

Denne melding til obligasjonseierne er kun utarbeidet på engelsk. For informasjon vennligst kontakt Nordic Trustee AS.

To the Bondholders in:

**ISIN: NO0010872864 - Mutares SE & Co. KGaA FRN Senior Secured EUR
80,000,000 Bonds 2020/2024**

Oslo, 13 August 2020

NOTICE OF A WRITTEN RESOLUTION

1 INTRODUCTION

Nordic Trustee AS acts as the bond trustee (the "**Bond Trustee**") for the bondholders (the "**Bondholders**") in respect of the bonds referred to above (the "**Bonds**") issued by Mutares SE & Co. KGaA (the "**Issuer**", and together with its direct and indirect subsidiaries, the "**Group**").

Unless otherwise stated in this Notice of a Written Resolution, capitalised terms used herein shall have the meaning ascribed to them in the bond terms dated 12 February 2020 entered into between the Bond Trustee and the Issuer in respect of the Bonds (the "**Bond Terms**").

The Issuer has requested that the Bond Trustee issue this Notice of a Written Resolution pursuant to Clause 15.5 (*Written Resolutions*) of the Bond Terms to solicit the Bondholders' approval to the proposed amendments to the Bond Terms described in paragraph 3 below.

The information contained herein regarding the Issuer, the Group, their respective businesses and market conditions are provided by the Issuer and the Bond Trustee expressly disclaims all liability whatsoever related to such information.

2 BACKGROUND

The background for the proposed amendments to the Bond Terms described in paragraph 3 below may be summarised as follows:

2.1 Adapting to the Issuer's business model and ring-fencing mechanism

The Issuer's business model is to acquire a company or a group of companies in financial distress without making any significant payment (each such acquisition and any subsequent related add-on acquisitions, will be referred to as an "**investment**"), restructure them and, if the restructuring is successful, sell them or otherwise exit the investment with a profit. If the restructuring is not successful, the Issuer will let such companies go into bankruptcy and/or be dissolved in order to avoid any significant financial losses related to the investment in question.

To avoid any financial difficulties of one such investment contaminating the Issuer or any of the other investments made by the Issuer, each such investment is "ring-fenced" from not only the Issuer but also the other investments made by the Issuer. That way, the Issuer can, if the restructuring of a group of companies constituting an investment turns out to be unsuccessful, let those companies go into bankruptcy and/or be dissolved without causing financial difficulties for the Issuer or any of its other investments.

This business model and "ring-fencing" mechanism form the basis for the Issuer's risk management as well as the structure and many of the provisions in the Bond Terms, and are needed to protect and safeguard not only the Issuer and its other investments, but also the Bondholders insofar as they have invested in the Issuer by way of the Bonds.

However, the Issuer has recently become aware that certain provisions in the Bond Terms do not fit the business model or the said "ring-fencing" mechanism. The provisions in question are the ones dealing with insolvency, insolvency proceedings and creditor's process, namely paragraph (e) (*Insolvency and insolvency proceedings*) and paragraph (f) (*Creditor's process*) of Clause 14.1 (*Events of Default*) of the Bond Terms.

In their current form these provisions apply to all members of the Group. This, however, does not work in practice, as it means that the Issuer no longer can let an investment, in the form of a group of companies whose restructuring has not been successful, go into bankruptcy without triggering an Event of Default under the Bond Terms. In turn, this means that the Issuer (or any of the companies forming part of the Issuer's other investments) may be forced to support such an investment (both financially and operationally) to avoid the occurrence of such an Event of Default; even after it has become clear that it is not possible to restructure the investment in question successfully. This would be detrimental not only to the interests of the Issuer and its other investments, but also to those of the Bondholders. In other words, the "ring-fencing" mechanism supposed to protect and safeguard the interest of the Issuer, its other investments and the Bondholders, is no longer effective due to the current form of these provisions.

Hence, as set out in more detail in paragraph 3.1 below, the Issuer proposes that these provisions in the Bond Terms be amended so as to only apply to Material Group Companies (which are the members of the Group whose shares have been pledged and in respect of which intercompany loans have been assigned as security for the Bonds), as this will strengthen the said "ring-fencing" mechanism in line with the Issuer's business model and enable the Issuer to let such investments, where a successful restructuring is no longer possible, to go into bankruptcy without causing an Event of Default under the Bond Terms.

2.2 Adapting to the need for certain parent guarantees from the Issuer

After the break out of Covid-19 an increased number of suppliers to some of the members of the Group have requested that the Issuer provide parent guarantees in respect of such members of the Group's liabilities towards such suppliers before supplying their goods or services to such members of the Group. The provisions in the Bond Terms dealing with guarantees, namely Clause 13.7 (*Financial Support*) and the definition of "Permitted Financial Support" in Clause 1.1 (*Definitions*) of the Bond Terms, permit certain other type of parent guarantees from the Issuer, such as paragraph (d) of that definition which permit such parent guarantees in respect of financial indebtedness within a certain basket, but not such parent guarantees in favour of suppliers. Hence, any parent guarantees granted by the Issuer in favour of such suppliers count towards the general basket in paragraph (o) of the said definition of "Permitted Financial Support".

While the Issuer will strive to limit the number and amount of the latter type of parent guarantees, it has come to realise that it most likely will have to grant such guarantees to certain key suppliers of some members of the Group in order to facilitate the continued day-to-day operations of such members of the Group. The Issuer will take care to try to get certain benefits from the relevant suppliers in return, such as additional funding, extended payment terms etc.

As described in more detail in paragraph 3.2 below, the Issuer therefore proposes that:

- (a) the general basket in paragraph (o) of the definition of "Permitted Financial Support" in Clause 1.1 (*Definitions*) of the Bond Terms be increased to cater for the increased demand for parent guarantees from the Issuer in favour of such suppliers; and

- (b) the basket in paragraph (d) of the definition of "Permitted Financial Support" in Clause 1.1 (*Definitions*) of the Bond Terms in respect of parent guarantees from the Issuer with respect to financial indebtedness be reduced proportionately, so that the level of "ring fencing" protecting the interests of the Issuer, the other investments of the Issuer and the Bondholders will remain the same after the requested amendments have been implemented.

2.3 Adapting to the time it takes to prepare consolidated accounting figures for Incurrence Tests in 2020

The Issuer is considering making a Tap Issue under the Bond Terms during the two last financial quarters of 2020. According to paragraph (a)(ii) of Clause 13.21 (*Calculations and adjustments to the ratios*) of the Bond Terms, the ratios forming part of any Incurrence Test to be made in connection with such a Tap Issue shall be calculated at a testing date determined by the Issuer falling no earlier than one month prior to that Tap Issue.

The Issuer has recently acquired such companies and group of companies as described in paragraph 2.1 above with complex accounting landscapes, and it expects to make more such acquisitions by the end of 2020 due to the prevailing market conditions providing the Issuer with several interesting investment opportunities. The process of transforming and consolidating such acquired companies into the Issuer's accounting regime under IFRS is rather complicated and requires a lot of time and effort on the part of the Issuer. Thus, there is a chance that the Issuer will not have enough time to produce updated consolidated figures for the Group as at the date of the Tap Issue.

Accordingly, as further explained in paragraph 3.3 below, the Issuer proposes that the said provisions in the Bond Terms be amended so that any Incurrence Test forming part of a Tap Issue to be made during any of the two last financial quarters of 2020, can be made on the basis of the latest consolidated Interim Accounts provided by the Issuer under and in accordance with the Bond Terms at the time, but only if the date of those Interim Accounts does not occur more than 75 days prior to the date of such Tap Issue.

3 PROPOSED RESOLUTIONS

Based on what is set out in paragraph 2 above, the Issuer proposes that the Bondholders resolve to approve that:

3.1 with reference to paragraph 2.1 above:

- (a) paragraph (e) (*Insolvency and insolvency proceedings*) of Clause 14.1 (*Events of Default*) of the Bond Terms be amended to read:

Any Material Group Company:

- (i) *is Insolvent; or*
- (ii) *is the object of any corporate action or any legal proceedings taken in relation to:*
 - (A) *the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of*

voluntary arrangement, scheme of arrangement or otherwise) other than a solvent liquidation or reorganisation;

- (B) a composition, compromise, assignment or arrangement with any creditor which may materially impair its ability to perform its payment obligations under these Bond Terms;*
- (C) the appointment of a liquidator (other than in respect of a solvent liquidation), receiver, administrative receiver, administrator, compulsory manager or other similar officer of any of its assets;*
- (D) enforcement of any Security over any of its or their assets having an aggregate value exceeding the threshold amount set out in paragraph (d) (Cross default) above; or*
- (E) for paragraphs (A) - (D) above, any analogous procedure or step is taken in any jurisdiction in respect of any such ~~company~~ Material Group Company.*

however this shall not apply to any petition which is frivolous or vexatious and is discharged, stayed or dismissed within twenty (20) Business Days of commencement.

- (b) paragraph (f) (*Creditor's process*) of Clause 14.1 (*Events of Default*) of the Bond Terms be amended to read:

Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of any Material Group Company having an aggregate value exceeding EUR 500,000 and is not discharged within twenty (20) Business Days.

3.2 with reference to paragraph 2.2 above:

- (a) paragraph (d) of the definition of "Permitted Financial Support" in Clause 1.1 (*Definitions*) of the Bond Terms be amended to read:

any guarantee provided by the Issuer in respect of any Financial Indebtedness of any member of a Portfolio Group permitted under paragraphs (d) or (e) of the definition of "Permitted Financial Indebtedness", provided that the aggregate amount of all such guarantees provided by the Issuer in respect of all members of all Portfolio Groups does not exceed the higher of (i) EUR ~~10,000,000~~ 6,000,000 (or its equivalent in other currencies) and (ii) an amount equal to ~~2.00~~ 1.50 per cent. of Total Assets at any time;

- (b) paragraph (o) of the definition of "Permitted Financial Support" in Clause 1.1 (*Definitions*) of the Bond Terms be amended to read:

any loans, credits, guarantees or indemnities not permitted by the preceding paragraphs which do not (in total) exceed the higher of (i) EUR ~~1,000,000~~ 5,000,000 (or its equivalent in other currencies) and (ii) an amount equal to ~~0.20~~ 0.70 per cent. of Total Assets, in each case, in aggregate for the Group at any time.

3.3 with reference to paragraph 2.3 above:

paragraph (a)(ii) of Clause 13.21 (*Calculations and adjustments to the ratios*) of the Bond Terms be amended to read:

any Incurrence Test shall be calculated at a testing date determined by the Issuer falling no earlier than one month prior to the event in respect of which the Incurrence Test shall be made; ~~and~~ provided that with respect to any Incurrence Test forming part of a Tap Issue to be made during any of the two last financial quarters of 2020, the Issuer may instead opt to calculate the Incurrence Test at the date of its most recent Interim Accounts provided under and pursuant to the Bond Terms but only if the date of those Interim Accounts does not occur more than 75 days prior to the date of such Tap Issue; and

collectively, the "**Proposals**".

The Proposals will become effective if and when:

- (a) the Written Resolution approving the Proposals has become effective pursuant to what is set out in paragraph 7 below;
- (b) the Issuer and the Bond Trustee have entered into an amendment (or an amendment and restatement) agreement to the Bond Terms in respect of the Proposals; and
- (c) the Bond Trustee has confirmed in writing to the Issuer that any conditions precedent documents to be delivered by the Issuer to the Bond Trustee under the amendment (or the amendment and restatement) agreement referred to in paragraph (b) above have been delivered to the Bond Trustee (in form and substance satisfactory to it).

4 FURTHER INFORMATION

For more detailed information on the Proposals, please feel free to contact:

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5 NON-RELIANCE

The Proposals are presented to the Bondholders without further evaluation or recommendation from the Bond Trustee. Nothing herein shall constitute a recommendation to the Bondholders from the Bond Trustee with respect to the approval of the Proposals. The Bondholders must independently evaluate whether the Proposals are acceptable to them.

6 SUPPORT FROM THE BONDHOLDERS

The Issuer has informed the Bond Trustee that it has received pre-commitments from Bondholders representing more than 50 per cent. of the Voting Bonds to vote in favour of the Proposals.

7 WRITTEN RESOLUTION

The Bondholders are hereby provided with a voting request for a Written Resolution pursuant to Clause 15.5 (*Written Resolutions*) of the Bond Terms. For the avoidance of doubt, no Bondholders' Meeting will be held.

It is proposed that the Bondholders resolve the following resolution by way of Written Resolution:

The Bondholders resolve by Written Resolution:

- (a) *to approve the Proposals; and*
- (b) *that the Bond Trustee shall be authorised to take any action, negotiate, finalise, enter into, amend, register and deliver any agreements, documents, notices, acknowledgements or other instruments or arrangements as it, in its sole discretion, deems necessary or desirable to implement or give effect to the Proposals.*

The proposed Written Resolution will be passed if either:

- (a) Bondholders representing at least a 2/3 majority of the total number of Voting Bonds vote in favour thereof prior to the expiry of the Voting Period (as defined below); or
- (b) a quorum representing at least 50 per cent. of the total number of Voting Bonds submits a response to this Notice of a Written Resolution within the Voting Period and the votes cast in favour of the Written Resolution represent at least a 2/3 majority of the Voting Bonds that responded to this Notice of a Written Resolution within the Voting Period.

Voting Period: The Voting Period will expire on 28 August 2020 at 13:00 p.m. (Oslo time). The Bond Trustee must have received all votes necessary in order for the Written Resolution to be passed with the requisite majority under the Bond Terms no later than at the expiration of the Voting Period.

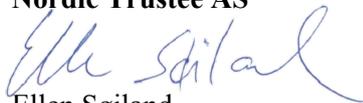
How to Vote: A duly filled in and signed Voting Form (in the form attached hereto as Appendix 1) together with proof of ownership of the Bonds held by the relevant Bondholder must be sent as attachments to an e-mail to the following email address: mail@nordictrustee.com and be received by the Bond Trustee no later than at the expiration of the Voting Period.

The effective date of a Written Resolution passed prior to the expiry of the Voting Period is the date when the Written Resolution is approved by the last Bondholder that results in the necessary voting majority being achieved.

Votes which are submitted are final and cannot be withdrawn. In the event that any Bonds are transferred to a new owner after votes have been submitted in respect of such Bonds, the new Bondholders shall accordingly not be entitled to vote.

Yours sincerely,

Nordic Trustee AS

A handwritten signature in blue ink, appearing to read 'Ellen Søliland', written in a cursive style.

Ellen Søliland

Enclosed: Appendix 1: Voting Form

Appendix 1

VOTING FORM

**ISIN: NO0010872864 - Mutares SE & Co. KGaA FRN Senior Secured EUR
80,000,000 Bonds 2020/2024**

With reference to the Notice of a Written Resolution dated 13 August 2020 in respect of the above bonds (the "**Bonds**"), the undersigned holder of Bonds (the "**Bondholder**") or person duly authorised to vote on behalf of such Bondholder in respect of such Bonds, votes in the following manner:

- In favour** of the Proposals
- In disfavour** of the Proposals

ISIN ISIN NO0010872864	Number of Bonds owned:
Name of custodian:	Account number at custodian:
Name of Bondholder:	Day time telephone number:
	Email address:

Enclosed to this form is a complete printout from our custodian/VPS,¹ verifying the number of Bonds held by the Bondholder as of _____.

The Bondholder acknowledges and agrees that Nordic Trustee AS for verification purposes in respect hereof may obtain information regarding our holding of Bonds from VPS and/or our custodian.

.....
Place, date

.....
Signature

Please return to:

Nordic Trustee AS
P.O. Box 1470 Vika
N-0116 Oslo
Norway
E-mail: mail@nordictrustee.com
Fax.: +47 22 87 94 10
Tel.: +47 22 87 94 00

¹ If the Bonds are held in custody other than in VPS, evidence from the custodian confirming that (a) you are the owner of the Bonds, (b) in which account number the Bonds are held and (c) the number of Bonds owned must be attached this form.