

SALE AND PURCHASE AGREEMENT

relating to the issued and outstanding ordinary shares in the share capital of

Eneco Groep N.V.

between

the Sellers (as defined in this Agreement)

as the Sellers

And

Diamond Chubu Europe B.V.

as the Purchaser

And

Mitsubishi Corporation

and

Chubu Electric Power Co., Inc.

as the Purchaser Parents

And

Eneco Groep N.V.

as the Company

[•] 2020

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SALE AND PURCHASE AGREEMENT

THIS AGREEMENT IS DATED [●] AND MADE BETWEEN:

- (1) The parties ([●]) through ([●]) as listed in Schedule 2 (*Sellers*) together with the parties listed as 'Seller' in the Adherence Notice (each a "**Seller**" and together the "**Sellers**"),¹

and

- (2) **Diamond Chubu Europe B.V.**, a private limited liability company, with corporate seat in Amsterdam, the Netherlands and Trade Register number 76464024 (the "**Purchaser**"),

and

- (3) **Mitsubishi Corporation**, a company incorporated under the laws of Japan with its principal office at 3-1, Marunouchi 2-Chome, Chiyoda-Ku, 100-8086, Tokyo, Japan (the "**MC Parent**"),

and

- (4) **Chubu Electric Power Co., Inc.**, a company incorporated under the laws of Japan with its principal office at 1, Higashi-shincho, Higashi-ku, Nagoya, 461-8680, Japan (the "**Chubu Parent**", and together with the MC Parent, the "**Purchaser Parents**" and jointly a "**Purchaser Parent**"),

and

- (5) **Eneco Groep N.V.**, a Dutch entity, with corporate seat in Rotterdam, the Netherlands and Trade Register number 67470041 (the "**Company**").

The parties to this sale and purchase agreement (the "**Agreement**") are hereinafter collectively referred to as the "**Parties**" and each individually as a "**Party**".

BACKGROUND:

- (A) The municipalities listed in Schedule 2 (*Shareholders*) of the Offer Protocol (the "**Shareholders**") together hold all of the issued and outstanding ordinary shares in the share capital of the Company (the "**Shares**");

- (B) The Company holds (directly or indirectly) shares in the capital of the Group Companies other than the Company;

¹ **Drafting note:** details to be included in the execution copy.

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- (C) The Company, the Committee of Selling Shareholders and the Chubu Parent entered into a confidentiality letter dated 12 April 2019 (the "**Chubu Confidentiality Letter**"), pursuant to which certain confidential information relating to the Group was made available to Chubu Electric Power Co., Inc., its Affiliates and their respective Representatives;
- (D) The Company, the Committee of Selling Shareholders and the MC Parent entered into a confidentiality letter dated 17 April 2019 (the "**MC Confidentiality Letter**" together with the Chubu Confidentiality Letter, the "**Confidentiality Letters**"), pursuant to which certain confidential information relating to the Group was made available to Mitsubishi Corporation, its Affiliates and their respective Representatives;
- (E) The Sellers gave the members of the Purchaser's Group, their professional legal and financial advisors, and other Representatives (i) access to the Due Diligence Information, (ii) the Sell-side Reports, (iii) the opportunity to attend and participate in meetings or calls with the Company's management and certain experts and site visits, and (iv) the opportunity to ask questions in relation to the Group and the Transaction. On that basis, the Purchaser, the other members of the Purchaser's Group, and their Representatives have undertaken an extensive due diligence investigation with respect to the Group;
- (F) Each Purchaser Parent is willing and able to guarantee the obligations and liabilities of the Purchaser under and otherwise in connection with this Agreement, provided that the Purchaser Parents' obligations and liabilities shall be borne severally (*niet hoofdelijk*) by the Purchaser Parents and for a portion equal to each Purchaser Parent's pro rata contribution to the Consideration (as defined below), subject to the limitations set out in this Agreement;
- (G) The Purchaser, the municipalities of Rotterdam, Den Haag, Dordrecht, Lansingerland, Capelle aan den IJssel, Molenlanden, Heemstede and Achtkarspelen, acting both as shareholders of the Company and in their capacity as members of the Committee of Selling Shareholders, and the Company entered into an offer protocol with regard to this Agreement (the "**Offer Protocol**") on 22 November 2019 (the "**Offer Protocol Date**"), pursuant to which the Purchaser, considering the assessment criteria set out in Schedule 20 (*Assessment criteria*), has made an irrevocable offer to purchase all Shares on the terms and subject to the conditions of this Agreement (the "**Offer**") and initiated applicable regulatory notification and approval procedures in connection with the Proposed Transaction (as defined in the Offer Protocol);
- (H) Upon the signing of the Offer Protocol, the Company commenced consultations with the central works council (*centrale ondernemingsraad*) of the Company (the "**Central Works Council**") with regard to the Proposed Transaction (as defined in the Offer Protocol) and the Seller has complied with the notification procedure

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under the Dutch Merger Code (*SER-besluit Fusiegedragsregels 2015*) required for the transactions contemplated by this Agreement. On 22 November 2019, the Works Council Condition (as defined in the Offer Protocol) was satisfied;

- (I) On [●], the Offer and this Agreement were offered for acceptance to the Shareholders in accordance with the terms and subject to the conditions of the Offer Protocol;²
- (J) Unless explicitly set out otherwise in this Agreement, each of the Sellers, the Company, the Purchaser and the Purchaser Parents have obtained all internal approvals, consents and advices required for the transactions contemplated by this Agreement;
- (K) Each of the Sellers listed in Schedule 2 (*Sellers*) has accepted the Offer and decided to sell and transfer all the Shares held by it, together comprising a total of [●] per cent([●]%) of all Shares (together with the Shares held by any Adhering Shareholders, the "**Tendered Shares**"). The shareholding of each individual Seller that accepted the Offer at the date of this Agreement is set out in Schedule 3 (*Sellers' Shareholdings*);
- (L) [The shareholders of the Company listed in Schedule 4 (*Continuing Shareholders*)] have, at the date of this Agreement, not (yet) decided to accept the Offer. During the Post-Acceptance Period, these shareholders may decide to accept the Offer in accordance with Clause 2.4 (*Post-Acceptance Period*) of the Offer Protocol. The shareholders that will validly accept the Offer in accordance with Clause 2.4 (*Post-Acceptance Period*) of the Offer Protocol (each an "**Adhering Shareholder**" and together the "**Adhering Shareholders**") will automatically become a Seller under this Agreement and their Shares will automatically become Tendered Shares in accordance with Clause 5.5 (*Adhering Shareholders*);]³
- (M) The Sellers wish to sell the Tendered Shares to the Purchaser and the Purchaser wishes to purchase the Tendered Shares from the Sellers, on the terms and subject to the conditions set out in this Agreement (the "**Transaction**").

THE PARTIES AGREE AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

The definitions and provisions of Schedule 1 (*Definitions and Interpretation*) apply throughout this Agreement.

² **Drafting note:** date to be included in execution copy

³ **Drafting note:** to be included in execution copy only if not all shareholders have accepted the Offer during the (Extended) Offer Period.

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2 SALE, PURCHASE AND TRANSFER

2.1 Sale and purchase

On the terms and subject to the conditions of this Agreement, each Seller sells all the Shares held by it to the Purchaser, and the Purchaser purchases the Tendered Shares from the Sellers, against payment of the Consideration (as calculated in accordance with Clause 3 (*Consideration*)) to the Sellers.

2.2 Transfer

At Completion, in accordance with Clause 6 (*Completion*) each Seller shall transfer all the Shares held by it free from any Encumbrances to the Purchaser, in accordance with Clause 6 (*Completion*).

2.3 Benefit and risk

Subject to Completion, the Transaction shall be economically effective as of the Effective Date and, subject to the other provisions of this Agreement, the economic benefit and risk of the Tendered Shares shall be for the Purchaser's account as of the Effective Date. For the avoidance of doubt, the Sellers shall not be entitled to any dividends or distributions of any profit, reserves or otherwise in relation to the Shares, except for the Dividend Payment.

3 CONSIDERATION

The aggregate purchase price for the Tendered Shares (the "**Consideration**") shall be an amount equal to:

- (a) the Aggregate Pro Rata Part of an amount equal to four billion one hundred forty-four million euro (EUR 4,144,000,000) (the "**Equity Consideration**"), representing the agreed equity value of the Shares as set out in Schedule 6 (*EV-to-Equity Bridge*) including the Aggregate Pro Rata Part of an amount equal to the Locked Box Interest;⁴

minus

- (b) the Aggregate Pro Rata Part of the Leakage Amount, determined in accordance with Schedule 5 (*Leakage*).

⁴ **Drafting note:** this provision has been clarified in line with the intention of the Purchaser and the Purchaser Parents as expressed in their bid letter dated 22 November.

4 COMPLETION CONDITIONS

4.1 Conditions

The obligation of the Sellers and the Purchaser to effect Completion is solely conditional upon satisfaction or waiver of the following conditions precedent (the "**Completion Conditions**" and each a "**Completion Condition**"):

- (a) all obligatory notifications, filings and applications with the Competition Authorities in connection with the Transaction (the "**Merger Clearance Filings**") having been made, and each Competition Authority having either:
 - (i) given the approvals, consents, or clearances required under relevant Law to effectuate Completion;
 - (ii) rendered a decision that no approval, consent, or clearance is required under relevant Law to effectuate Completion;
 - (iii) failed to render a decision within the applicable waiting period under relevant Law and such failure is considered under such Law to be a grant of all requisite approvals, consents, or clearances under such Law to effectuate Completion; or
 - (iv) referred the Transaction (or any part of it) to another Competition Authority in accordance with relevant Law and one of the requirements listed in items (i) through (iii) above has been fulfilled in respect of such other Competition Authority,(the "**Merger Clearance Condition**"); and
- (b) the obligatory notification with the Minister of Economic Affairs and Climate Policy (*Economische Zaken en Klimaat*) (the "**Minister**") in connection with the Transaction under article 86f of the Dutch Electricity Act (*Elektriciteitswet*) (the "**Notification to the Minister**") having been made and the Minister having either:
 - (i) rendered a decision on the basis of article 86f of the Dutch Electricity Act (*Elektriciteitswet*) that allows the Purchaser to gain Control over the Company;
 - (ii) rendered a decision on the basis of article 86f of the Dutch Electricity Act (*Elektriciteitswet*) that allows the Purchaser to gain Control over the Company subject to certain conditions and the Purchaser subsequently having satisfied these conditions; or

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(iii) not rendered a decision on the basis of article 86f of the Dutch Electricity Act (*Elektriciteitswet*) within four (4) months after the Filing Date (as defined below) that prohibits the Purchaser from gaining Control over the Company, unless it is to be reasonably expected that (i) the Dutch Minister may still render a decision on the basis of article 86f of the Dutch Electricity Act (*Elektriciteitswet*) that prohibits the Purchaser from gaining Control over the Company, or (ii) the Dutch Minister shall attach conditions to the Purchaser gaining Control over the Company on the basis of article 86f of the Dutch Electricity Act (*Elektriciteitswet*),

(the "**Minister's Approval Condition**"); and

(c) all obligatory notifications, filings and applications with the Belgian Federal Minister of Energy with respect to maintaining the Belgian Submarine Cable Licences following the Transaction (the "**Belgian Submarine Cable Licences Notifications**") having been made, and the Belgian Federal Minister of Energy having either:

(i) given the necessary written approvals or consents to the Transaction and written waivers of the right of termination or any other similar right arising out of or in connection with the Transaction under the Belgian Submarine Cable Licences; or

(ii) rendered a decision that no approval, consent or waiver is required to maintain the Belgian Submarine Cable Licences following the Transaction,

(the "**Belgian Submarine Cable Licences Approval Condition**").

4.2 Responsibility for satisfaction

Without prejudice to Clauses 4.3 (*Merger Clearance Condition*), 4.4 (*Minister's Approval Condition*) and 4.5 (*Belgian Submarine Cable Licences Approval Condition*) the Sellers, the Company and the Purchaser shall use their respective best efforts to ensure satisfaction of and compliance with the Completion Conditions as soon as reasonably possible.

4.3 Merger Clearance Condition

4.3.1 The Purchaser has the primary responsibility for the satisfaction of and compliance with the Merger Clearance Condition.

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4.3.2 Subject to the Company timely providing the Purchaser with all information required for the purposes of this Clause 4.3.2 and in accordance with Clause 4.3.3, the Purchaser shall:

- (a) as soon as practicable, and in any event no later than ten (10) Business Days after the Offer Protocol Date, prepare and file with the Competition Authorities the Merger Clearance Filings, or, in relation to those Merger Clearance Filings where the Merger Clearance Filing is subject to the approval of the relevant Competition Authority, a draft of the relevant Merger Clearance Filing, and as soon as practicable thereafter, the Merger Clearance Filing necessary to satisfy the Merger Clearance Condition; and
- (b) supply as promptly as practicable any additional information and documentation requested by any Competition Authority in connection with the Merger Clearance Filings.

4.3.3 The Company shall, and shall procure that each Group Company shall use its reasonable efforts to procure that the Purchaser or its legal counsel, upon their respective written request, receives all information and documentation in respect of the Group that is available within the Group that is reasonably necessary for the Purchaser to make or supplement any Merger Clearance Filings. However, the Purchaser is solely responsible for making the Merger Clearance Filings.

4.3.4 The Purchaser shall:

- (a) provide the Sellers and the Company or their respective legal counsel (if required pursuant to applicable competition laws, on a counsel-to-counsel basis) with drafts of any written filings and other material communications intended to be submitted to any Competition Authority in respect of any Merger Clearance Filings;
- (b) provide the Sellers and the Company or their respective legal counsel with a reasonable opportunity to comment on such filings and material communications;
- (c) not submit such filings or material communications without the prior written approval of the Sellers' Delegate on behalf of the Sellers and the Company, such approval not to be unreasonably withheld or delayed;
- (d) provide the Sellers and the Company or their respective legal counsel with final copies of all such filings and material communications submitted to any Competition Authority;

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- (e) provide the Sellers and the Company or their respective legal counsel with copies of any written material communications received from any Competition Authority in connection with any Merger Clearance Filing; and
 - (f) not submit any filings or communications to withdraw any Merger Clearance Filing without the prior written approval of the Sellers' Delegate and the Company.
- 4.3.5 To the extent permitted by the relevant Competition Authority, the Sellers and the Company or their respective legal counsel may, but are not obliged to, participate in all meetings, scheduled calls and other discussions with any Competition Authority in connection with any Merger Clearance Filing. The Purchaser shall redact business secrets and other confidential information in respect of the Sellers and the Group to the extent reasonably identified by the Sellers or the Group. To the extent applicable merger control regimes or Laws provide for such possibility, the Sellers and the Company and their respective legal counsel may, but are not obliged to, make confidentiality claims with respect to any of the approvals, consents, clearances or decisions as referred to in Clauses 4.1(a) and 4.1(b), to the extent relating to the Sellers and the Group or the market definitions used.
- 4.3.6 The Purchaser shall bear all administrative fees and other costs (except for any legal fees incurred by the Sellers and/or the Group in connection with the Merger Clearance Filings) incurred by the Purchaser's Group, the Group and the Sellers in relation to the Merger Clearance Filings and shall also bear all costs, penalties and fines (including penalties and fines imposed on any of the Sellers or the Group, but excluding legal fees of the Sellers or the Group incurred in relation to the Merger Clearance Filings) resulting from not making timely or correct Merger Clearance Filings, except to the extent failure to make a timely or correct Merger Clearance Filing is the result of a material breach of an obligation of the Company set out in Clause 4.3.3.
- 4.3.7 The Purchaser shall, and shall procure that each member of the Purchaser's Group shall, refrain from carrying out any action (including making or agreeing to make any acquisition or investment) or omitting anything that could, directly or indirectly, cause delay, hinder, impede or prejudice satisfaction of, the Merger Clearance Condition.
- 4.3.8 The Purchaser shall, and shall cause the members of the Purchaser's Group to, take any action that may be required in order to, as soon as reasonably possible but in any event before the long stop date set out in Clause 4.8 (*Long stop date*), obtain clearance for the Transaction from the relevant Competition Authorities under any Merger Clearance Filing, including by, as soon as

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reasonably possible during the first phase review and agreeing to perform or accept:

- (a) any disposition of assets or businesses of the Purchaser's Group (excluding the Group Companies, except to the extent explicitly required by the relevant Competition Authority); and
- (b) any obligation, restriction or other condition for the Purchaser's Group that may be necessary to obtain clearance from the relevant Competition Authorities, which, for the avoidance of doubt, shall not pertain only to the Group Companies.

For the avoidance of doubt, any such disposition of assets or businesses or obligation, restriction or other condition shall have no impact on the Consideration and any costs related to any disposition of assets or businesses and/or any obligation, restriction or other condition shall be for the Purchaser's sole account.

- 4.3.9 The Purchaser shall compensate the Sellers and the Group Companies for any and all Losses suffered or incurred by the Sellers or any Group Company in connection with a violation by any member of the Purchaser's Group of its obligations under any competition Law in connection with the Transaction, except to the extent such Losses are the result of the Company having provided materially untrue or inaccurate information to the Purchaser on the Group for the purpose of its analysis of its obligations under Law, of which the Purchaser was not aware prior to the Offer Protocol Date.

4.4 Minister's Approval Condition

- 4.4.1 The Purchaser has the primary responsibility for the satisfaction of and compliance with the Minister's Approval Condition.

- 4.4.2 Subject to the Company timely providing the Purchaser with all information required for the purposes of this Clause 4.4.2 and in accordance with Clause 4.4.3, the Purchaser shall:

- (a) as soon as practicable, and in any event no later than ten (10) Business Days after the Offer Protocol Date, prepare and file with the Minister the Notification to the Minister necessary to satisfy the Minister's Approval Condition (the date of such filing, the "**Filing Date**"); and
- (b) supply as promptly as practicable any additional information and documentation requested by the Minister in connection with the Notification to the Minister.

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4.4.3 The Company shall, and shall procure that each Group Company shall use its reasonable efforts to procure that the Purchaser or its legal counsel, upon their respective written request, receives all information and documentation in respect of the Group that is available within the Group that is reasonably necessary for the Purchaser for the purposes of Clause 4.4.2.

4.4.4 The Purchaser shall:

- (a) provide the Sellers and the Company or their respective legal counsel with drafts of any written notifications and other communications intended to be submitted to the Minister in respect of the Notification to the Minister;
- (b) provide the Sellers and the Company or their respective legal counsel with a reasonable opportunity to comment on such notifications and communications;
- (c) not submit such notifications or communications without the prior written approval of or on behalf of the Sellers and the Company, such approval not to be unreasonably withheld or delayed;
- (d) provide the Sellers and the Company or their respective legal counsel with final copies of all such notifications and communications submitted to the Minister;
- (e) provide the Sellers and the Company or their respective legal counsel with copies of any communications from the Minister in connection with the Minister's Approval Condition; and
- (f) not submit any notifications or communications to withdraw the Notification to the Minister without the prior written approval of the Sellers' Delegate and the Company.

4.4.5 The Purchaser shall bear all administrative fees and other costs (except for any legal fees incurred by the Sellers and/or the Group in connection with the Notification to the Minister) incurred by the Purchaser's Group, the Sellers, and the Group in relation to the Notification to the Minister. The Purchaser shall also bear all costs, penalties and fines (including penalties and fines imposed on any of the Sellers or the Group) resulting from not making a timely or correct Notification to the Minister.

4.4.6 The Purchaser shall, and shall procure that each member of the Purchaser's Group shall, refrain from carrying out any action (including making or agreeing to make any acquisition or investment) or omitting anything that could, directly

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or indirectly, cause delay, hinder, impede or prejudice satisfaction of, the Minister's Approval Condition.

- 4.4.7 The Purchaser shall, and shall cause the members of the Purchaser's Group to, take any action that may be required in order to, as soon as reasonably possible but in any event before the long stop date set out in Clause 4.8 (*Long stop date*), satisfy the Minister's Approval Condition, including by, as soon as reasonably possible, agreeing and offering to perform or accept any obligation, restriction or other condition, that may be necessary to satisfy the Minister's Approval Condition. For the avoidance of doubt, any such obligation, restriction or other condition shall have no impact on the Consideration and any costs related to any obligation, restriction or other condition shall be for the Purchaser's sole account.

4.5 Belgian Submarine Cable Licences Approval Condition

- 4.5.1 The Company has the primary responsibility for the satisfaction of and compliance with the Belgian Submarine Cable Licences Approval Condition.

- 4.5.2 Subject to the Purchaser complying with Clause 4.5.3, the Company shall:

- (a) as soon as practicable, prepare and use its reasonable efforts to procure that Norther NV and SeaMade NV file with the Belgian Federal Minister of Energy the notifications necessary to satisfy the Belgian Submarine Cable Licences Approval Condition; and
- (b) supply as promptly as practicable any additional information and documentation requested by the Belgian Federal Minister of Energy in connection with the notification to the Belgian Federal Minister of Energy.

- 4.5.3 The Purchaser shall, and shall procure that each member of the Purchaser's Group shall use its reasonable efforts to procure that the Company or its legal counsel, upon their respective written request, receives all information and documentation in respect of the Purchaser's Group that is available within the Purchaser's Group that is reasonably necessary for the Company for the purposes of Clause 4.5.2.

- 4.5.4 The Company shall:

- (a) provide the Sellers and the Purchaser or their respective legal counsel with drafts of any written notifications and other communications intended to be submitted to the Belgian Federal Minister of Energy in respect of the notification to the Belgian Federal Minister of Energy;

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- (b) provide the Sellers and the Purchaser or their respective legal counsel with a reasonable opportunity to comment on such notifications and communications;
 - (c) not submit such notifications or communications without the prior written approval of or on behalf of the Sellers and the Purchaser, such approval not to be unreasonably withheld or delayed;
 - (d) provide the Sellers and the Purchaser or their respective legal counsel with copies of any communications from the Belgian Federal Minister of Energy in connection with the notification to the Belgian Federal Minister of Energy; and
 - (e) not submit any notifications or communications to withdraw the notification to the Belgian Federal Minister of Energy without each of the Sellers' Delegate's and the Company's prior written approval.
- 4.5.5 The Purchaser shall bear all administrative fees and other costs incurred by the Purchaser's Group, the Sellers, and the Group in relation to the notification to the Belgian Federal Minister of Energy. The Purchaser shall also bear all costs (except for any legal fees incurred by the Sellers and/or the Group in connection with the notification to the Belgian Federal Minister of Energy), penalties and fines (including penalties and fines imposed on any of the Sellers or the Group) resulting from not making a timely or correct notification to the Belgian Federal Minister of Energy.
- 4.5.6 The Purchaser shall, and shall procure that each member of the Purchaser's Group shall, refrain from carrying out any action (including making or agreeing to make any acquisition or investment) or omitting anything that could, directly or indirectly, cause delay, hinder, impede or prejudice satisfaction of, the Belgian Submarine Cable Licences Approval Condition.
- 4.5.7 The Purchaser shall, and shall cause the members of the Purchaser's Group to, take any action that may be required in order to, as soon as reasonably possible but in any event before the long stop date set out in Clause 4.8 (*Long stop date*), satisfy the Belgian Submarine Cable Licences Approval Condition, including by, as soon as reasonably possible, agreeing and offering to perform or accept any obligation, restriction or other condition that may be necessary to satisfy the Belgian Submarine Cable Licences Approval Condition. For the avoidance of doubt, any such obligation, restriction or other condition shall have no impact on the Consideration and any costs related to any obligation, restriction or other condition shall be for the Purchaser's sole account.

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4.6 Co-operation to complete the Transaction

Without prejudice to Clauses 4.3 (*Merger Clearance Condition*), 4.4 (*Minister's Approval Condition*) and 4.5 (*Belgian Submarine Cable Licences Approval Condition*), if any administrative or judicial action or proceeding is instituted (or threatened to be instituted) by a Governmental Authority or any other Person challenging the Transaction or any part of it prior to Completion, each Party shall co-operate in all respects with the other Parties and shall defend, contest and resist any such action or proceeding, and to have vacated, lifted, reversed or overturned any Governmental Order, whether temporary, preliminary or permanent, that is in effect and that reasonably prohibits, prevents, delays or restricts the consummation of the Transaction.

4.7 Satisfaction and waiver of the Completion Conditions

- 4.7.1 Each Party shall inform the other Parties in writing within two (2) Business Days of becoming aware of (i) the satisfaction of any Completion Condition, (ii) any circumstance that will or is likely to result in a failure to satisfy any Completion Condition or (iii) any circumstance that results or is likely to result in a previously satisfied Completion Condition no longer being satisfied at any moment up to and including Completion, including the background of this circumstance.
- 4.7.2 Each Completion Condition may be waived, to the extent permitted by Law, only by written agreement between the Sellers' Delegate on behalf of the Sellers and the Purchaser.

4.8 Long stop date

- 4.8.1 Subject to this Clause 4.8 (*Long stop date*), if the Completion Conditions set out in Clause 4.1 (*Conditions*) are not satisfied or waived within twelve (12) months (unless otherwise agreed between the Sellers (acting jointly) and the Purchaser) after the Offer Protocol Date, each of the Sellers (acting jointly) and the Purchaser may, at its or their respective sole discretion, terminate this Agreement by Notice to each other Party at any time prior to Completion.
- 4.8.2 The Sellers (acting jointly) may, at their sole discretion and upon Notice to the Purchaser, extend the date set out in Clause 4.8.1 by a further six (6) months at any time prior to the date that is twelve (12) months following the Offer Protocol Date.
- 4.8.3 Neither the Sellers (acting jointly) nor the Purchaser may give a termination Notice as set out in Clause 4.8.1 if in material breach of this Clause 4 (*Completion Conditions*).

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4.8.4 The right of the Purchaser and the Sellers' joint right to terminate this Agreement set out in Clause 4.8.1 shall be in addition and without prejudice to any other rights and remedies available to that Party and the Company under or otherwise in connection with this Agreement.

4.9 Other notification obligations

4.9.1 The Purchaser shall procure to file a submission to the German Federal Ministry of Economics and Energy (*Bundesministerium für Wirtschaft und Energie*, "BMW") in relation to the Transaction as soon as reasonably possible after the Offer Protocol Date. The submission to the BMW can be made at the sole discretion of the Purchaser either according to section 55 para 4 of the Foreign Trade and Payments Regulation (*Außenwirtschaftsverordnung*, "AWV") or according to section 58 para 1 sentence 1 AWV.

4.9.2 The Company shall, and shall procure that each Group Company shall use its reasonable efforts to procure that the Purchaser or its legal counsel, upon their respective written request, receives all information and documentation in respect of the Group that is available within the Group that is reasonably necessary for the Purchaser to make or supplement the submission to the BMW pursuant to Clause 4.9.1. However, the Purchaser is solely responsible for making such submission.

4.9.3 The Company shall use its reasonable efforts to procure that Norther NV and SeaMade NV shall notify the Belgian Federal Minister of Energy in relation to the Transaction as soon as reasonably possibly after the Offer Protocol Date, in accordance with their obligations under the domain concessions awarded to them pursuant to article 14, 2° of the Royal Decree of 20 December 2000 concerning the conditions and procedure for the award of domain concessions for the construction and operation of installations for the production of wind energy (*Koninklijk besluit van 20 december 2000 betreffende de voorwaarden en de procedure voor de toekenning van domeinconcessies voor de bouw en de exploitatie van installaties voor de productie van elektriciteit uit water, stromen of winden, in de zeegebieden waarin België rechtsmacht kan uitoefenen overeenkomstig het internationaal zeerecht*).

5 PRE-COMPLETION UNDERTAKINGS

5.1 Operation of the business prior to Completion

5.1.1 The Sellers shall use their reasonable efforts to procure and the Company shall procure and shall procure that each Group Company shall procure that, between the Offer Protocol Date and Completion, the business activities of the Group are, in all material respects, conducted in the ordinary course of business and consistent with past practice, and that, except as explicitly

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consented to by the Purchaser in advance in writing, provided that no consent shall be required where the seeking of such consent is not permitted by Law (including competition laws), no action in respect of the Group is taken to:

- (a) acquire or agree to acquire any share(s) or other equity interest, or make any capital contribution to or investment in any Person other than any Group Company, with an equity value in excess of twenty-five million euro (EUR 25,000,000) on an individual basis, other than as specifically contemplated in the Business Plan;
- (b) sell, transfer, issue or otherwise dispose of any share(s) in any Group Company to a Person other than a Group Company;
- (c) sell, transfer, issue or otherwise dispose of any asset(s) of any Group Company to a Person other than a Group Company, with a value in excess of twenty-five million euro (EUR 25,000,000) on an individual basis, other than as specifically contemplated in the Business Plan and for the avoidance of doubt excluding the ordinary course purchase and sale of gas, electricity, heat and cold;
- (d) incur any additional borrowings or incur any other indebtedness in each case in excess of twenty-five million euro (EUR 25,000,000) on an individual basis, except insofar as these are incurred based on the existing borrowing and credit arrangements of the Group (including the Group's Euro Commercial Paper Programme, revolving credit facilities and the working capital facility) in the ordinary course of business;
- (e) give any guarantee, indemnity, or otherwise agree to secure an obligation of any Person other than any Group Company (or any Affiliate of any Group Company from time to time) or in connection with the Group's trading activities in the ordinary course of business (including in the context of investments permitted under this Clause 5.1 (*Operation of the business prior to Completion*)) or as specifically contemplated in the Business Plan;
- (f) (i) cancel any guarantee provided by any Group Company to guarantee an obligation of another Group Company (or any Affiliate of any Group Company from time to time) other than in the ordinary course of the Group's trading business or (ii) cancel any 403-declaration;
- (g) make any capital expenditures exceeding twenty-five million euro (EUR 25,000,000) on an individual basis in any financial year of the Company, other than as specifically contemplated in the Business Plan or with respect to the capital expenditures listed in Schedule 23 (*Capital Expenditures*);

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- (h) repay, redeem or repurchase, or allow to be repaid, redeemed or repurchased, any share capital of any Group Company from a Person other than a Group Company;
- (i) create, allot or issue, or allow to be created, allotted or issued, any share capital of any Group Company or issue any instrument to a Person other than a Group Company that gives the right to obtain shares in the relevant Group Company;
- (j) take any action to amend the articles of association of any Group Company in any material respect or to procure a legal merger, legal demerger, insolvency, bankruptcy, dissolution or liquidation of any Group Company, other than (i) intra-group mergers in the ordinary course of business between Group Companies (excluding the Company); or (ii) any liquidations of entities without any assets and liabilities;
- (k) create or allow any Encumbrance to be created on any equity interest or any material real property held directly by a Group Company other than (i) any Encumbrance granted to another Group Company; or (ii) Encumbrances in connection with project financing in an amount of less than twenty-five million euro (EUR 25,000,000) and in the ordinary course of business;
- (l) enter into, modify or terminate any social plan or compensation or benefit scheme that covers Employees generally or to materially increase the aggregate compensation (wages, salary, bonuses and any other form of compensation, taken as a whole) of a group of more than fifty (50) of the Employees, in each case except (i) any increases resulting from any change of employment terms generally applicable to the relevant Employee (for example, any periodic or other increases in the context of the existing remuneration policies) and (ii) where the terms of such social plan or compensation or benefit scheme do not constitute a material improvement of the employment terms and benefits, taken as a whole, or severance entitlements and benefits currently applicable to the Employees in the aggregate, provided that the Company shall keep the Purchaser reasonably informed of the negotiations on any collective labour agreement, social plan or compensation or benefit scheme and shall take into consideration any reasonable comments from the Purchaser;
- (m) make or agree to make any material arrangements with any trade unions representing any significant number of employees of any Group Companies, other than any collective labour agreement or social plan as referred to under paragraph (l) above, or with any works council(s)

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of any of the Group Companies to the extent such arrangement with any such works council (i) would have an impact on the value, earnings or cash flow of, control over or governance of any Group Company; or (ii) would give specific rights to such works council;

- (n) increase the aggregate compensation (wages, salary, bonuses and any other form of compensation, taken as a whole) of any Key Employee with an amount exceeding twenty-five thousand euro (EUR 25,000) per annum on an individual basis, or otherwise materially amend the employment terms of a Key Employee, except any increases or amendments resulting from any change of employment terms generally applicable to the relevant Key Employee (for example, any increases in accordance with applicable collective labour agreements or any periodic or other increases in the context of the existing remuneration policies);
- (o) give written notice of termination of employment to or dismiss any Key Manager, other than for urgent cause (*dringende reden*) or such local equivalent;
- (p) commence or settle any litigation, arbitration or other legal proceedings representing an amount of more than five million euro (EUR 5,000,000) on an individual basis, except for settlements of litigation, arbitration or other legal proceedings which are covered by any insurance policy of the Group or of any of the Group Companies, provided that the Sellers and the Company have reasonably informed the Purchaser of such proceedings or settlement;
- (q) take any action to make any significant change in any Group Company's method of accounting or audit practices, except as required by a change in Law or the Accounting Principles;
- (r) cancel, terminate or materially modify any insurance policy held directly by a Group Company or to permit any of its insurances to lapse or do anything which would knowingly make any policy of insurance void or voidable in each case to the extent that such would have a material impact on any Group Company's insurance cover;
- (s) make, enter into, terminate or amend any material agreement (including any material Tax ruling or, to the extent inconsistent with past and normal practice, an agreement to extend or waive any period of adjustment, assessment or collection of Taxes) with any Tax Authority (except, for the avoidance of doubt, the written agreement with the relevant Tax Authority as mentioned in Paragraph 6.2 of Schedule 5 (*Leakage*)) in each case if such action has a material

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adverse effect on a Group Company and to the extent such action (a) is taken outside the ordinary course of business of the relevant Group Company and (b) relates to an amount of Tax exceeding (x) five million euro (EUR 5,000,000) in respect of all Tax other than energy Tax and (y) an amount of ten million euro (EUR 10,000,000) in respect of energy Tax or, to the extent not covered under (x) and (y), that imposes any binding obligation on the Group Company in the period after Completion with an adverse effect exceeding five million euro (EUR 5,000,000);

- (t) file any Tax Return relating to an amount of Tax exceeding (i) five million euro (EUR 5,000,000) in respect of all Tax other than energy Tax and (ii) ten million euro (EUR 10,000,000) in respect of energy Tax, in each case other than the filing of any Tax Return in a manner consistent with past practice of the relevant Group Company;
- (u) sell or transfer any real properties or purchase any real properties with a book value in excess of fifteen million euro (EUR 15,000,000) other than sales, transfers or purchases from one Group Company to another Group Company;
- (v) enter into, materially amend or terminate any lease or concession agreement with an annual rent or concession fee in excess of one million euro (EUR 1,000,000), other than (i) in connection with the relocation of the LichtBlick headquarters to the extent the rental costs for the new headquarters do not materially exceed the rental costs for the current LichtBlick headquarters, or (ii) in the ordinary course of business with respect to sustainable or generation assets projects; or
- (w) authorise or enter into any agreement or commitment with respect to any of the actions set out under (a) through (v) above.

5.1.2 Between the Offer Protocol Date and Completion, the Company shall use its best efforts to ensure that the Group Companies that are affiliated with the ABP pension scheme prior to the Completion Date on the basis of their B3-status, shall continue to be affiliated with the ABP pension scheme under the same terms and conditions as immediately prior to the Completion Date.

5.1.3 The Company shall use its best efforts to ensure that, and shall use its best efforts to procure that each relevant Group Company ensures that, prior to the Completion Date, the relevant Group Company's counterparty under each contract as set out in Schedule 8 (*Contracts subject to Change of Control*) has provided a change of control waiver with respect to, or consented to, the Transaction, as the case may be, in accordance with the terms of the respective contract, provided that the Company shall only be required to comply

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with the foregoing in respect of the contracts marked with an asterisk (*) in Schedule 8 (Contracts subject to Change of Control) if the Company and the Purchaser have together decided that it is necessary to procure a change of control waiver or consent to the Transaction, as applicable.

- 5.1.4 Subject to Clause 5.1.5, the Company shall send any request for consent, which shall include reasonably sufficient details of the matter to which it relates to enable the Purchaser to undertake an accurate assessment of the matter, in connection with Clauses 5.1.1(a) to (w) at ml.mc.artemis@mitsubishicorp.com and jeroen.thijssen@cliffordchance.com of the Purchaser, with a copy (cc) to Arjan van Gils of the Sellers' Delegate at ahp.vangils@rotterdam.nl, jw.flohil@roterdam.nl, vb.kaas@rotterdam.nl and projectapollo@debrauw.com. A written response of the Purchaser to a request for consent, which consent may not be unreasonably withheld or delayed, must be provided by reply e-mail to the sender of the email as soon as reasonably practicable and in any event within five (5) Business Days after the time of sending of the relevant request, with a copy (cc) to Arjan van Gils of the Sellers' Delegate at ahp.vangils@rotterdam.nl, jw.flohil@roterdam.nl, vb.kaas@rotterdam.nl and projectapollo@debrauw.com. If such written response is not received within five (5) Business Days, consent shall be deemed to have been given by the Purchaser to the Sellers and the Company.
- 5.1.5 In the event of circumstances where (A) an immediate action is required to (i) prevent the Group from suffering monetary or reputational damages or (ii) prevent an emergency or (iii) mitigate or avoid any material adverse effect on the Group, (B) taking into consideration all relevant circumstances including the reasonable interests of the Purchaser and the Group, and the Company is not reasonably able to timely request the consent of the Purchaser or await a response from the Purchaser to such request, no such consent under Clause 5.1.1 shall be required provided that the Company informs the Purchaser of any such situation as soon as reasonably practicable thereafter, by email to the Purchaser in accordance with Clause 17.18 (*Notices*), with a copy (cc) to the Sellers' Delegate in accordance with Clause 17.18 (*Notices*) and procure that no further action is taken until after the consent of the Purchaser has been obtained unless such further actions are required to mitigate or avoid any damages.
- 5.1.6 Clauses 5.1.1 and 5.1.3 shall not operate so as to restrict or prevent in any respect:
- (a) any act or conduct which any of the Sellers or any Group Company is required to take, or omit to take, as a result of, or in order to comply with:
 - (i) any Law;

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- (ii) any change in Law; or
 - (iii) its obligations under this Agreement;
- (b) the completion or performance of any obligation existing as of the Offer Protocol Date and which has been Disclosed to the Purchaser; or
- (c) any action required to be implemented by a Governmental Authority on the basis of a non-appealable decision from a competent court or if applicable, the relevant Governmental Authority itself.

5.2 Contact details

- 5.2.1 The Purchaser shall provide the contact details of any successors with respect to the request of consent as set out in Clause 5.1.2 and/or the obligation to inform as set out in Clause 5.1.5 to the Sellers' Delegate and the Company as soon as reasonably practicable.
- 5.2.2 The Sellers' Delegate shall provide the contact details of any successors with respect to the request of consent as set out in Clause 5.1.2 and/or the obligation to inform as set out in Clause 5.1.5 to the Purchaser and the Company as soon as reasonably practicable.

5.3 Access to information

- 5.3.1 Between the Offer Protocol Date and Completion, the Company shall afford, and shall use its best efforts to procure that each of the Group Companies affords the Purchaser and its Representatives, to the extent reasonably necessary to enable the Purchaser to comply with its obligations under this Agreement and for the preparation of the planning for the Group to become part of the Purchaser's Group with respect to accounting and management reporting, tax, compliance and risk management and preparations for the implementation of the Non-Financial Covenants and strategic intentions as referred to in Schedule 15 (*Non-Financial Covenants and Strategic Intentions*), upon reasonable notice to the relevant Group Company and the Sellers' Delegate, reasonable access to the books and records of the Group during normal business hours for the Company and subject to applicable competition Laws.
- 5.3.2 The Purchaser acknowledges and agrees that any information provided to it or any of its Representatives under Clause 5.3.1 is subject to the conditions of the Confidentiality Letters and Clause 16 (*Announcements and Confidentiality*).

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5.3.3 The obligation of the Company under Clause 5.3.1 shall be subject to the right of each of the relevant Group Company and the Sellers' Delegate to refuse access to information on the grounds that access:

- (a) would be contrary to any Law;
- (b) would result in making available any information which the Company, acting in good faith, considers to be subject to legal or professional privilege;
- (c) would cause material disruption to the business activities of the relevant Group Company or its management; and
- (d) would, in the reasonable opinion of the management of the relevant Group Company, involve issues of commercial sensitivity or confidentiality such that access could damage the value or competitiveness of the relevant Group Company or lead to a breach of any obligations of the relevant Group Company supported by legal advice from a reputable outside counsel.

5.4 Funding of the Consideration

5.4.1 The Purchaser shall not, and shall procure that each member of the Purchaser's Group shall not, without the prior written consent of Sellers' Delegate take any other action which, in any way, may make the timely availability of the Consideration uncertain.

5.4.2 Notwithstanding anything in this Agreement to the contrary, the Purchaser's obligation to consummate the Transaction is not conditional upon the Purchaser's receipt of funding from the Purchaser Parents or otherwise and the Purchaser acknowledges its obligations to consummate the Transaction on the terms and subject to the conditions set out in this Agreement, regardless of the availability of, or the ability to obtain, funding.

5.5 Adhering Shareholders

5.5.1 The Parties acknowledge and agree that any Adhering Shareholder will automatically become a Party to this Agreement upon the Sellers' Delegate delivering a copy of the validly signed Adherence Documents to the Purchaser.

5.5.2 The Sellers shall procure that no later than five (5) Business Days after the expiration of the Post-Acceptance Period the Sellers' Delegate delivers to the Purchaser and the Company (i) a copy of the Adherence Notice in the form set out in Schedule 18 (Adherence Notice) and (ii) the validly signed Adherence Documents. The Adherence Notice must set out the identity of the Adhering

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Shareholders and the number of Shares held by each Adhering Shareholder. Unless the Purchaser has notified the Sellers' Delegate (with a copy (cc) to the Company) within five (5) Business Days upon receipt thereof that it disagrees with the Adherence Notice, the Adherence Notice shall be binding upon the Parties for the purposes of determining the Sellers and the Tendered Shares and shall be considered a Schedule to this Agreement.

5.6 Delivery of the Leakage Notice

5.6.1 The Sellers shall procure that the Sellers' Delegate delivers a draft of the Leakage Notice no later than fifteen (15) Business Days before the date on which Completion is envisaged to take place pursuant to Clause 6.1 (*Completion Date and place*) and a copy of the Leakage Notice to the Purchaser no later than ten (10) Business Days before such envisaged date for Completion.

5.6.2 The Leakage Notice must set out the Leakage Amount and specify for each item of Leakage the relevant amount (including if the amount is nil) and the identity of the Seller or Sellers that benefited from that item of Leakage and provide reasonable detail to enable the Purchaser to assess the amount and basis for the amount. The Leakage Notice shall, save in the case of manifest error, be binding for the purposes of determining the Consideration payable at Completion and shall only be subject to review and adjustment after Completion (in accordance with Paragraph 5 (*Additional Leakage*) of Part 1 of Schedule 5 (*Leakage*)).

5.7 Finalisation and execution of the Notary Letter

5.7.1 As soon as reasonably practicable after the Offer Protocol Date and no later than five (5) Business Days before the date on which Completion is envisaged to take place pursuant to Clause 6.1 (*Completion Date and place*), the Sellers and the Purchaser shall finalise the Notary Letter to confirm the flow of the funds at Completion.

5.7.2 On or prior to the date falling three (3) Business Days before the date on which Completion is envisaged to take place pursuant to Clause 6.1 (*Completion Date and place*) the Purchaser and each Seller shall sign the Notary Letter as finalised in accordance with Clause 5.7.1.

5.8 Run-off D&O Insurance

Prior to Completion, the Company shall procure the purchase of a "run-off" or "tail" policy of directors' and officers' liability insurance for the coverage, for at least six (6) years after Completion, of acts or omissions occurring at or prior to Completion of past and present directors and officers of Group Companies who

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are currently covered by the Group's existing directors' and officers' liability insurance policy in effect on the date of this Agreement (the "**Run-off D&O Policy**"). The Run-off D&O Policy shall contain terms and coverage amounts at least as favourable as the terms and coverage amounts of the Group's existing directors' and officers' liability insurance policy in effect on the date of this Agreement. For the period of six (6) years from and after Completion, each of the Purchaser and the Company shall procure that the Run-off D&O Policy is not cancelled, amended or otherwise limited.

6 COMPLETION

6.1 Completion Date and place

Completion shall take place at the offices of De Brauw Blackstone Westbroek N.V., at Claude Debussylaan 80, 1082 MD Amsterdam, the Netherlands, commencing at 11:00 Amsterdam, the Netherlands time on the fifteenth (15th) Business Day after satisfaction or waiver of the last Completion Condition in accordance with this Agreement, or such other date and time as agreed in writing between the Parties in accordance with this Clause 6 (*Completion*) and the Notary Letter.

6.2 Completion actions

At Completion, each Seller, the Purchaser and the Company shall procure that the following actions are taken in the following sequence:

- (a) the Purchaser shall transfer, or shall procure the transfer of, the Consideration to one of the notarial third party accounts in the name of De Brauw Blackstone Westbroek N.V. and with the account number set out in the Notary Letter, with reference to "Project Apollo – 20672497", which amount must be credited to that account no later than at 10:00 AM CET on the Completion Date and with value on the Completion Date and shall be held by the Notary on the terms and subject to the conditions of the Notary Letter;
- (b) the Notary shall confirm to the Sellers, the Company and the Purchaser that an amount equal to the Consideration has been received in one of the notarial third party accounts in the name of De Brauw Blackstone Westbroek N.V.; and
- (c) the applicable Parties shall take the actions listed in Part 1 and 2 of Schedule 9 (*Completion Actions*) in the order set out therein.

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6.3 Breach of Completion obligations

6.3.1 Subject to Clause 6.3.2, if the Sellers or the Purchaser breaches any obligation under Clause 6.2 (*Completion actions*), thereby becoming a "**Defaulting Party**", and that breach results in Completion not occurring in full compliance with Clause 6.1 (*Completion Date and place*) and Clause 6.2 (*Completion actions*), then the Sellers (if the Purchaser was the Defaulting Party) or the Purchaser and the non-defaulting Sellers (if any one or more of the Sellers were the Defaulting Party), thereby a "**Non-Defaulting Party**", shall be entitled, but not obliged, to:

- (a) effect Completion on the Completion Date insofar as practicable having regard to the defaults that have occurred; or
- (b) set a new date for Completion occurring in the period between five (5) and twenty (20) Business Days after the original date for Completion in accordance with Clause 6.1 (*Completion Date and place*), in which case the provisions of Clause 6.2 (*Completion actions*) shall apply to Completion as so deferred. If on such new date the Defaulting Party breaches (i) any of its obligations as referred to under Clause 6.2 (*Completion actions*) and this breach results in Completion not occurring in full compliance with Clause 6.1 (*Completion Date and place*) and Clause 6.2 (*Completion actions*) and (ii) the Non-Defaulting Party cannot reasonably be expected to effect Completion insofar as practicable having regard to the defaults that have occurred, the Non-Defaulting Party shall be entitled to terminate this Agreement by Notice to the Defaulting Party.

6.3.2 If any one or more of the Sellers breaches any obligations under Clause 6.2 (*Completion actions*), the non-defaulting Sellers and Purchaser shall nonetheless effect the Completion on the Completion Date provided that the Purchaser would hold 75% (seventy five per cent) or more of all Shares immediately following Completion (a "**Partial Completion**"). Following a Partial Completion, the Purchaser and each of the Sellers that did not breach its obligations under Clause 6.2 (*Completion actions*), shall be considered a Non-Defaulting Party towards each Defaulting Party for the purpose of Clause 6.3.1.

6.3.3 If Completion occurs, all Completion Conditions shall be deemed to have been satisfied or waived as of Completion unless otherwise agreed upon in writing between the Sellers and the Purchaser.

6.3.4 Each of the Sellers' and the Purchaser's right of termination under this Clause 6.3 (*Breach of Completion obligations*) including the exercise of such right shall be in addition and without prejudice to any other rights and remedies available to it under or otherwise in connection with this Agreement and under Law,

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including the right to claim damages for any Losses arising from, or related to, the breach by the Defaulting Party.

- 6.3.5 If the Agreement is terminated by the Sellers under this Clause 6.3 (*Breach of Completion obligations*), the Company shall have the right to claim damages for any Losses suffered by the Company arising from, or related to, the Purchaser's breach of its obligations under Clause 6.2 (*Completion actions*), without prejudice to any other rights and remedies available to the Company under or otherwise in connection with this Agreement and under Law.

6.4 Acknowledgement of Notary and bank

The Parties acknowledge and agree that:

- (a) with reference to the Rules of Professional Conduct (*Verordening beroeps- en gedragsregels*) of the Royal Dutch Organisation of Civil Law Notaries (*Koninklijke Notariële Beroepsorganisatie*), (i) De Brauw Blackstone Westbroek N.V. acts as counsel to the Sellers in connection with, or acts as counsel for or on behalf of the Sellers in the event of any dispute relating to, this Agreement and any related agreement, (ii) the Notary shall execute the notarial deeds connected with this Agreement, and that (iii) the Notary is related to De Brauw Blackstone Westbroek N.V. as civil law notary; and
- (b) they have engaged the Notary to effect the payments referred to in Schedule 9 (*Completion Actions*).

6.5 Completion for the Post-Acceptance Period

- 6.5.1 In the event that Completion takes place prior to the expiration of the Post-Acceptance Period, a subsequent completion shall take place on the tenth (10th) Business Day after expiration of the Post-Acceptance Period in respect of the Shares held by the Adhering Shareholders (the "**Second Completion**").

- 6.5.2 The provisions of Clauses 2 (*Sale, Purchase and Transfer*), 3 (*Consideration*), 5.6 (*Delivery of the Leakage Notice*), 5.7 (*Finalisation and execution of the Notary Letter*), 6 (*Completion*), 10.1 (*Fundamental Warranties*), 14.1 (*Purchaser's Warranties*), except for Paragraph 6 (*Information received*) of Schedule 14 (*Purchaser's Warranties*), 14.2 (*Purchaser Parents' Warranties*) and Schedule 9 (*Completion Actions*) Part 1, Paragraphs (c), (e), (f) and (l) shall apply *mutatis mutandis* to the Second Completion, it being understood that a reference in such Clauses or Schedules to "Sellers" will mean Adhering Shareholders, to "Shares" will mean the Shares held by the Adhering Shareholders and to "Completion" will mean the Second Completion.

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7 POST-COMPLETION OBLIGATIONS

7.1 Retention of records

For a period of seven (7) years as from Completion, or for such longer period as may be prescribed by Law, the Purchaser shall and shall procure that the Group Companies shall, unless this would not be permitted under any applicable Law or any contractual obligation of a Group Company retain any books, records and other written information relating to the Group in respect of the period up to and including the Completion Date, which are located at the offices of a Group Company or which are held by or on behalf of any member of the Purchaser's Group and, to the extent reasonably required by any of the Sellers and specifying the reason for the request, the Purchaser shall allow the relevant Seller, upon reasonable notice, access during normal office hours to such books, records and other information, including the right to view, inspect, download and make copies thereof (at the relevant Party's own expense), in each case only for tax, accounting or compliance purposes and always in accordance with Law.

7.2 Best price rule

7.2.1 For a period of three (3) years as from Completion, the Purchaser shall not, and shall procure that each member of the Purchaser's Group or any third party on its behalf or for its account shall not, directly or indirectly, acquire any additional Shares at a pro rata equity value that is higher than the pro rata Consideration, except pursuant to a judgement of a competent court from which there is no right of appeal or, as applicable, the period for lodging an appeal has expired without an appeal having been lodged, following a statutory squeeze-out procedure initiated by the Purchaser in relation to the Shares held by any Continuing Shareholder in accordance with article 2:92a DCC or, to the extent applicable, article 2:201a DCC.

7.2.2 The Purchaser shall not, and shall procure that each member of the Purchaser's Group shall not, enter into or cooperate with any arrangement, structuring device or other transaction which is designed to, directly or indirectly, circumvent or avoid the provisions of this Clause 7.2 (*Best price rule*) or is otherwise inconsistent with the purpose of this Clause 7.2 (*Best price rule*).

8 CO-INVESTMENT AND SELL-ON RESTRICTIONS

8.1 Co-investment restrictions

8.1.1 Each of the Purchaser, the MC Parent and the Chubu Parent acknowledges that between the Offer Protocol Date and the Completion Date, each Purchaser

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Parent shall not, directly or indirectly, sell or in any other way dispose of any legal and/or beneficial ownership of the Purchaser to any third party (provided that any party that is not directly or indirectly wholly owned (which shall include owning all but a *de minimis* number of shares of such party for regulatory or corporate law purposes) by that Purchaser Parent shall be deemed a third party for purposes of this Clause 8 (*Co-investment and Sell-on restrictions*)) (such third party hereafter the "**Third Party**"), unless:

- (a) any such sale or disposal relates to no more than thirty per cent (30%) of the direct or indirect legal and/or beneficial ownership of the relevant Purchaser Parent in the Purchaser as at Completion for all Third Parties together; and
- (b) any transferee has, in the reasonable opinion of the Company and the Sellers' Delegate, sufficiently demonstrated that it satisfies the Pre-Qualification Criteria, as confirmed in writing by each of the Company and the Sellers' Delegate,

provided that no sale or disposal shall be effected if the same would result in (i) the MC Parent no longer directly or indirectly solely Controlling the Purchaser or (ii) any Third Party having the right to appoint or nominate any member or observer to the board of directors (or similar governing body) of the Purchaser or any of its Affiliates, or veto or otherwise direct any corporate decisions, actions or transactions at the level of any such entity in respect of the Purchaser's Group (including the Group Companies).

8.1.2 Each of the Purchaser and each Purchaser Parent agrees that, for a period of five (5) years after the Completion Date, each Purchaser Parent shall not sell or in any other way dispose of any direct or indirect legal and/or beneficial ownership of the Purchaser to a Third Party, except for a Permitted Transfer (as defined in Clause 8.2.2) and except for a Permitted Co-Investment (as defined in Clause 8.1.3).

8.1.3 For purposes of Clauses 8.1.2 a ("**Permitted Co-Investment**") means a sale or disposal of the direct or indirect legal and/or beneficial ownership of the MC Parent in the Purchaser to a Third Party after a period of three (3) years after the Completion Date if:

- (a) such sale or disposal relates to no more than twenty nine and nine tenth per cent (29.9%) of the direct or indirect legal and/or beneficial ownership of the MC Parent in the Purchaser for all Third Parties together; and
- (b) any transferee has, in the reasonable opinion of the Company and each of the Independent Supervisory Board Members, sufficiently

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demonstrated that it satisfies the Pre-Qualification Criteria, as confirmed in writing by each of the Company and each of the Independent Supervisory Board Members,

provided that no sale or disposal shall be effected if the same would result in (i) the MC Parent no longer directly or indirectly Controlling the Purchaser or (ii) any Third Party having the right to appoint or nominate any member or observer to the board of directors (or similar governing body) of the Purchaser or any of the Group Companies, or veto or otherwise direct any corporate decisions, actions or transactions at the level of any such entity which would have an impact on any of the Group Companies.

8.2 Sell-on restrictions

8.2.1 Except for a Permitted Transfer, the Purchaser shall procure that, for a period of five (5) years as of the Completion Date, no sale or any other disposal of the direct or indirect legal and/or beneficial ownership (whether in a single transaction or a series of related transactions) of the shares in the Company or substantially all of the assets and liabilities of the Company shall occur.

8.2.2 For the purposes of Clauses 8.1.2 and 8.2.1, a "**Permitted Transfer**" means:

- (a) an indirect sale or disposal of all of the shares in the Company as a result of and as part of a sale or disposal of the MC Group or the Chubu Group as a whole, provided that such transfer or disposal is made to a bona fide third party that irrevocably commits in writing for the benefit of each of the Sellers, the Company and the Independent Supervisory Board Members to comply with (i) the Non-Financial Covenants and the arrangements set forth in Clause 9.3 (*Monitoring and enforcement*) during the term set forth in Clause 9.2 (*Duration*) and (ii) the provisions of this Clause 8.2 (*Sell-on restrictions*) during the term set forth in Clause 8.2.1;
- (b) in case of a Deadlock as defined in the shareholders' agreement entered into, among others, by the MC Parent, the Chubu Parent and the Purchaser, a sale or disposal of the shares in the Purchaser (indirectly) held by the Chubu Parent to any other member of the MC Group Controlled by the MC Parent, provided that if the acquiring member of the MC Group is no longer Controlled by the MC Parent, the MC Parent shall procure that the relevant member of the MC Group shall transfer the relevant shares to another member of the MC Group that is Controlled by the MC Parent, before it ceases to be Controlled by the MC Parent and provided further that the acquiring entity commits in writing for the benefit of each of the Sellers, the Company and the Independent Supervisory Board Members to comply with (i) the Non-

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Financial Covenants and the arrangements set forth in Clause 9.3 (*Monitoring and enforcement*) during the term set forth in Clause 9.2 (*Duration*) and (ii) the provisions of this Clause 8.2 (*Sell-on restrictions*) during the term set forth in Clause 8.2.1;

- (c) a sale or disposal of all of the shares in the Purchaser owned (directly or indirectly) by the MC Parent to a member of the MC Group that is Controlled by the MC Parent, provided that if the acquiring member of the MC Group is no longer Controlled by the MC Parent, the MC Parent shall procure that the relevant member of the MC Group shall transfer the relevant shares to another member of the MC Group that is Controlled by the MC Parent before it ceases to be Controlled by the MC Parent and provided further that the acquiring entity commits in writing for the benefit of each of the Sellers, the Company and the Independent Supervisory Board Members to comply with (i) the Non-Financial Covenants and the arrangements set forth in Clause 9.3 (*Monitoring and enforcement*) during the term set forth in Clause 9.2 (*Duration*) and (ii) the provisions of this Clause 8.2 (*Sell-on restrictions*) during the term set forth in Clause 8.2.1;
- (d) a sale or disposal of all of the respective shares in the Purchaser owned (directly or indirectly) by the Chubu Parent to a member of the Chubu Group that is wholly-owned by the Chubu Parent, provided that if such acquiring member is no longer wholly-owned by the Chubu Parent, the Chubu Parent shall procure that the relevant member shall transfer the relevant shares to another wholly-owned member of the Chubu Group, before it ceases to be a wholly-owned member of the Chubu Group and provided further that the acquiring member of the Chubu Group commits in writing for the benefit of each of the Sellers, the Company and the Independent Supervisory Board Members to comply with (i) the Non-Financial Covenants and the arrangements set forth in Clause 9.3 (*Monitoring and enforcement*) during the term set forth in Clause 9.2 (*Duration*) and (ii) the provisions of this Clause 8.2 (*Sell-on restrictions*) during the term set forth in Clause 8.2.1;
- (e) a sale or disposal for which the Company and each of the Independent Supervisory Board Members have given their prior written consent,

whereby for the purposes of this Clause 8.2.2 "Controlled by the MC Parent" shall mean that the MC Parent directly or indirectly owns all of the shares (or all but a *de minimis* number of shares for regulatory or corporate law purposes) in such member of the Purchaser's Group.

8.2.3 The Purchaser shall procure that, for a period of five (5) years as of the Completion Date, no sale or other disposal of the direct or indirect legal and/or

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beneficial ownership (whether in a single transaction or a series of related transactions) of any shares, assets or liabilities of the Group shall occur to the extent such transfer or disposal would detract from the integrated sustainable strategy of the Group founded on the combination of the (renewable) assets, supply, (innovative) services and trading businesses and/or the presence in the Group's core markets.

8.3 Remedies

For the avoidance of doubt, in the case of a breach of the provisions of this Clause 8 (*Co-investment and Sell-on restrictions*), each Seller, the Company and each of the Independent Supervisory Board Members shall, in addition to the possibility to claim damages, be entitled to the remedy of specific performance (*nakoming*) of this Clause 8 (*Co-investment and Sell-on restrictions*).

9 NON-FINANCIAL COVENANTS AND STRATEGIC INTENTIONS

9.1 Non-Financial Covenants and Strategic Intentions

The Purchaser and, where applicable, the Purchaser Parents, shall for the benefit of the Sellers and the Group comply with the non-financial covenants (the "**Non-Financial Covenants**") and strategic intentions set out in Schedule 15 (*Non-Financial Covenants and Strategic Intentions*).

9.2 Duration

The Non-Financial Covenants set out in Schedule 15 (*Non-Financial Covenants and Strategic Intentions*) shall apply for as long as set out in Paragraph 5 of Schedule 15 (*Non-Financial Covenants and Strategic Intentions*).

9.3 Monitoring and enforcement

9.3.1 The Purchaser shall procure that during the duration of the Non-Financial Covenants the Supervisory Board shall include the two Independent Supervisory Board Members who shall qualify as 'independent' within the meaning of the Dutch Corporate Governance Code, provided that any Supervisory Board member who falls within the 'group exemption' of section 2.1.7(iii) read in conjunction with section 2.1.8(vii) of the Dutch Corporate Governance Code will not be deemed independent for these purposes.

9.3.2 The two Independent Supervisory Board Members will as per Completion be the Members who are nominated and appointed pursuant to the enhanced nomination right of the Central Works Council on the basis of article 2:158 sub

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6 of the DCC, being M. Enthoven and [●]⁵ who shall be deemed 'independent' for the purposes of Clause 9.3.1. These persons will be appointed or re-appointed, as applicable, on the Completion Date in accordance with Schedule 9 (Completion Actions) and will be re-appointed for at least the duration of the Non-Financial Covenants if the term of appointment lapses before the end the duration of the Non-Financial Covenants. If any of the Independent Supervisory Board Members is no longer willing or able to serve on the Supervisory Board or otherwise for whatever reason ceases to fulfil his or her position, the vacancy thus arisen shall be promptly filled. The Purchaser shall procure that any person replacing such Independent Supervisory Board Member shall be appointed by the general meeting of the Company upon the nomination of the Supervisory Board in accordance with the articles of association of the Company. The resolution of the Supervisory Board to make a nomination for the appointment of an Independent Supervisory Board Member requires the vote in favour of such nomination by the Independent Supervisory Board Members, except in the event that it concerns his or her own re-appointment, in which case such appointment requires a vote in favour of such appointment by the other Independent Supervisory Board Member.

- 9.3.3 The Purchaser shall procure that, except for fraud, wilful misconduct or gross negligence on the part of the relevant Independent Supervisory Board Member in exercising his or her duties as Independent Supervisory Board Member, each Independent Supervisory Board Member will be fully released from his or her duties as per the date of his or her resignation and will be granted full and final discharge in respect of his or her position or duties as Independent Supervisory Board Member, effective as per the date that such Independent Supervisory Board Member ceases to fulfil his or her position.
- 9.3.4 Certain resolutions of the Company or any of the Group Companies as set out in Paragraphs 1 (*Minority shareholders*), 2 (*Other topics*) and 3 (*Miscellaneous*) of Schedule 15 (Non-Financial Covenants and Strategic Intentions), including any related party transactions or any transactions, restructurings, share issues, procedures or other actions which may have the (side) effect of diluting the interest of any Continuing Shareholders (except pursuant to a statutory squeeze-out procedure in accordance with article 2:92a DCC or article 2:201a DCC) and any deviations from any of the Non-Financial Covenants, shall require the prior approval of the Supervisory Board, including the affirmative vote of each of the two Independent Supervisory Board Members.
- 9.3.5 In the event of any deviations from Paragraph 2.2 (*Heat activities*) of Schedule 15 (Non-Financial Covenants and Strategic Intentions) approved by the Supervisory Board in accordance with Clause 9.3.4, each of the municipalities

⁵ **Drafting note:** Name to be inserted once known.

of Amstelveen, Barendrecht, Capelle aan den IJssel, Delft, Den Haag, Lansingerland, Papendrecht, Pijnacker Nootdorp, Rotterdam and Zoetermeer (jointly, the "**Heat Municipalities**"), each at its sole discretion, has the right to claim specific performance (*nakoming*) of the Non-Financial Covenants in Paragraph 2.2 (*Heat activities*) of Schedule 15 (*Non-Financial Covenants and Strategic Intentions*) relating to its municipality only, insofar that municipality is a Party to this Agreement. For the avoidance of doubt, the Sellers do not have a right to claim specific performance of the Non-Financial Covenants included in Schedule 15 (*Non-Financial Covenants and Strategic Intentions*) other than set out in this Clause 9.3.5.

- 9.3.6 The Purchaser shall procure that for the duration of the Non-Financial Covenants, the full large company regime (*volledig structuurregime*) will be applied in respect of the Company.
- 9.3.7 The covenants and other provisions included in Clause 8 (*Co-investment and Sell-on restrictions*), this Clause 9 (*Non-Financial Covenants and strategic intentions*) and the Non-Financial Covenants set out in Schedule 15 (*Non-Financial Covenants and Strategic Intentions*) are made for the benefit of the Company and the Sellers as well as, by way of an irrevocable third-party stipulation (*onherroepelijk derdenbeding*) for the benefit of each of the Independent Supervisory Board Members, provided, regardless of whether he or she is in office, resigned or dismissed, provided that after resignation or dismissal the resigned or dismissed Independent Supervisory Board Member must assign the benefit of such stipulation to his or her successor, unless such dismissal is successfully challenged by such Independent Supervisory Board Member. The Purchaser and the Company hereby agree in advance to such assignment.
- 9.3.8 The Company and each Independent Supervisory Board Member has the right to claim specific performance (*nakoming*) of the covenants and other provisions included in Clause 8 (*Co-investment and Sell-on restrictions*), this Clause 9 (*Non-Financial Covenants and strategic intentions*) and the Non-Financial Covenants set out in Schedule 15 (*Non-Financial Covenants and Strategic Intentions*).
- 9.3.9 The reasonable costs incurred in respect of the enforcement of the rights pursuant to Clause 9.3.7 and Clause 9.3.8, shall be borne by the Group.
- 9.3.10 The relevant provisions of this Clause 9 (*Non-Financial Covenants and strategic intentions*), Paragraphs 4 and 5 of Schedule 15 (*Non-Financial Covenants and Strategic Intentions*) and such Non-Financial Covenants which are included in Schedule 21 (*Amendments to the articles of association and the regulations for the Supervisory Board*) shall be included in the Supervisory Board regulations and/or the articles of association of the Company as per, or

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as soon as reasonably possible after, Completion. These provisions will apply in the articles of association of the Company for the duration of the Non-Financial Covenants after which these provisions will automatically lapse by virtue of a sunset provision (*horizonbepaling*).

10 SELLERS' WARRANTIES

10.1 Fundamental Warranties

Each Seller represents and warrants to the Purchaser that the Fundamental Warranties are true and accurate as at the Offer Protocol Date and shall also be true and accurate as at Completion, provided that where such Fundamental Warranty relates to Shares (other than the Fundamental Warranties set out in Paragraphs 2.2 and 2.6, 2.7 and 2.8 of Schedule 10 (*Fundamental Warranties*), it only applies to the respective Shares held by the relevant Seller.

10.2 Business Warranties and Tax Warranties

The Sellers represent and warrant to the Purchaser that save as Disclosed, the Business Warranties and the Tax Warranties are true and accurate as at the Offer Protocol Date.

10.3 No other Sellers' Warranties

The Purchaser acknowledges that no representations or warranties, express or implied, have been given or are given, in this Agreement or otherwise, by any of the Sellers, any Group Company, or any directors or officers of any Group Company, including the Key Managers, other than the Sellers' Warranties.

10.4 No forecasts

The Sellers and the Purchaser agree that notwithstanding anything to the contrary included in the Sellers' Warranties, the Sellers' Warranties are not intended to give, and shall not be construed as giving, any representation or warranty, express or implied, as to the accuracy of any forecasts, estimates, projections, statements of intent or statements of opinion howsoever provided to the Purchaser, any of its Affiliates or any of their respective Representatives.

11 SPECIFIC INDEMNITY

11.1 The REMU Indemnity

Subject to Completion, the Sellers shall indemnify and hold harmless the Purchaser from and against, and shall reimburse (on a euro for euro basis) the Purchaser for any and all Losses suffered or incurred by the Group pursuant to a negative judgment that is final and not open to appeal (*kracht van gewijsde*)

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regarding the REMU Claim (the "**REMU Indemnity**"), it being agreed that any Losses suffered by the Group shall be deemed to be suffered or incurred by the Purchaser pro rata to the Aggregate Pro Rata Part.

11.2 Conduct in respect of the REMU Indemnity

11.2.1 After the Completion Date, the Purchaser and the Company:

- (a) shall take such actions as are reasonably necessary to avoid, dispute, deny, defend, resist, appeal, compromise or contest the REMU Claim and shall allow the Sellers' Delegate, at the Sellers' cost, to control the conduct of any proceedings, negotiations or appeals in relation to the REMU Claim, provided that the Sellers' Delegate shall inform the Purchaser and the Company of the status of such proceedings, negotiations or appeals in reasonable timely manner; and
- (b) shall ensure that the Group shall not acknowledge any liability towards the REMU Group, N.V. REMU Houdstermaatschappij or Stichting Beheer Belangen GCN, or enter into any settlement or compromise, in respect of the REMU Claim, to the extent such acknowledgement, settlement or compromise results in the Sellers being liable under the REMU Indemnity, except with the prior written consent of the Sellers' Delegate (which shall not unreasonably be withheld or delayed); and

11.2.2 In case the Sellers' Delegate has not taken conduct in relation to the REMU Claim as per Clause 11.2.1(a) above:

- (i) at the Sellers' cost, the Purchaser shall keep the Sellers' Delegate informed on the course of any negotiations and proceedings regarding the REMU Claim; and
- (ii) shall, at the Sellers' cost, make available to the Sellers' external legal counsel all information reasonably requested by the Sellers relating to the course of any negotiations and proceedings regarding the REMU Claim.

11.3 Limitations of liability

The limitations of liability of the Sellers as set out in Clause 12 (*Liability of the Sellers*) shall not apply to the liability of the Sellers for the REMU Indemnity set out in this Clause 11 (*Specific Indemnity*), with the exception of Clauses 12.2 (*Individual or several liability*) and 13.5 (*Net financial benefit*).

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12 LIABILITY OF THE SELLERS

12.1 Liability for breach

12.1.1 Subject to the provisions of Clause 10 (*Sellers' Warranties*) and this Clause 12 (*Liability of the Sellers*) and any other applicable limitations of liability pursuant to this Agreement or applicable Law, the Purchaser shall not (i) have the right to terminate or rescind this Agreement unless explicitly stated otherwise in this Agreement, or (ii) have the right to claim specific performance (*nakoming*) in respect of any of the Sellers' obligations under or in connection with Clause 10 (*Sellers' Warranties*), Clause 15 (*Tax*), Schedule 5 (*Leakage*), Schedule 10 (*Fundamental Warranties*), Schedule 11 (*Business Warranties and Tax Warranties*) or Schedule 13 (*Tax*), but shall as its sole and exclusive remedy have the right to claim from the Sellers:

- (i) the Losses suffered or incurred by the Purchaser:
 - (a) if any of the Fundamental Warranties are not true and accurate at the Offer Protocol Date or at Completion;
 - (b) if any of the Business Warranties and/or any of the Tax Warranties are not true and accurate at the Offer Protocol Date; and/or
 - (c) in the event of any other breach of this Agreement,

it being agreed that any Losses suffered or incurred by the Group shall be deemed to be suffered or incurred by the Purchaser pro rata to the Aggregate Pro Rata Part; and/or
- (ii) in case of any claim under the Tax Covenant or the occurrence of Leakage.

12.1.2 The Purchaser agrees that neither it nor any other member of the Purchaser's Group has any right against, and shall not make, and shall procure that no other member of the Purchaser's Group makes, any claim against any employee, director or officer of any Group Company in connection with this Agreement or the Transaction, except in the event of fraud (*bedrog*) by that employee, director or officer.

12.1.3 Subject to Completion, each of the Sellers agrees that neither it nor any of its Representatives has any right against, nor shall make any claim against, any employee, director or officer of any Group Company, except in the event of fraud (*bedrog*) or wilful misconduct by that employee, director or officer.

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12.2 Individual or several liability

12.2.1 In respect of Individual Claims (as defined below), the Purchaser shall only be entitled to claim against the relevant Seller directly.

12.2.2 Notwithstanding any other provision of this Agreement, the liability of:

- (a) each Seller under this Agreement with respect to any claims under the Fundamental Warranties (other than claims for a breach of Paragraphs 2.2 and 2.6, 2.7 and 2.8 of Schedule 10 (Fundamental Warranties)), Clause 16 (*Announcements and Confidentiality*), Schedule 5 (Leakage) or any other breach of this Agreement by an individual Seller, shall be borne solely by the defaulting Seller (the "**Individual Claims**"); and
- (b) the Sellers under this Agreement with respect to any other claims under or in connection with this Agreement, shall be borne severally (*niet hoofdelijk*) by the Sellers for their Pro Rata Part.

12.2.3 Any claims by the Purchaser against the Sellers under this Agreement, other than Individual Claims, shall be made against each Seller for its Pro Rata Part.

12.3 Time limitations

The Sellers are not liable towards the Purchaser under Clause 12.1.1 unless a Notice of a claim is given by the Purchaser to the Sellers in accordance with Clause 13.12 (*Notification of claims*):

- (a) in case of any claim under the Fundamental Warranties, within three (3) years after the Completion Date;
- (b) in case of any claim under the Business Warranties, within two (2) years after the Completion Date;
- (c) in case of any Tax Claim, within seven (7) years after the Completion Date; and
- (d) in case of any other claim under or otherwise in connection with this Agreement, within eighteen (18) months after the Completion Date.

12.4 Monetary limitations in respect of Business and Tax Claims

Without prejudice to the Purchaser's right to claim under the W&I Insurance Policy, the aggregate maximum liability of the Sellers in respect of any and all claims under or for breach of the Business Warranties and Tax Warranties and claims under the Tax Covenant (the "**Business and Tax Claims**") shall be an amount of one euro (EUR 1).

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12.5 Monetary limitations in respect of other claims

Without prejudice to the Purchaser's right to claim under the W&I Insurance Policy in accordance with Clause 12.6 (*W&I Insurance Policy*), the aggregate maximum liability of the Sellers in respect of any and all claims (including a breach of the Fundamental Warranties but excluding claims relating to Leakage) under or otherwise in connection with this Agreement other than any Business and Tax Claims, shall not exceed the Consideration, provided that each Seller's aggregate maximum liability shall be equal to its Pro Rata Part of the Consideration in accordance with Clause 12.2 (*Individual or several liability*).

12.6 W&I Insurance Policy

12.6.1 Without detracting from any other applicable limitations of liability under this Agreement and subject to the maximum liability of the Sellers for Business Warranties and Tax Claims under Clause 12.4 (*Monetary limitations in respect of Business and Tax Claims*), the Purchaser acknowledges and accepts that:

- (a) the Purchaser's sole recourse in respect of the Business and Tax Claims shall be against the Insurance Provider under the W&I Insurance Policy, regardless of whether or not the W&I Insurance Policy provides sufficient coverage for such Losses;
- (b) the Business and Tax Claims shall be exclusively settled by the Insurance Provider under the W&I Insurance Policy or remain for the account of the Purchaser itself; and
- (c) neither the Purchaser nor any member of the Purchaser's Group or any assignee or successor of the Purchaser shall have any recourse against the Sellers in respect of the Business and Tax Claims.

12.6.2 Without detracting from any other applicable limitations of liability under this Agreement and subject to the monetary limitations of liability of the Sellers for a breach of the Fundamental Warranties under Clause 12.5 (*Monetary limitations in respect of other claims*), the Purchaser acknowledges and accepts that:

- (a) the W&I Insurance Policy shall provide first recourse to the Purchaser in relation to any claim for breach of the Fundamental Warranties;
- (b) the Purchaser shall only be entitled to claim against the relevant Seller for the amount exceeding the W&I Insured Amount, and then only for the amount in excess of the W&I Insured Amount; and

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- (c) the aggregate liability of each Seller in respect of such claim shall not exceed its Pro Rata Part of an amount equal to the difference between the W&I Insured Amount and the Consideration.

12.6.3 The Purchaser shall procure that the W&I Insurance Policy includes a binding and irrevocable third-party stipulation for no consideration (*onherroepelijk derdenbeding om niet*) for the benefit of the Sellers, the Group Companies and any Representative of the Group, stipulating that the Insurance Provider shall not claim against such Persons in connection with any claim for breach of the Sellers' Warranties, except in the event of fraud (*bedrog*) by the relevant Seller, Group Company or Representative of the Group in connection with the giving of any Sellers' Warranty, in which case such Seller, Group Company or Representative of the Group, as applicable, shall not benefit from the binding and irrevocable third-party stipulation for no consideration under the W&I Insurance Policy. This stipulation in the W&I Insurance Policy may not be amended or waived without the prior written consent of the Sellers and the Company.

12.6.4 The premium of the W&I Insurance Policy, any Tax in respect thereof, and any other costs the Purchaser has made in connection with the W&I Insurance Policy, shall be for the account of the Purchaser and the Purchaser shall be solely responsible for payment thereof.

13 OTHER LIMITATIONS OF LIABILITY AND MANAGEMENT OF CLAIMS

13.1 Provisions

13.1.1 The Sellers shall not be liable under or otherwise in connection with this Agreement in respect of any fact, matter or claim (i) which is reflected in the EV-to-Equity Bridge (as net debt, other debt like items or otherwise) or (ii) for which any specific allowance, provision or reserve is made in the Locked Box Accounts.

13.1.2 For the purpose of this Clause 13.1 (*Provisions*), an allowance, provision or reserve shall be deemed to be specific if it can be reasonably evidenced on the basis of the financial administration of the Group that such allowance, provision or reserve was intended by the management of the Group to relate fully or partly to the relevant fact, matter or claim.

13.2 Purchaser's awareness

13.2.1 The Sellers shall not be liable for any Sellers' Warranty (other than any Fundamental Warranty or any Business Warranty set out in Paragraphs 2 and 3 of Schedule 11 (*Business Warranties and Tax Warranties*) being untrue or inaccurate if the Purchaser, any Affiliate of the Purchaser or any of their

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respective Representatives is aware of such Sellers' Warranty being untrue or inaccurate or any fact or circumstance which could render such Sellers' Warranty untrue or inaccurate on the basis that the relevant facts or circumstances have been Disclosed prior to the Offer Protocol Date.

13.2.2 The Purchaser acknowledges that it, and the members of the Purchaser's Group, have conducted a due diligence investigation into the Group with the assistance of professional legal and financial advisors, and other Representatives. The Purchaser acknowledges that the Sellers and the Company have allowed the Purchaser's Group, their professional legal and financial advisors and other Representatives:

- (a) access to the Due Diligence Information;
- (b) the opportunity to attend and participate in meetings with the Company's management and certain experts and to attend site visits; and
- (c) the opportunity to ask questions in relation to the Group and the Transaction.

13.2.3 The Purchaser acknowledges that:

- (a) it has completed a due diligence investigation with respect to the Group;
- (b) it has raised issues it considered relevant in connection with the transactions contemplated by this Agreement; and
- (c) it has been given information and assistance requested by the Purchaser or its Representatives in the course of the due diligence investigations referred to under paragraph (a) above.

13.3 Subsequent matters

The Sellers are not liable under or otherwise in connection with this Agreement in respect of any matter, act, omission or circumstance to the extent that the matter, act, omission or circumstance would not have occurred but for, or to the extent that, the Losses of the Purchaser in connection with the matter, act, omission, or circumstances are increased by:

- (a) anything done or omitted to be done after the Offer Protocol Date at the written request or with the written approval of the Purchaser or any other member of the Purchaser's Group;

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- (b) any voluntary act or omission of the Purchaser, its Affiliates or their respective Representatives, or successors in title, after the Completion Date, including any change in the nature or conduct of the business as carried on by the Group Companies at the Completion Date;
- (c) the passing of, or any change in, any Law or published administrative practice of any Governmental Authority as from the Effective Date; or
- (d) any voluntary change as from the Completion Date of the Accounting Principles or any generally accepted interpretation or application of the Accounting Principles.

13.4 Purchaser's insurance

Without prejudice to Clause 12.6 (*W&I Insurance Policy*), the Sellers are not liable in respect of any claims made under or otherwise in connection with this Agreement to the extent that (i) any member of the Purchaser's Group has actually recovered the relevant amount under a policy of insurance in respect of the Losses for which the claim is made or (ii) such Losses are covered by a policy of insurance of the Group in force immediately prior to Completion. If in the reasonable view of the Purchaser, the Purchaser or any member of the Purchaser's Group is entitled to reimbursement in part or in whole under an insurance policy in respect of the Losses for which a claim is made, the Purchaser shall or shall procure that the relevant member of the Purchaser's Group shall claim such reimbursement under the relevant insurance policy.

13.5 Net financial benefit

The Sellers are not liable in respect of any claim made under or otherwise in connection with this Agreement if any Group Company or any member of the Purchaser's Group has any Tax Benefit because of such claim, whereby any Tax Benefit is to be reduced by (i) any reasonable costs made in obtaining, and (ii) any additional Tax liability incurred as a result of, that Tax Benefit.

13.6 Breaches capable of remedy

Notwithstanding anything to the contrary in this Agreement, the Sellers are not liable towards the Purchaser under or otherwise in connection with this Agreement, if and to the extent that the facts or circumstances underlying a claim are capable of remedy and, after Notice of such claim is delivered by the Purchaser to the Sellers or Sellers' Delegate as contemplated by Clause 13.11 (*Notification of potential claims*) and Clause 13.12 (*Notification of claims*), is remedied within twenty (20) Business Days after the date on which the Notice is received by the Sellers and/or the Sellers' Delegate.

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13.7 Mitigation of Losses and Liabilities

The Purchaser, after actually becoming aware of any Loss, shall procure that, to the extent within its control, all reasonable steps are taken by each member of the Purchaser's Group and all reasonable assistance is given by the Purchaser's Group to avoid or mitigate any Losses incurred by any Group Company or any (other) member of the Purchaser's Group and any Liabilities which may in the absence of mitigation give rise to a claim, or a claim for a larger amount, under or in connection with this Agreement.

13.8 Purchaser's right to recover

- 13.8.1 If, before (any of) the Sellers pay an amount in discharge of any claim under or otherwise in connection with this Agreement, any member of the Purchaser's Group is entitled to recover (whether by payment, set-off, discount, credit, relief, insurance or otherwise) from a third party a sum which indemnifies or compensates in whole or in part any member of the Purchaser's Group in respect of the Losses which are the subject matter of the claim, then at the election and in the sole discretion of the relevant Seller (in the case of an Individual Claim) or the Sellers' Delegate (for all other claims), the Purchaser shall procure that, before steps are taken to enforce a claim against the relevant Seller following notification under Clause 13.12 (*Notification of claims*), all reasonable steps are taken to enforce recovery against the third party, and following the actual recovery of such amount such claim shall be reduced or satisfied to the extent of such actual recovery, less any costs, expenses or non-recoverable Taxes reasonably incurred in effecting such recovery.
- 13.8.2 If, following payment by any Seller of an amount in discharge of any claim under or otherwise in connection with this Agreement, any member of the Purchaser's Group is subsequently entitled to recover (whether by payment, set-off, discount, credit, relief, insurance or otherwise) from a third party a sum which indemnifies or compensates in whole or in part any member of the Purchaser's Group in respect of the Losses which are the subject matter of the claim, then at the election and in the sole discretion of the relevant Seller (in the case of an Individual Claim) or the Sellers' Delegate (for all other claims), the Purchaser shall procure that all reasonable steps are taken to enforce recovery against the third party, and following the actual recovery of such amount shall, or shall procure that the relevant member of the Purchaser's Group shall, pay to the relevant Seller, as soon as practicable after receipt, the lower of the following two (2) amounts:
- (a) where it concerns an Individual Claim, any actual recovery, less any costs, expenses or non-recoverable Taxes reasonably incurred in effecting such recovery, plus interest on that amount from the date on which such payment fell due (inclusive) until the date of actual payment

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by the Purchaser (exclusive) at the Interest Rate or, where it concerns a claim other than an Individual Claim, the Seller's Pro Rata Part; and

- (b) the amount previously paid by the relevant Seller to the Purchaser or any member of the Purchaser's Group.

13.9 No double claims

The Sellers are not liable under or otherwise in connection with this Agreement more than once in respect of the same Losses or Liabilities.

13.10 Contingent Liabilities

The Sellers are not obliged to make a payment under or otherwise in connection with this Agreement in respect of any Liability which is contingent until and then only to the extent such contingent Liability ceases to be contingent and becomes actual. Nothing in this Clause 13.10 (*Contingent Liabilities*) precludes the Purchaser from giving Notice of a claim which is contingent within the time limit set out in Clause 13.11 (*Notification of potential claims*) and Clause 13.12 (*Notification of claims*).

13.11 Notification of potential claims

Without imposing additional time limits to those set out in Clause 12.3 (*Time limitations*), if the Purchaser becomes aware of:

- (a) any matter or circumstance that is reasonably likely to give rise to a claim against a Seller in the event of an Individual Claim, other than a Tax Claim, the Purchaser shall as soon as reasonably practicable after becoming aware of any such matter or circumstance, but in any event within 20 (twenty) Business Days of becoming aware of such matter or circumstance, deliver a Notice to the relevant Seller, with a copy to the Sellers' Delegate; or
- (b) any matter or circumstance that may give rise to a claim against all Sellers in the event of any other claims under this Agreement, the Purchaser shall as soon as reasonably practicable after becoming aware of any such matter or circumstance, but in any event within 20 (twenty) Business Days of becoming aware of such matter or circumstance, deliver a Notice to the Sellers' Delegate,

in each case setting out such information as is available to the Purchaser or any member of the Purchaser's Group as is reasonably necessary to enable the relevant Seller or the Sellers' Delegate to (i) assess the merits of the potential claim, (ii) act to preserve evidence and (iii) make such provision as the relevant

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Seller or the Sellers' Delegate may consider necessary. The failure of the Purchaser to give Notice in compliance with this Clause 13.11 (*Notification of potential claims*) shall not release the Sellers of their Liability, except for the amount of Losses that is the result of such failure to give Notice in compliance herewith.

13.12 Notification of claims

Without prejudice to Clause 13.11 (*Notification of potential claims*), Notices of claims by the Purchaser under or otherwise in connection with this Agreement must be given by the Purchaser to the relevant Seller in the event of an Individual Claim, with a copy to the Sellers' Delegate and the Company, or to the Sellers' Delegate, with a copy to the Company, in the event of any other claims under or otherwise in connection with this Agreement, within the time limits specified in Clause 12.3 (*Time limitations*), specifying all available information of the legal and factual basis of the claim and the evidence on which the Purchaser relies and an estimate of the amount of Losses which are, or are to be, the subject of the claim (including any Losses which are contingent on the occurrence of any future event).

13.13 Commencement of proceedings

Any claim notified to the relevant Seller (in case of an Individual Claim) or the Sellers' Delegate (for all other claims), other than a Tax Claim, shall be deemed, if it has not been previously satisfied, settled or withdrawn, to be irrevocably withdrawn:

- (a) six (6) months after the Notice is given under Clause 13.12 (*Notification of claims*), unless legal proceedings in respect of the claim have been formally commenced; and
- (b) in case a claim is contingent or conditional, three (3) months after the Purchaser becoming aware that the claim for which the Notice is given under Clause 13.12 (*Notification of claims*) ceases to be contingent or conditional, unless legal proceedings in respect of that claim have been formally commenced in accordance with Clause 18.2 (*Dispute resolution*).

13.14 Investigation by the Sellers

In connection with any matter or circumstance notified by the Purchaser to the relevant Seller or the Sellers' Delegate under Clause 13.11 (*Notification of potential claims*) or Clause 13.12 (*Notification of claims*) the Purchaser shall, and shall cause the Purchaser's Group to:

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- (a) take reasonable steps to allow the relevant Seller and its Representatives to investigate the matter or circumstance alleged to give rise to such claim, and whether and to what extent any amount is or may be payable in respect of such claim; and
- (b) upon reasonable notice from the relevant Seller, disclose to the relevant Seller all information of which the Purchaser or any other member of the Purchaser's Group is aware which relates to the claim, and, at the relevant Seller's expense, give all such information and assistance (including access to premises and personnel) and the right to examine and copy or photograph any asset, account, document and record, in each case to the extent necessary in order to investigate the matter or circumstance giving rise to such claim and whether and to what extent any amount is or may be payable in respect of such claim,

provided that (i) nothing in this Clause 13.14 (*Investigation by the Sellers*) shall oblige the Purchaser or any member of the Purchaser's Group to disclose any information which is subject to legal or other professional privilege and (ii) any information which the Purchaser or the Company in good faith consider to be competitively sensitive may be redacted by the Purchaser and the Company, acting jointly, before sharing with the relevant Seller or its Representatives, provided that the Purchaser must provide the external legal counsel of the Sellers with a non-redacted version on the basis that such non-redacted version will not be shared with the Sellers.

13.15 Procedure for Third-Party Claims

13.15.1 If any claim is brought by a third party, other than by a Tax Authority, (a "**Third-Party Claim**") against any member of the Purchaser's Group (the "**Relevant Indemnified Party**") in respect of which indemnification may be sought from (any of) the Sellers (the "**Relevant Indemnifying Party**") under this Agreement and which is not covered by the W&I Insurance Policy, the Purchaser shall:

- (a) in the event of an Individual Claim, notify the relevant Seller(s) (with a copy to the Sellers' Delegate in accordance with Clause 13.11 (*Notification of potential claims*) and Clause 13.12 (*Notification of claims*), as applicable;
- (b) in the event of a claim against all Sellers, notify the Sellers' Delegate in accordance with Clause 13.11 (*Notification of potential claims*) and Clause 13.12 (*Notification of claims*), as applicable;
- (c) not (i) make any admissions in relation to the Third-Party Claim or (ii) compromise, dispose or settle the Third-Party Claim without the prior written consent of the Relevant Indemnifying Party; and

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- (d) where the Relevant Indemnifying Party has delivered a Notice to the Relevant Indemnified Party confirming the Relevant Indemnifying Party's acceptance of liability towards the Relevant Indemnified Party, on the terms and subject to the conditions of this Agreement in respect of such claim on the basis of the information provided by the Relevant Indemnified Party under Clause 13.12 (*Notification of claims*):
- (i) allow the Relevant Indemnifying Party to take such action as it at its sole discretion deems necessary to avoid, dispute, deny, defend, resist, appeal, compromise or contest the Third-Party Claim (including making counterclaims or claims against third parties) in the name of and on behalf of the Relevant Indemnified Party and to control the conduct of any related proceedings, negotiations or appeals; and
- (ii) where the Relevant Indemnifying Party at its sole discretion deems it necessary to take any action under Clause (i) above, co-operate with the Relevant Indemnifying Party as reasonably requested by the Relevant Indemnifying Party, including by at the Relevant Indemnifying Party's expense (A) furnishing all such documents, books and records and other information as the Relevant Indemnifying Party may reasonably request solely for the purpose referred to in (i) above, (B) giving all such assistance including access to premises and personnel during normal business hours, (C) giving the right to examine and copy or photograph any asset, account, document and record as the Relevant Indemnifying Party may reasonably request solely for the purpose referred to in (i) above, and (D) instructing professional or legal advisors as may be nominated by the Relevant Indemnifying Party to act on behalf of the Relevant Indemnified Party, but in accordance with the Relevant Indemnifying Party's reasonable instructions, it being agreed that, in each case, the Relevant Indemnifying Party shall keep the Relevant Indemnified Party informed of all relevant matters relating to the claim and shall forward or procure to be forwarded to the Relevant Indemnified Party copies of all material external correspondence relating to the claim other than such correspondence as is subject to legal or other professional privilege of the Relevant Indemnifying Party, provided that:
- (y) any information which the Relevant Indemnified Party considers competitively sensitive may be redacted by the Relevant Indemnified Party before sharing with the

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Relevant Indemnifying Party, it being understood that that Relevant Indemnified Party must provide the external legal counsel to the Relevant Indemnifying Party with a non-redacted version on the basis that such non-redacted version will not be shared with the Relevant Indemnifying Party; and

- (z) the Relevant Indemnifying Party shall exercise its rights in this Clause 13.15 (*Procedure for Third-Party Claims*) in a manner which mitigates, to the extent reasonably practicable, any disruption to the business of the relevant member(s) of the Purchaser's Group (including the Group Companies).

This paragraph (d) shall not apply in the event the W&I insurer requires conduct with respect to the relevant Third-Party Claim.

13.15.2 The Sellers' Delegate shall use reasonable efforts to co-ordinate any actions to be taken by (any of) the Sellers as the Relevant Indemnifying Party towards the Relevant Indemnified Party under Clause 13.15.1.

13.16 Third-party stipulation

The provisions of this Clause 13 (*Other limitations of liability and management of claims*) are also for the benefit of, and shall be enforceable by, the Group Companies, each of their successors, permitted assigns and any member of the Management Board or Supervisory Board, as third-party stipulations (*onherroepelijk derdenbeding*) and apply *mutatis mutandis* to any claim made by a third party under a third-party stipulation included in this Agreement.

14 PURCHASER'S WARRANTIES

14.1 Purchaser's Warranties

The Purchaser represents and warrants to the Sellers that the statements set out in Schedule 14 (*Purchaser's Warranties*) (the "**Purchaser's Warranties**") are true and accurate as at the Offer Protocol Date and shall also be true and accurate as at Completion.

14.2 Purchaser Parents' Warranties

Each Purchaser Parent severally (*niet hoofdelijk*) represents and warrants to the Sellers that the Purchaser's Warranties apply *mutatis mutandis* in respect of itself as a Purchaser Parent (the "**Purchaser Parents' Warranties**") and are

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true and accurate as at the Offer Protocol Date and shall also be true and accurate as at Completion.

14.3 Liability of the Purchaser and the Purchaser Parents

- 14.3.1 If a Purchaser's Warranty or a Purchaser Parents' Warranty is untrue or inaccurate at the Offer Protocol Date or at Completion, or in the event of a breach of this Agreement by the Purchaser or the relevant Purchaser Parent, in addition and without prejudice to any other rights and remedies available to the Sellers and the Company, the Purchaser or the relevant Purchaser Parent shall be liable to the Sellers and the Company for the Losses incurred by the Sellers or the Company, respectively, as a result of the Purchaser's Warranty or relevant Purchaser Parents' Warranty being untrue or inaccurate or as a result of the breach of this Agreement.
- 14.3.2 The aggregate maximum liability of the Purchaser in respect of any and all claims under or otherwise in connection with this Agreement shall not exceed an amount equal to the Consideration.
- 14.3.3 The aggregate maximum liability of the Purchaser Parents in respect of any and all claims under or otherwise in connection with this Agreement shall not exceed an amount equal to the Consideration.

14.4 Purchaser Parents' guarantee

- 14.4.1 Each Purchaser Parent hereby unconditionally, irrevocably and severally (*niet hoofdelijk*), subject to the limitations set out in this Agreement and for a portion equal to each Purchaser Parent's pro rata contribution to the Consideration:
- (a) guarantees to the Sellers and the Company the due and timely performance and observance by the Purchaser of all its obligations, commitments, undertakings, warranties and indemnities under or otherwise in connection with this Agreement (the "**Purchaser Guaranteed Obligations**");
 - (b) undertakes with the Sellers and the Company that whenever the Purchaser does not perform any of the Purchaser Guaranteed Obligations when due, that each Purchaser Parent shall immediately on demand perform that Purchaser Guaranteed Obligation as if it was the principal obligor; and
 - (c) shall indemnify, defend and hold harmless each of the Sellers and the Company as a third-party stipulation (*derdenbeding*), against all Losses which the Sellers or the Company, as the case may be, may suffer through or arising from any breach by the Purchaser of the Purchaser

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Guaranteed Obligations or any of the Purchaser Guaranteed Obligations becoming illegal, invalid, non-binding or unenforceable.

- 14.4.2 For the avoidance of doubt, the Sellers shall only be entitled to demand performance of any Purchaser Guaranteed Obligation from the Purchaser Parents for a portion equal to each Purchaser Parent's pro rata contribution to the Consideration, and not from one Purchaser Parent for the full Purchaser Guaranteed Obligation. Furthermore, in case of non-performance by the Purchaser of a payment obligation under this Agreement, the Sellers shall not be entitled to claim payment of such obligation from one Purchaser Parent but shall be required to claim payment from both Purchaser Parents for a portion equal to each Purchaser Parent's pro rata contribution to the Consideration.
- 14.4.3 In case of any payment by the Purchaser to the Sellers for the performance of any of its financial obligations arising in connection with this Agreement, any liability of the Purchaser Parents in connection with the guarantee under Clause 14.4.1(a) shall be reduced by the same amount of such payment pro rata to the portion of each Purchaser Parent's pro rata contribution to the Consideration.
- 14.4.4 The guarantee under Clause 14.4.1(a) is an independent guarantee and not a suretyship (*borgtocht*) nor an acceptance of joint and several liability (*hoofdelijke aansprakelijkheid*).
- 14.4.5 Each Purchaser Parent shall have the same rights, defences and remedies as the Purchaser under or otherwise in connection with this agreement and the Law.

15 TAX

The provisions of Paragraph 17 of Schedule 11 (*Business Warranties and Tax Warranties*) and of Schedule 13 (*Tax*) apply in respect of Taxes.

16 ANNOUNCEMENTS AND CONFIDENTIALITY

16.1 Communication and announcements

16.1.1 The Sellers shall procure that the Sellers' Delegate, the Company and the Purchaser shall agree on the contents and the timing of any (separate or joint) press release to be issued at (i) the Offer Protocol Date, (ii) the Transaction becoming effective in accordance with the terms and subject to the conditions of the Offer Protocol, and (iii) Completion (together the "**Announcements**").

16.1.2 Each Shareholder may inform its Municipal Council on the main terms and conditions of the Agreement and the process leading to the entering into of the Offer Protocol and may generally provide all information reasonably required to

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fulfil its obligations under Law and to allow its Municipal Council to take an informed decision with respect to the sale of its Shares, amongst others, by making available to its Municipal Council:

- (a) the Explanatory Document (as defined in the Offer Protocol); and
- (b) a copy of this Agreement, for inspection and subject to secrecy (*geheimhouding*) as meant in, and acknowledgement of applicable secrecy obligations by the relevant Municipal Council in accordance with, section 25 of the Dutch Municipality Act (*Gemeentewet*).

16.1.3 Without prejudice to Clauses 16.1.1 and 16.1.2, no public announcement, circular or other communication in connection with the existence or the subject matter of this Agreement or the Transaction may be made or issued by or on behalf of the Sellers, any member of the Group, or any member of the Purchaser's Group, without the prior written approval of the other Parties, which approval may not be unreasonably withheld or delayed, provided that each Party may make such public announcement, circular or other communication as is reasonably required or advisable to comply with Law or, if applicable, the rules of any recognised stock exchange on which the shares, the Purchaser or its Affiliates are listed, but only if, in such case, it shall, unless not reasonably possible, consult with the other Parties before such public announcement.

16.2 Confidentiality undertaking

16.2.1 The Confidentiality Letters shall continue to have full force and effect in accordance with their terms, up to Completion only and will then be deemed terminated.

16.2.2 Subject to this Clause 16.2.2 and without prejudice to the terms and conditions of the Confidentiality Letters, each of the Parties shall, and shall procure that their Representatives and, with respect to the Purchaser and the Company, their respective Affiliates, shall treat as strictly confidential and not release, disclose or use any information contained in, received or obtained as a result of entering into this Agreement or any agreement entered into in connection with the Transaction which relates to:

- (a) the provisions of this Agreement or any agreement entered into in connection with the Transaction;
- (b) the negotiations relating to this Agreement or any such other agreement;

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- (c) in the case of the Purchaser, the Sellers or the activities carried on by them (excluding, after Completion, the business activities of the Group Companies); or
- (d) in the case of the Sellers, the members of the Purchaser's Group or the business carried on by them (including, after Completion, the business activities of the Group Companies).

16.2.3 Clause 16.2.1 shall not prohibit disclosure or use of any information if and to the extent:

- (a) the disclosure or use of any information by the Sellers takes place in accordance with Clause 16.2.2;
- (b) the disclosure or use of any information in relation to the business activities of the Group Companies is required by the Company in the ordinary course of business;
- (c) the disclosure or use is required by Law or, if applicable, the rules of any recognised stock exchange on which the shares of the Purchaser (or its Affiliates) are listed;
- (d) the disclosure or use is required for the purpose of any legal proceedings arising out of this Agreement or any other agreement entered into under or pursuant to this Agreement;
- (e) the disclosure is made to a Person to which a Permitted Transfer is envisaged to be made, provided that such Person has entered into adequate confidentiality undertakings similar to this Clause 16.2;
- (f) the disclosure is made to a Tax Authority in connection with the Tax affairs of the disclosing Party;
- (g) the disclosure is made to (i) professional advisors or direct or indirect (potential) investors or finance providers of any Party, (ii) a Person that has the intention to assume rights or obligations of any Party in connection with this Agreement, (iii) a Person brokering for or willing to provide coverage under or in respect of a W&I Insurance Policy, on terms that such Person undertakes to comply with the provisions of Clause 16.2.2 in respect of the information as if they were a party to this Agreement or (iv) a rating agency;
- (h) the information is or becomes publicly available (other than by breach of the Confidentiality Letters or this Agreement);
- (i) the disclosure is made as permitted under the Confidentiality Letters;

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- (j) the other Parties have given prior written approval to the disclosure or use; or
- (k) the information is independently developed after Completion, without any use of knowledge derived from any information covered by the Confidentiality Letters or Clause 16.2.2.

17 MISCELLANEOUS

17.1 Sellers' Delegate to perform obligations of the Sellers

For the purposes of this Agreement, the Sellers' Delegate shall act on behalf of the Sellers and perform the obligations of the Sellers (when acting jointly), unless the context requires otherwise. For the avoidance of doubt, this Clause 17.1 (*Sellers' Delegate to perform obligations of the Sellers*) shall not apply to the obligations pursuant to Clauses 11 (*Specific Indemnity*) and 12 (*Liability of the Sellers*).

17.2 Further assurances

The Sellers and the Purchaser shall, at their own cost and expense from time to time, execute such documents and perform such acts and things, or procure the execution of such documents and performance of such acts and things, as may be reasonably required by each of them to effect the Transaction and to give the Parties the full benefit of this Agreement.

17.3 Entire agreement

17.3.1 This Agreement contains the entire agreement between the Parties in relation to its subject matter and supersedes any previous written or oral agreement between the Parties in relation to the matters dealt with in this Agreement, provided that (i) the Confidentiality Letters shall continue to have full force and effect and (ii) the Offer Protocol shall continue to have full force and effect up to its expiry, each in accordance with its respective terms. In the event of a conflict between the Confidentiality Letters and this Agreement, or the Offer Protocol and this Agreement, this Agreement shall prevail.

17.3.2 The Purchaser acknowledges that it has not been induced to enter into this Agreement by any representation, warranty or undertaking not explicitly set out in this Agreement.

17.4 No assignment

No Party may, without the prior written consent of the other Parties, assign or grant any security interest over or otherwise transfer, in whole or in part, any of its rights and obligations under this Agreement. Without this consent, no

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assignment, encumbrance or transfer is effected, provided, however, that the Purchaser shall at all times be allowed to assign and transfer its rights, interests and obligations under this Agreement to entities of the Purchaser's Group (with the exception of the Group Companies) (provided, however, that the Purchaser Parents shall remain liable for the Purchaser Guaranteed Obligations in accordance with Clause 14.4 and subject to the limitations set out in this Agreement), in each case without prejudice to Clause 8 (Co-investment and Sell-on restrictions). Notwithstanding the foregoing, the Purchaser may assign its rights, interests and obligations hereunder to the extent required by a provider of debt financing for the purpose of securing any financing of the transactions contemplated hereby.

17.5 Invalidity

If any provision in this Agreement is held to be or becomes unenforceable, in whole or in part, under any Law:

- (a) that provision or part of that provision shall, to the extent of its unenforceability, be deemed not to form part of this Agreement but, subject to the restrictions of article 3:41 DCC, the enforceability of the remainder of this Agreement shall not be affected; and
- (b) the Parties shall use their respective best efforts to agree on a replacement provision that is enforceable to achieve, so far as possible, the intended effect of the unenforceable provision.

17.6 Counterparts

This Agreement may be entered into in any number of counterparts, all of which taken together shall constitute one and the same instrument. The Parties may enter into this Agreement by signing any such counterpart.

17.7 Waiver

No waiver of any provision of this Agreement shall be effective unless that waiver is in writing and signed by or on behalf of the Party entitled to make the waiver.

17.8 Amendment

No amendment of this Agreement shall be effective unless that amendment is in writing and signed by or on behalf of each Party.

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17.9 Third-party rights

Except where this Agreement explicitly provides otherwise, it contains no stipulations for the benefit of a third party (*derdenbedingen*) which may be invoked by a third party against a Party. Where this Agreement contains a stipulation for the benefit of a third party (*derdenbeding*), such stipulation for the benefit for a third party contained in this Agreement may only be terminated, amended, supplemented or waived with that third party's prior written consent.

17.10 Treatment of certain DCC provisions

17.10.1 Without prejudice to Clauses 4.8 (*Long stop date*) and 6.3 (*Breach of Completion obligations*), each Party waives its right to rescind (*ontbinden*) this Agreement, in whole or in part, on the basis of article 6:265 DCC or to request a competent court to amend this Agreement on the basis of article 6:230(2) DCC. If a Party has made an error (*heeft gedwaald*) in making this Agreement, it shall bear the risk of that error and waives its right to nullify (*vernietigen*) this Agreement.

17.10.2 The applicability of articles 6:89, 7:17 and 7:20 up to and including 7:23 DCC is excluded under or in connection with this Agreement.

17.11 Termination

17.11.1 This Agreement can only be terminated in accordance with Clauses 4.8 (*Long stop date*) and 6.3 (*Breach of Completion obligations*).

17.11.2 The right of the Sellers and the Purchaser to terminate this Agreement, including the exercise thereof, shall be in addition and without prejudice to (i) any other rights that the Sellers or the Purchaser has accrued and (ii) any other rights and remedies available to the Sellers or the Purchaser under or otherwise in connection with this Agreement and under Law.

17.11.3 If the Agreement is terminated by the Sellers or the Purchaser pursuant to Clause 17.11.1, such termination shall be without prejudice to (i) any other rights that the Company has accrued and (ii) any other rights and remedies available to the Company towards the Purchaser under or otherwise in connection with this Agreement and under Law.

17.11.4 Clauses 4.3.9, 16 (*Announcements and confidentiality*), 17 (*Miscellaneous*) and 18 (*Governing law and dispute resolution*), shall survive any termination of this Agreement.

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17.12 No withholding and gross up

Any sum payable under this Agreement must be paid free and clear of all Tax Deductions except as required by Law. If a Party is required by Law to make a Tax Deduction, the amount of the payment shall be increased to an amount which, after making the required Tax Deduction, leaves the recipient in the same after-Tax position as it would have been, had no Tax Deduction been required. For the avoidance of doubt, this Clause 17.12 (*No withholding and gross up*) does not apply to any income or trade Tax due by the recipient in respect of any sum payable under or otherwise in connection with this Agreement.

17.13 Method of payment

17.13.1 Any payment under or otherwise in connection with this Agreement must be effected in euros unless otherwise agreed between the Parties, by crediting the full amount of the payment (without any deduction whatsoever, whether for bank transmission charges or otherwise) for same day value to the bank account specified by the Party entitled to the payment, reasonably in advance and in sufficient detail to enable payment by telegraphic or other electronic means to be effected, on or before the due date for payment.

17.13.2 Payment of any amount in accordance with this Agreement shall be a good discharge to the payor (and those on whose behalf such payment is made) of its obligation to make such payment and the payor (and those on whose behalf such payment is made) shall not be obliged to see to the application of the payment as between those on whose behalf the payment is received.

17.13.3 Unless explicitly agreed otherwise in writing, any payment in whatever form by the Purchaser to the Sellers under or in connection with this Agreement shall be paid to each Seller at their Pro Rata Part.

17.14 No set-off

The Purchaser shall not have any right of set-off against, deduction from or suspension of payment under this Agreement and waives such rights under Dutch law in respect of this Agreement.

17.15 Adjustment of the Consideration

If, after Completion, any payment is made by (any of) the Sellers to the Purchaser or by the Purchaser to (any of) the Sellers under this Agreement, other than the payment of interest under Clause 17.16.2 (*Interest*), such payment shall be deemed an adjustment of the Consideration equal to any such amount.

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17.16 Costs

17.16.1 Unless this Agreement provides otherwise, all costs which a Party has incurred or shall incur in preparing, concluding or performing this Agreement are for its own account. The Sellers shall pay the fees of the Notary in connection with this Transaction.

17.16.2 The Purchaser shall pay all stamp, real estate and other transfer, registration, sales and other similar Taxes, duties, fees, imposts, levies and charges due by the Sellers or the Purchaser in connection with the sale and transfer of the Shares, including any German real estate transfer tax due in connection with the sale and transfer of the Shares, in each case excluding any such Taxes, duties, fees, imposts, levies and charges levied by reason of a claw-back or recapture in relation to any prior transaction, act or event.

17.17 Interest

If any Party defaults in the payment when due of any amount payable under or otherwise in connection with this Agreement, the liability of that Party shall be increased to include interest on that amount from the date when such payment is due (inclusive) under or otherwise in connection with this Agreement until the date of actual payment (exclusive) at the Interest Rate.

17.18 Notices

17.18.1 Any notice, request, consent, claim, demand and other communication between the Parties in connection with this Agreement (a "**Notice**") must be in writing and be given and be deemed to have been duly given if written in the English language and:

- (a) delivered personally (Notice deemed given upon receipt);
- (b) delivered by registered post (Notice deemed given upon confirmation of receipt), with a copy by email, which copy does not constitute a Notice;
- (c) sent by an internationally recognised overnight courier service such as Federal Express (Notice deemed given upon receipt), with a copy by email, which copy does not constitute a Notice; or
- (d) sent by email (following confirmation of receipt, Notice deemed given upon sending).

17.18.2 All Notices must be sent to the Persons and at the addresses set out in Schedule 17 (Details for Notices), or such other Persons or addresses as notified to the other Party from time to time.

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18 GOVERNING LAW AND DISPUTE RESOLUTION

18.1 Governing law

This Agreement (including this Clause 18.1 (*Governing law*) and Clause 18.2 (*Dispute resolution*)) and the documents to be entered into pursuant to it, save as explicitly otherwise provided therein, and any non-contractual obligation arising out of or in connection therewith, are governed exclusively by Dutch law.

18.2 Dispute resolution

All disputes arising out of or in connection with this Agreement and the documents to be entered into pursuant to it, save as explicitly otherwise provided therein, including disputes concerning their existence, their validity and any non-contractual obligation, but excluding disputes concerning the determination of the amount of Additional Leakage in accordance with Paragraph 5 (*Additional Leakage*) of Part 1 of Schedule 5 (*Leakage*) (except if Paragraph (g) of Part 1 of Schedule 5 (*Leakage*) applies), shall be finally and exclusively resolved by arbitration in accordance with the Arbitration Rules of the Arbitration Institute of the Netherlands (*Arbitragereglement van het Nederlands Arbitrage Instituut*, the "**NAI Arbitration Rules**"), taking into account that:

- (a) the legal seat of the arbitration (*plaats van arbitrage*) shall be Amsterdam, the Netherlands and any hearings shall take place in the Netherlands;
- (b) the language of the arbitration shall be English;
- (c) the arbitral tribunal shall consist of three arbitrators to be appointed in line with the NAI Arbitration Rules. The chairman of the arbitral tribunal must be a lawyer (*advocaat*) admitted to the list (*tableau*) of the Dutch Bar Association;
- (d) the arbitral tribunal shall decide and make its arbitral award(s) in accordance with the rules of law (*naar de regelen des rechts*). The arbitral tribunal shall not assume the powers of an *amiable compositeur* or decide *ex aequo et bono*; and
- (e) arbitral proceedings under this Clause 18.2 (*Dispute resolution*) may not be consolidated with other arbitral proceedings, whether on the basis of article 1046 of the Code of Civil Procedure (*Wetboek van Burgerlijke Rechtsvordering*) or otherwise, except for other arbitral proceedings under this Clause 18.2 (*Dispute resolution*).

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18.3 Domicile

Without prejudice to Clause 17.18 (Notices), for the purpose of any dispute under or otherwise in connection with this Agreement and the documents to be entered into pursuant to it, save as explicitly otherwise provided therein, the Purchaser has irrevocably chosen domicile in the Netherlands to serve process in the Netherlands and to deliver any documents relating to dispute resolution at the offices of the Purchaser.

[SIGNATURES TO FOLLOW ON THE NEXT PAGE]

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**CONFIDENTIAL
PROJECT APOLLO
NEGOTIATED FORM
22 NOVEMBER 2019**

**THIS AGREEMENT HAS BEEN SIGNED ON THE DATE STATED AT THE
BEGINNING OF THIS AGREEMENT BY:**

Diamond Chubu Europe B.V.

By:
Title:

By:
Title:

Mitsubishi Corporation

By:
Title:

By:
Title:

Chubu Electric Power Co., Inc.

By:
Title:

By:
Title:

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[Names of the Sellers to be inserted]

By:
Title:

By:
Title:

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Eneco Groep N.V.

By:
Title:

By:
Title:

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Schedule 1 Definitions and Interpretation

1 Definitions

Capitalised terms, including those used in the introduction and preamble of this Agreement, have the following meaning:

"Accounting Principles" means the international accounting standards within the meaning of, and adopted in accordance with, Regulation (EC) No. 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards;

"Adherence Documents" means the Post-Acceptance Letter (as defined in the Offer Protocol) and each of the documents attached to the Post-Acceptance Letter (including an executed deed of adherence to the SPA) of each Adhering Shareholder;

"Adherence Notice" means the notice delivered to the Purchaser pursuant to Clause 5.5.2;

"Adhering Shareholders" has the meaning set out in recital (L) of this Agreement;

"Affiliate" means with respect to a Person, (i) any ultimate parent of that Person (either alone or acting in concert) and any and all Persons with respect to which now or hereafter the ultimate parent of that Person, directly or indirectly, holds more than 50% (fifty per cent.) of the nominal value of the share capital issued, or more than 50% (fifty per cent.) of the voting power at general meetings, or has the power to appoint and to dismiss a majority of the directors or otherwise to direct the activities of such Person and (ii) any Person that forms part of the same group of entities as set out in Section 2.24b of the DCC;

"Agreement" means this sale and purchase agreement including the Schedules;

"Aggregate Pro Rata Part" means a part equal to the aggregate number of Tendered Shares at the relevant point in time divided by the aggregate number of all Shares, which at the date of this Agreement equals [●] divided by [●] resulting in a percentage of [●] per cent ([●]%)⁶

⁶ **Drafting note:** percentages to be included in execution copy.

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"**Announcements**" has the meaning set out in Clause 16.1.1;

"**Annual Accounts**" means the Company's audited consolidated financial statements in respect of the Group for the twelve-month (12-month) period ending on the date immediately prior to 1 January 2019, as included in the Data Room;

"**Annual Business Plan**" means the five (5) year business plan of the Group as approved annually by the Supervisory Board;

"**AWV**" has the meaning set out in Clause 4.9.1;

"**Belgian Submarine Cable Licenses**" means (i) the submarine cable licences of Norther NV and (ii) the two submarine licences of SeaMade NV (concerning the Seastar and Mermaid projects);

"**Belgian Submarine Cable Licences Notifications**" has the meaning set out in Clause 4.1(c);

"**BMWi**" has the meaning set out in Clause 4.9.1;

"**Brugel**" means the Brussels regional energy regulator;

"**BU Energy Trade**" means the business unit of the Group consisting of Eneco Energy Trade B.V. and its subsidiaries;

"**BU Installation Companies**" means the business unit of the Group consisting of Eneco Installatiebedrijven Groep B.V. and its subsidiaries;

"**Business Day**" means a day which is not a Saturday, a Sunday or a public holiday in the Netherlands under article 3 of the Dutch General Time Limits Act (*Algemene Termijnenwet*) or Japan;

"**Business Plan**" the Group's business plan as included in the Information Memorandum for Project Apollo dated April 2019;

"**Business Warranties**" means the warranties set out in Schedule 11 (*Business Warranties and Tax Warranties*) other than the Tax Warranties;

"**Central Works Council**" has the meaning set out in recital (H) of this Agreement;

"**Chubu Group**" means the Chubu Parent and its Affiliates from time to time

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(excluding the Group Companies);

"**Committee of Selling Shareholders**" has the meaning ascribed to it in the Offer Protocol;

"**Company**" has the meaning set out in the preamble of this Agreement;

"**Company's Subsidiaries**" means the Group Companies, excluding the Company;

"**Competition Authority**" means, to the extent it has jurisdiction in respect of the relevant matter, the European Commission, the German competition authority (*Bundeskartellamt*) and any competition authority of any other jurisdiction;

"**Completion**" means the transfer of the Shares by the Sellers to the Purchaser in accordance with Paragraph 1 of Part 1 of Schedule 9 (*Completion Actions*);

"**Completion Conditions**" means the conditions set out in Clause 4.1 (*Conditions*);

"**Completion Date**" means the date on which Completion occurs;

"**Confidentiality Letters**" has the meaning set out in recital (D) of this Agreement;

"**Consideration**" has the meaning set out in Clause 3 (*Consideration*);

"**Continuing Shareholders**" means the shareholders set out in Part 1 of Schedule 4 (*Continuing Shareholders*) who shall hold Shares after Completion minus the parties listed as 'Seller' in the Adherence Notice;

"**Control**" (including its correlative meanings, "**Controlled by**", "**Controlling**", and "**under common Control with**") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting interests, by contract or otherwise;

"**CREG**" means the Belgian Federal Commission for Electricity and Gas Regulation (the Belgian federal energy regulator);

"**CWaPE**" means the Walloon regional energy regulator (*Commission wallonne pour l'énergie*);

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"**Data Room**" means the virtual data room for the Transaction containing documents and information relating to the Group, the contents of which are filed on the USB enclosed as Schedule 16 (Data Room USB) as provided to the Purchaser on the Offer Protocol Date, as well as the virtual data room for the Transaction which is only accessible for a clean-team of the Purchaser in accordance with the clean-team protocol dated 17 July 2019, which are filed on a USB to be held in escrow by the Notary and that will be provided to the Purchaser at Completion;

"**DCC**" means the Dutch Civil Code (*Burgerlijk Wetboek*);

"**Deeds of Transfer**" means the notarial deeds of transfer of the Shares substantially in the form included in Part 2 of Schedule 9 (Completion Actions) and "**Deed of Transfer**" means any one of them or the relevant one of them, as the context requires;

"**Defaulting Party**" has the meaning set out in Clause 6.3.1;

"**Disclosed**" means facts, matters or other information which have been included or provided or referred to in the Disclosed Information in such a manner and with such detail that a prudent individual who is knowledgeable in the relevant field reviewing the relevant information should reasonably be able to identify and assess the financial, legal, commercial or other relevance of such disclosure for the Purchaser, provided that the Parties expressly agree that any reference in the Disclosed Information to any information or any other document that is not in fact included in the Disclosed Information shall be deemed not Disclosed;

"**Disclosed Information**" means:

- (a) this Agreement;
- (b) the Due Diligence Information;
- (c) the Sell-side Reports; and
- (d) any written correspondence prior to the Offer Protocol Date between any of the Sellers, or any of their Representatives on the one hand and the Purchaser or any of its Affiliates, on the other hand;

"**Due Diligence Information**" means:

- (a) the information contained in the Data Room;

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- (b) the documents and other written information provided to the Purchaser during and pursuant to the question and answer sessions;
- (c) the questions raised and answers provided as included in the Data Room; and
- (d) any documentation received by the Purchaser, its Affiliates or their respective Representatives during or in connection with:
 - (i) the management presentations (by the executive management team and management of business units) held in Rotterdam on 18 July 2019 and the BU expert sessions on 4 and 5 September 2019;
 - (ii) the expert meetings organised by BCG, KPMG, DNV GL, Stibbe and Eneco as held on 19 July, 19 July, 19 August, 20 August and 26 until 28 August 2019, respectively; and
 - (iii) any site visits;

"EBITDA" means the consolidated net profit (or loss) of the Group Companies before (i) interest income and interest charges, (ii) income or expenses from corporation tax, deferred tax, corporate income tax or other equivalent profit based taxes and (iii) depreciation and amortisation;

"Effective Date" means 1 July 2019 00:01 hours CET;

"Employees" means all those persons employed by the Group at the Offer Protocol Date;

"Encumbrance" means any claim, charge, pledge, mortgage, lien, option, equity, power of sale, hypothecation, usufruct, retention of title, right of pre-emption, right of first refusal or other third-party security interests of any kind or an agreement to create any of the foregoing;

"Eneco Beheer" means Eneco Beheer N.V., a limited liability company with corporate seat in Rotterdam, the Netherlands and Trade Register number 24246970;

"Equity Consideration" has the meaning set out in Clause 3(a);

"EUR" or **"euro"** means the official currency of the Netherlands as at the Offer Protocol Date, it being understood, however, that if such currency is no longer the official currency of the Netherlands at the date on which an amount

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becomes due and payable under or otherwise in connection with this Agreement, "EUR" or "euro" shall be deemed to refer to its equivalent in the official currency of the Netherlands using the applicable conversion rate at such date, and, in respect of the provisions in Clause 5.1.1 and the provisions in Schedule 11 (*Business Warranties and Tax Warranties*), "EUR" or "euro" also means its equivalent in any other currency;

"**Euro Commercial Paper Programme**" means the EUR 750 million Euro commercial programme, details of which are included in the Data Room in folder 05.01.01.01.02.08;

"**EV-to-Equity Bridge**" means the enterprise value to Equity Consideration bridge as included in Schedule 6 (*EV-to-Equity Bridge*);

"**Filing Date**" has the meaning set out in Clause 4.4.2(a);

"**Fundamental Warranties**" means the warranties set out in Schedule 10 (*Fundamental Warranties*);

"**Governmental Authority**" means, to the extent it has jurisdiction in respect of the relevant matter, any judicial, legislative, executive, regulatory or competition authority or any other governmental authority, of the Netherlands or any other jurisdiction, including of the European Union;

"**Governmental Order**" means any final and non-appealable order, writ, judgement, injunction, decree, declaration, stipulation, determination or award entered by or with any Governmental Authority;

"**Group**" means the Group Companies;

"**Group Companies**" means the companies listed in document 01.01.01.03 in the Data Room and "**Group Company**" means any one of them or the relevant one of them, as the context requires;

"**Guarantee**" means any guarantee, indemnity, surety, letter of comfort, or other assurance, security, obligation to contribute (*bijdrageplicht*), or undertaking, given by a Person to secure or support the obligations (actual or contingent) of any other Person, whether given directly, by way of counter-indemnity, or otherwise;

"**Heat Municipalities**" has the meaning set out in Clause 9.3.5;

"**Independent Supervisory Board Member**" means either of the independent supervisory board members referred to in Clause 9.3.2, or their successors

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appointed in accordance with this Agreement and meeting the requirements of Clause 9 (*Non-Financial Covenants and strategic intentions*);

"Individual Claims" has the meaning set out in Clause 12.2.2(a);

"Insurance Provider" means the provider of the W&I Insurance Policy, pursuant to the warranty and indemnity insurance, taken out by the Purchaser as beneficiary in connection with the Transaction;

"Interest Rate" means an interest rate of (a) three-month (3-month) EURIBOR or, if and when such interest rate is no longer available, a comparable ESTER rate, plus (b) one per cent (1%);

"Interim Period" means the period starting at the Effective Date and ending at the moment of the execution of the Deeds of Transfer;

"Key Employee" means each of the employees listed in documents 09.02.01.17.05 and 09.02.03.10.12 in the Data Room;

"Key Managers" means Ruud Sondag, Guido Dubbeld, Kees Jan Rameau, Frans van de Noort, Hans Peters, Cees de Haan, Michiel van den Berg, Jacco Taal and Mark Belloni;

"Permits" has the meaning as set out in Paragraph 14.1 of Schedule 9 (*Business Warranties and Tax Warranties*);

"Knowledge of the Sellers" or any similar expression means, with respect to any fact or matter, the actual knowledge of any of the mayor of the municipality of Lansingerland (in its capacity as chairman) and the relevant Representatives of the municipalities of Rotterdam, Den Haag and Dordrecht, designated by the Selling Shareholders as members of transaction committee for the Transaction;

"Law" means any applicable statute, law, treaty, ordinance, order, rule, directive, regulation, code, executive order, injunction, judgment, decree or other requirement of any Governmental Authority;

"Leakage" has the meaning set out in Part 1 of Schedule 5 (*Leakage*);

"Leakage Amount" has the meaning set out in Part 1 of Schedule 5 (*Leakage*);

"Leakage Notice" means the Notice from the Sellers' Delegate to the Purchaser, substantially in the form included in Part 2 of Schedule 5 (*Leakage*);

"Leakage Statement" means the statement from the Sellers' Delegate to the

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Purchaser substantially in the form included in Part 3 of Schedule 5 (Leakage);

"**Lease Agreements**" has the meaning as set out in Paragraph 8.13 of Schedule 11 (Business Warranties and Tax Warranties);

"**Leased Properties**" means all real property leased by the Group Companies at the Offer Protocol Date in respect of which the rental fee paid or payable by the Group Companies exceeds EUR 100,000 (hundred thousand euro) per annum, including any concessions and protected leases;

"**Legal VDD Report**" means the legal vendor due diligence report in respect of the Group prepared by Stibbe N.V. and dated 30 June 2019;

"**Liabilities**" means all liabilities, duties, and obligations of every description, whether deriving from contract, common law, Law or otherwise, whether present or future, actual or contingent, ascertained or unascertained, or disputed and whether owed or incurred severally or jointly or as principal or surety, and "**Liability**" means any one of them or the relevant one of them, as the context requires;

"**Locked Box Accounts**" means the Company's consolidated financial statements in respect of the Group for the six-month (6-month) period ending immediately before the Effective Date, as reviewed by an auditor and as attached in Schedule 7 (Locked Box Accounts);

"**Locked Box Interest**" means EUR 156,000,000 (one hundred fifty-six million euro);

"**Losses**" means all damage, losses, liabilities, costs (including reasonable legal costs and reasonable experts' and consultants' fees), charges, expenses, claims and demands assessed in accordance with article 6:96 et seq. DCC, excluding any loss of profit, loss of revenue, loss of contract, loss of goodwill, loss of claim or any other indirect or consequential losses;

"**Management Board**" means the management board of the Company;

"**Material Assets**" means (i) any fixed assets (including property, plants and equipment) and real property of the Group with a book value exceeding EUR 15,000,000 (fifteen million euro) and (ii) projects that are in development and will have an expected book value of more than EUR 15,000,000 (fifteen million euro), in respect of which (i) there are executed agreements in place in respect of any required land holdings and (ii) it is expected that any required permits will be obtained, as listed in the Legal VDD Report;

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"Material Contracts" has the meaning as set out in Paragraph 12.1 of Schedule 11 (*Business Warranties and Tax Warranties*) and **"Material Contract"** means any one of them or the relevant one of them, as the context requires;

"Material Loan" means any loan entered into by any Group Company with a principal amount in excess of twenty-five million euro (EUR 25,000,000);

"Material Subsidiary" means any Group Company which (i) gross assets, turnover or EBITDA (on a consolidated basis) in the financial year 2018 equals or exceeds five (5) per cent of the gross assets, turnover or EBITDA of the Group (on a consolidated basis) in that year, or (ii) is the holding company of any BU of the Group's business or (iii) otherwise has a strategic importance to the Group, as listed in the Legal VDD Report;

"MC Group" means the MC Parent and its Affiliates from time to time (excluding the Group Companies);

"Merger Clearance Condition" has the meaning set out in Clause 4.1(a);

"Merger Clearance Filings" has the meaning set out in Clause 4.1(a);

"Minister" has the meaning set out in Clause 4.1(b);

"Minister's Approval Condition" has the meaning set out in Clause 4.1(b);

"NAI Arbitration Rules" has the meaning set out in Clause 18.2 (*Dispute resolution*);

"Non-Defaulting Party" has the meaning set out in Clause 6.3.1;

"Non-Financial Covenants" has the meaning set out in Clause 9.1 (*Non-Financial Covenants and Strategic Intentions*);

"Notary" means civil law notary mr. C.A. Voogt or any other civil law notary of De Brauw Blackstone Westbroek N.V., or such civil law notary's substitute;

"Notary Letter" means the notary letter substantially in the form included in Part 4 of Schedule 9 (*Completion Actions*);

"Notice" has the meaning set out in Clause 17.18.1;

"Notification to the Minister" has the meaning set out in Clause 4.1(b);

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"**Offer**" has the meaning set out in recital (G) of this Agreement;

"**Offer Protocol**" has the meaning set out in recital (G) of this Agreement;

"**Offer Protocol Date**" has the meaning set out in recital (G) of this Agreement;

"**Parties**" means the Sellers, the Purchaser, and the Company, and "**Party**" means any one of them or the relevant one of them, as the context requires;

"**Permitted Co-Investment**" has the meaning set out in Clause 8.1.3;

"**Permitted Leakage**" has the meaning set out in Part 1 of Schedule 5 (Leakage);

"**Person**" means an individual, a company or corporation, a partnership, a limited liability company, a trust, an association, a foundation or other legal entity or unincorporated organisation, including any Governmental Authority;

"**Post-Acceptance Period**" has the meaning ascribed to it in the Offer Protocol;

"**Power of Attorney**" means a power of attorney authorising the execution of a Deed of Transfer, substantially in the form attached as Part 3 of Schedule 9 (*Completion Actions*);

"**Pre-Qualification Criteria**" means the pre-qualification criteria as set out in the pre-qualification letter to the Purchaser dated 5 March 2019;

"**Proposed Co-Investor**" has the meaning set out in Clause 8.1.1;

"**Pro Rata Part**" means each Seller's shareholding (in the number of Shares as set out in Schedule 3 (*Sellers' Shareholdings*)) as a percentage of the aggregate number of Tendered Shares;

"**Purchaser**" has the meaning set out in the preamble of this Agreement;

"**Purchaser Guaranteed Obligations**" has the meaning set out in Clause 14.4.1(a);

"**Purchaser Parents' Warranties**" has the meaning set out in Clause 14.4.1(a);

"**Purchaser's Group**" means the Purchaser, its direct shareholders and each of their Affiliates from time to time, including, after Completion, the Group Companies;

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"**Purchaser's Warranties**" has the meaning set out in Clause 14.1 (*Purchaser's Warranties*);

"**Relevant Indemnified Party**" has the meaning set out in Clause 13.15 (*Procedure for Third-Party Claims*);

"**Relevant Indemnifying Party**" has the meaning set out in Clause 13.15 (*Procedure for Third-Party Claims*);

"**Relief**" means any relief, allowance, amortisation, depreciation, credit, deduction, exemption, tax loss carry forward, set-off or other relief of a similar nature granted or available in relation to Tax and any repayment or right to a repayment of Tax;

"**REMU Claim**" means the alleged claim from N.V. REMU Houdstermaatschappij and Stichting Beheer Belangen GCN against Eneco Beheer in relation to a privatisation fee following Eneco Beheer's acquisition of REMU N.V. in December 2002, of which further details are Disclosed in the Data Room in folder 02.03.01.02. 03;

"**REMU Group**" means REMU N.V. and its Affiliates;

"**REMU Indemnity**" has the meaning set out in Clause 11.1 (*The REMU Indemnity*);

"**Representative**" means (i) with respect to the Group and Purchaser: any director, officer, employee, advisor, accountant or other agent of the Group or the Purchaser's Group, respectively, and (ii) with respect to the Sellers: their mayor, aldermen, officials, officers, directors, members, employees, advisers or any other agent of the Sellers;

"**Sellers**" has the meaning set out in the preamble of this Agreement and "**Seller**" means any one of them;

"**Sellers' Delegate**" means the Alderman of the Municipality of Rotterdam with participating interests in his or her portfolio (at Offer Protocol Date; A.H.P. van Gils), or an official designated by him or her;

"**Sellers' Warranties**" means the Fundamental Warranties, the Business Warranties and the Tax Warranties;

"**Sell-side Reports**" means:

- (a) the financial vendor due diligence report in respect of the Group

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prepared by KPMG and dated 3 June 2019, including the additional reports dated 6 September 2019 and 31 October 2019;

- (b) the fiscal vendor due diligence report in respect of the Group prepared by KPMG and dated 3 June 2019;
- (c) the Legal VDD Report;
- (d) the commercial vendor due diligence report in respect of the Group prepared by BCG and dated March 2019;
- (e) the technical vendor due diligence report in respect of the Group prepared by DNV GL and dated 3 April 2019; and
- (f) the IT vendor due diligence report in respect of the Group prepared by KPMG and dated 3 June 2019;

"Shareholders" has the meaning set out in recital (A) of this Agreement;

"Shares" has the meaning set out in recital (A) of this Agreement;

"Signing" means the signing of this Agreement by the Parties;

"Supervisory Board" means the supervisory board of the Company;

"Tax" or **"Taxation"** means all forms of taxation whether direct or indirect and whether levied by reference to income, profits, gains, net wealth, asset values, turnover, added value or other reference and statutory, governmental, state, provincial, local governmental or municipal impositions, duties, contributions, rates and levies (including without limitation social security contributions and any other payroll taxes), whenever and wherever imposed (whether imposed by way of a withholding or deduction or otherwise and whether by way of a primary or secondary liability), and in respect of any Person as well as all interest, fines, surcharges and penalties relating to Taxation;

"Tax Audit" means any audit, investigation, visit, inspection, request for information letter or notice, announcement, assessment, discovery, access order, or other proceedings from any Tax Authority with respect to any Tax matter of a Group Company;

"Tax Authority" means any taxing or other authority competent to impose any liability in respect of Taxation or responsible for the administration, collection, or administration and collection of Taxation or enforcement of any Law in

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relation to Taxation;

"Tax Benefit" means:

- (a) any Tax Refund actually received by any Group Company or a member of the Purchaser's Group;
- (b) any reduction of Tax actually owing by any Group Company or a member of the Purchaser's Group; and
- (c) the net present value of any future Relief, including, but not limited, to a Relief in the form of additional depreciation or amortisation allowances, at the level of any Group Company or other member of Purchaser's Group. The net present value of such a future Relief shall be calculated (i) using a discount rate of ten per cent (10%), (ii) as per the date any amount is due by the Sellers to the Purchaser, (iii) on the basis of the then prevailing Tax rates, and (iv) on the assumption that such Relief shall be used after any other available Relief;

"Tax Claims" means any claims under the Tax Covenant or a breach of the Tax Warranties;

"Tax Covenant" means the covenant relating to Taxation set out in Paragraph 2 of Schedule 13 (Tax);

"Tax Deduction" means any deduction or withholding for or on account of Tax;

"Tax Refund" means a rebate, refund or repayment in respect of Tax;

"Tax Return" means any return, declaration, election, report or information relating to Taxes, including any schedule or attachments to, and any amendment of, any return, declaration, report or information relating to Taxes;

"Tax Warranties" means the warranties set out in Paragraph 17 (*Tax*) of Schedule 11 (Business Warranties and Tax Warranties);

"Tendered Shares" has the meaning set out in recital (K) of this Agreement;

"Third-Party Claim" has the meaning set out in Clause 13.15.1;

"Transaction" has the meaning set out in recital (M) of this Agreement;

"VAT" means within the European Union any Tax as may be levied in accordance with (but subject to derogations from) Directive 2006/112/EC and outside the European Union any Tax levied by reference to added value, sales

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or consumption;

"VREG" means the Flemish energy regulator;

"W&I Insurance Policy" means the insurance policy pursuant to the warranty and indemnity insurance, taken out by the Purchaser as beneficiary in connection with the Transaction and as included in Schedule 19 (W&I Insurance Policy); and

"W&I Insured Amount" has the meaning given to it in Schedule 19 (W&I Insurance Policy);

2 References to persons

References to a person include any Person, whether or not having separate legal personality and wherever incorporated or registered.

3 Headings and references to Clauses, Schedules, Parts and Paragraphs

3.1 Headings have been inserted for convenience of reference only and do not affect the interpretation of any of the provisions of this Agreement.

3.2 A reference in this Agreement to:

- (a) a Clause is to the relevant clause of this Agreement;
- (b) a Schedule is to the relevant schedule to this Agreement;
- (c) a Part is to the relevant part of the relevant Schedule; and
- (d) a Paragraph is to the relevant paragraph of the relevant Schedule.

4 References to Liabilities and obligations

Any reference in this Agreement to a Liability or obligation of any member of the Purchaser's Group is deemed to incorporate a reference to an obligation on the part of the Purchaser to procure that the relevant Liability is discharged or obligation is performed by the relevant member(s) of the Purchaser's Group, on the terms of and subject to the conditions set out in this Agreement.

5 Information

References to books, records or other information include books, records or other information stored in any form including paper, magnetic media, films, microfilms, electronic storage devices and any other data carriers.

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6 Legal terms

In respect of any jurisdiction other than the Netherlands, a reference to any Dutch legal term is to be construed as a reference to the term or concept which most nearly corresponds to it in that jurisdiction.

7 Other references

7.1 Whenever used in this Agreement, the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation".

7.2 Whenever used in this Agreement, the words "as of" shall be deemed to include the day or moment in time specified thereafter.

7.3 Whenever used in this Agreement, the term "third party" means any Person or entity other than the Purchaser, the Purchaser Parents, the Company and their respective Affiliates, and the Sellers.

7.4 Any reference in this Agreement to any gender includes all genders, and words importing the singular include the plural and vice versa.

7.5 For purposes of Clause 5.1.1(s) and Paragraph 17 of Schedule 11 (*Business Warranties and Tax Warranties*), 'material' means, as the context requires, (i) relating to an amount of Tax in excess of one million euro (EUR 1,000,000) or (ii) a matter, claim, dispute, investigation or obligation of which the consequences are, or could reasonably be expected to be, in excess of one million euro (EUR 1,000,000).

8 No presumption against drafting Party

The Parties agree that they have been represented by counsel during the negotiation and execution of this Agreement and, therefore, waive the application of any Law or rule of construction providing that ambiguities in an agreement or other document shall be construed against the Party drafting that agreement or document.

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Schedule 2 Sellers

- 1 **[legal name Seller]**, a [legal form] with corporate seat in [city], [country] and [Trade Register number][company number] [number], (the "**Name**");
- 2 **[legal name Seller]**, a [legal form] with corporate seat in [city], [country] and [Trade Register number][company number] [number], (the "**Name**");
- 3 **[legal name Seller]**, a [legal form] with corporate seat in [city], [country] and [Trade Register number][company number] [number], (the "**Name**"); and
- 4 **[legal name Seller]**, a [legal form] with corporate seat in [city], [country] and [Trade Register number][company number] [number], (the "**Name**").

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Schedule 3 Sellers' Shareholdings

	Number of Shares	Percentage of the aggregate shareholding of the Sellers
[•]	[•]	[•]%
[•]	[•]	[•]%
Total	[•]	[[•]]%

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Schedule 4 Continuing Shareholders

PART 1 CONTINUING SHAREHOLDERS

- 1 **[legal name]**, a [legal form] with corporate seat in [city], [country] and [Trade Register number][company number] [number], (the "**Name**");
- 2 **[legal name]**, a [legal form] with corporate seat in [city], [country] and [Trade Register number][company number] [number], (the "**Name**"); and
- 3 **[legal name]**, a [legal form] with corporate seat in [city], [country] and [Trade Register number][company number] [number], (the "**Name**").

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PART 2 CONTINUING SHAREHOLDERS' SHAREHOLDINGS

	Number of Shares	Percentage of the aggregate shareholding of the Sellers
[•]	[•]	[•]%
[•]	[•]	[•]%
Total	[•]	[•]%

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Schedule 5 Leakage

PART 1 LEAKAGE PROVISIONS

1 Definitions

Capitalised terms used in this Schedule 5 (Leakage) but not defined herein have the meaning as set out in Schedule 1 (Definitions and Interpretation). The following capitalised terms used in this Schedule 5 (Leakage) have the following meaning:

"Additional Leakage" means Leakage that has not been taken into account in determining the Consideration in accordance with Paragraph 2 (Leakage Amount) of Part 1 of this Schedule 5 (Leakage) and which was not otherwise reimbursed to the Purchaser or the Group by any of the Sellers;

"Additional Leakage Notice" has the meaning set out in Paragraph 5.1 of Part 1 of this Schedule 5 (Leakage);

"Advisory Fees" means any amount of fees, costs, and expenses of lawyers, accountants, brokers, finders, financial advisory, financial and tax assistance, data room advisory services and other advisors in respect of the Transaction, paid or incurred by any Group Company, except the costs of the Sell side Reports with a maximum up to EUR 3,000,000, to the extent incurred in respect of services or products primarily benefitting any of the Group Companies;

"Consultation Period" has the meaning set out in Paragraph 5.4 of Part 1 of this Schedule 5 (Leakage);

"Dividend Payment" means the dividend payment for an amount of EUR 68,000,000 over the financial year 2019, as determined by the general meeting of the Company in accordance with article 27.3 of the articles of association of the Company, of which an amount of EUR 32,300,000 shall qualify as Permitted Leakage;

"Independent Expert" has the meaning set out in Paragraph 5.4 of Part 1 of this Schedule 5 (Leakage);

"Leakage" means an amount equal to the sum of the following items, without duplication:

- (a) any dividends or other distributions, whether by way of share redemption, share capital reduction or otherwise, and any other payment in respect of any share capital of any Group Company, in each

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case whether in cash or in kind, paid or made by any Group Company to and for the benefit of any of the Sellers or any of their Related Persons;

- (b) the value of any asset, right or other benefit transferred by any Group Company to and for the benefit of any of the Sellers or any of their Related Persons, to the extent not transferred for an at arm's-length consideration;
- (c) the value of any waiver or forgiveness by any Group Company of any indebtedness or liability owed by any of the Sellers or any of their Related Persons to that Group Company;
- (d) any indebtedness or liability incurred or repaid by any Group Company to any of the Sellers or any of their Related Persons, to the extent not incurred for an arms' length consideration and the value of any encumbrances created over any of the assets of any Group Company for the benefit of the Sellers or any of their Related Persons;
- (e) any indebtedness or liability owed by any of the Sellers or any of their Related Persons to a third party, other than in respect of any indebtedness or liabilities in respect of which one of the Group Companies is the principal debtor, which is assumed or indemnified by any Group Company;
- (f) any Advisory Fees;
- (g) any bonus (in cash or in kind) paid or payable to any of the Sellers or any of their Related Persons or any Representatives of any Group Company, incurred or reimbursed by, or charged to, any Group Company, as an incentive to complete the Transaction;
- (h) any amounts for any management, advisory or service fees or other similar fees paid or payable at any time by any of the Group Companies to the Sellers or any of their Related Persons or any Representatives of any Group Company;
- (i) any amounts for any monitoring costs, recharges or similar fees or charges paid or payable at any time by any of the Group Companies to the Sellers or any of their Related Persons, except to the extent in the ordinary course of business and consistent with past practice;
- (j) any amount of Tax payable by any Group Company with respect to the items in paragraph (a) through (i) above (including, in particular and for

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the avoidance of doubt, any amount of VAT and social security premiums, employer levies and withholding taxes on payments or deemed payments of dividend including if incurred by way of gross-up); and

- (k) any agreement as to any of the matters referred to in items (a) up to and including (j) above, but only to the extent that it results in an actual payment by or liability for any Group Company,

in respect of paragraph (a) up to and including (k) above, unless the amount:

- (i) is designated as Permitted Leakage in Paragraph 4 (*Permitted Leakage*) of Part 1 of this Schedule 5 (*Leakage*);
- (ii) is covered by any specific allowance, provision or reserve in the Locked Box Accounts. For this purpose, an allowance, provision or reserve shall be deemed to be specific if it can be reasonably evidenced on the basis of the financial administration of the Group that such allowance, provision or reserve was intended by the management of the Group to relate fully or partly to the relevant fact, matter or claim; or
- (iii) is reflected in the EV-to-Equity Bridge (as net debt, other debt like items or otherwise).

"**Nominated Independent Expert**" has the meaning set out in Paragraph 5.4(a) of Part 1 of this Schedule 5 (*Leakage*);

"**Permitted Leakage**" has the meaning set out in Paragraph 4 (*Permitted Leakage*) of Part 1 of this Schedule 5 (*Leakage*);

"**Related Persons**" means any direct or indirect subsidiaries of any Seller or officers, directors, members or employees of any of the Sellers or such direct or indirect subsidiaries; and

"**Response Notice**" has the meaning set out Paragraph 5.2 of Part 1 of this Schedule 5 (*Leakage*).

2 Leakage Amount

Under Clause 3 (*Consideration*) of this Agreement, an amount (the "**Leakage Amount**") equal to the sum of all known Leakage, to the extent occurring in the Interim Period and calculated on an after-Tax basis in accordance with Paragraph 6 (*Leakage Tax benefits*) of Part 1 of this Schedule 5 (*Leakage*),

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shall be taken into account for the calculation of the Consideration as a deduction.

3 No Leakage

The Sellers hereby undertake to use their reasonable efforts to procure that no Leakage occurs in the Interim Period, except for the Dividend Payment.

4 Permitted Leakage

The Parties acknowledge and agree that the Group shall be entitled to make or have made the Dividend Payment in the Interim Period, of which an amount of EUR 32,300,000 shall qualify as permitted leakage (the "**Permitted Leakage**").

5 Additional Leakage

5.1 If and to the extent that the Purchaser, within nine (9) months after Completion, identifies that Additional Leakage has occurred in the Interim Period, the Purchaser shall be entitled to deliver within this nine (9) months period a Notice to the Sellers' Delegate setting out the Additional Leakage, together with reasonable evidence of the Additional Leakage (an "**Additional Leakage Notice**"). If and to the extent the Purchaser does not deliver such Additional Leakage Notice within nine (9) months after Completion, the Leakage Amount shall be as set out in the Leakage Notice.

5.2 Each Seller that has the benefit of any Additional Leakage shall within twenty (20) Business Days of receipt of the Additional Leakage Notice deliver a Notice to the Purchaser responding to the Additional Leakage Notice (a "**Response Notice**").

5.3 After delivery of the Response Notice, to the extent the Response Notice disputes the Additional Leakage Notice, the Seller referred to in Paragraph 5.2 and the Purchaser shall negotiate in good faith with the aim to reach agreement on the amount of Additional Leakage.

5.4 If the Seller referred to in Paragraph 5.2 and the Purchaser do not reach agreement on the amount of Additional Leakage within twenty (20) Business Days of receipt of, or the due date of, the Response Notice (the "**Consultation Period**"), the amount of Additional Leakage shall be determined by an independent expert (the "**Independent Expert**") subject to each of the following:

- (a) the Seller referred to in Paragraph 5.2 and the Purchaser shall be entitled to jointly nominate a reputable firm of registered accountants (*registeraccountants*) in the Netherlands and with international standing

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to be the Independent Expert, being Deloitte, EY, KPMG or PwC (the "**Nominated Independent Expert**");

- (b) if the Purchaser and the Seller referred to in Paragraph 5.2 agree to the Nominated Independent Expert within ten (10) Business Days after the end of the Consultation Period, this Nominated Independent Expert shall be the Independent Expert, however, if the relevant Seller and the Purchaser do not agree on the Nominated Independent Expert within ten (10) Business Days after the end of the Consultation Period, they shall each be entitled to request the chairman of the Dutch Professional Institute for Accountants (*NBA*) to nominate a reputable firm of registered accountants (*registeraccountants*) in the Netherlands of international standing being either Deloitte, EY, KPMG or PwC to be the Independent Expert and upon nomination such firm shall be deemed to be appointed as Independent Expert;
- (c) the terms of reference for the Independent Expert shall be to determine the amount of Additional Leakage, if any, within fifteen (15) Business Days of its appointment;
- (d) the Independent Expert shall be entitled to determine the procedure applicable to the determination of the amount of Additional Leakage, if any;
- (e) the Independent Expert shall act as expert and not as arbitrator and shall determine the dispute by means of a binding advice (*bindend advies*);
- (f) the determination of the Independent Expert shall be final and binding on the Parties, save in the event of manifest error, in which event the relevant part of the determination shall be remitted to the Independent Expert for correction; and
- (g) the allocation of the costs of the Independent Expert between the Parties shall be determined by the Independent Expert, pro rata to the difference between his determination of Additional Leakage and Additional Leakage as proposed by each Party.

5.5 If for any reason no Independent Expert is appointed within forty (40) Business Days after the receipt of the Response Notice, the Parties shall refer the dispute on the amount of Additional Leakage to The Netherlands Arbitration Institute in accordance with Clause 18.2 (*Dispute resolution*).

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5.6 Each Seller referred to in Paragraph 5.2 shall pay to the Purchaser any amount of Additional Leakage that the relevant Seller received or otherwise benefitted from, agreed or determined in accordance with Paragraphs 5.1 through Paragraph (g), calculated on an after-Tax basis in accordance with Paragraph 6 (*Leakage Tax benefits*), within thirty (30) Business Days of agreement or determination, as an adjustment of the Consideration.

6 Leakage Tax benefits

6.1 Subject to Paragraphs 6.2 through 6.4 (inclusive) below, any amount of Leakage shall be calculated on an after-Tax basis. For this purpose, "on an after-Tax basis" means the amount of each Leakage item:

- (a) *minus* the amount of VAT recoverable by a Group Company in respect of such Leakage item; and
- (b) *minus* an amount equal to any reduction of corporate income tax otherwise due by a Group Company resulting from the deductibility of the relevant Leakage item, the amount of the reduction to be determined in accordance with Paragraph 6.4 below,

each except if and to the extent such benefit qualifies as Accounts Relief (as defined in Schedule 13 (Tax)).

6.2 For the purpose of determining "on an after-Tax basis" of all Leakage items, no amount for recoverable VAT (including reverse charge VAT) or amount for corporate income tax reductions will be taken into account unless and to the extent that, before Completion, the Seller or the Group Companies have reached a written agreement with the relevant Tax Authority that such Leakage items are deductible for corporate income tax purposes and/or recoverable for VAT purposes (as the case may be) by the relevant Group Company, or the Sellers and the Purchaser agree that such items are deductible and/or recoverable (as the case may be) by the relevant Group Company.

6.3 If no agreement as meant in Paragraph 6.2 above is reached with the relevant Tax Authority before Completion and the Sellers and the Purchaser have not agreed on the matter before Completion, then the Purchaser will procure that the Group Companies use reasonable efforts to reach such agreement with each other and the relevant Tax Authority as soon as reasonably possible after Completion and, if and when such agreement is reached, the Purchaser will pay, within ten (10) Business Days of demand by the Sellers, the Sellers an amount equal to the amount of any VAT recovered by a Group Company or (as the case may be) the amount of any reductions of corporate income tax otherwise due by any Group Company, in each case less any reasonable out of

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pocket costs incurred by the Purchaser or the Group Companies for reaching the agreement.

- 6.4** For the purpose of Paragraph 6.1(b) above, the amount of the reduction of corporate income tax for any item of Leakage which is considered as deductible on the basis of Paragraph 6.2 or, as the case may be, 6.3 above will be determined by determining the amount of the Tax Benefit of such deductible item. In the case of application of Paragraph 6.2, the Sellers will determine the amount of the Tax Benefit, acting reasonably and in good faith and in the case of application of Paragraph 6.3, the Purchaser will determine the amount of the Tax Benefit, acting reasonably and in good faith. If the Purchaser or, as the case may be, the Sellers disagree with the determination of the Tax Benefit made by the other Party, and the Parties, having tried to resolve their disagreement in good faith, have not reached agreement on the amount of the Tax Benefit, then such disagreement shall be referred to Independent Expert for determination, whereby the provisions of Paragraph 5.4 above shall apply *mutatis mutandis*. In the case of application of Paragraph 6.2, however, the Sellers' determination shall, save in case of manifest error, be binding for purposes of the Leakage Notice and the disagreement will be settled as soon as reasonable possible after Completion.

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PART 2 LEAKAGE NOTICE

To:
[Purchaser]
[Address]

[place], [date at least ten (10) Business Days prior to Completion]

Dear Sir/Madam,

Words and definitions used, but not defined in this Notice, have the same meaning as ascribed to them in the sale and purchase agreement between [•] as the Sellers, Eneco Groep N.V. as the Company, and Diamond Chubu Europe B.V. as the Purchaser and Mitsubishi Corporation and Chubu Electric Power Co., Inc. as the Purchaser Parents dated [•] (the "**Agreement**").

This Notice sets out the relevant amounts of each item listed as Leakage under the Agreement in order to determine the Leakage Amount and the identity of the Seller or Sellers that benefited from that item of Leakage.

TABLE 1: Items of Leakage (excluding Permitted Leakage)	Beneficiary Seller	Net amount
[•]		EUR [•]
[•]		EUR [•]
[•]		EUR [•]
[•]		EUR [•]
Total Leakage		EUR [•]

TABLE 2: Items of Permitted Leakage	Net amount
[•]	EUR [•]
[•]	EUR [•]
[•]	EUR [•]
[•]	EUR [•]
Total Permitted Leakage	EUR [•]

Please sign the enclosed copy of this letter for your acknowledgement and agreement.

Yours sincerely,

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[•]

Name: [•]
Title: [•]

Name: [•]
Title: [•]

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For acknowledgement and agreement:

[Purchaser]

Name:
Title:

Name:
Title:

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PART 3 LEAKAGE STATEMENT

To:
[Purchaser]
[Address]

[•], [Completion Date]

Dear Sir/Madam,

Words and definitions used, but not defined in this Notice, have the same meaning as ascribed to them in the sale and purchase agreement between [•] as the Sellers, Eneco Groep N.V. as the Company, and Diamond Chubu Europe B.V. as the Purchaser and Mitsubishi Corporation and Chubu Electric Power Co., Inc. as the Purchaser Parents dated [•] (the "**Agreement**").

This Leakage Statement represents the statement as referred to in Paragraph 1(c) of Schedule 9 (Completion Actions).

The Sellers hereby declare that they are not aware of any circumstances giving rise to a claim for Leakage other than notified to the Purchaser through the Leakage Notice.

Yours sincerely, for and on behalf of the Sellers,

[•]

[•]

Name:
Title:

Name:
Title:

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Schedule 6 EV-to-Equity Bridge

[To be furnished by the Purchaser in accordance with the below template]

<u>Item</u>	<u>As per the Effective Date</u>	
	<u>Amounts in € '000</u>	
Enterprise value		[•]
Cash and cash-like items	[•]	
<i>[include relevant line items]</i>	[•]	
Debt and debt-like items	[•]	
<i>[include relevant line items]</i>	[•]	
Net debt adjustment		[•]
Working capital	[•]	
<i>[include relevant line items]</i>	[•]	
Normalized working capital	[•]	
Working capital adjustment		[•]
Equity value		[•]

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Schedule 7 Locked Box Accounts

[To be attached separately]

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Schedule 8 Contracts subject to Change of Control

Approach in respect of contracts marked with an asterisk (*) in this Schedule to be agreed upon between the Purchaser and the Company in accordance with Clause 5.1.3

1 **Financing Contracts**

- (a) EUR 50 million guarantee facility agreement between N.V. Eneco Beheer and Nationale Borg-Maatschappij;
- (b) EUR 50 million term loan agreement between N.V. Eneco Beheer and ING Bank, a branch of ING DiBa AG;
- (c) EUR 600 million revolving credit facility between N.V. Eneco Beheer and ABN AMRO Bank N.V. as coordinator, Coöperatieve Rabobank U.A. as facility agent and a syndicate of banks;
- (d) GBP 100 million facility agreement between N.V. Eneco Beheer and MUFG Bank (Europe) N.V.;
- (e) EUR 43.3 million green term loan facility agreement between N.V. Eneco Beheer and ING Groenbank N.V.;
- (f) EUR 33.4 million green term loan facility agreement between N.V. Eneco Beheer and Triodos Groenfonds N.V.;
- (g) EUR 23.3 million green loan facility agreement between N.V. Eneco Beheer and ASN Groenprojectenpoel;
- (h) EUR 100 million uncommitted green term loan facility agreement between N.V. Eneco Beheer and ING Groenbank N.V.;
- (i) EUR 25 million bank guarantee facility agreement between N.V. Eneco Beheer and Svenska Handelsbanken AB (publ);
- (j) EUR 17.6 million facility agreement between WO-ZU-XIX-Wind B.V. as borrower and Triodos Bank B.V. and Triodos Groenfonds N.V. as lenders;
- (k) EUR 10.8 million facility agreement between Maasmond-windenergie B.V. as borrower and Triodos Bank B.V. and Triodos Groenfonds N.V. as lenders;
- (l) EUR 30 million facility agreement between LichtBlick SE and Commerzbank Aktiengesellschaft*;

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- (m) EUR 20 million facility agreement between LichtBlick SE and Postbank - eine Niederlassung der DB Privat- und Firmenkunden AG;*
- (n) EUR 10 million facility agreement between LichtBlick SE and HSH Norbank AG (now Hamburg Commercial Bank AG);* and
- (o) EUR 10 million facility agreement between LichtBlick SE and Zurich Insurance plc.*

2 Commercial Contracts

- (p) Framework electric and GOO supply agreement between Eneco Zakelijk B.V. and Coöperatief Verenigd Inkoop en Verbruik van Energy op het Nederlandse Spoorwegnet u.a.;
- (q) Electricity and GOO supply agreement between Eneco Zakelijk B.V. and DSM Sourcing B.V.;
- (r) Framework electric and GOO supply agreement between Eneco Zakelijk B.V. and KPN B.V.;
- (s) Electricity supply agreement between Eneco Zakelijk B.V. and Schiphol Nederland B.V.;
- (t) Gas supply agreement between Eneco Zakelijk B.V. and the Dutch State;*
- (u) Framework electricity and gas supply agreements dated 26 November 2013 and 10 January 2019 entered into between Eneco Zakelijk B.V. and ABN AMRO Bank N.V.;
- (v) Electricity and GOO supply agreement between Eneco Zakelijk B.V. and the municipality of Rotterdam;*
- (w) Framework gas supply agreement (no. IKE-WNV-G-1016) between Eneco Zakelijk B.V. and Intrakoop;*
- (x) Framework electricity supply agreement (no. IKE-WNV-E-1016) between Eneco Zakelijk B.V. and Intrakoop;*
- (y) Framework electricity supply agreement (no. IKE-WNV-EA-E-1116) between Eneco Zakelijk B.V. and Intrakoop;*

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- (z) Framework agreement (service level agreement) between Bakker Sliedrecht Electro Industrie B.V. and Eneco Wind B.V.;*
- (aa) Heat supply agreement between Eneco Warmte & Koude Leveringsbedrijf N.V. and N.V. Nuon Warmte;
- (bb) Electricity supply agreement between Eneco Consumenten B.V. and Coöperatieve Inkoopvereniging Superunie B.A.;*
- (cc) Power purchase agreement between Eneco Energy Trade B.V. and Zonnepark Albranswaard B.V.;*
- (dd) Power purchase agreement between Eneco Energy Trade B.V. and Zonnepark Energielandgoed Eelde B.V.;*
- (ee) Power purchase agreement between Eneco Energy Trade B.V. and Zonnepark Tynaarlo B.V.;*
- (ff) Power purchase agreement between Eneco Energy Trade B.V. and Zonnepark West Maas en Waal B.V.;*
- (gg) Energy supply agreement between Eneco Sevor Limited and Honda of the UK Manufacturing Limited;*
- (hh) Electricity supply agreement between Eneco Belgium N.V. and Janssen Pharmaceutice N.V.
- (ii) Parent company guarantee issued by Nordex SE for the benefit of Eneco Windpark Delfzijl Noord V.O.F.;
- (jj) Development, sale and purchase agreement between Eneco Wind B.V., Ventolines B.V. and Twirre B.V.;
- (kk) Umbrella agreement for the development and operation of Windpark Delfzijl Zuid Uitbreiding between Eneco Wind B.V., Zuidzes B.V., Straathof B.V., HiNerg B.V. and Vereniging Koepel Windpark Delfzijl Zuid Uitbreiding (among others);
- (ll) Parent company guarantee issued by Nordex SE for the benefit of Solano Wind SA; and
- (mm) Parent company guarantee issued by Nordex SE for the benefit of Tivano SA.

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3 IP and IT Contracts

- (nn) Co-existence agreement between Eneco B.V. and Enercon GmbH;
- (oo) Framework Agreement between Quby B.V. and Electrabel NV;*
- (pp) IT Framework Agreement between Oxxio Nederland B.V., Cen B.V., as customers, and Tam Tam B.V.;
- (qq) IT agreement between Oxxio Nederland B.V. and Dept Design & Technology B.V.;
- (rr) Cooperation agreement between LichtBlick SE and WWF Germany;
- (ss) License agreement between LichtBlick SE and WWF Panda;
- (tt) Cooperation agreement between LichtBlick SE and German Alpine Association; and
- (uu) Advertising agreement between LichtBlick SE and Borussia Dortmund GmbH Co KGaA;*

4. Other

- (vv) Contract management agreement between Eneco B.V. and Harvey Nash B.V.;
- (ww) Contract management agreement between Eneco B.V. and IT-Staffing Nederland B.V.; and
- (xx) Cooperation agreement between Eneco Zakelijk B.V. and Pon's Automobielhandel.

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Schedule 9 Completion Actions

PART 1 ACTIONS

1 Actions at Completion

At Completion, following completion of the actions set out in Clauses 6.2(a) and 6.2(b), each Seller and the Purchaser shall procure that the following actions are taken in the following sequence:

- (a) the Purchaser shall deliver to the Sellers and the Company evidence of satisfaction of the Merger Clearance Condition and the Minister's Approval Condition;
- (b) the Company shall deliver to the Purchaser evidence of satisfaction of the Belgian Submarine Cable Licences Approval Condition;
- (c) the Sellers' Delegate shall deliver or make available to the Purchaser the Leakage Statement in accordance with Clause 5.6 (*Delivery of the Leakage Notice*);
- (d) the Purchaser shall deliver to the Sellers a copy of (i) the W&I Insurance Policy and (ii) the underwriting letter, duly executed by the Purchaser and the Insurance Provider;
- (e) the Company shall deliver to the Notary the original and up-to-date shareholders' register of the Company;
- (f) each Seller, the Purchaser and the Company shall deliver to the Notary an executed and, to the extent required by the Notary, notarised and apostilled, Power of Attorney to execute the Deeds of Transfer;
- (g) the Seller's Delegate on behalf of the Sellers shall deliver to the Purchaser a confirmation that the Company is not a party to the shareholders agreement entered into by the Sellers;
- (h) the Seller's Delegate on behalf of the Sellers shall confirm that the shareholders' covenant was terminated and that the Company does not have any surviving obligations thereunder;
- (i) the Sellers shall deliver to the Purchaser the written resignations of E. Goudswaard, M. Keim, R. Zandbergen and A. Nicolaï as members of the Supervisory Board, subject only to Completion;
- (j) the Sellers and the Company shall deliver to the Purchaser a resolution of the Supervisory Board to (i) determine that the Management Board shall consist of

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six (6) members, (ii) appoint [●] and, to the extent not yet appointed at Completion, Mr. H. Peters as additional members of the Management Board, in each case subject to and effective per Completion;

- (k) the Sellers shall deliver to the Purchaser a resolution of the general meeting to (i) grant discharge to and accept the resignation of E. Goudswaard, M. Keim, R. Zandbergen and A. Nicoali as the current members of the Supervisory Board effective per Completion, (ii) appoint the following persons designated by the Purchaser as new members of the Supervisory Board: Mr J.M. Kroon, [●], [●], [●], [●], [●] and [●] subject to and effective per Completion, (iii) approve the Dividend Payment and (iv) re-appoint M. Enthoven as member of the Supervisory Board; and
- (l) each Seller shall transfer its respective Shares to the Purchaser, the Purchaser shall accept the transfer, and the Sellers and the Company shall acknowledge this transfer, the foregoing to be effected by execution of the Deeds of Transfer by the Sellers, the Purchaser and the Company before the Notary.

2 Actions following Completion

- 2.1** Immediately following completion of the actions set out in 1(a) through (l) (*Actions at Completion*) above, the Purchaser and the Company shall procure that the notification procedure to CREG, VREG, CWaPE and Brugel in relation to the gas and electricity supply licences granted to Eneco Belgium N.V. will be initiated.
- 2.2** Immediately following Completion the Purchaser and the Company shall procure that the Supervisory Board Profile as attached hereto as Schedule 22 (*Supervisory Board Profile*) is adopted.
- 2.3** As soon as reasonably possible after Completion and in any event within sixteen (16) calendar days following Completion, the Purchaser and the Company shall procure that the articles of association of the Company and the Supervisory Board regulations are amended, among others, to include the matters set forth in Schedule 21 (*Amendments to the articles of association and the regulations for the Supervisory Board*).
- 2.4** On the Business Day immediately following (i) the successful investigation by the Notary into the state of insolvency with respect to the Sellers and the Purchaser not revealing the applicability of any relevant insolvency proceedings and (ii) completion of the actions set out in 1(a) through (l) (*Actions at Completion*) above, each Seller and the Purchaser shall procure that the following actions are taken in the following sequence on the first Business Day after the Completion Date:

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- (a) the Notary shall transfer the Consideration to the accounts of the Sellers;
and
- (b) the Notary shall update the original shareholders' register of the Company
and deliver the same to the Company.

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PART 2 DRAFT DEED OF TRANSFER

[To be furnished by the Sellers.]

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PART 3 DRAFT POWER OF ATTORNEY

[To be furnished by the Sellers.]

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PART 4 DRAFT NOTARY LETTER

[To be furnished by the Sellers.]

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Schedule 10 Fundamental Warranties

1 Ownership of the Tendered Shares, incorporation, authority, corporate action

- 1.1** Each Seller is the sole legal and beneficial owner of its respective Shares, as set out in Schedule 3 (Sellers' Shareholdings) next to its name.
- 1.2** Each Seller has the full power and authority to enter into and perform this Agreement and any other documents to be executed by such Seller pursuant to or in connection with this Agreement, each of which, when executed, shall constitute valid and binding obligations on such Seller, enforceable in accordance with its terms.
- 1.3** The execution and performance by a Seller of this Agreement and the consummation of the Transaction do not and will not (i) violate any provision of the organisational documents of that Seller or (ii) violate or result in a breach of or constitute a default under any Law which governs the authority of that Seller to execute and perform this Agreement.
- 1.4** To the extent applicable, each of the Sellers has taken all action required by such Seller to authorise it to enter into and perform in accordance with this Agreement and any other documents to be executed by them pursuant to or in connection with this Agreement.

2 Corporate information of the Company

- 2.1** The Company validly exists and is a legal entity duly incorporated under Dutch law.
- 2.2** The Tendered Shares and the Shares held by the Continuing Shareholders comprise the whole of the issued and outstanding share capital of the Company and the Shares have been properly and validly issued and are fully paid up.
- 2.3** The Tendered Shares are free from any Encumbrances.
- 2.4** The shareholders register (*aandeelhoudersregister*) of the Company correctly and completely reflects the current shareholdings in the Company.
- 2.5** No depositary receipts (*certificaten*) have been issued for any of the Tendered Shares.
- 2.6** No person other than the Sellers has the right, or has claimed to have the right, (whether exercisable now or in the future and whether contingent or not) to call for the conversion, issue, registration, sale or transfer, amortisation or

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repayment of any share capital or any other security giving rise to a right over, or an interest in, the capital of the Company under any option, agreement or other arrangement (including conversion rights and rights of pre-emption).

- 2.7** There are no proceedings in relation to any compromise or arrangement with creditors or any winding up, bankruptcy or other insolvency proceedings concerning the Company.
- 2.8** The constitutional documents made available in the Data Room are true and accurate copies of the constitutional documents of the Company, to the Knowledge of the Sellers, there have not been and are not any material breaches by the Company of its constitutional documents.

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Schedule 11 Business Warranties and Tax Warranties

1 Events from the Effective Date

In the period starting at the Effective Date (included) and ending at the Offer Protocol Date, no Group Company has taken any action which, if it had been taken after the Offer Protocol Date, would have constituted a violation of Clause 5.1.1 (taking into account Clause (a) and 5.1.5), excluding Clause 5.1.1. (w)

2 Insolvency

2.1 There are no proceedings in relation to any compromise or arrangement with creditors or any winding up, bankruptcy or other insolvency proceedings concerning the Material Subsidiaries and, to the Knowledge of the Sellers, no events have occurred which, under Law, would justify such proceedings.

2.2 To the Knowledge of the Sellers, no events have occurred which, under Law, would justify any compromise or arrangement with creditors or any winding up, bankruptcy or other insolvency proceedings concerning the Company.

3 Corporate information of the Company's Subsidiaries

3.1 The Company directly or indirectly holds interests in the Material Subsidiaries.

3.2 Each Material Subsidiary exists and is a legal entity duly incorporated or organised, as applicable, under the Law of its jurisdiction of incorporation or organisation, as applicable.

3.3 The shares in the capital of the Material Subsidiaries that are not wholly owned by the Company have been duly issued, placed and fully paid up.

3.4 The shares in the capital of the Material Subsidiaries (other than the Group Companies that are (partially) financed through project financing) are free from any Encumbrances. None of the Material Subsidiaries has granted any rights to any Person to subscribe for shares in its capital.

3.5 No depositary receipts (*certificaten*) have been issued for any of the shares in the capital of the Material Subsidiaries.

3.6 No proposal has been made or resolution has been adopted, or judicial decision has been taken to dissolve or liquidate any Material Subsidiaries. There are no legal proceedings in relation to any compromise or arrangement with creditors or any winding up, bankruptcy or other insolvency proceedings concerning any Material Subsidiaries.

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3.7 The constitutional documents made available in the Data Room are true and accurate copies of the constitutional documents of the relevant Material Subsidiary and, to the Knowledge of the Sellers, there have not been and are not any material breaches by any Material Subsidiary of its constitutional documents.

4 Annual Accounts and Locked Box Accounts

4.1 The Annual Accounts give a true and fair view of the financial position and of the assets and liabilities of the Group at the date immediately prior to 1 January 2019 and of the results and cash flows of the Group for the twelve-month (12-month) period ending on the date immediately prior to 1 January 2019, in accordance with the accounting principles set out in the Annual Accounts.

4.2 The Locked Box Accounts fairly reflect the financial position of the Group at the date immediately prior to the Effective Date and of the results of the Group for the six-month (6-month) period ending on the date immediately prior to the Effective Date, in accordance with the accounting principles set out in the Locked Box Accounts.

4.3 The Annual Accounts and the Locked Box Accounts have been properly prepared on a basis consistent with that adopted in preparing the consolidated accounts of the Group for the previous two financial years acknowledging that the Locked Box Accounts have been prepared as half-year accounts.

5 Guarantees

5.1 Other than in the ordinary course of business, there is no material outstanding guarantee, indemnity, suretyship or security given by any Group Company regarding the obligations of any Person that is not a Group Company.

5.2 There are no claims outstanding under any material indemnity, suretyship or security given by any Group Company regarding the obligations of any Person that is not a Group Company.

5.3 There are no material actual or contingent liabilities of any of the Group Companies which have been incurred for, on behalf of, or in relation to matters other than in connection with the Business.

6 Employees and terms of employment

6.1 The Data Room contains, accurate and in all material aspects, complete information regarding the applicable material terms and conditions of employment of all the employees of any Group Company for which the payroll is performed centrally (i.e. limited to: Eneco Zakelijk B.V., Eneco Consumenten

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B.V., Eneco Services B.V., N.V. Eneco Beheer, Eneco Installatiebedrijven B.V. and Eneco Installatiebedrijven TI B.V.), Eneco Belgium NV or LichtBlick SE, including:

- (a) the total number of employees with a gross annual base salary in excess of one hundred thousand euro (EUR 100,000) on (i) an absolute basis and (ii) a full-time equivalent basis, as at 30 June 2019;
- (b) the applicable standard terms and conditions of employment that have been in place since 2014;
- (c) all material collective agreements, or any other applicable material contract with any labour organisation or works council, concluded by any Group Company affecting the terms of employment;
- (d) details of all material bonus arrangements, share option plans or (share) incentive schemes applicable to any employee; and
- (e) details of the formal employer, salary and other benefits (including contractual severance and retention arrangements), date of commencement of employment and location of employment of each Key Employee.

6.2 No employee employed by any Group Company for which the payroll is performed centrally (i.e. limited to: Eneco Zakelijk B.V., Eneco Consumenten B.V., Eneco Services B.V., N.V. Eneco Beheer, Eneco Installatiebedrijven B.V. and Eneco Installatiebedrijven TI B.V.) since 2014 and no employee employed by Eneco Belgium NV or LichtBlick SE is employed under employment terms that materially deviate from the standard terms and conditions of employment as provided in the Data Room.

6.3 In the twelve (12) months prior to the Offer Protocol Date, no Group Company has received any written notice of resignation from any Key Employee and no notice of termination has been given, nor have, in respect of such Key Employee, any termination proceedings been initiated.

6.4 Each Group Company has in relation to each of its Employees and former employees, trade unions, works councils and other bodies representing Employees, at all times complied with its material obligations and made all payments due under any Laws, collective bargaining agreements, covenants (*convenanten*), individual employment agreements, agreements with third parties and awards relevant to their conditions of service or employment or to the relations between the relevant Group Company and the Employees or former employees of any Group Company, reorganisation plans and social plans.

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- 6.5** No Group Company is involved in any strike or trade dispute or any dispute or negotiation regarding a claim with a trade union or other body representing Employees or former employees of any Group Company.
- 6.6** In the twelve (12) months prior to the Offer Protocol Date, there has been no material court, tribunal or arbitration proceedings involving a claim value exceeding EUR 100,000, between any Group Company for which the payroll is performed centrally (i.e. limited to: Eneco Zakelijk B.V., Eneco Consumenten B.V., Eneco Services B.V., N.V. Eneco Beheer, Eneco Installatiebedrijven B.V. and Eneco Installatiebedrijven TI B.V.) since 2014 and no employee employed by Eneco Belgium NV or LichtBlick SE and any of its or their respective employees, former employees, works councils and other bodies representing Employees or their relatives, and there are, to the Sellers' knowledge, no circumstances that are likely to give rise to any such material court, tribunal or arbitration proceedings, involving a claim value exceeding EUR 100,000, details of which have not been Disclosed in the Data Room.
- 6.7** All conditional and unconditional remuneration awards, including deferred awards and virtual participation awards, reimbursement of expenses, wages for the current salary period and accrued holiday pay for the current holiday year, have been appropriately provided for in the Locked Box Accounts to the extent material. The Transaction does not trigger any accelerated vesting of any deferred remuneration, which would be material.
- 6.8** Since the Effective Date, no structural change has been made in the remuneration of any employee employed by any Group Company for which the payroll is performed centrally (i.e. limited to: Eneco Zakelijk B.V., Eneco Consumenten B.V., Eneco Services B.V., N.V. Eneco Beheer, Eneco Installatiebedrijven B.V. and Eneco Installatiebedrijven TI B.V.), Eneco Belgium NV or LichtBlick SE, other than periodic increases in the ordinary course of business, which would be material.
- 6.9** To the Sellers' Knowledge, all temporary agency workers, within the meaning of Article 7:690 Dutch Civil Code (*uitzendkrachten*), that are used by any Group Company for which the payroll is performed centrally (i.e. limited to: Eneco Zakelijk B.V., Eneco Consumenten B.V., Eneco Services B.V., N.V. Eneco Beheer, Eneco Installatiebedrijven B.V. and Eneco Installatiebedrijven TI B.V.), are employed by duly registered temporary employment agencies. To the Knowledge of the Sellers, the Group Companies have correctly informed the temporary employment agencies they work with about the applicable user company remuneration (*inlenersbeloning*).
- 6.10** No self-employed person is treated or should have been treated as an employee for Tax purposes where not to do so would be material.

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7 Pensions

- 7.1** All obligations of the Group Companies in the Netherlands and Belgium respect of retirement benefits (including pension, early retirement, VPL-arrangements or similar benefits) payable on or following (early) retirement, invalidity, death or leaving service for or on behalf of any present or former employee of any of the Group Companies or any spouse or dependant of such employee, have been fully Disclosed in the Data Room.
- 7.2** The information related to the retirement benefits as provided in the Data Room is complete and accurate in all material aspects.
- 7.3** All contributions and other payments related to the period up to Effective Date due from or on behalf of any present or former employee of any of the Group Companies related to the obligations of the Group Companies in respect of retirement benefits, have been paid to the relevant provider or have been accounted for by a provision in the accounts of the relevant Group Company.
- 7.4** All retirement benefits plans have at all times been operated in accordance with the requirements of the relevant governmental and regulatory authorities as well as all applicable laws and regulations and each and every Group Company has observed and performed all its obligations under each relevant retirement benefits plan.
- 7.5** All present and former employees of each Group Company for which there was an obligation to do so have at all times participated and participate in each applicable retirement benefits plan on terms fully consistent with the terms and conditions of each applicable retirement benefits plan.
- 7.6** No Group Company is engaged in or has knowledge about any dispute or claim in relation to any retirement benefits plan including but not limited to any claim of or dispute with any present or former employee related to retirement benefits.

8 Material Assets and Leased Properties

General

- 8.1** The Data Room contains information regarding all Material Assets and Leased Properties.
- 8.2** Each Group Company owns, leases or has the right to use any Material Asset that is necessary to enable it to operate its business in the manner and to the extent that it is operated at the Offer Protocol Date.

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8.3 To the Knowledge of the Sellers, the use of the Material Assets and the Leased Properties by the Group Companies complies in all material respects with, if applicable, title deeds, lease agreements, the Law and all licences, permits, consents, authorisations, certificates and registrations.

8.4 None of the Group Companies has terminated any leaseholds (*erfpacht*) or building rights (*opstalrechten*) or other use rights granted in each case with respect to the properties which are Material Assets or Leased Properties currently owned or used by any of the Group Companies.

Material Assets

8.5 To the Knowledge of the Sellers, the Disclosed Information includes all relevant information with respect to the ownership of the Material Assets which are owned by any of the Group Companies and with respect to any material rights of third parties (including all Encumbrances) with respect to the Material Assets.

8.6 In respect of each Material Asset that is owned by any of the Group Companies, the relevant Group Company named as the owner is the sole legal and beneficial owner of the whole Material Asset and holds the legal title to that Material Asset. To the extent applicable and required, the Material Asset is registered in the relevant real estate register for the benefit of the relevant Group Company.

8.7 The Material Assets included in the Locked Box Accounts are legally and beneficially owned by and under the control of the relevant Group Company and not subject to (i) any Encumbrances other than any Encumbrances granted in connection with any project financing arrangements with respect such Material Asset (ii) any claim (whether actual or threatened in writing) or agreement for termination, removal or relocation in relation thereto.

8.8 There is no outstanding written notice or dispute involving any Group Company and any bona fide third party as to the ownership, occupation or use of any Material Asset.

8.9 To the Knowledge of the Sellers, to the extent applicable, all Material Assets are in all material respects used in accordance with the applicable zoning plans and environmental permits (*bouw – en omgevingsvergunningen*) and comply with the applicable regulations.

8.10 In the three (3) years prior to the Offer Protocol Date, no enforcement decisions have been announced or notified or threatened in writing to any Group Company by a Governmental Authority in respect of any Material Asset.

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8.11 All Material Assets owned, leased or used by the Group are sufficient for use in the business presently conducted by the relevant Group Company.

8.12 None of the Group Companies has agreed to dispose of any of the Material Assets owned or leased by it.

Leased Properties

8.13 The Disclosed Information includes all lease agreements with respect to the Leased Properties (the "**Lease Agreements**").

8.14 There are no representations, arrangements or understandings (including fees/contributions for tenant provisions, rent free periods, allowances and incentives, however named) between the Group Companies and the respective lessees/lessors relating to the subject matter of the Leased Properties which are not expressed in the respective Lease Agreements.

8.15 To the Knowledge of the Sellers, all Lease Agreements are in full force and effect, are legally valid and binding on the parties thereto, and enforceable in accordance with their terms.

8.16 No written allegation of any material breach of the Lease Agreements has been received by the Group Companies or the Sellers in the last three (3) years and, to the Knowledge of the Sellers, there are no circumstances likely to give rise to any material breach of, or material default under or termination of, the Lease Agreements by any party thereto.

8.17 No rent or fee payable by the Group Companies pursuant to any Lease Agreement is subject to increases other than in manners and for the amounts as per the relevant Lease Agreement and Law.

8.18 No Lease Agreement has been terminated and no written notices for termination of any Lease Agreement has been received by any Group Companies in the three (3) years prior to the Offer Protocol Date.

8.19 The Transaction will not result in a breach of, or give any third party a right to terminate, any Lease Agreement.

9 Environmental

9.1 For the purposes of this Paragraph 9 (*Environmental*),

"**Environment**" means any or all of the following media (alone or in combination): air, water (including water underground or in the soil), soil and land and any ecological systems and living organisms supported by these media;

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"Environmental Authority" means any Governmental Authority having jurisdiction to determine any matter arising under Environmental Law and/or relating to the Environment;

"Environmental Law" means all Laws of any relevant jurisdiction in force at the Offer Protocol Date whose purpose is to protect or prevent pollution of the Environment, human health or safety or to regulate emissions, discharges, or releases of Hazardous Substances into the Environment, or to regulate the use, treatment, storage, burial, disposal, release containment, remediation, transport or handling of Hazardous Substances;

"Environmental Permit" means any licence, permit, consent, authorisation, certificate, registration and exemption which is issued, granted or required under Environmental Law which is material to the business of the Group as currently conducted;

"Hazardous Substances" means, to the extent regulated by the Environmental Authority, any wastes, pollutants, contaminants and any other natural or artificial substance (whether in the form of a solid, liquid, gas or vapour) which is capable of causing harm or damage to the Environment or the health of any person; and

"Relevant Period" means the period commencing four (4) years before and ending at the Offer Protocol Date.

- 9.2** To the Knowledge of the Sellers, each Group Company is conducting and during the Relevant Period has conducted its business in material compliance with Environmental Law and all applicable supranational, national, local and other laws and regulations regarding safe working conditions to carry on the business.
- 9.3** To the Knowledge of the Sellers, the consummation of the transactions provided for in this Agreement will not result in termination or modification of any of the material Permits.
- 9.4** The Seller has included in the Disclosed Information copies of material operating and other material Permits with respect to Material Assets held by the each of the Group Companies as required under applicable Environmental Laws.
- 9.5** All Environmental Permits and safe working conditions permits which are material to the business of the Group as currently conducted have been obtained, are in force and, to the Knowledge of the Sellers, have been complied with in all material respects during the Relevant Period.

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- 9.6** No Group Company has received any written notice during the Relevant Period of any civil, criminal, regulatory or administrative action, claim investigation or other proceeding or suit relating to a contravention of Environmental Law or Environmental Permits or all applicable supranational, national, local and other laws and regulations regarding safe working conditions which are material to the business of the Group as currently conducted from an Environmental Authority, any employees or third parties.
- 9.7** No Group Company has received written notice during the Relevant Period from any Environmental Authority that it is intending to:
- (a) revoke or suspend any Environmental Permit without granting a new one, except for Environmental Permits that are not necessary for that Group Company anymore after revoking such Environmental Permit; and
 - (b) amend any Environmental Permit to the extent such amendment would to the Seller's Knowledge (i) limit the ability of the relevant Group Company to operate its business activities in any material respect and/or (ii) lead to additional material costs.
- 9.8** Except as reserved in the Locked Box Accounts, to the Knowledge of the Sellers, none of the real property owned by the Group with a book value exceeding EUR 15,000,000 nor the Leased Properties or any of the groundwater thereunder is contaminated with any Hazardous Substances and to the Seller's Knowledge no investigation is being initiated in connection with any alleged liability or Hazardous Substances or safe working conditions and during the Relevant Period, to the Knowledge of the Sellers, there have been no material incidents with respect to any non-compliance with Environmental Laws or in respect of any Hazardous Substances or safe working conditions relating to the Material Assets or Leased Properties that has resulted in a material containment, reporting, clean-up obligation or other liability on the part of the Group pursuant to any Environmental Law.

10 Intellectual property, ownership, authorised use

- 10.1** For the purposes of this Paragraph 10 (*Intellectual Property, ownership, authorised use*), "**Intellectual Property**" means trademarks, service marks, trade names, domain names, logos, patents, design rights, copyrights, database rights and all other similar rights in any part of the world, including know-how, and where those rights are obtained or enhanced by registration, any registration of those rights and applications and rights to apply for those registrations. "**Group Intellectual Property**" means the Intellectual Property the absence of which would have a material effect on the Group.

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10.2 The Group Intellectual Property:

- (a) is (or where appropriate in the case of pending applications, shall upon registration be) legally owned by, licensed to or used under the authority of the owner by the relevant Group Companies;
- (b) owned by the relevant Group Companies, is, to the Knowledge of the Sellers, not being infringed or opposed by any person active in the industry in which the Group is active, in the countries in which the Group is active; and
- (c) owned by the relevant Group Companies, is not licensed to a third party except under those licences, details of which are Disclosed in the Data Room.

10.3 To the Knowledge of the Sellers, the processes employed by the Group Companies do not infringe any rights in Intellectual Property of any third party which if enforced would have a material effect on the Group.

10.4 In the three (3) years prior to the Offer Protocol Date, no written notice or claim by any third party has been received the Group Companies indicating that the Group Intellectual Property has not been adequately protected to preserve the secrecy, confidentiality or value thereof.

10.5 To the Knowledge of the Sellers, no action is pending, has been threatened in writing any Group Company against any person in respect of the Group Intellectual Property. No written notice has been received claiming any infringement, misappropriation, dilution or other material violation, by any Group Company of any Group Intellectual Property with respect to the operation or conduct of the Group.

10.6 To the Knowledge of the Sellers, the right of any Group Company to make use of and/or exploit the Group Intellectual Property shall not be affected by the execution or performance of this Agreement.

10.7 All renewal and maintenance fees and taxes due in respect of the Group Intellectual Property have been paid in full and each other action reasonably required to maintain and protect any registered Group Intellectual Property have been taken.

11 Information technology

11.1 For the purposes of this Paragraph 11 (*Information technology*), "**Software**" means computer software material to the Group's operations as presently conducted, whether in source or in object code, including but not limited to

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systems software, operational software, application software, interfaces and/or firmware, and all updates, upgrades and/or new versions thereto.

- 11.2** The Software is either owned by, or validly licensed, leased or provided to the relevant Group Company and there are, to the Knowledge of the Sellers, no circumstances in which the ownership, benefit, or right to use the Software may be affected by the execution or performance of this Agreement.
- 11.3** To the Knowledge of the Sellers, the Software is in reasonable operating order and substantially fulfils the purpose for which it was acquired. In the twelve (12) months prior to the Offer Protocol Date, there have been no failures or breakdowns of any computer hardware or Software, or other computer or communication systems, used or licensed exclusively in relation to the business of the Group, which have had a material effect on the Group.
- 11.4** The Group owns or has valid licences or other rights to use the Software it uses for the business of the Group, and such licenses are in full force and effect and have been complied with in all material respects.
- 11.5** Each Group Company has taken precautions designed to (i) secure the Software and maintain the confidentiality and integrity of all material confidential data stored, (ii) limit the risk of the Software being affected by any computer virus, ransomware or similar harmful code and (iii) perform regular back-ups of electronically stored data material for the continued business operations of the Group.

12 Material Contracts

- 12.1** The Data Room contains a copy or a summary of the material terms of any existing contract with any third party to which any Group Company is a party and which:
- (a) (i) involves a value of four million euro (EUR 4,000,000) annually or (fifteen million euro) (EUR 15,000,000) for the remaining duration of the contract or (ii) has been entered into with a contracting party listed in the Legal VDD Report in the top ten (10) for each business unit of the Business or in the top five (5) for BU Installation Companies (which have been Disclosed in the Data Room); or
 - (b) relates to M&A acquisitions and disposals with a purchase price exceeding four million euro (EUR 4,000,000) that were made by the Group during the last five (5) years with any ongoing actual or contingent liabilities; and

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- (c) any material shareholders' agreement relating to or entered into by any Group Company (i) that owns a Material Asset or (ii) that is a Material Subsidiary,

(the "**Material Contracts**").

- 12.2** To the Knowledge of the Sellers, all Material Contracts are legally valid, binding and enforceable in accordance with their respective terms and are in full force and effect.
- 12.3** In the twelve (12) months prior to the Offer Protocol Date, (i) no written notice of termination or of the intention to terminate has been received by any Group Company in respect of any Material Contract and (ii) no notice of default has been received by the Group Companies under the Material Contracts.
- 12.4** In the twelve (12) months prior to the Offer Protocol Date, not any Group Company, and to the Knowledge of the Sellers not any counterparty to a Material Contract, has breached any material provision of a Material Contract.
- 12.5** In the twelve (12) months prior to the Offer Protocol Date no notice of default has been received by the Group Companies under the Material Contracts which default will have a material adverse effect on the Group.
- 12.6** There are no existing contracts between, on the one hand, any Group Company and, on the other hand, any of the Sellers other than at arm's length terms.
- 12.7** All Material Contracts between a Group Company and end-users of the Group have been entered into and are in all material respects in conformity with the templates and general terms of business that have been Disclosed.

13 Material loans

In the three (3) years prior to the Offer Protocol Date, no Group Company has received notice (whether formal or informal) from any lenders requiring an early repayment of any Material Loan or threatening the enforcement by any such lender against any security which it may hold under such Material Loan and, to the Knowledge of the Sellers, there are no circumstances likely to give rise to any such notice.

14 Legal compliance

- 14.1** To the Knowledge of the Sellers, all material licences, permits, consents, authorisations, certificates and registrations that are required by the Group in respect of the Material Assets to conduct its business in compliance with Law (the "**Permits**") have been obtained and are in force.

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- 14.2** Each Group Company in respect of the Material Assets is conducting its business activities in material compliance with Law, in respect of Material Assets, the Permits.
- 14.3** To the Knowledge of the Sellers, in respect of the Material Assets there are no facts or circumstances which would be likely to give rise to any of the Permits being suspended, cancelled, revoked, or not renewed. Neither the execution nor the performance of this Agreement shall in itself cause any such Permits to be withdrawn or modified.
- 14.4** No written notification has been received by the Sellers or any Group Company in the past two (2) years that any Permits have been or are likely to be suspended, modified or revoked.
- 14.5** There is no investigation, disciplinary proceeding or inquiry by, or order, decree, decision or judgment of any Governmental Authority outstanding against any Group Company.
- 14.6** No Group Company has received any written notice in the twelve (12) months prior to the Offer Protocol Date from any Governmental Authority with respect to a material violation, failure or both to comply with any Law or requiring it to take or omit any action.
- 14.7** In the twelve (12) months prior to the Offer Protocol Date, no Group Company has received any written notice from any court, tribunal, public prosecutor, arbitrator, governmental agency or regulatory body with respect to a violation and/or failure to comply with any Law or requiring it to take or omit any action which will have a material adverse effect on the business of the Group.
- 14.8** No Group Company has received any written notice or allegation in the two (2) years prior to the Offer Protocol Date from any Governmental Authority in any jurisdiction (i) alleging non-compliance with any data protection Laws or (ii) prohibiting processing of personal data or transfer of personal data to any place.
- 14.9** All files, data and information of each of the Group Companies have been stored, maintained or otherwise kept exclusively by the Group Companies in question and are not dependent in whole or in part on any facility that the Group Company in question does not own or control.
- 14.10** To the Knowledge of the Sellers, in the twelve (12) months prior to the Offer Protocol Date, each of the Group Companies has observed the procedures designed to avoid unauthorised access to or use of any data stored or available in the systems and/or Software.

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14.11 To the Knowledge of the Sellers, no Group Company has suffered a material personal data breach or material security breach in the twelve (12) months prior to the Offer Protocol Date, and, to the Knowledge of the Sellers, no Group Company is subject to any material financial exposure as a result of any data breach or material security breach.

14.12 To the Knowledge of the Sellers, in the three (3) years prior to the Offer Protocol Date, each of the Group Companies has acted in accordance with all relevant Laws regarding the protection of privacy, data protection and cybersecurity in all material respects.

15 Antitrust and corruption

15.1 To the Knowledge of the Sellers, no Group Company is a party to any written or oral agreement (i) which contravenes any antitrust, anti-monopoly or anti-cartel Law, or (ii) is the subject of written notice received from any Governmental Authority that such agreement is unenforceable or void or renders the Group Company that is a party thereto liable to civil, criminal or administrative proceedings.

15.2 Each Group Company and, to the Knowledge of the Sellers, any agent or other third-party personnel acting under direction or knowledge of a Group Company, are and have at all times conducted their business activities in compliance with all applicable Law concerning bribery and corruption.

16 Litigation

16.1 No Group Company is involved, whether as claimant or defendant or other party, in any claim, proceeding, litigation, prosecution or arbitration (other than as claimant in the collection of debts arising in the ordinary course of its business) which involves a potential liability for such Group Company in excess of one million euro (EUR 1,000,000) in an individual case.

16.2 In the twelve (12) months prior to the Offer Protocol Date, no proceeding, litigation, prosecution or arbitration was threatened in writing against a Group Company which involves a potential liability for such Group Company in excess of one million euro (EUR 1,000,000), and to the Knowledge of the Sellers there are no facts or circumstances existing which are reasonably likely to give rise to the commencement of such proceedings.

16.3 Neither the Company nor any of the Key Employees or directors are engaged in, subject to or affected by any criminal investigation relating to a Group Company, nor are there to the Knowledge of the Sellers any such investigations threatened in writing.

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16.4 To the Knowledge of the Sellers, no commissions, discounts, rebates or other inducements, whether of cash or in kind, have been given by the Company or its directors or Employees where the same are capable of forming the basis of criminal prosecution of, or civil action against, the Company or any of the Employees.

17 Tax

17.1 Each Group Company has duly, and within any appropriate time limits (taking into account available extensions of filing periods), paid all material Taxation for which it is or has been liable to pay and has not been, and is not, under any material liability to pay any penalty, fine, surcharge or interest in respect of Tax.

17.2 All material withholdings and deductions relating to Taxation as are required by Law to be made by any Group Company have been so made correctly and properly and in a timely manner and have been properly and duly accounted for within the requisite period to the relevant Tax Authority.

17.3 All payroll withholdings which any Group Company is or was required to make has been made and has been accounted for to the relevant Tax Authority by the due date and all employer national insurance and other social security contributions for which any Group Company is or was liable have been paid to the relevant Tax Authority by the due date, including all withholding or contributions applicable to benefits in kind provided for, or employment related securities issued to, directors, employees or former employees of any Group Company or any persons required to be treated as such.

17.4 Each Group Company is and has at all times been exclusively resident for all material Tax purposes and subject to Taxation in its jurisdiction of incorporation only, and has not at any time been resident or had any branch, agency or permanent establishment in any other jurisdiction for any material Tax purpose (and no Tax Authority has ever sought to assert the same).

17.5 The Locked Box Accounts include (based on reasonably calculated estimated figures where required) provisions or reserves (as appropriate) for (i) Tax liabilities to be assessed on each Group Company or for which each Group Company is accountable (but was not liable to pay on or before Completion) in respect of gains, profits and wages earned, accrued, paid or received on or before the Effective Date (or deemed to have been earned, accrued or received) for any Tax, and in respect of any Event occurring (or deemed to have occurred) for any Tax purpose on or before the Effective Date, (ii) uncertain Tax positions, and (iii) temporary differences between commercial and Tax book values of assets and liabilities.

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- 17.6** All computations, Tax Returns, notices and other information, which are or have been required by Law to be filed with or provided to any Tax Authority by any Group Company for any Tax purpose have been made on a proper basis, have been filed or provided within the requisite period and were (when filed or provided) complete, true and correct in all respects and none of them is the subject of any dispute with or investigation by any Tax Authority.
- 17.7** Each Group Company has timely, correctly and properly submitted to the relevant Tax Authority all claims, notices, elections and disclaimers which have been assumed to have been made for the purposes of the Locked Box Accounts.
- 17.8** Each Group Company has in its possession or under its control all necessary records, invoices and other information relating to Taxation in respect of all periods, transactions and events which are required by law to be maintained or which are required to enable the Taxation liabilities of each Group Company to be calculated accurately in all respects.
- 17.9** Each Group Company is duly registered for the purposes of VAT in its country of incorporation. Up to the Offer Protocol Date, each Group Company has complied with all statutory provisions, rules, regulations, orders and directions concerning VAT, including the making on time of accurate returns and payments and the maintenance of records.
- 17.10** No Group Company is involved in any material Tax Audit or other unresolved dispute in relation to Taxes, nor has it in the last five (5) years been the subject of any material dispute, investigation, audit or non-routine visit by any Tax Authority. To the Knowledge of the Sellers, there is no planned investigation, audit or visit by any Tax Authority in respect of any Group Company and, to the Knowledge of the Sellers, there are no facts that might cause such an investigation, audit or visit to be instituted.
- 17.11** Each Group Company and any other company which has been treated as a member of the same group of companies as any Group Company for the purposes of any Tax, including any consolidated Tax group, fiscal unity or equivalent thereof, has complied in all respects with all statutory requirements, orders, provisions, rules, regulations, orders and directions or conditions relating thereto, including the terms of any written agreement reached with any appropriate Tax Authority.
- 17.12** None of the Group Companies have been a party to or otherwise involved in, any transaction, scheme or arrangement the main purpose or object of which is to avoid (absent any business reason) Taxation.

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- 17.13** No Tax Authority has agreed, in the last five (5) years, to operate any special arrangement or agreement (being an arrangement or agreement, including tax rulings, not based on a strict and correct application of the relevant legislation) in relation to any Group Company's Tax affairs and no Group Company has a request pending before a Tax Authority for any such arrangement or agreement. Any transaction for which a Tax ruling has been obtained or an agreement has been reached with the Tax Authority has been carried out only in accordance with the terms of such ruling or agreement and the facts and circumstances described therein. No facts or circumstances have arisen since the date of any such agreement or ruling which would cause the agreement or ruling to become invalid, void or ineffective.
- 17.14** No Group Company has been the beneficiary of any unlawful state aid.
- 17.15** Neither in the current financial year nor in the preceding five (5) financial years has any Group Company claimed, used or requested exemptions, facilities, roll-over relief or deferrals in relation to Tax that could result in a claw-back or recapture, or otherwise give rise to Tax, after the Completion Date, including but not limited to exemptions or deferrals of Tax relating to any reorganization or merger.
- 17.16** Any document that may be necessary in proving the title of a Group Company to any asset which is owned by a Group Company is (if required) duly stamped for stamp duty purposes or has had the transfer or registration tax due in respect of it paid. To the Knowledge of the Sellers, there are no circumstances in which any Group Company will after Completion be liable to pay an amount of stamp duty land tax (or any similar Tax), submit a stamp duty land tax or similar transaction return or a stamp duty land tax self-certificate (or equivalent documents or filings in any jurisdiction) in respect of any transaction entered into or action taken.
- 17.17** None of the assets which are owned by each Group Company are the subject of any charge, power of sale or mortgage in favour of any Tax Authority.

18 Insurance

- 18.1** The Data Room includes an overview of all material insurances of the Group.
- 18.2** To the Knowledge of the Sellers, in respect of the insurances referred to in Paragraph 18.1, all premiums due before the Offer Protocol Date have been paid and no Group Company has received any notification that the insurances are not valid or enforceable or has in the past five (5) years been declined insurance in relation to the Conventional Risks (as defined below).

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- 18.3** The insurances of the Group give cover against risks which are normally insured against by companies carrying on similar business activities or owning assets of a similar nature (the "**Conventional Risks**").
- 18.4** To the Knowledge of the Sellers, there are no facts or circumstances which will materially increase the premiums payable under any of the insurance policies entered into by the Group or which may lead to a continuation or renewal on less favourable terms.
- 18.5** The insurances do not contain any change of control clauses that will give any third party a right to terminate cover under any such insurance as a result of the Transaction.

19 Disclosure

To the Knowledge of the Sellers, all information which could reasonably be expected to be important for a prospective purchaser of the Tendered Shares to obtain a true and fair view of the business taken as a whole, the material assets and liabilities of the Group Companies as per the date immediately prior to the Offer Protocol Date has been Disclosed and the Disclosed Information is not materially untrue or inaccurate.

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Schedule 13 Tax

1 Definitions

In addition to the terms defined in Schedule 1 (Definitions and Interpretation), in this Schedule 13 (Tax) the following definitions are used:

"Accounts Relief" means a Relief, which:

- (a) has been shown, or treated, as an asset in the EV-to-Equity Bridge or the Locked Box Accounts; or
- (b) has been taken into account in computing (and reducing or eliminating) a provision for deferred Tax which appears in the EV-to-Equity Bridge or the Locked Box Accounts;

"Actual Tax Liability" means:

- (a) a liability of any Group Company to make or suffer an actual or increased payment of Tax to a Tax Authority (including a payment by way of a set-off against a current Tax receivable); and
- (b) any liability of a Group Company as a result of or in connection with the recovery by or on behalf of any governmental authority of state aid directly relating to Tax that is held to be incompatible with the internal market of the European Union (as meant in the Treaty of the Functioning of the European Union);

"Deemed Tax Liability" means

- (a) the loss of or failure to obtain an Accounts Relief (provided that the amount of the Deemed Tax Liability can in such case never exceed the amount of the asset included in the EV-to-Equity Bridge or Locked Box Accounts in respect of such Relief) in which case the amount of the Deemed Tax Liability shall be the amount of the Accounts Relief lost or failed to obtain; or
- (b) the use or set off of any Purchaser's Relief in circumstances where, but for that use or set off, an Actual Tax Liability would have arisen in respect of which the Sellers would have been liable under Paragraph 2 (*Tax Covenant*) of this Schedule 13 (Tax), in which case the amount of the Deemed Tax Liability shall be the amount of the Actual Tax Liability in respect of which a Sellers would have been liable under Paragraph 2 (*Tax Covenant*) of this Schedule 13 (Tax) but for such use or set off;

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"**Event**" means any transaction, event, act or omission and any transaction, event, act or omission deemed to occur for Tax purposes, including a receipt or accrual of income or gains, distribution, failure to distribute, acquisition, disposal, transfer, payment, loan or advance;

"**Purchaser's Relief**" means:

- (a) any Relief available or arising to a Group Company as a result of an Event or Events occurring (or deemed to occur) after the Effective Date;
- (b) any Relief available or arising to a Group Company in respect of a period beginning after the Effective Date;
- (c) any Relief of a member of the Purchaser's Group (other than a Group Company); and
- (d) any Accounts Relief; and

"**Tax Liability**" means an Actual Tax Liability or a Deemed Tax Liability.

2 Tax Covenant

Subject to Completion, each Seller shall pay to the Purchaser, as far as possible by way of an adjustment of the Consideration paid to the relevant Seller, an amount equal to its Pro Rata Part in the relevant Group Company multiplied by:

- (a) any Tax Liability of a Group Company arising:
 - (i) as a result of any Event or Events occurring on or before the Completion Date; or
 - (ii) in respect of any income, gains, profits, turnover, sales or wages earned, accrued, made, paid or received on or before the Completion Date or deemed for the relevant Tax purpose to have been earned, accrued, made, paid or received on or before the Completion Date,

in each case unless the Tax Liability, if and to the extent arising as a result of an Event or Events occurring, or in respect of any income, gains, profits, turnover, sales or wages earned, accrued, made, paid or received, in the period as from the Effective Date up to and including the Completion Date, arises in the ordinary course of business of the relevant Group Company and the monetary benefit of the relevant

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Event, income, gain, profit, turnover, sales or wages is retained by the Group Company after Completion;

- (b) any costs or expenses incurred by a member of the Purchaser's Group or a Group Company in connection with (i) any such Tax Liability (or claim for such Tax Liability) referred to in this Paragraph 2 for which a Seller is liable, or (ii) the prevention or mitigation of a Tax Liability for which a Seller would otherwise be liable pursuant to this Paragraph 2 but for such mitigation or prevention (including any actions taken in accordance with paragraph 5 (*Conduct of Tax Audits*) of this Schedule 13 (Tax)).

3 Limitations

Only the exclusions and limitations set out in Clauses 12.2 (*Individual or several liability*), 12.3(c) (*Time limitations*), 12.4 (*Monetary limitations in respect of Business and Tax Claims*), 12.6 (*W&I Insurance Policy*), 13.1 (*Provisions*), 13.4 (*Purchaser's insurance*), 13.5 (*Net financial benefit*), 13.8 (*Purchaser's right to recover*), and 13.9 (*No double claims*) shall limit the liability of the Sellers under this Schedule 13 (Tax). The remainder of Clause 12 (*Liability of the Sellers*) and 13 (*Other limitations of liability and management of claims*) shall not limit or otherwise restrict the liability of the Sellers under the Tax Covenant.

4 Due date for payment

The Sellers shall make any payment under Paragraph 2 or for a breach of a Tax Warranty within ten (10) Business Days after the date on which written demand of the amount due is received by the Sellers' Delegate from the Purchaser; or if later and applicable:

- (a) if the payment relates to an Actual Tax Liability which has not on the date of that demand become due, on the date ten (10) Business Days before the date on which payment is due in respect of that Actual Tax Liability (ignoring for this purpose any application to postpone payment of, appeal against, or amendment of any assessment or other notification of that Taxes); or
- (b) in the case of a Deemed Tax Liability relating to the use or set-off of any Purchaser's Relief, on the date ten (10) Business Days before the date on which that Actual Tax Liability would have been due but for the use or set-off of the relevant Purchaser's Relief.

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5 Conduct of Tax Audits

5.1 The Purchaser shall notify the Sellers' Delegate in writing as soon as reasonably possible and in any event within twenty (20) Business Days after the Purchaser or a Group Company becomes aware of any Tax Audit or other circumstance that is likely to give rise to a Tax Claim for which a Seller could actually be liable pursuant to this Agreement in excess of the one euro (EUR 1) cap set out in Clause 12.4 of this Agreement and which was not yet known to the Sellers at Completion. The failure to timely notify the Sellers' Delegate shall not release the Sellers of any liability pursuant to this Schedule 13 (Tax), unless and to the extent the Sellers are actually prejudiced by such failure. Such notice shall include all material and relevant details in respect of such Tax Audit or other circumstance reasonably available to the Purchaser's Group. The Purchaser shall have the right to employ counsel and to settle and compromise any such Tax Audit or any liability in connection therewith, provided that the Purchaser shall, and shall procure that the relevant Group Company will:

- (a) timely provide the Sellers' Delegate with copies of all relevant materials and data and correspondence entered into and reasonable details of any conversations or meetings with any Tax Authority to the extent that such materials, data, correspondence, conversations or meetings are relevant for the Tax Audit or other circumstances in question;
- (b) act in accordance with any reasonable instructions received from the Sellers' Delegate within ten (10) Business Days after the relevant information is provided and allow the Sellers' Delegate to participate in (but not control) the defence or mitigation of any claim or allegation of a Tax Authority; and
- (c) advise the Sellers' legal counsel periodically of developments and obtain the Sellers' Delegate prior written approval (such approval not to be unreasonably withheld, conditioned or delayed and such approval deemed given if no response is received within ten (10) Business Days of request) on material decisions (including settlements or compromises) relating to Taxes which may be the subject of indemnification by the Sellers under this Agreement and on all material written communication to any Tax Authority or competent court in relation to a relevant Tax Audit.

5.2 In addition to the rights and obligations set out in Clause 7.1 (*Retention of records*), Purchaser shall, and shall cause the Group Companies to, provide the Sellers all information and render all assistance which may reasonably be requested by the Sellers for the purpose of the Sellers exercising their rights under this Schedule 13 (Tax) or the handling of their Tax affairs and the Sellers shall provide the Purchaser with all information which may be reasonably be

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requested by the Purchaser for the purpose of dealing with any matters in relation to Tax of the Group Companies and which information is not also in the possession of the Group Companies.

- 5.3** Nothing in this Paragraph 5 of this Schedule 13 (Tax) shall require the Purchaser to make available any information which the Purchaser, acting in good faith, considers to be subject to legal or professional privilege or which would, in the reasonable opinion of the management of the Group, involve issues of commercial sensitivity or confidentiality such that access could damage the value or competitiveness of the Group or lead to a breach of any obligations of any Group Company.

6 Governing procedure for Tax claims

This governs the procedure for all claims relating to Taxes under this agreement and in case of a conflict between this Schedule 13 (Tax) and the remainder of the Agreement, this Schedule 13 (Tax) takes precedence.

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Schedule 14 Purchaser's Warranties

1 Authority and capacity

1.1 The Purchaser validly exists and is a company duly incorporated under the Law of the Netherlands.

1.2 The Purchaser has the legal right and full power and authority to enter into and perform this Agreement and any document to be executed by it pursuant to or in connection with this Agreement, each of which, when executed, shall constitute valid and binding obligations on the Purchaser, enforceable in accordance with their respective terms.

1.3 The Purchaser has taken or shall have taken prior to Completion all corporate action required by it to authorise it to enter into and to perform this Agreement and any document to be executed by it pursuant to or in connection with this Agreement.

2 Certainty of funds

The Purchaser shall be readily able to pay the Consideration at Completion in accordance with Clause 6.1 (*Completion Date and place*) of this Agreement and no Tax Deductions are required to be made from such payment.

3 Consents

Except for the Merger Clearance Filings and the Notification to the Minister, no consent, approval, waiver or authorisation is required to be obtained by the Purchaser, from, and no notice or filing is required to be given by the Purchaser to or made by the Purchaser with, any Governmental Authority in connection with the execution and performance by the Purchaser of this Agreement, other than in all cases where the failure to obtain a consent, approval, waiver or authorisation, or to give or make a notice of filing would not, individually or in the aggregate, be reasonably expected to materially impair or delay the Purchaser's ability to perform its obligations hereunder.

4 Non-contravention

The execution and performance by the Purchaser of this Agreement and the consummation of the Transaction do not and shall not (i) violate any provision of the charter, articles of association or other organisational documents of the Purchaser and (ii) violate or result in a breach of or constitute a default under any Law to which the Purchaser is subject.

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5 Non-awareness of breach of the Agreement at the Offer Protocol Date

At the Offer Protocol Date, the Purchaser, after due and careful inquiry with the advisors of the Purchaser's Group, including through information received from any Representative of the Group, was not actually aware of any facts, circumstances, matters or other information, in such a manner and with such detail that a prudent individual who is knowledgeable in the relevant field reviewing the relevant information should reasonably be able to assess the financial, legal, commercial or other relevance of such information, which could reasonably be expected to give rise to a claim under the Sellers' Warranties or otherwise under or in relation to the Agreement.

6 Information received

No member of the Purchaser's Group has received any written or oral information in connection with the Company, the Group Companies or the Transaction, directly or indirectly from any Representative of the Group, which has not been shared by the Purchaser with the Sellers.

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Schedule 15 Non-Financial Covenants and Strategic Intentions

1 Minority shareholders

Implications for Shareholders that do not sell

- (a) The Purchaser shall not, and shall use reasonable efforts to procure that no Group Company shall, take any of the following actions:
- (a) issue shares in the Company or issue shares in a Group Company other than the Company for cash consideration to any Person (other than members of the Group) without offering pro rata pre-emption rights to minority shareholders of the Company;
 - (b) agree to and enter into a related party transaction with any member of the Purchaser's Group that is not at arm's length terms (other than with any Group Company); and
 - (c) take any other action or vote in favour of any resolution which disproportionately prejudices the value of, or the rights relating to the minority's shareholding in the Company.
- 1.1** No member of the Purchaser's Group (other than a member of the Group) shall charge any Group Company any management fees, or holding costs that are not related to the Group, and the Group shall not pay any member of the Purchaser's Group any such fees or costs.
- 1.2** Provided that the Purchaser will not be the sole shareholder of the Company at that time, the Purchaser shall amend the articles of association of the Company as soon as possible after Completion to ensure that the Company taking any action in relation to matters listed in Paragraph 1.1(a) of this Schedule 15 (*Non-Financial Covenants and Strategic Intentions*) shall be subject to unanimous approval of the Company's general meeting.

2 Other topics

2.1 Strategy

- (a) The Purchaser shall support, invest in, enhance and fully respect the Group's business strategy, as described in the information memorandum in relation to the Group dated April 2019, (the "**Business Strategy**"), including (a) endorsing the Group's growth strategy in sustainable assets, supply, innovative services and trading, (b) endorsing the continuity of the constituent parts of the Group's business, (c) continuing the investment level in the areas of research and development, (d) endorsing and supporting the Group to continue to make investments in sustainable energy assets and (e) to grow inorganically through

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acquisitions of companies, assets and activities, with a view to the Group becoming the exclusive platform for energy related operations of the Purchaser's Group in Europe as further detailed in 3.b. and a platform for future growth.

- (b) The Purchaser shall support and shall invest in expanding the Group's operations in the countries in which it is currently active (Netherlands, Belgium, Germany and the UK) by way of organic or inorganic growth pursuant to the Business Strategy as well as expansion by the Group into other countries in Europe, including France, Ireland, Poland and the Nordic region pursuant to the Annual Business Plan from time to time and as further detailed in Annex 1 hereto.
- (c) The Group shall maintain its corporate identity and culture, and the corporate name of the holding company of the Group will continue to be "Eneco" and Eneco's branding and marketing strategy as it exists on the Offer Protocol Date will continue to be applied.
- (d) The Group shall maintain its business locations including its head office, key support functions and other main functions of the business units in Rotterdam and the Group shall continue to be managed from its Rotterdam head office by local management. The Rotterdam head office will function as the hub for the Group's activities in Europe. The operations in Belgium and Germany will continue to be operated from their current respective regional offices.
- (e) The Purchaser shall ensure that the Group shall maintain BU Energy Trade as a trading base for optimization and hedging of the Group's energy-related price and volumetric exposures, and shall retain the existing trading activities of BU Energy Trade in Rotterdam. In addition, the Purchaser shall promote the business alignment between BU Energy Trade and ElectroRoute, and shall offer the integration of ElectroRoute into the Group with mutual agreed structure, in order to maximize its trading capability, business opportunities and profit within the Group.
- (f) The Purchaser shall procure that the Group shall continue to cooperate with municipalities, provinces, national government and consumer & environmental groups to realise the energy transition in a sustainable way.
- (g) The Purchaser and the Purchaser Parents shall support an overhaul and/or improvement by the Group of its IT systems to make it fit for future operations, both to expand the Group's revenue potential and to reduce its operational cost base if needed, and they shall further support this effort by utilizing their experiences and resources.

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- (h) The Purchaser shall support and respect the Group's investments in (i) start-up and scale-up companies with promising technology in sustainable energy, taking into account current practice, and (ii) innovative products, services and digital technology assisting the Groups' customers in connection with their energy consumption. The Group will benefit from the exchange of information on innovations and sharing of best practices with the groups of companies headed by the Purchaser Parents.
- (i) The MC Parent shall facilitate and encourage enhanced cooperation between the Company and OVO group if considered sensible by both companies.
- (j) The Purchaser shall ensure the Group to continue the Group's connection with the Dutch (knowledge) economy (*kennis(economie)*), research and development and society in the context of sustainability amongst others but not limited to by further investing in relationships with technical universities and sponsoring an "Associate Professor in Sustainability" at the University of Delft for a period of minimal three years, and also partner with other important local energy transition players.

2.2 Generation business

The Purchaser and, to the extent applicable, the Purchaser Parents commit to the following strategy for the Generation business of the Group:

- (a) The Group will continue to invest in European offshore wind opportunities together with (third party) partners for equity stakes that are consistent with the combined equity stakes of the Group and Diamond Generating Europe, which is a wholly owned subsidiary of MC Parent, in previous joint projects. This will include investments in unsubsidized projects, in countries such as the Netherlands and Belgium, on the basis that the Group can sufficiently mitigate the associated merchant risk on the back of its customer base and its trading capabilities. The Purchaser Parents shall, using their extensive international networks, bring to the Group potential partners for offshore wind projects in markets where such partners can increase the chances of being successful in offshore wind tenders, such as large multinational French companies in the French offshore wind market.
- (b) The Purchaser Parents shall involve the Group in business opportunities related to offshore wind generation in their home market, Japan, as well as in the US, by allowing the Group to make equity investments in such projects and/or to provide engineers on a consultancy basis to perform services against payment by the recipient of a consultancy fee.

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- (c) The Group shall be allowed to invest at least, but not limited to, EUR 1 billion as from the Effective Date until the end of 2024 in renewable energy assets and projects. For the avoidance of doubt, the Purchaser and the Purchaser Parents can support additional investment opportunities in line with the Company's strategy if identified by the Company. Investments may be made both in development of proprietary pipeline and through acquisitions of pipeline assets or operational assets. The funding of such investments shall be in line with 2.7 below.
- (d) In addition to and without detracting from paragraph (c) above, MC Parent offers to the Company to contribute against fair market value the following operational and high cash generating offshore wind generation participations owned by Diamond Generating Europe to the Group: Norther, Luchterduinen and Diamond Generating Europe's participation in EnspireME. MC Parent is willing to discuss the transfer of other offshore wind generation participations owned by Diamond Generating Europe: Borssele III/IV and Moray East, which are under construction. Fair market value would be based on the Purchaser's assessment of the value of these assets as part of project Apollo to the extent already co-owned with the Company or, if applicable, by means of a right for the Company to match any third party binding offer. The consideration for such contribution would be payable in cash, which amount a subsidiary of MC Parent offers to lend to the Company at terms as described in paragraph 2.7((e). The implementation of such contributions will depend on the cooperation of third parties such as lenders to such projects and joint venture parties (if applicable) and the MC Parent shall, and shall procure that its relevant Affiliates shall, use reasonable commercial efforts to secure such cooperation.
- (e) MC Parent shall contribute its global project financing skills for renewable projects and financing relationships to the Group.
- (f) The Purchaser Parents shall contribute to the Group their respective networks of potential equity partners for renewable projects to the Group.

2.3 Heat activities

The Purchaser and, to the extent applicable, the Purchaser Parents commit to the following strategy for the heat activities of the Group:

- (a) The Purchaser shall not require the Group to sell its activities conducted via its Heat & Cold business unit, in whole or in part, to a third party, not being a member of the Group at any time during the duration of these Non-Financial Covenants without the prior consent of (i) each of the Heat Municipalities, each at its sole discretion, relating to its own municipality

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only, insofar that municipality is a Party to this Agreement and (ii) the Independent Supervisory Board Members.

- (b) The Group will execute its strategy for the Heat & Cold business, including the related investment strategy as contemplated by the Business Plan, which is aimed at consolidation and optimisation of the existing heat network.
- (c) The Purchaser conforms to the Company's arrangements set out in the letter of intent to form the Warmtealliantie Zuid-Holland and in the Metropoolregio Amsterdam joint venture agreement each as Disclosed, in anticipation of a new Heat Act (*Warmtewet*).
- (d) The Group shall actively develop options to source required heat in its coverage areas, which may include amongst others (i) investments to build new owned heat sources or infrastructure to gain access to heat sources, (ii) signing of contracts with third party heat suppliers and (iii) acquisitions of sustainable heat sources.
- (e) The Group's growth strategy for the Heat & Cold business shall include growth through transactions with other actors in Dutch heating & cooling market, including acquisitions, joint ventures and co-investments, whilst the relevant Group Company at all times retains a majority interest and a Controlling interest in the heat activities of the Group.
- (f) The Purchaser supports the Group in seeking to grow the Heat & Cold business by bringing experiences of the Purchaser Parents in Japan to the Group and each Purchaser Parent shall actively offer expertise gained on the basis of such experiences to the Group.
- (g) The Purchaser shall support the Group to utilize geothermal resources in changing its heat sourcing to become 100% sustainable by 2040 for example with the support of Turboden technology or collaborating with other industry participants.

2.4 Services/Products

The Purchaser and, to the extent applicable, the Purchaser Parents commit to the following strategy for the services and products of the Group:

- (a) The Group will seek to acquire all the shares not already owned by it in NextKraftWerke GmbH.
- (b) The Group will aim to roll out services developed by the Group, such as services developed by NextKraftWerke GmbH and Peeeks B.V., into Japan. The Purchaser Parents shall, together with the Group, seek

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business opportunities within the Purchaser's Group and with the Purchaser Parents' relevant external contacts in the Japanese market.

- (c) The Group shall seek enhancements and invest in further development of flexible distributed resources and value added products and services contributing to customer experience and loyalty.
- (d) The Group will continue to identify and develop new B2B industry sectors where it shall target new customers and the Purchaser Parents shall support the Group in developing the relationship with multinational Japanese corporates with operations in Europe to offer the Group the opportunity to supply green electricity on long term basis to such operations, which shall help the Group to mitigate any merchant risk in respect of the Group's renewable generation portfolio. In particular, MC Parent shall enable the Group to discuss with the Nippon Telegraph and Telephone Corporation (commonly known as NTT; Total Assets: EUR 178 billion), with whom MC Parent has a longstanding business relationship and which operates several data centres in North-West Europe, including in Hoofddorp in the Netherlands where it has about 0.3TWh of annual electricity demand as well as several other data centres in Germany with an estimated total annual electricity demand of 5TWh, to supply its green power. Such type of large power customers can be a desirable power off-takers for the realization of unsubsidized offshore wind projects. With MC Parent's involvement, NTT may be interested to become an off-taker of an unsubsidized offshore wind project of the Group.
- (e) The Group will expedite the roll out of telecommunication services offering to different brands operated by the Group as well as rolling this offering out to other core countries and Chubu Parent shall contribute its relevant experience in Japan in this field.
- (f) The Group will further develop the product offering aimed at decentral and 'behind the meter' energy production for B2C and B2B clients which may include assets and services such as Solar PVs, batteries, heat pumps, boilers, installation services and financing solutions and the Purchaser Parents shall offer their global expertise in developing such product offering and shall facilitate access to other companies within their groups, such as MUFG and MUL, that can support such offering with financing.
- (g) The Group shall continue its growth ambitions in the e-Mobility segment, especially in - but not limited to - the Group's core markets, and the Purchaser Parents shall involve the Group in discussions with industry participants, cooperative bodies, legislative parties and other relevant stakeholders, which includes parties such as Mitsubishi Motors, other

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Japanese car manufacturers and Bosch to the extent practical and beneficial for the Group.

- (h) The Purchaser and the Purchaser Parents shall support the enhancement of the Group's e-Mobility business in congestion management which will contribute to the distribution system operator's ("DSO") needs and also lead to receiving a service fee from DSOs by maximizing their infrastructure utilization. Chubu Parent shall support the Group to enhance such business by bringing its experience as DSO in Japan.

2.5 Non-Energy Services

- (a) The Purchaser Parents shall explore with the Group strategic opportunities for further development of its non-energy services offering by introducing experiences obtained mainly in Japan through marketing and cross-selling opportunities and collaborating with Affiliates of MC Parent in Europe such as Princes Group and MUJI Europe.
- (b) Chubu Parent is willing to share its knowhow with the Group with respect to its state-of-art new technologies services such as Necolico and Korekara-denki, its collaboration with a Japanese healthcare technology venture company and disaggregation technology in respect of smart meters, to enhance the Group's technological non-energy service offering such as Toon.
- (c) The Purchaser Parents are willing to offer to the Group the expertise gained from their experience and investments in providing services to elderly citizens in order to contribute to the aging society in the Netherlands.

2.6 Others

- (a) The Purchaser shall support the Group in developing hydrogen activities by bringing experiences of the Purchaser Parents in Japan and France to the Group.
- (b) The Purchaser Parents shall support the Group to explore expanding its battery-related activities by introducing their relevant expertise and experience in Japan.

2.7 Financing

- (a) The Purchaser shall procure that the Group shall remain prudently financed (i) to safeguard the Group's solvability, liquidity, stability and continuity of the business, to support the Business Strategy (including future growth) and to promote the Group's sustainable success and (ii) to

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maintain a BBB credit rating of the Company on a standalone basis, as rated by S&P.

- (b) The Group shall continue to be credit rated by S&P post Completion and shall target a rating of at least BBB+ and the Purchaser shall use its best efforts to procure the same, but the Purchaser has the expectation that the Company would be rated at least 1 notch higher than this level due to the potential for uplift from S&P as a result of its views on separate ratings of subsidiaries.
- (c) Until the third anniversary of the Completion Date, the Purchaser commits to apply a dividend policy at the level of the Company pursuant to which 50% of the net profit of the relevant financial year can be distributed.
- (d) Cash reserves which are required for the Group to meet its objectives under the Annual Business Plan shall be retained by the Company and any excess cash not required by the Group to meet its objectives under the Annual Business Plan can be distributed to its shareholder(s) as annual dividend. The Group shall not attract debt for the purpose of the Company making dividend distributions to the Purchaser.
- (e) The Purchaser shall provide credit support to the Group by way of providing parent company guarantees if required by the Group in order to successfully compete in tenders for renewable projects, assuming that either a project will receive sufficient subsidy or has secured long-term off-take commitments and subject to applicable Purchaser Parent approval policies.
- (f) A subsidiary of MC Parent will grant to the Group one or more intragroup loan(s) for a total amount of EUR 1 billion which the Group can use to fund acquisitions of assets or activities from MC Parent or from third parties as well as for other long term investments, which intragroup loan(s) shall include a repayment schedule that reflects the acquired assets' or project's remaining subsidy life plus a significant period thereafter, or in case of another purpose, a long term revolving nature, and an interest rate in line with other intragroup loans applicable in the group of companies headed by MC Parent, subject to agreement between the Company and the MC Parent of the terms and conditions of above said intragroup loan(s), which for the avoidance of doubt will qualify as a related party transaction for which approval is required of the Supervisory Board with the affirmative vote of each of the Independent Supervisory Board members.

2.8 Shareholdership for the long term

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The Purchaser Parents shall remain shareholders in the Purchaser and in the Group for the long term and confirm that the business of the Group shall be maintained substantially intact, taking into account the realisation of the Business Strategy.

2.9 Employment

- (a) The Purchaser considers the employees of the Group key for the future success of the Group.
- (b) The Purchaser shall procure that:
 - (i) the existing arrangements with the works councils of the Group and relevant trade unions that have been Disclosed to the Purchaser prior to the Offer Protocol Date shall be respected and not changed unilaterally;
 - (ii) there shall be no forced redundancies within the Group as a consequence of the Transaction;
 - (iii) the existing rights and benefits of the employees of the Group shall be respected, including existing rights and benefits under employment agreements, incentive plans, collective labour agreements, social plans and including existing rights and benefits under existing covenants made to the relevant works councils of the Group and trade unions;
 - (iv) existing pension arrangements of current and former employees of the Group shall be respected; and
 - (v) the Company shall continue to be a member of the WENB (*werkgeversvereniging voor de sectoren energie, kabel & telecom en advisering*).
- (c) The Purchaser shall allow the Group to be supportive of training and other plans to facilitate career progression within the Group and the Purchaser Parents shall offer to the Group's employees training and opportunities for gaining overseas work experience within their respective Purchaser Parents' groups.
- (d) The Purchaser confirms that it places high value on retention of senior management, career development and training, and shall allow the Group to take initiatives aimed at retaining senior management and other employees and to support opportunities for management and staff of the Group through skill development and international career enhancement.

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- (e) The Group will become part of and participate in the worldwide operating groups of the Purchaser Parents and the Group's employees will be part of the Purchaser Parents' 'One Team' and share in the opportunities that arise therefrom.

2.10 Governance

- (a) The Purchaser confirms that, and shall procure that:
 - (i) the Company will remain subject to the full large company regime (*volledig structuurregime*);
 - (ii) the Management Board shall be responsible for the determination of the Group's strategy under supervision of the Supervisory Board and shall consist in majority of local members including a Dutch CEO and include a new member who will:
 - (I) be located in the Netherlands;
 - (II) be a senior executive experienced in the energy sector globally with sufficient English language skills;
 - (III) be responsible for the synergy realization with the Purchaser Parents including the roll-out to international markets, above mentioned non-energy business development and alignment with the Purchaser's Group;
 - (IV) be tasked to ensure that in connection with the acquisition by the Purchaser Parents of the Company, the Group's policies satisfy the Purchaser Parents' requirements, if applicable, which might change from time to time but subject to the Non-Financial Covenants as agreed in this Schedule 14, and it being understood that this will not detract from the collegiality of the Management Board; and
 - (V) support and/or advice the Group's CEO, who will be the prime contact with shareholders, in efficiently communicating with shareholders by sharing corporate philosophy and internal business practice of the Purchaser Parents;
 - (iii) the initial new member of the Management Board is planned to be Mr Hiroshi Sakuma, who has forty years dedicated experience in the power/energy sector and whose experience includes (i) being Senior Vice President of a US energy company as the only Japanese member as nominee of MC Parent on the board furthermore consisting of US board

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members, (ii) being Chief Executive Officer of Diamond Generating Corporation which is the largest subsidiary of MC Parent in the power sector, and (iii) directly cooperating with the Group in various projects as former Executive Vice President of MC Parent;

- (iv) the Supervisory Board shall consist of seven (7) members to ensure efficiency in meetings and decision making. The works council will have its statutory recommendation right to recommend to the Supervisory Board for nomination for appointment up to one-third (rounded down) of the members of the Supervisory Board; and
 - (v) the Supervisory Board is represented by a chairman who has the Dutch nationality, will have vast experience in the energy sector and in dealing with local stakeholders and shall be 'independent' within the meaning set out in Clause 9 (*Non-Financial Covenants and strategic intentions*), it being understood that Mel Kroon will be deemed "independent" for the purposes of this Clause.
- (b) The Management Board shall have discretionary investment authority for amounts up to EUR 25 million no matter whether or not they are part of the Annual Business Plan. Also, the Purchaser Parents shall raise the Management Board's investment authority amount up to EUR 50 million once the Purchaser Parents confirm that the Company's authority system is aligned with Purchaser Parents' one and such system is operated in a good manner from Purchaser Parents' point of view.
- (c) The Supervisory Board shall have discretionary investment authority for amounts up to EUR 100 million.
- (d) The Purchaser acknowledges that sustainability policies form an integral part of the Group's common goal to protect people and their professional environment.
- (e) The Purchaser intends to apply a remuneration strategy that is competitive, in line with market standard and aligned with the Business Strategy.
- (f) Without prejudice to the approval rights for the Supervisory Board and/or the Independent Supervisory Board Members provided for in the Agreement, all matters requiring approval from the entire Supervisory Board and the General Meeting will be set out in the articles of association of the Company and will include the reserved matters listed in Schedule 21 (*Amendments to the articles of association and the regulations for the Supervisory Board*). The list of reserved matters can only be amended with the approval of the Supervisory Board, including the affirmative vote of each of the Independent Supervisory Board Members.

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- (g) The Supervisory Board Profile attached as Schedule 22 (*Supervisory Board Profile*) shall apply for the duration of the Non-Financial Covenants. The Supervisory Board Profile can only be amended with the approval of the Supervisory Board, including the affirmative vote of each of the Independent Supervisory Board Members. Resolutions of the Supervisory Board as corporate body in respect of the Supervisory Board reserved matters as set forth in Paragraph 3 of Schedule 21 do not require approval from an entity, a person or corporate body of or within the Purchaser's Group (excluding the Group Companies).

3 Miscellaneous

- (a) The Purchaser shall ensure that not all or a substantial part of a business unit of which the organization of the Group consists at the Completion Date shall be sold or transferred (whether directly or indirectly, whether by a sale or transfer of shares or assets or otherwise, whether in a single transaction or a series of related transactions) to any Person, if such sale or transfer results in a reduction of consolidated annual recurring operating result of more than 25% of the Group's last completed fiscal year. For the avoidance of doubt, the foregoing shall be without prejudice to Clause 8.2 (*Sell-on restrictions*) of the this Agreement.
- (b) The Purchaser commits not to make any new investment decisions in (i) projects, (ii) assets, or (iii) the share capital of any company, through direct or indirect majority owned and Controlled subsidiaries of one of the Purchaser Parents, that directly compete with the business of the Group, as this business is operated at the Offer Protocol Date as further detailed in Annex 1 hereto, within Europe.
- (c) Any investments, operational cost decisions or financing decisions at the level of the Group as described in Paragraph 2 of this Schedule 15 (*Non-Financial Covenants and Strategic Intentions*) shall be subject to the Group's applicable approval policies and (financial) parameters as applicable from time to time, it being understood that such policies should not amend the consent rights of the Independent Supervisory Board Members as referred to herein.
- (d) The Purchaser will enable the Group to maintain the commitments to health, safety, security and environment and corporate social responsibility in accordance with what is customary for a group of a similar size and nature as the Group, active in a similar industry.
- (e) Any related party transactions between a member of the Purchaser's Group (excluding the Group Companies) and a member of the Group will require the prior approval of each Independent Supervisory Board Member.

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4 **Deviations**

In accordance with Clause 9.3.4, any deviation from the covenants set forth in this Schedule 15 (Non-Financial Covenants and Strategic Intentions) is only permitted with the prior approval of the Supervisory Board, including the affirmative vote of each of the Independent Supervisory Board Members. The foregoing shall include any deviations from the covenants set forth in this Schedule 15 (Non-Financial Covenants and Strategic Intentions) that are directly connected to any matters included in the Annual Business Plan and which cause such deviation.

5 **Duration**

The arrangements set forth in this Schedule 15 (Non-Financial Covenants and Strategic Intentions) will expire as follows:

- (a) in respect of Paragraph 1 (*Minority shareholders*) of this Schedule 15 (Non-Financial Covenants and Strategic Intentions) when there are no longer any Continuing Shareholders that hold shares in the Company; and
- (b) in respect of all other Paragraphs of this Schedule 15 (Non-Financial Covenants and Strategic Intentions): five (5) years after the Completion Date, unless explicitly provided otherwise.

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Annex 1

	Netherlands	Belgium	Germany	UK	Rest of EU	Rest of World
Supply	Full scope, including energy services Exclusive ⁽¹⁾	Full scope, including energy services Exclusive ⁽¹⁾	Full scope, including energy services Exclusive ⁽¹⁾	B2B Exclusive ⁽¹⁾	Potential future activity Exclusive ⁽¹⁾	
Renewable assets	Full scope Exclusive ⁽¹⁾	Full scope Exclusive ⁽¹⁾	Potential future activity, offshore and onshore Exclusive ⁽¹⁾	Full scope Exclusive ⁽¹⁾	Offshore Exclusive ⁽¹⁾	Potential future offshore activity Non-exclusive ⁽²⁾
Heat & Cold	Full scope Exclusive ⁽¹⁾					
Flexible assets	Full scope Exclusive ⁽¹⁾	Full scope Exclusive ⁽¹⁾	Full scope Exclusive ⁽¹⁾			
Trade	Full scope Exclusive ⁽¹⁾	Full scope Exclusive ⁽¹⁾	Full scope Exclusive ⁽¹⁾	Full scope Non-exclusive ⁽²⁾	Full scope Non-exclusive ⁽²⁾	
Innovative services	Energy as a service Energy management e-Mobility Semi exclusive ⁽³⁾	Energy as a service Energy management e-Mobility Semi exclusive ⁽³⁾	Energy as a service Energy management e-Mobility Semi exclusive ⁽³⁾	Energy as a service Energy management e-Mobility Semi exclusive ⁽³⁾	Energy as a service Energy management e-Mobility Semi exclusive ⁽³⁾	Energy as a service Energy management e-Mobility Non-exclusive ⁽²⁾

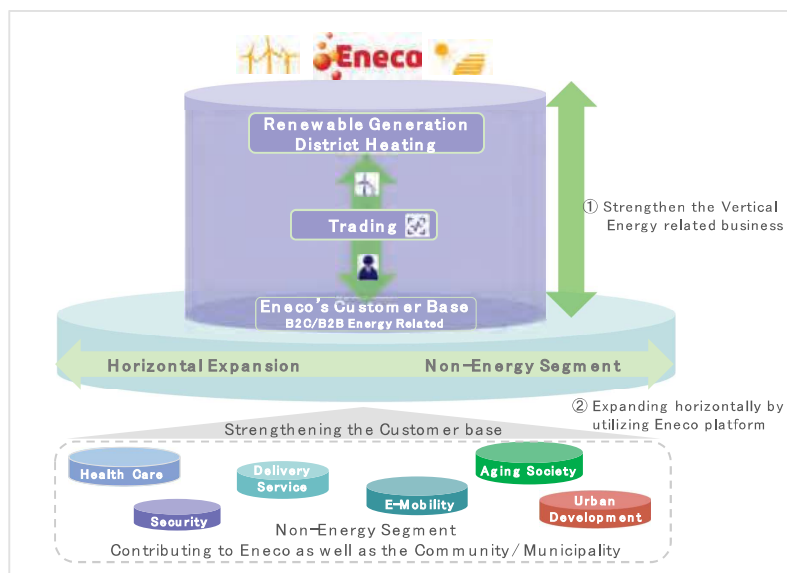
- (1) Exclusive implies: the Purchaser commits not to make any new investment decisions in (i) projects, (ii) assets, or (iii) the share capital of any company, through direct or indirect majority owned and Controlled subsidiaries of one of the Purchaser Parents, that directly compete with the business of the Group.
- (2) Non-exclusive implies: the Purchaser Parents may invest outside the Group in this activity.
- (3) Semi exclusive implies: MC Parent and Chubu Parent may invest outside the Group in this activity through business units other than the MC Power Service Business department and Chubu International Business Development Group, respectively.

Annex 2 – Strategic Opportunities & Context⁷

In this Annex the Purchaser Parents provide for further context in respect of the Non-Financial Covenants as included in Schedule 15 (Non-Financial Covenants and Strategic Intentions) and would like to set out additional strategic opportunities for the Group in cooperation with the Consortium. This Annex 2 does not create any legal obligations on any Person. For the avoidance of doubt, this Annex 2 does not limit, amend or prejudice the Non-Financial Covenants as set out in Schedule 15 (Non-Financial Covenants and Strategic Intentions).

MC Parent shall classify the Netherlands as one of the few “strategically important countries” in all of its global operations, not only for energy business but also targeting business opportunities in other areas by utilizing the Group’s customer base.

As highlighted in the following image, the Consortium intends to strengthen the Group’s existing vertical energy related business through our extensive and diverse international business operations and network. Moreover, by developing various “non-energy” business opportunities for the Group, the Consortium intends to expand the Group’s business portfolio horizontally as well. This will increase and diversify the Company’s customer base. The Consortium has specific sectors in mind such as health care, security, delivery service, e-mobility, elderly support and urban development allowing the Company to benefit from improved customer experience, loyalty and satisfaction as well as allowing the Company to differentiate itself from other utility companies. In addition, offering services related to elderly in an aging society (see also NFC 2.5(c) and paragraph (n) below), shall also contribute to the Dutch society and the local communities.



- (a) The Purchaser shall ensure that the Group shall maintain BU Energy Trade as a trading base for optimization and hedging of the Group’s energy-related price and volumetric exposures, and shall retain the existing trading activities of BU Energy Trade in Rotterdam. In addition, the

⁷ **NOTE TO SELLERS:** references to Non-Financial Covenants to be updated.

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Purchaser shall promote the business alignment between BU Energy Trade and ElectroRoute, and shall offer the integration of ElectroRoute into the Group with mutual agreed structure, in order to maximize its trading capability, business opportunities and profit within the Group (NFC 2.1(e)).

CONTEXT

ElectroRoute has been supporting Microsoft for rendering energy trading service including overall structure setting-up, managing PPA tender and balancing management to their renewable energy purchase from windfarms. Not only with Microsoft, ElectroRoute has contracts or is in discussion with many third parties including other IT giants or many renewable generators. Thus, ElectroRoute has plenty of service experience to third party, mainly in Ireland and the UK, and a first-class capability to arrange bespoke type service in response to customer's demand, which can add values and contribute to the Group's future activities such as offshore windfarm projects development by off taking energy or rendering services.

- (b) The Purchaser shall procure that the Group shall continue to cooperate with municipalities, provinces, national government and consumer & environmental groups to realise the energy transition in a sustainable way (NFC 2.1(f)).

CONTEXT

MC Parent acquired 100% share of Cermaq, Norwegian salmon farming company, from Norwegian government through a takeover bid, which has similar nature to this deal. MC Parent continued to contribute to Norwegian society since then by ongoing investments in positive relationship between Cermaq and local communities.

- (c) The MC Parent shall facilitate and encourage enhanced cooperation between the Company and OVO group if considered sensible by both companies (NFC 2.1(i)).

CONTEXT

OVO Group announced the acquisition of SSE Energy Service, a retail division of SSE plc in September 2019 which brings them more than 5 million customers with 18% market share in the UK B2C market on combined basis. MC Parent aims to offer the Group to take over all of energy trading activities for OVO Group (including SSE Energy Service business) in the future, which is expected to contribute more than EUR 30 million in profit before tax for the Group, starting with trading activity and balancing management for which are out of exclusivity of the existing contract with a current energy trading company.

Generation business

- (d) MC Parent currently holds a total of EUR 3.5 billion net investments in generation assets around the world, and its strategy is to strengthen the renewable energy portfolio through the Group. This strategy includes not only additional investments but also capital recycle by allocating more capital resources from existing investments in non-renewable assets to renewable assets. As Europe is the leading market for renewable energy, the Group shall be the platform for further investment opportunities and growth. Therefore, the Purchaser shall ensure the Group shall expand its renewable business.

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CONTEXT

MC Parent currently developed 3.8GW gross capacity renewable assets through its power division globally through which it intends to grow. This growth strategy covers both additional investments and capital recycling from existing investments in conventional assets to renewable assets. As Europe is the dominant market for renewable energy globally, the Group shall be the platform of our growth strategy for further investments.

Chubu Parent recently transferred its thermal fleet to JERA and commenced the build-up of its own renewable fleet. It now controls c. 2GW of installed net capacity across wind, solar and hydro. Like Eneco it started to investigate business cases for geothermal energy. Its overall renewable portfolio is planned to grow by an additional 2GW by 2030. Therefore, the Purchaser shall ensure the Group shall expand its renewable business.

- (e) The Group will continue to invest in European offshore wind opportunities together with (third party) partners for equity stakes that are consistent with the combined equity stakes of the Group and Diamond Generating Europe, which is a wholly owned subsidiary of MC Parent, in previous joint projects. This will include investments in unsubsidized projects, in countries such as the Netherlands and Belgium, on the basis that the Group can sufficiently mitigate the associated merchant risk on the back of its customer base and its trading capabilities. The Purchaser Parents shall, using their extensive international networks, bring to the Group potential partners for offshore wind projects in markets where such partners can increase the chances of being successful in offshore wind tenders, such as large multinational French companies in the French offshore wind market (NFC 2.2(a)).

CONTEXT

MC Parent has an extensive international network, including established cooperative relationship with dominant offshore wind European players such as Engie and EDP Renewables. MC Parent collaborates with these players through the joint investment in the UK's Moray East offshore wind project and MC Parent believes it will be able to jointly with them and Eneco develop projects in e.g. France where these players have excellent track records and relationships evidenced by the two monopile offshore wind projects and two floating offshore wind projects they have developed in that region.

Furthermore, it should be noted that various European offshore players such as Innogy, EDP Renewables, Shell, SSE, Macquarie and others are currently approaching both Purchaser Parents to seek opportunities in the Japanese offshore wind market. Both Purchaser Parents believe they can leverage their positions in their home markets for the Group to expand its renewable investment opportunities in European countries at attractive business cases.

- (f) The Purchaser Parents shall involve the Group in business opportunities related to offshore wind generation in their home market, Japan, as well as in the US, by allowing the Group to make equity investments in such projects and/or to provide engineers on a consultancy basis to perform services against payment by the recipient of a consultancy fee (NFC 2.2(b)).

CONTEXT

The Japanese offshore wind market has a very large growth which is estimated at 10GW

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and 37GW by 2030 and 2050 respectively (tendered capacity basis) by the Japan Wind Power Association. In the 5th Strategic Energy Plan of Japan, the government has positioned renewable energy as the main power source, and especially the potential for offshore wind is very high. The preparation of the next 6th Strategic Energy Plan has started, and Japanese government intends to clarify clear renewable targets. The first four prospective sites have been recently announced by the Government, and will soon be followed by seven prospective sites. The first tender round is expected to take place in the second half of 2020 which Eneco could participate in with the right partners. The Purchaser Parents are jointly preparing for 3 out of the first 4 offshore wind tenders (Noshiro City (300MW), Yurihonjo City (700MW) and Choshi City (300MW)).

MC Parent is targeting 2GW out of 5GW capacity that is expected to be operational by 2030, which roughly amounts to a EUR 2.5 billion (gross) equity investment opportunity. MC Parent has been involved in the development of the Japanese offshore wind market regime as MC Parent has the deepest experience among Japanese companies largely due to its partnership with Eneco in Europe.

In the US market, the north-eastern states have set a mandate to develop offshore wind power projects by 2035. Although each state has different targets, the market as a region, would bring a potential of more than 20GW of offshore wind projects. MC Parent has a strong interest in developing future offshore wind opportunities in the US, and could utilise the technical knowhow of Eneco, to the benefit of both parties.

- (g) The MC Parent shall contribute its global project financing skills for renewable projects and financing relationships to the Group (NFC 2.2(e)).

CONTEXT

JBIC (Japan Bank for International Cooperation) has launched new loan product in 2018 called "QI-ESG" which provides a more competitive loan than ever. For example, MC Parent has received a proposal including a 65bps indicative loan margin for a European offshore wind project and of 77.5bps committed margin for a non-carbon/energy-efficiency project, which are significantly lower than the market level of c.150bps in the recent offshore wind market. This competitive project financing capability shall enable the Group to efficiently recycle its capital by refinancing for continuous development of renewable projects.

- (h) The Purchaser Parents shall contribute to the Group their respective networks of potential equity partners for renewable projects to the Group (NFC 2.2(f)).

CONTEXT

In case Eneco requires further equity co-investors in its renewable developments, the MC Parent can introduce Japanese investors to Eneco with strong appetite to deploy capital. As an example MC Parent has invited Kansai Electric and Mitsubishi UFJ Lease(MUL) to the UK Moray East offshore wind project at low cost of capital and attractive terms. By utilising the relationship between the Purchaser Parents and those investors, the Group will be able to identify a number of high quality partners which can support making final investment decisions by the Group.

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- (i) The Purchaser shall support the Group to utilize geothermal resources in changing its heat sourcing to become 100% sustainable by 2040 for example with the support of Turboden technology or collaborating with other industry participants (NFC 2.3(g)).

CONTEXT

Mitsubishi Heavy Industries (MHI), which is not an Affiliate of the MC Parent but with whom MC Parent has had a cooperative relationship since the 1950s, has acquired Turboden, a global leader in manufacturing of Organic Rankine Cycle (ORC) systems from Italy. ORC systems can generate electric and thermal power exploiting multiple renewable sources, such as biomass, geothermal, solar and waste heat from industrial processes. Subject to Eneco's interest, the MC Parent shall introduce MHI and Turboden as potential partner to seek opportunities for the Group to utilize ORC opportunities in district heating sourcing. We can already confirm MHI considers possible joint equity investments for new projects in the Netherlands.

Services/Products

- (j) The Group will aim to roll out services developed by the Group, such as services developed by NextKraftWerke GmbH and Peeeks B.V., into Japan. The Purchaser Parents shall, together with the Group, seek business opportunities within the Purchaser's Group and with the Purchaser Parents' relevant external contacts in the Japanese market (NFC 2.4(b)).

CONTEXT

NextKraftWerke has already entered into a basic agreement on a strategic partnership in a Japanese VPP demonstration project with Tohoku Electric Power Company and both of them expect to accelerate the commercialization of VPP and development of new services in Tohoku regions, which is evidence that VPP business has high expansion potential in Japan. The Purchaser Parents are uniquely positioned to further promote NextKraftWerke GmbH's and Peeeks B.V.'s businesses in Japan by leveraging their knowledge and network in Japan, such as with other utility companies in Japan. Moreover, the Purchaser Parents are already under discussion with Peeeks to utilize its knowhow and service within Chubu Parent's customer base.

- (k) The Group will continue to identify and develop new B2B industry sectors where it shall target new customers and the Purchaser Parents shall support the Group in developing the relationship with multinational Japanese corporates with operations in Europe to offer the Group the opportunity to supply green electricity on long term basis to such operations, which shall help the Group to mitigate any merchant risk in respect of the Group's renewable generation portfolio. In particular, MC Parent shall enable the Group to discuss with the Nippon Telegraph and Telephone Corporation (commonly known as NTT; Total Assets: EUR 178 billion), with whom MC Parent has a longstanding business relationship and which operates several data centres in North-West Europe, including in Hoofddorp in the Netherlands where it has about 0.3TWh of annual electricity demand as well as several other data centres in Germany with an estimated total annual electricity demand of 5TWh, to supply its green power. Such type of large power customers can be a desirable power off-takers for the realization of unsubsidized offshore wind projects. With MC Parent's involvement, NTT may be interested to become an off-taker of an unsubsidized offshore wind project of the Group (NFC 2.4(d)).

CONTEXT

As an example of Japanese manufactures with a considerable amount of electricity demand in the Netherlands, there are Kikkoman Foods Europe B.V. producing a rich flavour soy sauce since 1997 in Groningen, Mitsubishi Turbocharger and Engine Europe B.V. producing mainly turbo chargers for vehicles since 1991 and Yakult Europe B.V. producing a fermented dairy drink since 1994 in Almere. In addition, there are also a lot of Japanese manufacturers operating own plants in Belgium, such as AGC Glass Europe, Daikin Europe N.V., Kaneka Belgium N.V. and FUJIFILM Belgium NV being potential customers for Eneco for renewable energy solutions. The Purchaser Parents could unlock potential energy partnerships between the Group and these parties.

- (l) The Group shall continue its growth ambitions in the e-Mobility segment, especially in - but not limited to - the Group's core markets, and the Purchaser Parents shall involve the Group in discussions with industry participants, cooperative bodies, legislative parties and other relevant stakeholders, which includes parties such as Mitsubishi Motors, other Japanese car manufacturers and Bosch to the extent practical and beneficial for the Group (NFC 2.4(g)).

CONTEXT

MC Parent is now jointly developing new service with Bosch by utilizing "Battery in the Cloud (BitC)" technology developed by Bosch. BitC can monitor/analyse the relationship between the usage and the deterioration of the battery (in EV or energy storage system) and transmit the data to the cloud as a part of big data. Then the AI (Artificial Intelligence) of BitC will issue an optimal order how a battery should be charged to extend the battery life based on the big data. By utilising such technology in the Group's energy storage assets, the Group may be able to improve battery business cases. Also the Group will be able to provide new services such as smart charging, battery life analysing service and battery failure prevention service.

In addition, Chubu Parent establishes a joint venture "e-Mobility Power Co., Inc." with Tokyo Electric Power Company Holdings, Inc. for supporting the next-generation Mobility Society by installing EV chargers, expanding an EV charging network and offering related services in Japan. Chubu Parent is willing to actively offer expertise gained on the basis of the experience through this joint venture to the Group.

Non-Energy services

- (m) Chubu Parent is willing to share its knowhow with the Group with respect to its state-of-art new technologies services such as Necolico and Korekara-denki, its collaboration with a Japanese healthcare technology venture company and disaggregation technology in respect of smart meters, to enhance the Group's technological non-energy service offering such as Toon (NFC 2.5(b)).

CONTEXT

The Purchasers Parent emphasizes the importance of the Group's firm customer base as the approach for Non-Energy Service should be able to add values to the customer, not being limited in the energy area, but also extended to all other living essential aspects of the customers' life. The Purchaser and the Purchaser Parent commit to utilize all

resources and know-how owned by it from experience in Japan to increase the value of the customer and shall provide solutions to the tasks that the Group's customer is facing with. For this purpose, the Purchaser highlights the partnership between the Purchaser Parents and their strong commitment to realize better society providing community support service in Japan, which we will replicate in the Netherlands, for which the parties have signed Joint Development Agreement (JDA). Under this JDA, the Purchaser Parent started the analysis of the services in Japan for solving social tasks, such as environmental problem, aging society, and declining birth-rate. Through providing real retail service, the Purchaser Parent shall commit to transform the Group's customer base into a "community", further improving customer loyalty. The Purchaser Parent hereby presents the efforts of new services by it in Japan for its potential importation to the Netherlands, and propose ideas of creating better community in the Netherlands using these experience. These services for solving social tasks will benefit not only the customers but also Municipalities.

Technology driven service

Chubu Parent, the third largest utility in Japan having the largest market share in the Central region of Japan, is aiming to be an advanced energy solution provider and providing WEB and mobile app service to its community. The WEB membership counts more than 2.3 million community and Chubu Parent provides the state-of-art new technology service developed by its own or with partner.

Necolico

Necolico is the platform using IoT technology to connect people and home through mobile app connecting with a monitoring gateway device (with sensors) and web camera in home. This enables customers to check the inside of the home from the mobile app and also to control other connected home appliances (such as air-conditioning and lighting) through the mobile app and the "Cocoremo" device provided by Chubu Parent. With this service, the family member (or the member) shall be able to stay connected with their family even from the outside of home making sure the safety and health of the children and aged parents. The service is served to encourage the diversity of the way of working and living of the community, keeping the connection of the family firm and strong.

The Purchaser Parent is willing to bring this technology to the Netherlands, adding value to the Group's community. We believe this technology supports to create a tight connection among the community and the family and give mutual alert to any sudden disease or unexpected incidents inside the home allowing the community to take prompt action.

"Korekara-denki"

This is a community's participatory energy service through mobile app, newly developed by Chubu Parent using AI and IoT technology. It seeks to be a platform of connecting people who are keen to environmental matters and health through the incentive point programme, which can be used to offset the energy bill.

Korekara-denki has 3 features; 1) it provides customer with experience opportunity of owning solar facility from only JPY 1,000 (approx. EUR 8) for the community member who does not have the area for installing panel (such as the people who lives in the apartment in the urban area). This is realized through matching such community member with the solar facility that Chubu Parent owns, letting the owner feel taking a part of ecology reducing CO2 emission. 2) The mobile app has a feature to promote the health of the society allowing community member to earn points through walking, which promotes the exercise keeping the good health. 3) The service also provides points through the participation to specific events that Chubu Parent organizes; such as sports, regional cultural workshop or education. Chubu Parent is ambitiously evolving the service aiming to have a peer to peer (P2P) function so that the community member can trade the points with your family or friends.

The Purchaser Parent is willing to bring this technology to the Netherlands as a communication tool between the Group and the community, making the community members feel they take part of the Group.

Healthcare

Chubu Parent is working with FiNC, a Japanese healthcare technology venture company developing a new service featuring the connected home and the healthcare. The connected health device with sensors will send body condition data such as the weight, body fat, pulse, density of the bone, and other components of the body to FiNC to be analysed automatically by AI and monitor the health condition and report with the advice of the diet and the training to the member through the mobile app. This will support members to be conscious of their own health keeping it in a good condition. Chubu Parent has implemented some trials to send information on the healthy events held in their community to the community member and some coupons/vouchers of the healthy food to some of the participants to encourage keeping in good health. Chubu Parent is willing to share this experience and knowledge with the Group in order to add value on the Group's service.

Usage of data from smart meters

Chubu Parent has developed a disaggregation technology (patent applied) of the electricity consumption on each home appliance through the data acquired from the smart meters installed in each house using AI. This allows the community member to visualize its own electricity consumption status and to compare with the consumption data of the other home of similar family makeup. It gives the signal to each home for energy savings and encourages the replacement the home appliance with the new product.

Chubu Parent is the only company among the Japanese electric utilities who applied the permit for "information bank" to seek the usage of the smart meter data for the business of other sector. Chubu Parent is seeking to collaborate with the delivery, tourism and restaurant sector to provide better and convenient service to the community. Chubu Parent is willing to share this experience and knowledge with the Group in order for the Group's service to expand furthermore for customer satisfaction.

Energy Management Service

- (n) The Purchaser Parents shall explore with the Group strategic opportunities for further development of its non-energy services offering by introducing experiences obtained mainly in Japan through marketing and cross-selling opportunities and collaborating with Affiliates of MC Parent in Europe such as Princes Group and MUJI Europe (NFC 2.5(a)).

Alliance with plant factories for Virtual Power Plant (VPP):

MC Parent suggests collaboration with plant factories for VPP business. Food Industry business group of MC Parent has been investigating the possibility that plant factories contributes to grid stability. Leafy vegetables can be grown up without any problem if they are not lighted for three hours in a day. By taking this feature, it can be considered that plant factories stop power consumption at peak time (for maximum three hours) to be effectively demand response tool for grid stability. This shall be beneficial for plant factories as additional income and for the Group to gain/retain the B2B customer. Furthermore, Mitsubishi Chemical, which is a group company of MC Parent, has knowhow to operate plant factories from its experience in Asian countries and Australia, which can be exported for Dutch plant factories. This support, combined with green power provided by the Group, shall also be contributing to gain/retain the B2B customer as well as sustainable food production with quality. As one of business idea (which is increasingly expanded in Japan), MC Parent suggests subscription type of plant business where customer makes fixed monthly payment in exchange of periodical delivery of selective plants which are seasonal and good reputation like "Lucky Bag"

EV leasing business:

MC Parent suggests the possible business opportunity that the Group will become EV leasing entity which leases EVs to delivery companies or company frequently using cars. The Group will utilize its increasing charging stations to maintain EVs properly charged, and collect big data of usage pattern to efficiently deliver EVs to clients. Those clients benefit from this contract by saving initial cost for car purchase while they are ensured that their delivery has been made via green powered EVs. This shall be benefitting the Group as it increases power consumption and expands charging stations. With increased charging stations, depending on the pattern of usage of EVs, the Group will also consider to use them as ancillary tools.

Alliance with Albert Heijn for Virtual Power Plant (VPP):

The Purchaser suggests collaboration with Albert Heijn to seek joint benefit making the store as the resource of the VPP for the Group, adjusting the temperature of the air-conditioning and refrigerator and the illuminance of the light during the summer peak hours. This suggestion is backed by MC Parent's experience of VPP service demonstration through its subsidiary Mitsubishi Corporation Retail Energy (MCRE), the new energy retailer, and the convenience store Lawson, another MC's subsidiary with more than 14,000 stores all over Japan. Lawson gives MCRE the right to control the Lawson's temperature through the internet and to use as a source of adjustment for the

imbalance cost, providing the frequency control service to the grid. MCRE has analysed the best way of adjustment of the air-condition of each store, keeping the comfortable temperature for the customers. The Purchasers shall leverage the know-how of this demonstration in Japan for the Group's VPP strategy seeking potential alliance with the Albert Heijn.

Business expansion beyond power supply (cross-sell and up-sell):

As stated above, the Purchaser Parent regards the customers as more than just an energy consumer. The Purchaser is seeking to maximize the value of the customer extending the service from energy to retail, healthcare, or any other that community would desire in Japan. The Purchaser shall apply this strategy in the Netherlands as well so that the Group business shall expand beyond pure power supply creating an "Eneco Economic Zone".

Cross-selling business expansion:

The purchaser shall ensure the Group can collaborate with other industries by bringing experiences of the Purchaser Parents in Japan to the Group. Chubu Parent is collaborating with Mobile Companies for cross-selling each services, and they are also collaborating with Amazon for cross-selling Amazon Prime service in Japan. Also MCRE is providing a dedicated service plan for EV/PHEV users collaborating with Mitsubishi Motors. Each Purchaser Parent shall actively offer expertise gained on the basis of such experiences to the Group.

Alliance with Princes

Princes Group (<https://nl.princes.eu/>), a 100% subsidiary of MC Parent with its Dutch office in Rotterdam, is a food manufacturing and marketing company and has a largest share of canned fish in the Netherlands. It has established a collaborative relationship with dominant retailers such as Albert Heijn/Delhaize, Jumbo and Superunie not only in the Netherlands and Belgium but also other several European countries. This business network shall contribute to the customer expansion of the Group. In addition, although Princes Foods is already well known in the market, in response to social consciousness of the individual customers, it is enhancing its branding activities by running TV advertisement (<https://vimeo.com/366436507>). As both the Group and Princes Group have a corporate vision to respect sustainability, co-marketing can also create added value for both.

Alliance with MUJI

MUJI Europe (<https://www.muji.eu/>), an affiliate of MC Parent, offers a wide variety of good quality items from stationery to household items and apparel. MUJI is creating its simple product achieved through a complexity of thought and design by considering what lifestyle should be in future and pursuing customer satisfaction from sustainability viewpoint. The combination of green power supply by the Company and living environment set up by MUJI Europe can be a perfect match for conscious individuals and the green image of the Group will be penetrated more deeply into society.

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As stated above, MC Parent has variety of business operations and through co-marketing and/or cross-selling can bring further benefit to the Group.

Alliance with supermarket:

The Purchaser Parents suggest the Group to cooperate with large supermarkets chains for the mutual remittance of customers through joint customer loyalty programmes and for providing customized service to the customers using the data from such programmes. The Purchaser Parents are now in a discussion with Japanese supermarkets and convenience stores to create an alliance to retain and increase the customers of each business. This can be realized through joint customer loyalty programmes in each business and/or giving a small gift/voucher whenever the community members visit the stores. It also aims to provide new services combining the ID information of customers, the data from the smart meter and the purchase data from the store. The disaggregation of the people's activity into "who" x "energy consumption" x "purchasing log" shall be a powerful tool to offer customized marketing service for each household for the cross selling matching to the preference of each household. From experiences with supermarkets in Japan, the retail stores are willing to cooperate with large electricity utility companies as they can expect more customers coming to the stores incentivized by the utility to increase the daily sales, while the utility also benefits from such alliance as it will serve to retain the existing customer and attract new customers having such non-energy service.

- (o) The Purchaser Parents are willing to offer to the Group the expertise gained from their experience and investments in providing services to elderly citizens in order to contribute to the aging society in the Netherlands (NFC 2.5(c)).

CONTEXT

Comprehensive Services for aging society:

The aging society is an unavoidable issue not only in Japan but also in the Netherlands, therefore, the services to the elderly will be essential in the future for both countries. The Purchaser Parents have already started a service for the elderly in Japan. For example, we offer a discount on electricity bills based on the number of steps taken each day, a service that allows the children living apart from their parents to check elder parents' home using a mobile application, and a shopping (daily necessities) agency service for elderly, which have been highly praised. The Purchaser Parent would like to share their experience with the Group so that the Group shall contribute to the aging society in the Netherlands.

Among MC Parent's extensive business areas, MC Parent has been active in health care business since 1970s. MC Parent aims to improve the quality of the medical treatment and to achieve cost saving cooperating with the community and the municipals. Especially MC Parent considers the healthcare using the medical data will be of great importance for the aged society. Recently MC Parent has entered into discussion with a hospital, pharmacies and a municipality in Japan to provide total health and life care support service, such as precaution, medicinal use, mobility support, and shopping

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support. The trial will be starting from early 2020 in Japan. MC Parent shall combine the technical service mentioned above and this medical and healthcare service to offer welfare solution to the Group community, enhancing the communications among the members. Also, Chubu Parent established a corporate fund in order to swiftly invest in start-ups with advanced technology related to the New Services, and recently invested in the technology company "Novars" which is providing the remote monitoring service for the elderly in remote areas utilizing a dry-cell battery with data communication facility.

Others

- (p) The Purchaser shall support the Group in developing the hydrogen activities by bringing experiences of the Purchaser Parents in Japan and France to the Group (NFC 2.6(b)).

CONTEXT

The Group and MC Parent have already jointly investigated the possibility of the Hydrogen production project "H2V59 Project" in France and would like to expand the cooperation. In addition, MC Parent shall offer to the Group the expertise gained from its International Hydrogen Supply Chain Demonstration Project in 2020 utilizing the Hydrogen transportation technology of Chiyoda Corporation, which is the MC's subsidiary. Through expanding the Hydrogen activities, the Group shall contribute to achieve the Dutch Government ambition to be a frontrunner in the Climate Agreement.

- (q) The Purchaser Parents shall support the Group to explore expanding its battery-related activities by introducing their relevant expertise and experience in Japan (NFC 2.6(c)).

CONTEXT

The Purchaser is conducting a rooftop PV business at Mitsubishi Motors' Okazaki Factory in Japan. Moreover, MC Parent is also running a pilot project by using secondary batteries which firstly used for EV to utilize the surplus power from the roof top PV and power produced during night time. As we strongly believe that batteries including secondary batteries will enhance the distributed generation society, we are committed to expand our activity throughout the Group.

In addition to that, MC Parent has a 47% stake of Lithium Energy Japan, joint venture company with GS Yuasa, Kyoto-based battery manufacture, and Mitsubishi Motors, with 1.5GW annual production capacity of lithium ion battery. That means that the Group will be able to utilize lithium ion battery's expertise. GS Yuasa's batteries has been installed to the above mentioned data centre in Hoofddorp, which means the Group shall be able to offer packaged deal to its potential customers.

MC Parent has invested in BBOXX Limited in Aug 2019, which delivers innovative solar home systems (SHS) consisting of solar panels, battery storage, and a variety of home appliances on a pay-as-you-go basis. Using its real-time remote monitoring system, BBOXX currently manages operation and payments for SHS services in twelve countries with a focus on Africa. MC Parent believes that the Group and BBOXX could synergize each other, such as in the battery business. For instance, BBOXX could be one of the major outlets of the Group's deteriorated batteries because BBOXX's demand of the

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battery is soaring. Also, MC Parent has recently started discussion with Stichting DOEN, which is one of investors of BBOXX, about potential collaboration in future for expanding green and sustainable power business in addition to BBOXX.

Employment

- (r) The Purchaser shall allow the Group to be supportive of training and other plans to facilitate career progression within the Group and the Purchaser Parents shall offer to the Group's employees training and opportunities for gaining overseas work experience within their respective Purchaser Parent's groups (NFC 2.9(c)).

CONTEXT

For example, MC Parent and ElectroRoute have sent/received secondments each other for knowledge exchange (for ElectroRoute to learn MC Parent's wider business, Japanese power market, corporate philosophy etc and for MC Parent to learn ElectroRoute's first-hand trading capability). This type of secondment exchange shall be procured for career development and better relationship establishment.

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Schedule 16 Data Room USB

[Provided separately.]

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Schedule 17 Details for Notices

Sellers' details:

[legal name Seller]	
Address:	[•]
Attention:	[•]
E-mail:	[•]
With copy to:	[•] [•]

Sellers' Delegate's details:

Gemeente Rotterdam	
Address:	Coolsingel 40 3011 AD ROTTERDAM The Netherlands
Attention:	A.H.P. van Gils
E-mail:	ahp.vangils@rotterdam.nl
With copy to:	jw.flohil@rotterdam.nl frank.hamming@debrauw.com

Company's details:

Eneco Groep N.V.	
Address:	[•]
Attention:	[•]
E-mail:	[•]
With copy to:	[•] [•]

Purchaser's details:

Diamond Chubu Europe B.V.	
Address:	Beethovenstraat 514 3rd floor, 1082PR Amsterdam
Attention:	Yasuhiko Okabe
E-mail:	yasuhiko.okabe@mitsubishicorp.com

G e h e i m

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With copy to:	<p>taro.inamori@mitsubishicorp.com shin.tada@mitsubishicorp.com shotaro.ono@mitsubishicorp.com seitara.morinaga@mitsubishicorp.com yuta.hashimoto@mitsubishicorp.com asuka.kobayashi@mitsubishicorp.com Shiozawa.Takanori@chuden.co.jp Kishi.Hisashi@chuden.co.jp Kashimori.Fumiaki@chuden.co.jp Imamura.Shinsuke@chuden.co.jp Murai.Takashi2@chuden.co.jp</p>
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Purchaser Parents details:

Mitsubishi Corporation	
Address:	3-1, Marunouchi 2-Chome, Chiyoda-Ku, 100-8086, Tokyo, Japan
Attention:	Yasuhiko Okabe
E-mail:	yasuhiko.okabe@mitsubishicorp.com
With copy to:	<p>shin.tada@mitsubishicorp.com shotaro.ono@mitsubishicorp.com seitara.morinaga@mitsubishicorp.com yuta.hashimoto@mitsubishicorp.com asuka.kobayashi@mitsubishicorp.com</p>

Chubu Electric Power Co., Inc.	
Address:	1, Higashi-shincho, Higashi-ku, Nagoya, 461-8680, Japan
Attention:	Takanori Shiozawa
E-mail:	Shiozawa.Takanori@chuden.co.jp
With copy to:	<p>Kishi.Hisashi@chuden.co.jp Kashimori.Fumiaki@chuden.co.jp Imamura.Shinsuke@chuden.co.jp Murai.Takashi2@chuden.co.jp</p>

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Schedule 18 Adherence Notice

ADHERENCE NOTICE

To:
[Purchaser]
[Address]

[place], [date, no later than five (5) Business Days after the expiration of the Post-Acceptance Period]

Dear Sir/Madam,

Words and definitions used, but not defined in this Notice, have the same meaning as ascribed to them in the sale and purchase agreement between [•] as the Sellers, Eneco Groep N.V. as the Company, and Diamond Chubu Europe B.V. as the Purchaser and Mitsubishi Corporation and Chubu Electric Power Co., Inc. as the Purchaser Parents dated [•] (the "**Agreement**").

This Notice sets out the identity of the Adhering Shareholders and the number of Shares held by each Adhering Shareholder.

Adhering Shareholder / Seller	Number of Shares held	Percentage of the aggregate shareholding held
[•]	[•]	[•]%
[•]	[•]	[•]%
Total	[•]	[•]%

The Adherence Documents will be provided to you separately.

Please sign the enclosed copy of this letter for your acknowledgement and agreement.

Yours sincerely,

Sellers' Delegate

Name:

Title:

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For acknowledgement and agreement:

[Purchaser]

Name:
Title:

Name:
Title:

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Schedule 19 W&I Insurance Policy

[To be included.]

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Schedule 20 Assessment criteria

Assessment criterion	Reference to the relevant Clause in this Agreement
<p>A. <i>Price for shareholders</i></p> <p>A.1. The amount of the offer, the timing of payment of the purchase price, and the payment in cash (euros).</p>	<p>Section 4 Binding Offer Letter,</p> <p>Clauses 3 and 6.2 SPA,</p>
<p>B. <i>Strategy</i></p> <p>B.1. The extent to which the bidder is prepared and willing to commit to Eneco's sustainable strategy on a long-term basis, with related investments, including:</p> <p>(a) endorsing the growth strategy of Eneco in sustainable assets, supply and innovative services;</p> <p>(b) continuing the investment level in the areas of research and development;</p> <p>(c) conforming to the heat strategy and related investment strategy, which is aimed at consolidation and optimisation of the existing heat network; and</p> <p>(d) conforming to the arrangements set out in the letter of intent to form the <i>Warmtealliantie Zuid-Holland</i> and in the <i>Metropoolregio Amsterdam</i> joint venture agreement, in anticipation of a new Heat Act (<i>Warmtewet</i>).</p> <p>B.2. Endorsing the continuity of the constituent parts of Eneco's business.</p> <p>B.3. The extent to which the bidder intends to continue Eneco's connection with the Dutch (knowledge) economy (<i>kennis</i>)<i>economie</i>), R&D and society in the context of sustainability.</p>	<p>Section 8 and 9 Binding Offer Letter</p> <p>Clause 9, Schedule 15, Section 2.1(a), 2.1(b), 2.2(a), 2.2(b), 2.2(c), 2.2(d), 2.3(e), 2.3(f), 2.4(a), 2.4(c), 2.4(g), 2.7(e) SPA</p> <p>Clause 9, Schedule 15, Sections 2.1(g), 2.1(h), 2.1(j) SPA</p> <p>Clause 9, Schedule 15, Sections 2.3(a), 2.3(b), 2.3(d), 2.3(e), 2.3(f), 2.3(g) SPA</p> <p>Clause 9, Schedule 15, Section 2.3(c) SPA</p> <p>Clauses 8.2.1, 8.2.3, 9, Schedule 15, Sections 2.1(d), 2.3(a), 3(a), 2.8 SPA</p> <p>Clause 9, Schedule 15, Sections 2.1(h), 2.1(j) SPA</p>
<p>C. <i>Financial</i></p> <p>C.1. The extent to which the bidder continues to prudently finance the transaction – and</p>	<p>Section 6 and 7 Binding Offer Letter</p>

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<p>subsequently Eneco – so as to ensure that the company's stability and continuity is not jeopardised and that the company's sustainable success is promoted.</p>	<p><i>Clause 9, Schedule 15, Section 2.7 SPA</i></p>
<p><i>D. Shareholdership for the long term</i></p> <p>D.1 The extent to which the bidder is prepared and willing to commit itself to Eneco on a long-term basis.</p> <p>D.2 The extent to which the bidder is prepared and willing to commit to not selling the heat activities without the prior consent of the heat municipalities for a period of five years after the transaction.</p>	<p><i>Section 13 Binding Offer Letter</i></p> <p><i>Clauses 8.1, 8.2.1, 8.2.3, 9, Schedule 15, Sections 3(a), 2.8, 5.(b) SPA</i></p> <p><i>Clause 9, Schedule 15, Sections 2.3(a), 5(b) SPA</i></p> <p><i>Section 8 Binding Offer Letter</i></p>
<p><i>E. Deal certainty</i></p> <p>E.1 The extent to which the bidder provides certainty that the transaction will be consummated, which includes:</p> <p>(a) the certainty that the bidder's offer will be declared unconditional from a financial perspective;</p> <p>(b) the certainty that, and the speed at which, regulatory approvals will be obtained;</p> <p>(c) the extent to which the offer is binding, i.e. contains no conditions, or as few as possible, over which Eneco and the shareholders have no control; and</p> <p>(d) the certainty that the bidder and the proposed transaction will receive the approval of Eneco's supervisory board, having duly completed the required co-determination process, taking into account, among other things, the interests of Eneco and its affiliated businesses and their continuity, as well as the interests of the employees involved.</p> <p>E.2 The bidder's willingness (i) to obtain 100% of the shares if these shares are tendered in due course, and (ii) to declare the offer unconditional if 75% or more of the shares is tendered.</p>	<p><i>Section 16 Binding Offer Letter</i></p> <p><i>Clauses 4.1, 5.4, 14.4, Schedule 14, Section 2 SPA</i></p> <p><i>Clauses 4.3.2, 4.3.7, 4.3.8, 4.4.2, 4.4.6, 4.4.7, 4.5.2, 4.5.3, 4.5.5, 4.5.6, 4.5.7 SPA</i></p> <p><i>Section 14 Binding Offer Letter</i></p> <p><i>Section 16 Binding Offer Letter</i></p> <p><i>Clause 4.1 SPA,</i></p> <p><i>Clauses 2.1.3, 2.3.1, 3.1 Offer Protocol,</i></p> <p><i>Section 10 Binding Offer Letter</i></p> <p><i>Clauses 8.2.1, 8.2.3, 9, Schedule 15, Sections 2.1, 2.9 SPA</i></p> <p><i>Clauses 2.1.2, 2.1.3, 2.2.2, 2.3 Offer Protocol</i></p>

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<p><i>F. Liability of selling shareholders</i></p> <p>F.1 The extent to which a "clean exit" can be achieved, with no or limited remaining liability for the shareholders after the transaction, having due regard for the interests of the non-selling municipal shareholders.</p>	<p><i>p. 2 Binding Offer Letter</i></p> <p><i>Clauses 12 and 13 SPA</i></p> <p><i>Clause 9 SPA, Schedule 15, Section 1 SPA</i></p>
<p><i>G. Employment</i></p> <p>G.1 The extent to which the bidder is prepared and willing to make commitments with regard to (i) maintaining terms of employment, including the existing social plan, (ii) not executing any forced dismissals as a result of the transaction and (iii) maintaining the business locations, including the headquarters in Rotterdam.</p>	<p><i>Section 12 Binding Offer Letter</i></p> <p><i>Clause 9, Schedule 15, Sections 2.1(d), 2.9 SPA</i></p>
<p><i>H. Implications for shareholders that do not sell</i></p> <p>H.1 The extent to which the bidder is prepared and willing to make arrangements in accordance with market practice with the non-selling shareholders, including only entering into transactions with Eneco at arm's length terms.</p>	<p><i>Section 11 Binding Offer Letter</i></p> <p><i>Clause 9, Schedule 15, Section 1 SPA, Clause 2.4 Offer Protocol.</i></p>
<p><i>I. Best price rule</i></p> <p>I.1 The extent to which the bidder is prepared and willing to make the commitment for three years to acquire the shares of the non-selling shareholders for no more than the price per share as paid to the selling shareholders.</p>	<p><i>Clause 7.2 SPA</i></p>
<p><i>J. Governance</i></p> <p>J.1 The proposal of the bidder regarding the corporate governance and board model.</p>	<p><i>Section 10 Binding Offer Letter</i></p> <p><i>Clauses 9, 9.3 Schedule 15, Sections 2.10, 4, 9 SPA</i></p>

Schedule 21 Amendments to the articles of association and the regulations for the Supervisory Board

1 Amendment of the articles of association

As soon as reasonably possible after Completion and in any event within sixteen (16) calendar days following Completion, the Purchaser and the Company shall procure that the articles of association of the Company will be amended, among others, to reflect (i) the reserved matters list and (ii) the provisions as set forth below.

2 General meeting reserved matters

The following matters shall require approval of the general meeting of the Company:

- a) Any amendment to the articles of association of the Company or the adoption of new articles of association of the Company or any Group Company
- b) Any legal merger or demerger of the Company, other than a merger in accordance with article 2:333 sub 2 of the Dutch Civil Code or a demerger in accordance with article 2:334hh of the Dutch Civil Code
- c) Transferring of all or almost the entire business of the Company to a third party
- d) Winding-up the Company or (ii) commencing any other proceedings seeking liquidation, administration (whether out of court or otherwise), reorganisation or relief under any bankruptcy, insolvency or similar laws
- e) Entering into or terminating long-term cooperation of the Company or any Group Company with another legal entity or company or as a partner with full liability in a limited or general partnership, if such cooperation or termination is of major significance to the Company
- f) Acquisition or disposal of a participation in the capital of a company to the value of at least one third of the amount of the assets according to the balance sheet and explanatory notes or, if the Company draws up a consolidated balance sheet, according to the consolidated balance sheet and explanatory notes according to the most recently adopted annual accounts of the Company, by the Company or any Group Company
- g) The Company acquiring or disposing of first appointment, the change or the replacement of the auditors of the Company from time to time

3 Supervisory Board reserved matters

Any Management Board resolutions in respect of the matters set forth under (h) to (kk) shall require the prior written approval of the Supervisory Board:

- h) Issuing and acquiring shares in the capital of the Company and debentures charged to the Company or debentures charged to a limited or general partnership, in which the Company is a fully liable

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partner

- i) The limitation or exclusion of pre-emptive rights with respect to the issue of shares or securities by the Company or with respect to the issue of shares or securities by any member of the Company's group for a cash consideration.
- j) Entering into any (related party) transaction, arrangement or agreement with any subsidiary of Mitsubishi or Chubu (other than the Company or any of its direct or indirect subsidiaries).
- k) Effecting a substantial restructuring of the Company or the Group which may have the (side) effect of diluting the interest of any Continuing Shareholder (except pursuant to a statutory squeeze-out procedure in accordance with article 2:92a DCC or 2:201a DCC).
- l) To the extent not covered under (j) through to (k), any action that disproportionately prejudices the value of, or the rights relating to, any shareholding of any Minority Shareholder in the Company
- m) Cooperating with the issue of registered depositary receipts for shares in the Company
- n) Request for listing or delisting of the debentures referred to under (h) and the depositary receipts under (m) in or from the official list of any stock exchange
- o) A proposal to reduce the issued capital
- p) A proposal to amend the articles of association
- q) A proposal for dissolution of the Company
- r) Proposal for a legal merger or demerger, as meant in Title 7 of Book 2 of the Dutch Civil Code, unless the Company is the acquiring entity (*verkrijgende vennootschap*) within the meaning of article 333 section 2 of Book 2 of the Dutch Civil Code or in the event of a demerger pursuant to article 334hh;
- s) Any sale, transfer or other disposal of the activities conducted through the Heat & Cold business unit, in whole or in part, to a third party (not being a direct or indirect subsidiary of the Company)
- t) Any sale, transfer or other disposal of all or a substantial part of a business unit of which the organization of the group consists to any person, resulting in the a reduction of consolidated annual recurring operating result of more than 25% of the group's last completed fiscal year.
- u) Acquiring a participation in the capital of another company with a value of at least one quarter of the amount of the issued capital together with the reserves of the Company according to the Company's balance sheet and explanatory notes or lower amount as determined by the Supervisory Board, as well as a major increase or reduction of such a participation

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[sub u; participations that exceed EUR 25,000,000]⁸

- v) Entering into or terminating a long-term cooperation of the Company with another legal entity or company or as a partner with full liability in a limited partnership or general partnership, in each case if this cooperation or termination is of material significance to the Company
- w) Approving, amending, revising or deviating from the Business Plan and Budget for the Company and the group
- x) Adopting investment decisions which are not included in the Business Plan and Budget and exceed an amount per investment determined by the Supervisory Board

[sub x: investments that exceed an amount of EUR 25,000,000].

- y) Entering into and granting loans exceeding an amount for each loan determined by the Supervisory Board, excluding payments pursuant to duly approved agreements entered into by the Company in the ordinary course of its business

[sub z: loans that exceed an amount of EUR 25,000,000].

- z) Alienation or encumbrance of registered property, the value of which exceeds an amount per transaction determined by Supervisory Board, excluding payments pursuant to duly approved agreements entered into by the Company in the ordinary course of its business

[sub z: registered property that has a value of more than EUR 25,000,000]

- aa) Entering into agreements exceeding an amount determined by the Supervisory Board per agreement or series of agreements that form an integral part of the transaction in question is involved, to the extent that these agreements do not arise from the provisions of x)-z) above and with the exception of the conclusion of agreements for the purchase, sale or transport of gas, electricity, heat, cold and gasses and excluding payments pursuant to duly approved agreements entered into by the Company in the ordinary course of its business

[sub aa: agreements with a monetary value of more than EUR 25,000,000]

- bb) Entering into guarantee agreements or providing security in any other way for the obligations of third parties (not being a subsidiary or participating interest of the Company) involving more than an amount per agreement determined by the Supervisory Board, excluding payments pursuant to duly approved agreements entered into by the Company in the ordinary course of its business

[sub bb: guarantees with a monetary value of more than EUR 25,000,000]

- cc) Filing for bankruptcy and application for suspension of payments

- dd) a sale or other disposal of the direct or indirect legal and/or beneficial ownership (whether in a single

⁸ **Drafting note:** It is the intention that the relevant amounts will be included as an annex to the SB regulations. The proposed threshold are included between brackets in this list for reference.

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transaction or a series of related transactions) of any shares, assets or liabilities of the group to the extent such transfer or disposal would detract from the integrated sustainable strategy of the group founded on the combination of the (renewable) assets, supply, (innovative) services and trading businesses and/or the presence in the Group's core markets.

- ee) Exercising voting rights on shares in the capital of subsidiaries, group companies and participating interests of the Company, as well as in any other way, directly or indirectly, exercising control thereof insofar as it concerns resolutions in this provision and provided that the Supervisory Board has notified the Management Board of its intention to exercise this power with regard to which subsidiaries and group companies and/or participating interests and with the exception of resolutions in the case of a legal merger or demerger
- ff) Conducting proceedings, either as plaintiff or as defendant, including arbitral proceedings, requesting a binding opinion and entering into settlements, if the importance of the case exceeds an amount determined by Supervisory Board except for taking of precautionary measures and other measures to prevent the loss of rights, as well as for the conducting of preliminary injunctions or emergency arbitration and debt collection procedures

[sub ff. proceedings exceeding an amount of EUR 25,000,000]
- gg) Termination of the employment of a significant number of employees simultaneously or within a short period of time or a material change in the working conditions of a significant number of employees
- hh) Amendments to existing arrangements with the central works council of the Company and relevant trade unions
- ii) Adoption and amendment of the general employment conditions for the employees (including under social plans and collective labour agreements).
- jj) Adopting and amending a treasury statute
- kk) Relocating the headquarters of the Company from Rotterdam, the Netherlands to another place;
- ll) Authorising or entering into any agreement or commitment, conditionally or otherwise with respect to any of the actions set out under items (h)-(jj) above.

To the extent any matter referred to in sub h) and i) requires a resolution of the General Meeting, such resolution can only be adopted upon proposal of the Management Board, with approval of the Supervisory Board. Any proposals relating to the matters set forth under sub i), j), k), l), s), t) and kk), shall require the affirmative vote of each of the Independent Supervisory Board Members.

4 Power of attorney

The articles of association will permit the granting of powers of attorney by a member of the Supervisory Board to another member of the Supervisory Board.

5 Amendment of the regulations of the Supervisory Board

As soon as reasonably possible after Completion, the Purchaser and the Company shall procure that the Supervisory Board regulations of the Company will be amended, among others, to reflect the following provisions:

- a) A member of the Supervisory Board who is not able to be present at a meeting of the Supervisory Board may grant a power of attorney to another member of the Supervisory Board to represent him or her in such meeting, provided that any member of the Supervisory Board may not represent more than one other member of the Supervisory Board during a meeting.
- b) All members of the Supervisory Board shall have equal access to information, allowing the Supervisory Board to fully perform its function in accordance with its responsibilities.

Gene

Schedule 22 Supervisory Board Profile

Profile Supervisory Board

Eneco is a public limited company that applies the full large company regime (*volledig structuurregime*)

The Supervisory Board (SB) supervises the management performed by the Management Board (MB) and the general course of affairs of the company. The SB fulfils a sounding board function and advises the MB. In the performance of their duties, both boards and the individual members are guided by the interests of the company. All this in accordance with the principles of responsible entrepreneurship aimed at the continuity of the company.

The SB assesses whether the Management Board has made a balanced assessment of the interests of all those affiliated with the company in its management and the performance of its duties.

The Supervisory Board of Eneco monitors and advises the MB on various topics:

- Supervising the energy transition;
- Reaching business objectives;
- Strategy and risks associated with the business activities;
- Structure and operation of the internal risk management and control systems;
- Financial reporting process;
- Compliance with the legislation;
- Required expertise and experience.

There will be two committees established:

The **remuneration, selection and appointment** committee advises on the remuneration of the members of the Management Board and on the selection and appointment of members of the Management Board.

The **audit committee** oversees important financial matters. This committee meets on a quarterly basis and meets with the external auditor at least twice a year.

Composition of the Supervisory Board in general

The Supervisory Board should be composed in such a manner that through the combination of experience, expertise, quality, social involvement and independence of its members, it can perform its duties properly (effectively and responsibly). In its composition, the SB also strives for sufficient complementarity, pluralism and diversity in terms of age, gender and origin. Every Supervisory Board member must be able to make an assessment of the overall policy. Each supervisory director has the specific expertise that is necessary for the performance of his duties and should have sufficient English language skills.

The following experiences and competencies are important for the Supervisory Board as a whole (whereby several elements can be combined in 1 individual supervisory director):

- Managerial experience, CEO experience in business;
- Experience in the energy sector, with the unfolding energy transition, and with technology;
- Experience in a consumer-driven business;
- Experience in setting up and managing alliances, joint ventures and in Mergers & Acquisitions;
- Experience in digitization and big data;

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- Experience with new and strongly changing earning models;
- Broad financial and accounting experience, with preference for CFO experience;
- Experience in the field of Human Recourses;
- International experience and experience with international expansion.

Independent Supervisory Board Members

This section on Independent Supervisory Board Members will apply until and automatically expire on the fifth (5th) anniversary of the date of completion of the sale of shares in the Company to Diamond Chubu Europe B.V.

In this section, the term **Independent Supervisory Board Member** refers to:

- (i) either of the two Supervisory Board members who were nominated and appointed pursuant to the enhanced nomination right of the Company's central works council on the basis of article 2:158 sub 6 of the Dutch Civil Code on [date on or shortly before the closing date], being [•] and [•], or
- (ii) their successors (x) appointed by the general meeting of the Company upon the nomination of the Supervisory Board, which nomination has been voted in favour of by the Independent Supervisory Board Members (except in the event that it concerns his or her own re-appointment, in which case such appointment requires a vote in favour of such appointment by the other Independent Supervisory Board Member) and (y) meeting the independence requirement set out in the next paragraph.

The Supervisory Board will include two Independent Supervisory Board Members. Each Independent Supervisory Board Member shall be independent within the meaning of the Dutch Corporate Governance Code, provided that any Supervisory Board member who falls within the 'group exemption' of section 2.1.7(iii) read in conjunction with section 2.1.8(vii) of the Dutch Corporate Governance Code will not be deemed independent for these purposes.

At least one of the Independent Supervisory Board Members should have knowledge of, and preferably experience in, the energy sector in a broad sense including the products, services and markets where the Eneco group is active. Furthermore, at least one of the Independent Supervisory Board Members should have broad and in-depth knowledge of Dutch corporate governance and the Dutch stakeholder model. Each Independent Supervisory Board Member should preferably have experience in a supervisory (or non-executive) director position on the board of a Dutch company.

Each Independent Supervisory Board Member should have the ability to:

- follow, also in terms of having the time available, the outlines of the total policy pursued by the Eneco group and the general course of affairs at the Company;
- monitor and to the extent necessary enforce the non-financial covenants that have been agreed between the Company and its majority shareholder;

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- carefully weigh in the decision-making process all interests involved and arrive at a decision in a balanced manner, and ensure a level playing field of information in the Supervisory Board to enable that process, and;
- act critically and independently of one another, the other Supervisory Board members, the Management Board, the shareholder(s) of the Company and any particular interest.

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Schedule 23 Capital Expenditures

Business Unit	Project name	Country	City	Technology	Capacity (MW)	Eneco Share (%)	CAPEX (x1000€)	CAPEX (x1000€) @Share	Current DG	Target date DG3 (mm-yyy)
S&W	Pottendijk Wind	NL	Nieuw-Weerdinge	WOL	50,4	100%	50.400	50.400	DG2	06-2020
S&W	Landtong Rozenburg	NL	Rotterdam	WOL	36,0	100%	48.868	48.868	DG2	06-2020
S&W	W-Tenneville CVD	BE	Tenneville	WOL	30,0	80%	40.667	32.534	DG1	07-2020

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