issue wholly for cash or for no consideration any Securities (other than the Notes which term shall for this purpose exclude any further Notes issued pursuant to Condition 18), which by their terms of issue carry (directly or indirectly) rights of conversion into, or exchange or subscription for, purchase of, or rights to otherwise acquire, Ordinary Shares (or shall grant any such rights in respect of existing Securities so issued) or Securities which by their terms might be reclassified or redesignated as Ordinary Shares and the consideration per Ordinary Share receivable upon conversion, exchange, subscription, purchase, acquisition reclassification or redesignation is less than 90 per cent. of the Current Market Price per Ordinary Share on the date of the first public announcement of the terms of issue of such Securities (or the terms of such grant), the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

$$\frac{A + B}{A + C}$$

where:

A is the number of Ordinary Shares in issue on the date immediately before such issue or grant (but where the relevant Securities carry rights of conversion into or rights of exchange or subscription for Ordinary Shares which have been issued, purchased or acquired by the Issuer or any Subsidiary of the Issuer (or at the direction or request or pursuant to any arrangements with the Issuer or any Subsidiary of the Issuer) for the purposes of or in connection with such issue, less the number of such Ordinary Shares so issued, purchased or acquired);

- B is the number of Ordinary Shares which the aggregate consideration (if any) receivable for the Ordinary Shares to be issued or otherwise made available upon conversion or exchange or upon exercise of the right of subscription, purchase or acquisition attached to such Securities or upon the exercise of any such options, warrants or rights or, as the case may be, for the Ordinary Shares to be issued or to arise from any such reclassification or redesignation would purchase at such Current Market Price per Ordinary Share; and
- C is the maximum number of Ordinary Shares to be issued or otherwise made available upon conversion or exchange of such Securities or upon the exercise of such right of subscription, purchase or acquisition attached thereto at the initial conversion, exchange, subscription, purchase or acquisition price or rate or, as the case may be, the maximum number of Ordinary Shares which may be issued or arise from any such reclassification or redesignation,

provided that if at the time of issue of the relevant Securities or date of grant of such rights (as used in this Condition 6(b)(vii), the "Specified Date") such number of Ordinary Shares is to be determined by reference to the application of a formula or other variable feature or the occurrence of any event at some subsequent time (which may be when such Securities are converted or exchanged or rights of subscription, purchase or acquisition are exercised or, as the case may be, such Securities are reclassified or redesignated or at such other time as may be provided), then for the purposes of this Condition 6(b)(vii), "C" shall be determined by the application of such formula or variable feature or as if the relevant event occurs or had occurred as at the Specified Date and as if such conversion, exchange, subscription, purchase or acquisition, reclassification or, as the case may be, redesignation had taken place on the Specified Date.

Such adjustment shall become effective on the Effective Date.

"Effective Date" means, in respect of this Condition 6(b)(vii), the date of issue of such Securities or, as the case may be, the grant of such rights.

(viii) If and whenever there shall be any modification of the rights of conversion, exchange, subscription, purchase or acquisition attaching to any Securities (other than the Notes which shall for this purpose include any further Notes issued pursuant to Condition 18) which by their terms of issue carry (directly or indirectly) rights of conversion into, or exchange or subscription for, or the right to otherwise acquire, any Ordinary Shares (other than in accordance with the terms (including terms as to adjustment) applicable to such Securities upon issue) so that following such modification the consideration per Ordinary Share receivable has been reduced and is less than 90 per cent. of the Current Market Price per Ordinary Share on the date of the first public announcement of the proposals for such modification, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

$$\frac{A + B}{A + C}$$

where:

A is the number of Ordinary Shares in issue immediately before such modification (but where the relevant Securities carry rights of conversion into or rights of exchange or subscription for, or purchase or acquisition of, Ordinary Shares which have been issued, purchased or acquired by the Issuer or any Subsidiary of the Issuer (or at the direction or request or pursuant to any arrangements with the Issuer or any Subsidiary of the Issuer)

for the purposes of or in connection with such Securities, less the number of such Ordinary Shares so issued, purchased or acquired);

- B is the number of Ordinary Shares which the aggregate consideration (if any) receivable for the Ordinary Shares to be issued or otherwise made available upon conversion or exchange or upon exercise of the right of subscription, purchase or acquisition attached to the Securities so modified would purchase at such Current Market Price per Ordinary Share on the date of such first public announcement or, if lower, the existing conversion, exchange, subscription, purchase or acquisition price of such Securities; and
- C is the maximum number of Ordinary Shares which may be issued or otherwise made available upon conversion or exchange of such Securities or upon the exercise of such rights of subscription, purchase or acquisition attached thereto at the modified conversion, exchange, subscription, purchase or acquisition price or rate but giving credit in such manner as an Independent Adviser shall consider appropriate for any previous adjustment under this Condition 6(b)(viii) or under Condition 6(b)(viii) above,

provided that if at the time of such modification (as used in this Condition 6(b)(viii), the "Specified Date") such number of Ordinary Shares is to be determined by reference to the application of a formula or other variable feature or the occurrence of any event at some subsequent time (which may be when such Securities are converted or exchanged or rights of subscription, purchase or acquisition are exercised or at such other time as may be provided) then for the purposes of this Condition 6(b)(viii), "C" shall be determined by the application of such formula or variable feature or as if the relevant event occurs or had occurred as at the Specified Date and as if such conversion, exchange, subscription, purchase or acquisition had taken place on the Specified Date.

Such adjustment shall become effective on the Effective Date.

"Effective Date" means, in respect of this Condition 6(b)(viii), the date of modification of the rights of conversion, exchange, subscription, purchase or acquisition attaching to such Securities.

(ix) **other offers to Shareholders**: subject to Condition 6(e), if and whenever the Issuer or any of its Subsidiaries or (at the direction or request of or pursuant to any arrangements with the Issuer or any of its Subsidiaries) any other company, person or entity shall offer any Ordinary Shares or Securities of the Issuer in connection with which Shareholders as a class are entitled to participate in arrangements whereby such Ordinary Shares or Securities may be acquired by them (except where the Conversion Price falls to be adjusted under Conditions 6(b)(ii), 6(b)(iii), 6(b)(iv), 6(b)(v), 6(b)(vi) or 6(b)(vii) above or 6(b)(x) below (or, where applicable, would fall to be so adjusted if the relevant issue or grant was at less than 90 per cent. of the Current Market Price per Ordinary Share on the relevant Dealing Day)) the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before the Effective Date by the following fraction:

$$\frac{A - B}{\Lambda}$$

where:

A is the Current Market Price of one Ordinary Share on the Effective Date; and

B is the Fair Market Value on the Effective Date of the portion of the relevant offer attributable to one Ordinary Share.

Such adjustment shall become effective on the Effective Date.

"Effective Date" means, in respect of this Condition 6(b)(ix), the first date on which the Ordinary Shares are traded ex-rights on the Relevant Stock Exchange.

(x) Change of Control: if a Change of Control shall occur, the Issuer shall deliver a Change of Control Notice in accordance with Condition 6(g). Following the giving of a Change of Control Notice, upon (a) any exercise of Conversion Rights where the Conversion Date falls during the period or (b) any redemption for a Change of Control where the relevant Redemption Notice is delivered during the period (the "Change of Control Period") commencing on the occurrence of the Change of Control and ending 30 calendar days following the Change of Control or, if later, 30 calendar days following the date on which a Change of Control Notice as required by Condition 6(g) is given, the Conversion Price (the "Change of Control Conversion Price") shall be as determined pursuant to the following formula:

$$COCCP = OCP/(1 + (CP \times c/t))$$

where:

COCCP = means the Change of Control Conversion Price

OCP = means the Conversion Price in effect on the relevant Conversion Date,

disregarding the application of this Condition 6(b)(x)

CP = means 20.00 per cent. (expressed as a fraction)

c = means the number of days from and including the date the Change of Control

occurs to but excluding the Final Maturity Date

t = means the number of days from and including the Closing Date to but excluding

the Final Maturity Date

other events: if the Issuer determines that an adjustment should be made to the Conversion Price as a result of one or more circumstances not referred to above in this Condition 6(b), the Issuer shall, at its own expense and acting reasonably, 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 thereof and the date on which such adjustment should take effect and upon such determination such adjustment (if any) shall be made and shall take effect in accordance with such determination, provided that an adjustment shall only be made pursuant to this Condition 6(b)(xi) if such Independent Adviser is so requested to make such a determination not more than 21 days after the date on which the relevant circumstance arises and if the adjustment would result in a reduction to the Conversion Price.

Notwithstanding the foregoing provisions, where:

(A) the events or circumstances giving rise to any adjustment pursuant to this Condition 6(b) have already resulted or will result in an adjustment to the Conversion Price or where the events or circumstances giving rise to any adjustment arise by virtue of any other events or circumstances which have already given or will give rise to an adjustment to the Conversion Price or where more than one event which gives rise to an adjustment to the Conversion Price occurs within such a short period of time that, in the opinion of the Issuer, a modification to the operation of the adjustment provisions is required to give the intended result, such modification shall be made to the operation of the adjustment provisions as may be advised by an Independent Adviser to be in its opinion appropriate to give the intended result; and

- (B) such modification shall be made to the operation of these Conditions as may be advised by an Independent Adviser to be in its opinion appropriate:
  - (x) to ensure that an adjustment to the Conversion Price or the economic effect thereof shall not be taken into account more than once; and
  - (y) to ensure that the economic effect of a Dividend is not taken into account more than once.

The Issuer has undertaken that it will not take any corporate or other action which is equivalent to Conditions 6(b)(i) to 6(b)(x) (both inclusive) that would cause the Conversion Price of the Notes to be adjusted in a manner that contravenes the Corporations Act or the ASX Listing Rules.

For the purpose of any calculation of the consideration receivable or price pursuant to Conditions 6(b)(iv), 6(b)(vi), 6(b)(vii) and 6(b)(viii), the following provisions shall apply:

(I) the aggregate consideration receivable or price for Ordinary Shares issued for cash shall be the amount of such cash;

(II)

- (x) the aggregate consideration receivable or price for Ordinary Shares to be issued or otherwise made available upon the conversion or exchange of any Securities shall be the consideration or price received or receivable for any such Securities; and
- (y) the aggregate consideration receivable or price for Ordinary Shares to be issued or otherwise made available upon the exercise of rights of subscription attached to any Securities or upon the exercise of any options, warrants or rights shall be deemed to be that part (which may be the whole) of the consideration or price received or receivable for such Securities or, as the case may be, for such options, warrants or rights which are attributed by the Issuer to such rights of subscription or, as the case may be, such options, warrants or rights or, if no part of such consideration or price is so attributed, the Fair Market Value of such rights of subscription or, as the case may be, such options, warrants or rights as at the relevant Effective Date referred to in Condition 6(b)(iv) or the relevant date of the first public announcement as referred to in Conditions 6(b)(vi), 6(b)(vii) or 6(b)(viii), as the case may be,

plus in the case of each of (x) and (y) above of this paragraph (II), the additional minimum consideration receivable or price (if any) upon the conversion or exchange of such Securities, or upon the exercise of such rights of subscription attached thereto or, as the case may be, upon exercise of such options, warrants or rights; and

- (z) the consideration receivable or price per Ordinary Share upon the conversion or exchange of, or upon the exercise of such rights of subscription attached to, such Securities or, as the case may be, upon the exercise of such options, warrants or rights shall be the aggregate consideration or price referred to in (x) or (y) above of this paragraph (II) (as the case may be) divided by the number of Ordinary Shares to be issued upon such conversion or exchange or exercise at the initial conversion, exchange or subscription price or rate;
- (III) if the consideration or price determined pursuant to paragraph (I) or (II) above of this Condition 6(b) (or any component thereof) shall be expressed in a currency other than the Relevant Currency it shall be converted into the Relevant Currency at the Prevailing Rate on the relevant Effective Date (in the case of paragraph (I) above of this Condition 6(b) or for the

purposes of Condition 6(b)(iv)) or the relevant date of the first public announcement (for the purposes of Conditions 6(b)(vi), 6(b)(vii) or 6(b)(viii));

- (IV) in determining consideration or price pursuant to the above, no deduction shall be made for any commissions or fees (howsoever described) or any expenses paid or incurred for any underwriting, placing or management of the issue of the relevant Ordinary Shares or Securities or options, warrants or rights, or otherwise in connection therewith; and
- (V) the consideration or price shall be determined as provided above on the basis of the consideration or price received, receivable, paid or payable, regardless of whether all or part thereof is received, receivable, paid or payable by or to the Issuer or another entity.

## (c) Retroactive Adjustments

If the Conversion Date in relation to the conversion of any Note shall be after the record date in respect of any consolidation, reclassification, redesignation or sub-division as is mentioned in Condition 6(b)(i), or after 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 Conditions 6(b)(ii), 6(b)(iii), 6(b)(iv), 6(b)(v) or 6(b)(ix), or after the date of the first public announcement of the terms of any such issue or grant as is mentioned in Conditions 6(b)(vi) and 6(b)(vii) or of the terms of any such modification as is mentioned in Condition 6(b)(viii), but before the relevant adjustment to the Conversion Price becomes effective under Condition 6(b) (such adjustment, a "Retroactive Adjustment"), then the Issuer shall (conditional upon the relevant adjustment becoming effective) procure that there shall be issued or transferred and delivered to the converting Noteholder, in accordance with the instructions contained in the Conversion Notice, such additional number of Ordinary Shares (if any) as determined by an Independent Advisor (the "Additional Ordinary Shares") as, together with the Ordinary Shares issued or to be transferred and delivered on conversion of the relevant Note (together with any fraction of an Ordinary Share not so issued), is equal to the number of Ordinary Shares which would have been required to be issued or delivered on conversion of such Note as if the relevant adjustment to the Conversion Price had in fact been made and become effective immediately prior to the relevant Conversion Date.

## (d) Decision of an Independent Adviser

If any doubt shall arise as to whether an adjustment is required to be made to the Conversion Price or as to the appropriate adjustment to the Conversion Price or as to the occurrence of a Change of Control, the Issuer shall consult an Independent Adviser and the written opinion of such Independent Adviser acting in good faith in respect of such adjustment to the Conversion Price shall be conclusive and binding on all parties, save in the case of manifest error.

### (e) Employees Incentive Schemes

No adjustment will be made to the Conversion Price where Ordinary Shares or other Securities (including rights, warrants and options) are issued, transferred, offered or granted pursuant to any Employee Share Scheme.

"Employee Share Scheme" means any scheme approved by the Issuer and in compliance with the requirements of the ASX Listing Rules (or if applicable, the Alternative Stock Exchange) pursuant to which Ordinary Shares or other securities (including rights or options) are or may be issued, transferred, 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 the personal service company of any such person) of the Issuer, its Subsidiaries and/or affiliated companies, or spouses or persons related to such employees or former employees or eligible participants of such

scheme or to a trustee or trustees to be held for the benefit of any such person or any amendment or successor plan thereto.

#### (f) Rounding Down and Notice of Adjustment to the Conversion Price

On any adjustment to the Conversion Price, the resultant Conversion Price, if not an integral multiple of A\$0.001, shall be rounded down to the nearest whole multiple A\$0.01. No adjustment shall be made to the Conversion Price where such adjustment (rounded down if applicable) would be less than one per cent. of the Conversion Price then in effect. Any adjustment not required to be made, and/or any amount by which the Conversion Price has been rounded down, shall 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.

Notice of any adjustments to the Conversion Price shall be given by the Issuer to Noteholders in accordance with Condition 17 and to the Trustee and the Principal Paying and Conversion Agent in writing promptly after the determination thereof.

The Conversion Price shall not in any event be reduced so that on conversion of the Notes, Ordinary Shares would fall to be issued in circumstances not permitted by applicable laws or regulations.

The Issuer undertakes that it shall not take any action, and shall procure that no action is taken, that would otherwise result in an adjustment to the Conversion Price to below any minimum level permitted by applicable laws or regulations or that would otherwise result in the inability to issue Ordinary Shares on conversion as fully paid or result in Ordinary Shares being required to be issued in circumstances not permitted by applicable laws or regulations.

No adjustment involving an increase in the Conversion Price will be made, except in the case of a consolidation of the Shares as referred to in Condition 6(b)(i) above. The Issuer may at any time and for a specified period only, following notice being given to the Trustee and the Principal Paying and Conversion Agent in writing and to Noteholders in accordance with Condition 17, reduce the Conversion Price.

## (g) Change of Control

Within 10 business days following the occurrence of a Change of Control, the Issuer shall give notice thereof to the Trustee and the Principal Paying and Conversion Agent in writing and to the Noteholders in accordance with Condition 17 (a "Change of Control Notice"). Such notice shall contain a statement informing Noteholders of their entitlement to exercise their Conversion Rights as provided in these Conditions and their entitlement to require the Issuer to redeem their Notes as provided in Condition 7(f).

The Change of Control Notice shall also specify:

- (i) all information material to Noteholders concerning the Change of Control;
- (ii) the Conversion Price immediately prior to the occurrence of the Change of Control and the Change of Control Conversion Price applicable pursuant to Condition 6(b)(x) during the Change of Control Period (on the basis of the Conversion Price in effect immediately prior to the occurrence of the Change of Control);
- (iii) the Closing Price of the Ordinary Shares as derived from the Relevant Stock Exchange as at the latest practicable date prior to the publication of the Change of Control Notice;
- (iv) the Change of Control Put Date and the last day of the Change of Control Period;

- (v) details of the right of the Issuer to redeem any Notes which shall not previously have been converted or redeemed pursuant to Condition 7(f); and
- (vi) such other information relating to the Change of Control as the Trustee may require.

The Trustee shall not be required to take any steps to ascertain whether a Change of Control or any event which could lead to a Change of Control has occurred or may occur and will not be responsible or liable to Noteholders or any other person for any loss arising from any failure by it to do so.

#### (h) Procedure for exercise of Conversion Rights

Conversion Rights may be exercised by a Noteholder during the Conversion Period by delivering the relevant Note to the specified office of any Conversion Agent, during its usual business hours, accompanied by a duly completed and signed notice of conversion in the form (for the time being current) obtainable from any Conversion Agent (a "Conversion Notice"). Conversion Rights shall be exercised subject in each case to any applicable fiscal or other laws or regulations applicable in the jurisdiction in which the specified office of the Conversion Agent to whom the relevant Conversion Notice is delivered is located. If such delivery is made after 3.00 p.m. (Hong Kong time) or on a day which is not a business day in the place of the specified office of the relevant Conversion Agent, such delivery shall be deemed for all purposes of these Conditions to have been made on the next following such business day.

Any determination as to whether any Conversion Notice has been duly completed and properly delivered shall be made by the relevant Conversion Agent and shall, save in the case of manifest error, be conclusive and binding on the Issuer, the Trustee, the other Conversion Agents and the relevant Noteholder.

Conversion Rights may only be exercised in respect of an Authorised Denomination. Where Conversion Rights are exercised in respect of part only of a Note, the old Certificate evidencing such Note shall be cancelled and a new Certificate evidencing such Note and appropriate entries made in the Register for the balance thereof shall be issued in lieu thereof without charge but upon payment by the holder of any taxes, duties and other governmental charges payable in connection therewith and the Registrar will within seven business days, in the place of the specified office of the Registrar, following the relevant Conversion Date deliver the new Certificate evidencing such Note to the Noteholder at the specified office of the Registrar or (at the risk and, if mailed at the request of the Noteholder otherwise than by ordinary mail, at the expense of the Noteholder) mail the Certificate evidencing such new Note by uninsured mail to such address as the Noteholder may request.

A Conversion Notice, once delivered, shall be irrevocable.

The conversion date in respect of a Note (the "Conversion Date") shall be the third business day following the date of the delivery of the Notes and the Conversion Notice as provided in this Condition 6(h).

A Noteholder exercising a Conversion Right shall:

- (i) subject to Condition 6(h)(ii) below, be responsible for paying directly to the relevant authorities any capital, stamp, issue, registration, transfer and/or other taxes and/or duties arising on conversion and such Noteholder shall be responsible for paying all, if any, taxes arising by reference to any disposal or deemed disposal of a Note or interest therein in connection with such conversion; but
- (ii) not be responsible for any capital, stamp, issue, registration, transfer and/or other taxes and/or duties payable in Australia (or any province, state or territory thereof) in respect of the allotment

and issue of any Ordinary Shares on such conversion or in respect of the delivery of any Ordinary Shares on such conversion (including any Additional Ordinary Shares), which taxes and/or duties shall be paid by the Issuer. If the Issuer shall fail to pay any capital, stamp, issue, registration, transfer and/or other taxes and/or duties which are payable and for which it is responsible as provided above, the relevant holder shall be entitled to tender and pay the same and the Issuer, as a separate and independent stipulation, covenants to reimburse and indemnify each Noteholder in respect of any such payment thereof and any penalties payable in respect thereof.

For the avoidance of doubt, none of the Agents or the Trustee shall be responsible for determining whether such capital, stamp, issue, registration, transfer and/or other taxes and/or duties are payable in Australia or any other jurisdiction or, in any case, the amount thereof and none of them shall be responsible or liable to pay any such taxes or capital, stamp, issue and registration and transfer taxes and duties or for any failure by the Issuer, any Noteholder or any other person to pay such capital, stamp, issue, registration, transfer and/or other taxes and/or duties.

Ordinary Shares to be issued on exercise of Conversion Rights will be issued, at the option of the Noteholder exercising its Conversion Right as specified in the Conversion Notice, either:

- (A) in uncertificated form through the securities trading system known as the Clearing House Electronic Sub-register System operated by ASX Settlement Pty Ltd ("CHESS") (or any successor licensed clearance and settlement facility applicable to the Ordinary Shares), or
- (B) in uncertificated form through the Issuer's share registry provider,

and, in the case of paragraph (A) of this Condition 6(h), the Ordinary Shares will be credited to the CHESS account specified in the Conversion Notice or, in the case of paragraph (B) of this Condition 6(h), the Ordinary Shares will be credited to an account with the share registry provider in the name of the Noteholder, in each case, by a date which is generally expected to be not later than 10 Dealing Days (in the case of Ordinary Shares to be issued through CHESS) or 10 business days (in the case of Ordinary Shares to be issued through the Issuer's share registry provider) after the relevant Conversion Date.

Statements of holdings for Ordinary Shares issued through CHESS on exercise of Conversion Rights will be dispatched by the Issuer by mail free of charge as soon as practicable but in any event within 12 Dealing Days after the relevant Conversion Date.

On conversion, the Issuer will redeem the Notes held at that time by the Noteholder concerned and in respect of which a Conversion Right is to be exercised ("Relevant Notes") for an amount equal to their aggregate outstanding principal amount. In relation to each Noteholder concerned, the Issuer will apply, on behalf of that Noteholder, the whole of the said amount in respect of the redemption of the Relevant Notes for the subscription for the number of Ordinary Shares calculated in accordance with these Conditions.

On the Conversion Date, the Issuer must issue to each Noteholder (or to such other person as the Noteholder may direct the Issuer in writing at least five business days prior to the Conversion Date provided that such person is a person to whom a transfer of the Notes could be made in compliance with Condition 4) the number of Ordinary Shares for its Notes calculated in accordance with these Conditions. Provided the Issuer is admitted to the official list of the ASX, on the date of issue of Ordinary Shares issued on conversion of a Note, the Issuer will apply for quotation of such Ordinary Shares on the ASX.

The lodgement of an application for quotation of the Ordinary Shares with ASX by the Issuer will constitute a representation and warranty by the Issuer to the person to whom the Ordinary Shares in question are issued on Conversion (the "Recipient") that:

- (I) the Ordinary Shares issued on conversion are issued solely for the purpose of satisfying the Issuer's contractual obligations under these Conditions and not for the purpose of the person to whom those Ordinary Shares are issued, selling or transferring such Ordinary Shares or granting, issuing or transferring an interest in, or options over, them;
- (II) subject to the ASX granting quotation of the Ordinary Shares issued on conversion of Notes, they will be freely tradable in the ordinary course on the ASX; and
- (III) the Ordinary Shares will be issued in compliance with the ASX Listing Rules and all applicable laws and regulations.

Without limiting its obligations under this Condition 6(h), the Issuer shall use its best endeavours, and furnish all such quotation applications, documents, information and undertakings as may be reasonably necessary in order, to procure the ASX quotation referred to in this Condition 6 on the Conversion Date.

### (i) Interest on Conversion

Save as provided below, no payment or adjustment shall be made on exercise of Conversion Rights for any interest which otherwise would have accrued on the relevant Notes since the last Interest Payment Date preceding the Conversion Date relating to such Notes (or, if such Conversion Date falls before the first Interest Payment Date, since the Closing Date).

If any notice requiring the redemption of any Notes is given pursuant to Conditions 7(b) or 7(c) on or after the 15<sup>th</sup> calendar day prior to a record date or other due date for establishment of entitlement which has occurred since the last Interest Payment Date (or in the case of the first Interest Period, since the Closing Date) and where such notice specifies a date for redemption falling on or prior to the date which is 14 days after the Interest Payment Date next following such record date or other due date for establishment of entitlement, interest shall accrue at the applicable Interest Rate on Notes in respect of which Conversion Rights shall have been exercised and in respect of which the Conversion Date falls after such record date and on or prior to the Interest Payment Date next following such record date or other due date for establishment of entitlement and on or prior to the Interest Payment Date next following such record date in respect of such Dividend or distribution, in each case from and including the preceding Interest Payment Date (or, if such Conversion Date falls before the first Interest Payment Date, from the Closing Date) to but excluding such Conversion 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 Noteholder in the relevant Conversion Notice.

## (j) Purchase or Redemption of Ordinary Shares

The Issuer or any Subsidiary of the Issuer may exercise such rights as it may from time to time enjoy as permitted under applicable law to purchase or redeem or buy back its own shares (including Ordinary Shares) or any depositary or other receipts or certificates representing the same without the consent of the Noteholders.

# (k) No duty to Monitor

Neither the Trustee nor the Agents shall be under any duty to monitor whether any event or circumstance has happened or exists which requires or may require an adjustment to be made to the Conversion Price and none of them will be responsible or liable to the Noteholders or any other person for any loss arising from any failure by it to do so.

Neither the Trustee nor the Agents shall be under any duty to determine, calculate or verify:

- (i) [Intentionally left blank]
- (ii) the Conversion Price and/or any adjustments to it, or any determinations, advice or opinions made or given in connection therewith;
- (iii) the Closing Price of any Ordinary Share or any Security, Spin-Off Security, option, warrant or other rights or assets on any Dealing Day or any other day; and
- (iv) any entitlement of any Noteholder(s) to any Ordinary Shares upon or following the exercise of any Conversion Right,

and none of them will be responsible or liable to any Noteholder(s) or any other person for any loss arising from any failure to do so.

- (1) [Internationally left blank]
- (m) [Intentionally left blank]
- (n) Ordinary Shares

Ordinary Shares (including any Additional Ordinary Shares) issued or transferred and delivered upon conversion of the Notes will be fully paid and will in all respects rank *pari passu* with the fully paid Ordinary Shares in issue on the relevant Conversion Date or, in the case of Additional Ordinary Shares, on the relevant Reference Date, and the relevant holder shall be entitled to all rights, distribution or payments the record date or other due date for the establishment of entitlement for which falls on or after the relevant Conversion Date or, as the case may be, the relevant Reference Date, except in any such case for any right excluded by mandatory provisions of applicable laws or regulations or as otherwise may be provided in these Conditions. Such Ordinary Shares or, as the case may be, Additional Ordinary Shares will not rank for (or, as the case may be, the relevant holder shall not be entitled to receive) any rights, distributions or payments the record date or other due date for the establishment of entitlement for which falls prior to the relevant Conversion Date or, as the case may be, the relevant Reference Date.

For the avoidance of doubt, the issue or transfer and delivery of any Ordinary Shares following the exercise of a Conversion Right and the payment of any Dividend payable on any Ordinary Shares shall be settled directly between the Issuer and the relevant Noteholder.

### 7 Redemption and Purchase

(a) Final Redemption

Unless previously purchased and cancelled, redeemed or converted as herein provided, the Notes will be redeemed at the Redemption Amount on the Final Maturity Date. The Notes may only be redeemed at the option of the Issuer prior to the Final Maturity Date in accordance with Condition 7(b) or Condition 7(c).

(b) Redemption at the Option of the Issuer

On giving notice (an "Optional Redemption Notice") to the Noteholders in accordance with Condition 17 and to the Trustee and the Principal Paying and Conversion Agent in writing (which notice shall be irrevocable), the Issuer may redeem all but not some only of the Notes on the date (an "Optional Redemption Date") specified in the Optional Redemption Notice at the Redemption Amount:

(i) at any time on or after 30 July 2024, and on giving not less than 30 nor more than 60 days' notice to Noteholders of such Optional Redemption Date, provided that the Closing Price of the Ordinary Shares (as published by or derived from the Relevant Stock Exchange) (translated

into Euro at the Prevailing Rate) for any 30 consecutive Dealing Days, the last of which shall not fall earlier than five calendar days prior to the date upon which notice of such redemption is published, was at least 130 per cent. of the Conversion Price (as adjusted) in effect on each such Dealing Day (translated into Euro at the Fixed Exchange Rate); or

(ii) at any time prior to the date the relevant Optional Redemption Notice is given, and on giving not less than 30 nor more than 60 days' notice to Noteholders of such Optional Redemption Date, if Conversion Rights shall have been exercised and/or purchases (and corresponding cancellations) and/or redemptions shall have been effected in respect of 85 per cent. or more in principal amount of the Notes originally issued (which shall for this purpose include any further Notes issued pursuant to Condition 18 and consolidated and forming a single series with the Notes).

#### (c) 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 Noteholders in accordance with Condition 17 and to the Trustee and the Principal Paying and Conversion Agent in writing (which notice shall be irrevocable), redeem (subject to the last paragraph of this Condition 7(c)) all but not some only, of the Notes on the date (the "Tax Redemption Date") specified in the Tax Redemption Notice at the Redemption Amount, if:

- (i) the Issuer certifies to 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 on the Notes pursuant to Condition 9 as a result of any change in, or amendment to, the laws or regulations of the Commonwealth of Australia 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 2 July 2020; and
- (ii) the Issuer would still be obliged to pay such additional amounts after taking reasonable measures available to it.

provided that no such Tax Redemption Notice 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 Notes then due.

Prior to the publication of any Tax Redemption Notice pursuant to this Condition 7(c), the Issuer shall deliver to the Trustee:

- (A) a certificate signed by two directors of the Issuer each of whom are also Authorised Signatories of the Issuer stating that the circumstances in sub-paragraph (i) of this Condition 7(c) have occurred and the Issuer would still be obliged to pay such additional amounts after taking reasonable measures available to it; and
- (B) an opinion of independent legal or tax advisers of recognised international standing to the effect that such change or amendment has occurred and that the Issuer has or will be obliged to pay such additional amounts as a result thereof (irrespective of whether such amendment or change is then effective),

and the Trustee shall accept without investigation and without liability such certificate and opinion as sufficient evidence of the matters set out in sub-paragraphs (i) and (ii) above of this Condition 7(c), and such certificate and opinion shall be conclusive and binding on the Noteholders.

On the Tax Redemption Date, the Issuer shall (subject to the next following paragraph) redeem the Notes at the Redemption Amount.

If the Issuer gives a Tax Redemption Notice, each Noteholder will have the right to elect that their Note(s) shall not be redeemed and that the provisions of Condition 9 shall not apply in respect of any payment of interest to be made on such Note(s) which falls due after the relevant Tax Redemption Date whereupon no additional amounts shall be payable in respect thereof pursuant to Condition 9 and payment of all amounts of interest on the Notes shall be made subject to the deduction or withholding of the taxation required to be withheld or deducted by the Commonwealth of Australia or any political subdivision or any authority thereof or therein having power to tax. To exercise such right, the holder of the relevant Note must complete, sign and deposit at the specified office of the Principal Paying and Conversion Agent or any other Paying 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 and Conversion Agent or any other Paying Agent together with the relevant Certificate evidencing such Notes on or before the day falling 10 days prior to the Tax Redemption Date.

(d) Optional Redemption Notices and Tax Redemption Notices

The Issuer shall not give an Optional Redemption Notice or a Tax Redemption Notice at any time:

- (i) during a Change of Control Period; or
- (ii) which specifies a date for redemption falling in a Change of Control Period or the period of 21 days following the end of a Change of Control Period (whether or not the relevant notice was given prior to or during such Change of Control Period),

and any such Optional Redemption Notice or Tax Redemption Notice shall be invalid and of no effect (whether or not given prior to the relevant Change of Control Period) and the relevant redemption shall not be made.

Any Optional Redemption Notice or Tax Redemption Notice shall be irrevocable. Any such notice shall specify:

- (A) the Optional Redemption Date or, as the case may be, the Tax Redemption Date which shall be a business day (as defined in Condition 8);
- (B) the Conversion Price, the aggregate principal amount of the Notes outstanding and the Closing Price of the Ordinary Shares,

in each case as at the latest practicable date prior to the publication of the Optional Redemption Notice or, as the case may be, the Tax Redemption Notice; and

- (C) the last day on which Conversion Rights may be exercised by Noteholders.
- (e) Redemption at the Option of Noteholders

The Issuer will, at the option of the holder of any Note redeem all or some only of such holder's Notes on 9 July 2024 (the "Put Option Date") at their principal amount, together with interest accrued but unpaid to but excluding the Put Option Date. To exercise such option, the holder must deposit at the specified office of the Principal Paying and Conversion Agent or any other Paying Agent a duly completed and signed put notice in the form for the time being current, obtainable from the specified office of the Principal Paying and Conversion Agent (the "Optional Put Exercise Notice") or any other Paying Agent, together with the Certificate evidencing the Notes to be redeemed not more than 60 days and not less than 30 days prior to the Put Option Date. An Optional Put Exercise Notice, once delivered, shall be irrevocable and may not be withdrawn without the Issuer's consent and the Issuer shall redeem the Notes the subject of an Optional Put Exercise Notice on the Put Option Date.

Payment in respect of any such Note shall be made by the Issuer directly to the relevant Noteholder by transfer to a Euro account with a bank in a city in which banks have access to the TARGET System as specified by such Noteholder in the relevant Optional Put Exercise Notice.

## (f) Redemption for a Relevant Event

Following the occurrence of a Relevant Event, the holder of each Note will have the right, at such holder's option, to require the Issuer to redeem all or some only of that holder's Notes on the Relevant Event Redemption Date (as defined below) at the Redemption Amount. To exercise such right, the holder of the relevant Note must complete, sign and deposit at the specified office of the Principal Paying and Conversion Agent or any other Paying Agent a duly completed and signed notice of redemption, in the form for the time being current, obtainable from the specified office of any Paying Agent (the "Relevant Event Redemption Notice") together with the Certificate evidencing the Notes to be redeemed by not later than 60 days following a Relevant Event, or, if later, 60 days following the date upon which notice thereof is given to Noteholders by the Issuer in accordance with Condition 17.

The "Relevant Event Redemption Date" shall be the 14th TARGET Business Day after the expiry of such period of 60 days as referred to above in this Condition 7(f).

Payment in respect of any such Note 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 Noteholder in the Relevant Event Redemption Notice.

A Relevant Event Redemption Notice, once delivered, shall be irrevocable and the Issuer shall redeem the Notes the subject of Relevant Event Redemption Notices delivered as aforesaid on the Relevant Event Redemption Date.

The Issuer shall give notice to the Noteholders in accordance with Condition 17 and to the Trustee and the Principal Paying and Conversion Agent in writing by not later than 14 days following the first day on which it becomes aware of the occurrence of a Relevant Event, which notice shall specify the procedure for exercise by Noteholders of their rights to require redemption of the Notes pursuant to this Condition 7(f) and shall give brief details of the Relevant Event and, in the case of a Change of Control, provide the additional details set out in Condition 6(g).

Neither the Trustee nor any Agent shall be required to take any steps to ascertain whether a Relevant Event or any event which could lead to the occurrence of a Relevant Event has occurred or may occur and none of them shall be liable to Noteholders or any other person for any loss arising from any failure to do so.

## (g) Purchase

Subject to the requirements (if any) of any stock exchange on which the Notes may be admitted to listing and trading at the relevant time and subject to compliance with applicable laws and regulations, the Issuer or any Subsidiary of the Issuer may at any time purchase some or all of the Notes in the open market, by private contract or otherwise at any price. The Notes so purchased, while held by or on behalf of the Issuer or any such Subsidiary, shall not entitle the holder to vote at any meetings of the Noteholders and shall not be deemed to be outstanding for certain purposes, including without limitation for the purpose of calculating quorums at meetings of the Noteholders or for the purposes of Condition 10, Condition 14(a) and Condition 15.

# (h) Cancellation

All Notes which are redeemed or in respect of which Conversion Rights are exercised will be cancelled and may not be reissued or resold. Notes purchased by the Issuer or any of its Subsidiaries shall be surrendered to the Registrar for cancellation and may not be reissued or re-sold.

## (i) Multiple Notices

If more than one notice of redemption is given pursuant to this Condition 7, the first of such notices to be given shall prevail, save that a notice of redemption given by a Noteholder pursuant to Condition 7(f) shall prevail over any other notice of redemption given pursuant to this Condition 7, whether given before, after or at the same time as any notice of redemption under Condition 7(f).

## 8 Payments

### (a) Principal

Payment of principal in respect of the Notes and accrued interest payable on a redemption of the Notes other than on an Interest Payment Date will be made to the persons shown in the Register at the close of business on the Record Date and subject to the surrender of the Certificate evidencing such Notes at the specified office of the Registrar or of any Paying Agent.

#### (b) Interest and other Amounts

- (i) Payments of interest due on an Interest Payment Date, which shall be for value on such Interest Payment Date, (or, if such Interest Payment Date is not a business day (as defined below in Condition 8(g)), for value on the first following day which is a business day) will be made to the persons shown in the Register at the close of business on the Record Date.
- (ii) Payments of all amounts other than as provided in Conditions 8(a) and 8(b)(i) will be made as provided in these Conditions.

### (c) Record Date

"Record Date" means the seventh business day, in the place of the specified office of the Registrar, before the due date for the relevant payment.

So long as the Notes are represented by the Global Certificate and the Global Certificate is held on behalf of Euroclear Bank SA/NV or Clearstream Banking S.A. (each a "Relevant Clearing System"), all payments in respect of Notes represented by the Global Certificate will be made to, or to the order of, the person whose name is entered in the Register at the close of business on the Clearing System Business Day immediately prior to the date of payment, where "Clearing System Business Day" means a weekday (Monday to Friday, inclusive) except 25 December and 1 January.

#### (d) Payments

Each payment in respect of the Notes pursuant to Conditions 8(a) and 8(b) will be made in Euro by transfer to the registered account of the relevant Noteholder.

For the purpose of this Condition 8, a Noteholder's "registered account" means a Euro account maintained by or on behalf of such Noteholder with a bank that processes payments in Euro, details of which appear on the Register at the close of business on the relevant Record Date.

The Issuer will not be required to make any such payment in respect of the Notes until six business days after the Noteholder has provided the necessary account details for payment in accordance with this Condition 8(d).

Payment instructions (for value on the due date or, if that is not a TARGET Business Day, for value the first following day which is a TARGET Business Day) will be initiated on the TARGET Business Day preceding the due date for payment (for value the next TARGET Business Day).

## (e) Payments subject to fiscal laws

All payments in respect of the Notes are subject in all cases to:

- (i) any applicable fiscal or other laws and regulations but without prejudice to Condition 9; 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,

or otherwise under or in connection with, or in order to ensure compliance with FATCA. No commissions or expenses shall be charged to the Noteholders in respect of such payments. No commissions or expenses shall be charged to the Noteholders in respect of such payments.

#### (f) Delay in Payment

Noteholders will not be entitled to any interest or other payment for any delay after the due date in receiving the amount due:

- (iii) as a result of the due date not being a business day;
- (iv) if the Noteholder is late in surrendering the relevant Note; or
- (v) if the Noteholder does not provide the necessary account details for payment in accordance with these Conditions.

### (g) Business Days

In this Condition 8, "business day" means:

- (i) a day (other than a Saturday, a Sunday or a public holiday) on which commercial banks and foreign exchange markets are open for business in Hong Kong, London, Sydney and (where such surrender is required by these Conditions) in the place of the specified office of the Registrar or relevant Paying Agent, to whom the relevant Certificate evidencing such Note is presented or surrendered; and
- (ii) in relation to any date for payment in or purchase of Euro, a TARGET Business Day.
- (h) Paying Agents, Transfer Agents and Conversion Agents, etc.

The initial Principal Paying and Conversion Agent, the initial Transfer Agent and the initial Registrar and their initial specified offices are listed below. The Issuer reserves the right under the Agency Agreement at any time, with the prior written approval of the Trustee, to vary or terminate the appointment of the Registrar or any other Agent and to appoint another Registrar or any additional or other Agents or another Registrar, provided that it will:

- (i) maintain a Principal Paying and Conversion Agent and a Transfer Agent;
- (ii) so long as the Notes are listed on the Singapore Exchange Securities Trading Limited and the rules of that exchange so require, a Paying Agent having a specified office in Singapore; and
- (iii) maintain a Registrar with a specified office outside the United Kingdom.

Notice of any change of any Agent or its specified office will promptly be given by the Issuer to the Noteholders in accordance with Condition 17 and to the Trustee and the other Agents in writing.

In addition, in the event that the Global Certificate is exchanged for definitive Certificates, announcement of such exchange shall be made through the Singapore Exchange Securities Trading Limited and such announcement will include all material information with respect to the delivery of the definitive Certificates.

#### (i) Fractions

When making payments to Noteholders, if the relevant payment is not of an amount which is a whole multiple of the smallest unit of the relevant currency in which such payment is to be made, such payment will be rounded down to the nearest unit.

#### (j) Non-payment business days

If any due date for payment in respect of any Note is not a business day, the holder shall not be entitled to payment until the next following business day.

#### 9 Taxation

All payments of principal and/or interest made by or on behalf of the Issuer in respect of the Notes will be made free from any restriction or condition and be made without deduction or withholding for or on account of any present or future Taxes imposed or levied by or on behalf of the Commonwealth of Australia or any political subdivision or any authority thereof or therein having power to tax, unless such deduction or withholding of such Taxes is required to be made by law or is made under or in connection with, or in order to ensure compliance with FATCA.

In the event that any such withholding or deduction is required to be made, the Issuer will pay such additional amounts as will result in the receipt by the Noteholders of the amounts which would otherwise have been receivable had no such withholding or deduction been required, except that no such additional amount shall be payable in respect of any Note:

- (a) to, or to a third party on behalf of, a holder who is liable to the Taxes in respect of such Note by reason of such holder having some connection with the Commonwealth of Australia other than the mere holding of the Note provided that such a holder shall not be regarded as being connected with the Commonwealth of Australia for the reason that such a holder is a resident of the Commonwealth of Australia within the meaning of the Income Tax Assessment Act 1936 of Australia as amended and replaced (the "Australian Tax Act") where, and to the extent that, such tax is payable by reason of Section 128B of the Australian Tax Act; or
- (b) presented, or in respect of which the Certificate representing such Note is presented, or surrendered for payment more than 30 days after the Relevant Date except to the extent that the holder would have been entitled to such additional amount on presenting or surrendering the relevant Certificate for payment on the last day of such period of 30 days; or
- (c) on account of Taxes which are payable by reason of the holder being an Offshore Associate of the Issuer for the purposes of Section 128F of the Australian Tax Act;
- (d) in respect of a payment to, or to a third party on behalf of, a holder, in circumstances where such withholding or deduction would not have been required if the holder or any person acting on such holder's behalf had provided to the Issuer a tax file number, Australian business number or details of an exemption from providing those numbers;
- (e) held by or on behalf of a holder who could lawfully avoid (but has not so avoided) such deduction or withholding by complying, or procuring that any third party complies with any statutory requirements,

by complying with or requesting the Issuer to provide information concerning the nationality, residence, identity, tax identification number or address of such holder or by making or procuring that any third party makes a declaration of non-resident or other similar claim for exemption to any Tax authority; or

(f) where such withholding or deduction is made under or in connection with, or in order to ensure compliance with FATCA.

References in these Conditions and the Trust Deed to principal and/or interest and/or any other amounts payable in respect of the Notes shall be deemed also to refer to any additional amounts which may be payable under this Condition 9 or any undertaking or covenant given in addition thereto or in substitution therefor pursuant to the Trust Deed.

Neither the Trustee nor any Agent shall be responsible for paying Taxes or other payment referred to in this Condition 9 or for determining whether such amounts are payable or the amount thereof, and none of them shall be responsible or liable for any failure by the Issuer, any Noteholder(s) or any third party to pay such Taxes or other payment in any jurisdiction or to provide any notice or information to the Trustee or any Agent that would permit, enable or facilitate the payment of any principal, interest or other amount under or in respect of the Notes without deduction or withholding for or on account of any Taxes or other payment imposed by or in any jurisdiction..

This Condition 9 shall not apply in respect of payments on any Notes which are the subject of an election by the relevant Noteholder pursuant to Condition 7(c).

#### 10 Events of Default

The Trustee at its discretion may, and if so requested in writing by the holders of at least 25 per cent. in aggregate principal amount of the Notes then outstanding or if so directed by an Extraordinary Resolution of the Noteholders shall (subject in each case to being indemnified and/or pre-funded and/or secured to its satisfaction), give notice to the Issuer that the Notes are, and they shall accordingly thereby immediately become, due and repayable at their principal amount together with interest accrued but unpaid if any of the following events (each an "Event of Default") shall have occurred and is continuing (as defined in the Trust Deed):

- (a) if the Issuer fails to:
  - (i) pay when due:
    - (A) any principal payable in respect of the Notes and such failure continues for a period of seven days; or
    - (B) any interest payable in respect of the Notes and such failure continues for a period of 14 days; or
  - (ii) deliver Ordinary Shares to satisfy a Conversion Right pursuant to Condition 6 and such failure continues for a period of seven days; or
- (b) the Issuer does not perform or comply with any one or more of its other obligations under the Notes or the Trust Deed and (unless in the opinion of the Trustee the default is incapable of remedy) is not remedied within 30 days after the Issuer shall have received from the Trustee written notice of such default requiring it to be remedied; or

(c)

- (i) any other present or future Indebtedness For Borrowed Money of the Issuer becomes (or becomes capable of being declared) due and payable prior to its stated maturity by reason of an event of default (however described); or
- (ii) any such indebtedness is not paid when due or, as the case may be, within any applicable grace period; or
- (iii) the Issuer fails to pay when due or, as the case may be, within any applicable grace period any amount payable by it under any present or future guarantee for, or indemnity in respect of, any Indebtedness For Borrowed Money; or
- (iv) any mortgage, charge, pledge, lien or other encumbrance, present or future, created or assumed by the Issuer for any Indebtedness For Borrowed Money (or any guarantee of, or indemnity in respect of, Indebtedness For Borrowed Money) that has become payable becomes enforceable and steps are taken to enforce it (including the taking of possession or the appointment of a receiver, administrative receiver, administrator manager, judicial manager, controller or other similar person),

and the aggregate amount of the indebtedness, guarantees and indemnities in respect of which one or more of the events mentioned above in this Condition 10(c) have occurred equals or exceeds A\$15,000,000 (or its equivalent in other currencies); or

- (d) a distress, attachment, execution, seizure before judgment or other legal process is levied or enforced on or against all or any material part of the property, assets or revenues of the Issuer or any Material Subsidiary which is not discharged, removed, stayed or paid within 30 days; or
- (e) the Issuer or any Material Subsidiary:
  - (i) is (or is deemed by law or a court to be) or states that it is insolvent or unable to pay its debts when they fall due;
  - (ii) stops, suspends or threatens to stop or suspend payment of its debts generally; or
  - (iii) makes or enters into a general assignment or an arrangement or composition or compromise with or for the benefit of its creditors (other than in connection with a reconstruction, amalgamation, reorganisation, merger or consolidation permitted under Condition 10(f)); or
- (f) an administrator (as defined in the Corporations Act) or liquidator or a like or similar officer is appointed in respect of the Issuer or any Material Subsidiary or a court order is made or a resolution passed for the winding-up or dissolution of the Issuer or any Material Subsidiary (which is not stayed, withdrawn or dismissed within 30 days), or the Issuer or any Material Subsidiary ceases or threatens to cease to carry on business, except in any such case for the purpose of and followed by a reconstruction, amalgamation, reorganisation, merger or consolidation:
  - (i) on terms approved by the Trustee acting on an Extraordinary Resolution of the Noteholders; or
  - (ii) in the case of a Material Subsidiary, where that Material Subsidiary is solvent or its undertaking and assets are transferred to or otherwise vested in the Issuer or another Subsidiary of the Issuer; or
- (g) a final judgment or judgments of a court or courts of competent jurisdiction for the payment of money aggregating in excess of A\$15,000,000 (or its equivalent in the relevant currency of payment) are rendered against the Issuer or any Material Subsidiary and which judgments are not bonded, discharged,

- satisfied or stayed pending appeal within 30 days after the Latest Date, or are not discharged within 30 days after the later of the expiration of such stay and the Latest Date; or
- (h) 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 Notes or the Trust Deed; or
- (i) any event occurs which under the laws of any relevant jurisdiction has an analogous or substantially similar effect to any of the events referred to in Condition 10(d) to Condition 10(f) (both inclusive),

### where "Latest Date" means the latest of:

- (A) the entry of such judgment;
- (B) if such judgment specifies a date by which it must be satisfied, the date so specified; and
- (C) the time allowed or specified under applicable law for such judgment to be bonded, discharged or stayed pending appeal.

### 11 Undertakings

Whilst any Conversion Right remains exercisable, the Issuer will, save with the approval of an Extraordinary Resolution or with the prior written approval of the Trustee where, in the opinion of the Trustee, it is not materially prejudicial to the interests of the Noteholders to give such approval:

- (a) 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 Ordinary 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 Ordinary Shares or other shares of Securities on a capitalisation of profits or reserves; or
  - (ii) by the issue of Ordinary Shares paid up in full (in accordance with applicable law) and issued wholly, ignoring fractional entitlements, in lieu of the whole or part of a Cash Dividend; or
  - (iii) by the issue of fully paid Equity Share Capital (other than Ordinary Shares) to the holders of Equity Share Capital of the same class and other holders of shares in the capital of the Issuer which by their terms entitle the holders thereof to receive Equity Share Capital (other than Ordinary Shares); or
  - (iv) by the issue of Securities or any Equity Share Capital pursuant to any Employee Share Scheme,
  - unless, in any such case, the same constitutes a Dividend or otherwise gives rise (or would, but for the provisions of any exclusion from Conditions 6(b)(i) to 6(b)(x) (both inclusive) or Condition 6(f) relating to the carry forward of adjustments, give rise) to an adjustment to the Conversion Price;
- (b) not modify the rights attaching to the Ordinary 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 Ordinary Shares but so that nothing in this Condition 11(b) shall prevent:
  - (i) any consolidation, reclassification or subdivision of the Ordinary Shares; or
  - (ii) any modification of such rights which is not, in the opinion of an Independent Adviser, materially prejudicial to the interests of the holders of the Notes; or
  - (iii) any issue of Equity Share Capital where the issue of such Equity Share Capital results, or would, but for the provisions of Condition 6(f) relating to roundings or the carry forward of adjustments

or, where comprising Ordinary Shares (or Equity Share Capital which by their terms of issue carry (directly or indirectly) rights of conversion into, or exchange or subscription for, or the right to otherwise acquire any Ordinary Shares), the fact that the consideration per Ordinary Share receivable therefor is at least 90 per cent. of the Current Market Price per Ordinary Share at the relevant time for determination thereof pursuant to the relevant provisions of Condition 6(b), otherwise result, in an adjustment to the Conversion Price; or

- (iv) any issue of Equity Share Capital or modification of rights attaching to the Ordinary Shares, where prior thereto the Issuer shall have instructed an Independent Adviser to determine 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 either that no adjustment is required or that an adjustment resulting in an 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);
- (c) procure that no Securities (whether issued by the Issuer or any Subsidiary of the Issuer or procured by the Issuer or any Subsidiary of the Issuer to be issued or issued by any other person pursuant to any arrangement with the Issuer or any Subsidiary of the Issuer) issued without rights to convert into, or exchange or subscribe for, Ordinary Shares shall subsequently be granted such rights exercisable at a consideration per Ordinary Share which is less than 90 per cent. of the Current Market Price per Ordinary Share at the close of business on the last Dealing Day preceding 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 Condition 6(f) 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 Ordinary Shares of differing nominal values, save where such Ordinary Shares have the same economic rights;
- (d) not make any issue, grant or distribution take or omit to take any other action if the effect thereof would be that, on the exercise of Conversion Rights, Ordinary Shares could not, under any applicable law then in effect, be legally issued as fully paid;
- (e) not reduce its issued share capital 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 to the extent permitted by applicable law; or
  - (iii) pursuant to a Newco Scheme; or
  - (iv) by way of transfer to reserves as permitted under applicable law; or
  - (v) where the reduction is permitted by applicable law and the Trustee has received written advice addressed to it from an Independent Adviser, acting as an expert, that the interests of the Noteholders will not be materially prejudiced by such reduction; or
  - (vi) where the reduction is permitted by applicable law and results in (or would, but for the provisions of Condition 6(f) relating to roundings or the carry forward of adjustments, result in) an adjustment to the Conversion Price or is 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 its Ordinary Shares

and any depositary or other receipts or certificates representing Ordinary Shares without the consent of Noteholders;

- (f) 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 associate (as defined in sections 11 and 12 of the Corporations Act)) to acquire the whole or any part of the issued Ordinary Shares, or if any person proposes a scheme with regard to such acquisition (other than a Newco Scheme), give notice of such offer or scheme to the Noteholders in accordance with Condition 17 and to the Trustee and the Principal Paying and Conversion Agent in writing 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 registered office of the Issuer and, where such an offer or scheme has been recommended by the board of directors of the Issuer, or where such an offer has become or been declared unconditional in all respects or such scheme has become effective, use all reasonable endeavours to procure that a like offer or scheme is extended to the holders of any Ordinary Shares issued during the period of the offer or scheme arising out of the exercise of the Conversion Rights by the Noteholders which entitle the Noteholders to receive the same type and amount of consideration they would have received had they held the number of Ordinary Shares to which those Noteholders would be entitled assuming Noteholders were to exercise their respective Conversion Rights during the relevant period;
- (g) in the event of a Newco Scheme take (or shall procure that there is taken) all necessary action to ensure that immediately after completion of the Scheme of Arrangement:
  - (i) Newco is substituted under the Notes and the Trust Deed as principal obligor in place of the Issuer (with the Issuer providing a guarantee) subject to and as provided in the Trust Deed; and
  - (ii) such amendments are made to these Conditions and the Trust Deed as are necessary to ensure that the Notes may be converted into or exchanged for ordinary shares or units or the equivalent in Newco mutatis mutandis in accordance with and subject to these Conditions and the Trust Deed and the Trust Deed and these Conditions provide at least the same powers, protections, rights and benefits to the Trustee and the Noteholders following the implementation of such Newco Scheme as they provided to the Trustee and the Noteholders prior to the implementation of the Newco Scheme, mutatis mutandis; and
  - (iii) the ordinary shares or units or the equivalent of Newco are:
    - (A) admitted to listing on the Relevant Stock Exchange; or
    - (B) admitted to listing on another regulated, regularly operating, recognised stock exchange or securities market;
- (h) not change the jurisdiction in which it is domiciled or resident or to whose taxing authority it is subject generally unless it would not thereafter be required pursuant to then current laws and regulations to withhold or deduct for or on account of any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of such jurisdiction or any political subdivision thereof or therein having power to tax in respect of any payment on or in respect of the Notes;
- (i) for so long as any Note remains outstanding and subject to the occurrence of a Change of Control, use its reasonable endeavours to ensure that its issued and outstanding Ordinary Shares shall be admitted to listing and to trading on the ASX;
- (j) for so long as any Note remains outstanding, shall provide the consolidated and unconsolidated financial statements to the Trustee in accordance with the Trust Deed; and

(k) use its best endeavours to ensure that the Ordinary Shares issued upon exercise of Conversion Rights will, as soon as is practicable, be admitted to listing and to trading on the ASX and will be listed, quoted or dealt in, as soon as practicable, on any other stock exchange or securities market on which the Ordinary Shares may then be listed or quoted or dealt in.

The Issuer has undertaken in the Trust Deed to deliver to the Trustee annually and also within 14 days of any request therefor from the Trustee a certificate of the Issuer certifying that, to the best of the knowledge, information and belief of the Issuer, there has not occurred an Event of Default or Potential Event of Default since the date of the last such certificate (or, if none, the date of the Trust Deed) or, if any such event has occurred, providing details of such event. The Trustee will be entitled to rely conclusively on any such certificate and shall not be obliged to independently monitor compliance by the Issuer with the undertakings set forth in these Conditions and in particular, but without limitation, this Condition 11, or in the Trust Deed, and shall not be liable to any Noteholder or any other person for not so doing.

### 12 Prescription

Claims against the Issuer for payment in respect of the Notes shall be prescribed and become void unless made within 10 years (in the case of principal) or five years (in the case of interest) from the appropriate Relevant Date in respect of such payment.

Claims in respect of any other amounts payable in respect of the Notes shall be prescribed and become void unless made within 10 years following the due date for payment thereof.

## 13 Replacement of Notes

If any Certificate evidencing a Note is lost, stolen, mutilated, defaced or destroyed, it may be replaced at the specified office of the Registrar or any Transfer Agent subject to all applicable laws and stock exchange requirements, upon payment by the claimant of the expenses incurred in connection with such replacement and on such terms as to evidence, security, indemnity and otherwise as the Issuer, the Registrar or the relevant Transfer Agent may require. Mutilated or defaced Certificates must be surrendered before replacements will be issued.

## 14 Meetings of Noteholders, Modification and Waiver, Substitution

(a) Meetings of Noteholders

The Trust Deed contains provisions for convening meetings of Noteholders to consider matters affecting their interests, including without limitation:

- (A) the sanctioning by Extraordinary Resolution of a modification of any of these Conditions or any provisions of the Trust Deed; and
- (B) a Settlement Modification (as defined below).

Such a meeting may be convened by the Issuer or the Trustee and shall be convened by the Trustee if requested in writing to do so by Noteholders holding not less than 10 per cent. in aggregate principal amount of the Notes for the time being outstanding and subject to the Trustee being indemnified and/or prefunded and/or secured to its satisfaction against all costs and expenses. The quorum for any meeting convened to consider an Extraordinary Resolution will be one or more persons holding or representing more than 50 per cent., in aggregate principal amount of the Notes for the time being outstanding, or at any adjourned meeting one or more persons being or representing Noteholders whatever the principal

amount of the Notes so held or represented, unless the business of such meeting includes consideration of proposals, *inter alia*:

- (i) to modify the maturity of the Notes or the dates on which interest is payable in respect of the Notes;
- (ii) to reduce or cancel the principal amount, or interest on, the Notes or to reduce the amount payable on redemption of the Notes or modify or cancel the Conversion Rights;
- (iii) to increase the Conversion Price other than in accordance with these Conditions;
- (iv) to change the currency of any payment in respect of the Notes;
- (v) to change the governing law of the Notes, the Trust Deed or the Agency Agreement (other than in the case of a substitution of the Issuer (or any previous substitute or substitutes) under Condition 14(c)); or
- (vi) to modify the provisions concerning the quorum required at any meeting of Noteholders 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 75 per cent., or at any adjourned meeting not less than 50 per cent., in aggregate principal amount of the Notes for the time being outstanding. Any Extraordinary Resolution duly passed shall be binding on Noteholders (whether or not they were present at the meeting at which such resolution was passed). An Extraordinary Resolution is a resolution in respect of which not less than 75 per cent. of the votes cast shall have been in favour at a meeting of Noteholders duly convened and held in accordance with the Trust Deed.

A modification to the Conditions, the Trust Deed and the Agency Agreement to allow for the exercise of a Conversion Right to be settled by cash only and/or a combination of Ordinary Shares and cash instead of Ordinary Shares only as contemplated by Condition 6(a) (and any consequential changes to the Conditions and the Trust Deed) while all other terms and conditions of the Notes remain consistent (a "Settlement Modification") can be passed by a resolution in respect of which more than 50 per cent. of the votes cast shall have been in favour at a meeting of Noteholders duly convened and held in accordance with the Trust Deed. The quorum for any meeting convened to consider a Settlement Modification will be one or more persons holding or representing more than fifty per cent., in aggregate principal amount of the Notes for the time being outstanding, or at any adjourned meeting one or more persons being or representing Noteholders whatever the principal amount of the Notes so held or represented. Such resolution may also be passed by a written resolution signed by or on behalf of the holders of more than 50 per cent. of the aggregate principal amount of the Notes 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 Noteholders), or 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 more than 50 per cent. of the aggregate principal amount of the Notes then outstanding.

The Issuer will, before obtaining approval from the Noteholders, agree with the Trustee and the Agents on the terms of any such proposed modification and/or supplement for any Settlement Modification to the extent it may vary the obligations of the Trustee or any Agent, or expose any of them to any additional duties or liabilities, or vary the protective provisions afforded to any of them. The Trust Deed provides that:

(A) 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 Notes then 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 Noteholders); or

(B) consents 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 Notes then outstanding,

shall, in any such case, be effective as an Extraordinary Resolution passed at a meeting of Noteholders duly convened and held.

No consent or approval of Noteholders shall be required in connection with any Newco Scheme Modification.

### (b) Modification and Waiver

The Trustee may (but shall not be obliged to) agree, without the consent of the Noteholders, 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 Notes 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 Notes 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 Notes or these Conditions which is, in the opinion of the Trustee, not materially prejudicial to the interests of the Noteholders.

The Trustee may (but shall not be obliged to), without the consent of the Noteholders, determine any Event of Default or a Potential Event of Default should not be treated as such, provided that in the opinion of the Trustee, the interests of Noteholders will not be materially prejudiced thereby. Any such modification, authorisation, waiver or determination shall be binding on the Noteholders and, unless the Trustee otherwise agrees, shall be notified by the Issuer to the Noteholders promptly in accordance with Condition 17 and to the Trustee and the Principal Paying and Conversion Agent in writing. The Trustee's agreement may be subject to any condition that the Trustee requires including but not limited to obtaining, at the expense of the Issuer, an opinion of any investment bank or legal or other expert and being indemnified and/or secured and/or pre-funded to its satisfaction.

## (c) Substitution

The Trustee may (but shall not be obliged to), without the consent of the Noteholders, agree with the Issuer to the substitution in place of the Issuer (or any previous substitute or substitutes under this Condition 14(c)) as the principal debtor under the Notes and the Trust Deed of any Subsidiary of the Issuer subject to:

- (i) the Notes being unconditionally and irrevocably guaranteed by the Issuer; and
- (ii) the Notes continuing to be convertible into Ordinary Shares as provided in these Conditions mutatis mutandis as provided in these Conditions, with such amendments as the Trustee shall consider appropriate provided that in any such case:

- (A) the Trustee is satisfied that the interests of the Noteholders will not be materially prejudiced by the substitution; and
- (B) certain other conditions set out in the Trust Deed are complied with.

In the case of such a substitution, the Trustee may (but shall not be obliged to) agree, without the consent of the Noteholders, to a change of the law governing the Notes and/or the Trust Deed provided that such change would not in the opinion of the Trustee be materially prejudicial to the interests of the Noteholders. Any such substitution shall be binding on the Noteholders and shall be notified by the Issuer promptly to the Noteholders in accordance with Condition 17 and to the Trustee and the Principal Paying and Conversion Agent in writing.

## (d) Entitlement of the Trustee

In connection with the exercise of its functions, rights, powers and discretions (including but not limited to those referred to in this Condition 14) the Trustee shall have regard to the interests of the Noteholders as a class and, in particular but without limitation, shall not have regard to the consequences of the exercise of its functions, rights, powers or discretions for individual Noteholders 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 Noteholder 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 Noteholders.

#### 15 Enforcement

The Trustee may at any time, at its discretion and without notice, take such steps and/or actions and/or institute such proceedings against the Issuer as it may think fit to enforce the provisions of the Trust Deed and the Notes, but it shall not be bound to take any such steps, actions or proceedings or any other action in relation to the Trust Deed or the Notes unless:

- (a) it shall have been so directed by an Extraordinary Resolution of the Noteholders or so requested in writing by the holders of at least 25 per cent. in aggregate principal amount of the Notes then outstanding; and
- (b) it shall have been indemnified and/or pre-funded and/or secured to its satisfaction.

No Noteholder shall be entitled to proceed directly against the Issuer unless the Trustee, having become bound so to proceed, fails so to do within a reasonable period and the failure shall be continuing.

# 16 The Trustee

The Trust Deed contains provisions for the indemnification of the Trustee and for its relief from responsibility, including relieving it from taking any steps, action or proceedings to enforce payment or taking other actions unless first indemnified and/or pre-funded and/or secured to its satisfaction. The Trustee is entitled to enter into business transactions with the Issuer and any entity related (directly or indirectly) to the Issuer without accounting for any profit and shall not in any way be liable to account to the Issuer, the Noteholders or any other person for any profit made or share of brokerage or commission or remuneration or other amount or benefit received thereby or in connection therewith.

The Trustee may rely without liability to Noteholders, the Issuer or any other person on any report, information, confirmation or certificate from or any opinion or any advice of any accountants (including the Auditors), lawyers, financial advisers, investment bank or other expert, whether or not obtained by or 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 rely on any such report, information, confirmation, certificate, opinion or advice, in which case such report, information, confirmation, certificate, opinion or advice shall be binding on the Issuer and the Noteholders in the absence of manifest error.

Whenever the Trustee is required or entitled by the terms of the Trust Deed, the Agency Agreement or these Conditions to exercise any discretion or power, take any action, make any decision or give any direction, the Trustee is entitled, prior to exercising any such discretion or power, taking any such action, making any such decision or giving any such direction, to seek directions from the Noteholders by way of Extraordinary Resolution and to be indemnified and/or secured and/or pre-funded to its satisfaction against all action, proceedings, claims and demands to which in its opinion it may be or become liable, and the Trustee shall not be responsible or liable for any loss or liability incurred by the Issuer, any Noteholder or any other person as a result of any delay in it exercising such discretion or power, taking such action, making such decision or giving such direction as a result of seeking such direction from the Noteholders or in the event that no direction is given to the Trustee by the Noteholders. None of the Trustee or any Agent shall be liable to any Noteholder, the Issuer or any other person for any action taken by the Trustee or such Agent in accordance with the instructions of the Noteholders. The Trustee shall be entitled to rely on any direction, request or resolution of Noteholders given by holders of the requisite principal amount of Notes then outstanding or passed at a meeting of Noteholders convened and held in accordance with the Trust Deed or otherwise passed as provided in the Trust Deed.

None of the Trustee or any of the Agents shall be responsible for the performance by the Issuer and/or any other person appointed by the Issuer in relation to the Notes of the duties and obligations on their part expressed in respect of the same and, unless it has express written notice from the Issuer to the contrary, the Trustee and each Agent shall be entitled to assume that the same are being duly performed. Neither the Trustee nor any of the Agents shall be under any obligation to monitor compliance with the provisions of the Trust Deed, the Agency Agreement or these Conditions or to monitor or ascertain whether any Event of Default, Potential Event of Default or Relevant Event has occurred and none of them shall be liable to any Noteholder, the Issuer or any other person for not doing so.

Each Noteholder shall be solely responsible for making, and continuing to make, its own independent appraisal and investigation into the financial condition, creditworthiness, condition, affairs, status and nature of the Issuer and its Subsidiaries, and the Trustee shall not at any time have any responsibility for the same and no Noteholder shall rely on the Trustee in respect thereof.

#### 17 Notices

All notices required to be given by the Issuer to the Noteholders regarding the Notes pursuant to these Conditions will be valid if published by the Issuer through the electronic communication system of Bloomberg. The Issuer shall also ensure that all such 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 Notes 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 notice. If publication as provided above is not practicable, notice will be given by publication in an English language newspaper with general circulation in Asia (which is expected to be the *Asian Wall Street Journal*) and Europe (which is expected to be the *Financial Times*).

So long as the Notes are represented by a Global Certificate and such Global Certificate is held on behalf of Euroclear Bank SA/NV or Clearstream Banking S.A. or the Alternative Clearing System (as defined in the Global Certificate), notices to Noteholders shall be validly given by the delivery of the relevant notice to

Euroclear Bank SA/NV or Clearstream Banking S.A. or the Alternative Clearing System, for communication by them to their respective accountholders in substitution for notification as required by these Conditions.

# 18 Further Issues

The Issuer may from time to time without the consent of the Noteholders create and issue further notes, bonds or debentures either (a) having the same terms and conditions in all respects as the outstanding Notes 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 Notes or (b) upon such terms as to interest, conversion, premium, redemption and otherwise as the Issuer may determine at the time of their issue. Any further notes consolidated and forming a single series with the outstanding Notes constituted by the Trust Deed or any deed supplemental to it shall be constituted by a deed supplemental to the Trust Deed.

# 19 Contracts (Rights of Third Parties) Act 1999

Without prejudice to the rights of Noteholders as contemplated in Condition 15, no person shall have any right to enforce any term or condition of the Notes under the Contracts (Rights of Third Parties) Act 1999 (United Kingdom).

# 20 Governing Law and Jurisdiction

### (a) Governing Law

The Trust Deed, the Agency Agreement and the Notes 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 Notes and accordingly any legal action or proceedings arising out of or in connection with the Trust Deed or the Notes ("**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 Noteholders 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 Webbeds Limited, at 8 Holmes Road Kentish Town London, NW5 3AB, United Kingdom, 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.