

MARLEY SPOON

Invitation and Agenda for the

Extraordinary General Meeting of

Marley Spoon AG

with its registered seat in Berlin, Germany,

on January 29, 2020

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Extraordinary General Meeting

of

Marley Spoon AG

with its registered seat in Berlin, Germany, registered with the commercial register of the Local Court of Charlottenburg under HRB 195994 B (the “**Company**”),

on January 29, 2020

We hereby invite the shareholders of our Company to the

Extraordinary General Meeting

on January 29, 2020, at 09:00 a.m. (CET) / 07:00 p.m. (AEDT),

in the Company’s business premises at

Paul-Lincke-Ufer 39-40

10999 Berlin

Germany

I. Agenda

Item 1:

Resolution on the granting of an authorisation to issue a convertible bond in the nominal amount of USD 2,651,892.62 to USV MARLEY SPOON A, LLC and a convertible bond in the nominal amount of USD 124,594.88 to USV MARLEY SPOON B, LLC, each against contribution in kind and under the exclusion of subscription rights, and the cancellation of the existing Conditional Capital 2018/I as well as the corresponding amendment of Sec. 3 para. 4 of the Constitution and the creation of a new Conditional Capital 2020/I and a corresponding amendment of Section 3 of the Constitution (insertion of a new Section 3 para. 10 of the Constitution)

On September 25, 2019, USV MARLEY SPOON A, LLC, a Limited Liability Company (LLC) established under the laws of Delaware with its registered office at: 251 Little Falls Drive, Wilmington, DE 19808, USA (hereinafter also referred to as “**USV MS A**”), USV MARLEY SPOON B, LLC, a Limited Liability Company (LLC) established under the laws of Delaware with its registered office at: 251 Little Falls Drive, Wilmington, DE 19808, USA, (hereinafter also referred to as “**USV MS B**”), and the Company entered into a loan agreement, in which USV MS A and USV MS B committed themselves to grant loans to the Company in the aggregate amount of USD 2,776,487.50 (the “**USV MS Loan Agreement**”), with USV MS A granting a loan in the amount of USD 2,651,892.62 (“**USV MS A Loan Tranche**”) and USV MS B granting a loan in the amount of USD 124,594.88 (“**USV MS B Loan Tranche**”). The USV MS Loan Agreement contains a unilateral substitution right (“**USV MS Substitution Right**”) of the Company to replace the USV MS A Loan Tranche by the issuance of a convertible bond to USV MS A in the nominal amount of USD 2,651,892.62 (“**USV MS A Convertible Bond**”) and the USV MS B Loan Tranche by the issuance of a convertible bond to USV MS B in the nominal amount of USD 124,594.88 (“**USV MS B Convertible Bond**”) and together with the USV MS A Convertible Bond, the “**USV MS Convertible Bonds**” and each a “**USV MS Convertible Bond**”). In order for the Company to be able to exercise the USV MS Substitution Right and replace the USV MS A Loan Tranche and USV MS B Loan Tranche by two convertible bonds, the Company seeks to be granted an authorisation to issue two convertible bonds to USV MS A and USV MS B.

Further, since the existing conditional capital 2018/I (“**Conditional Capital 2018/I**”) is no longer required, the Conditional Capital 2018/I in the aggregate amount of EUR 2,792.00 shall be cancelled and a new conditional capital (“**Conditional Capital 2020/I**”) shall be implemented in order to enable the Company to issue shares of the Company to USV MS A and USV MS B upon exercise of the respective conversion right under the USV MS Convertible Bonds.

Further, to the extent the Conditional Capital 2020/I does not suffice – the Company further proposes, under agenda item 3 below, a new Authorized Capital 2020/I (as defined below) which will include an authorisation of the Management Board to issue, with the consent of the Supervisory Board, additional new shares to USV MS A and USV MS B under the exclusion of subscription rights of the existing shareholders upon exercise of their respective conversion right under the USV MS Convertible Bonds.

The Management Board and Supervisory Board therefore propose to resolve as follows:

1. Authorisation to issue the USV MS A Convertible Bond to USV MS A and to issue the USV MS B Convertible Bond to USV MS B, in each case against contribution in kind and under the exclusion of subscription rights

a) Nominal amount, authorisation period, number of shares

The Management Board shall be authorised until April 29, 2020 (inclusive), with the consent of the Supervisory Board, to issue two registered convertible bonds in the aggregate nominal amount of up to USD 2,776,487.50, each with a term of up to three years as of the respective day the convertible bond is issued and to grant the beneficiaries of the USV MS Convertible Bonds a conversion right for in aggregate up to 8,200 ordinary shares of the Company with an aggregate fractional amount of the nominal share capital of the Company of up to EUR 8,200.00 (for the USV MS Convertible Bonds collectively) as set out in the terms and conditions of each of the USV MS Convertible Bonds (hereinafter referred to as, as the case may be, the “**USV MS A Terms and Conditions**“ and/or the “**USV MS B Terms and Conditions**“ and both together, the “**USV MS Terms and Conditions**“). The issuance of the two USV MS Convertible Bonds shall only be made upon exercise by the Company of its USV MS Substitution Right pursuant to the USV MS Loan Agreement, for the purpose of a replacement of the USV MS A Loan Tranche in the amount of USD 2,651,892.62 and the USV MS B Loan Tranche in the amount of USD 124,594.88, i.e. against contribution in kind.

b) Exclusion of subscription rights

The shareholders’ subscription right with respect to each of the USV MS Convertible Bonds is excluded. Solely the following beneficiaries shall be permitted to subscribe the USV MS Convertible Bonds:

- (i) Upon exercise of the USV MS Substitution Right by the Company with respect to the USV MS A Loan Tranche, USV MS A shall be permitted to subscribe for a convertible bond (USV MS A Convertible Bond) in the nominal amount of up to USD 2,651,892.62 with a conversion right for up to 7,800 shares of the Company with a fractional amount of the nominal share capital of the Company of up to EUR 7,800.00 as set out in the USV MS A Terms and Conditions.

(ii) Upon exercise of the USV MS Substitution Right by the Company with respect to the USV MS B Loan Tranche, USV MS B shall be permitted to subscribe for a convertible bond (USV MS B Convertible Bond) in the nominal amount of up to USD 124,594.88 with a conversion right for up to 400 shares of the Company with a fractional amount of the nominal share capital of the Company of up to EUR 400.00 as set out in the USV MS B Terms and Conditions.

c) Conversion right

USV MS A and USV MS B each has the right to convert its respective convertible bond into ordinary registered shares of the Company, in whole but not in part, during the conversion period and in accordance with the respective USV MS Terms and Conditions (as the case may be, the “**USV MS A Conversion Right**” and the “**USV MS B Conversion Right**” and together, the “**USV MS Conversion Rights**” and each a “**USV MS Conversion Right**”). The conversion ratio is calculated by dividing the nominal amount of the respective USV MS Convertible Bond by the USV MS Conversion Price (as defined below) determined for one share of the Company (as defined below), with the conversion being based on the Euro (EUR) foreign exchange reference rate, as published on the official website of the European Central Bank (ECB), between US-dollars (i.e. USD converted into Euros) and Australian dollars (i.e. AUD converted into Euros) on the day prior to the resolution of the Management Board on the issuance of the respective USV MS Convertible Bond. The conversion price for one share of the Company is AUD 500.00 (the “**USV MS Conversion Price**”), which corresponds to a price of AUD 0.50 per CHESS Depository Interest (“**CDI**”) of the Company quoted by the Australian Securities Exchange (ASX), since one (1) CDI represents a beneficial ownership of 1/1,000th in one (1) share of the Company. The USV MS A Terms and Conditions shall determine for the USV MS A Convertible Bond the fixed number of shares to be subscribed for (subscription shares) upon exercise of the USV MS A Conversion Right based on the afore described conversion ratio. The USV MS B Terms and Conditions shall determine for the USV MS B Convertible Bond the fixed number of shares to be subscribed for (subscription shares) upon exercise of the USV MS B Conversion Right based on the afore described conversion ratio.

The number of subscription shares may be commercially rounded up or down to the next whole number. Moreover, provision may be made that fractions shall be combined and/or compensated for in cash. The fractional amount of the nominal share capital represented by the shares to be issued upon conversion of the USV MS Convertible Bonds shall not exceed the nominal value of the USV MS Convertible Bonds. Section 9 para. 1 in conjunction with Section 199 para. 2 of the German Stock Corporation Act (*Aktiengesetz*) shall be complied with.

d) Conversion price

The USV MS Conversion Price for one share of the Company shall amount to AUD 500.00; this corresponds to a price of AUD 0.50 per CDI, since one (1) CDI represents a beneficial ownership of 1/1,000th in one (1) share of the Company.

The USV MS Conversion Price, Section 9 para. 1 of the German Stock Corporation Act (*Aktiengesetz*) notwithstanding, may be adjusted based on an anti-dilution clause in accordance with the USV MS Terms and Conditions if the Company, during the conversion period, increases its share capital from capital reserves, a share split or combining of shares is carried out, the share capital is decreased, the share capital is increased against contributions with subscription rights or the Company issues other securities with subscription rights. The fractional amount of the nominal share capital represented by the shares to be issued upon conversion of the respective USV MS Convertible Bond shall not exceed the nominal value of the respective USV MS Convertible Bond. Section 9 para. 1 in conjunction with Section 199 para. 2 of the German Stock Corporation Act (*Aktiengesetz*) shall be complied with. Notwithstanding the aforementioned, any adjustment to the conversion of the USV MS Convertible Bonds must comply with the ASX Listing Rules.

e) Interest

During their respective term and until exercise of the respective USV MS Conversion Right, the USV MS Convertible Bonds shall bear interest on their respective nominal amount in the aggregate amount of the 12-months USD-LIBOR plus a margin of 5.00 per cent. per annum (“**Interest**”). All accrued interest shall only be paid out on the maturity date unless the respective USV MS Convertible Bond is converted into shares before such date or in the case of another prepayment event occurring. If the USV MS Conversion Right is exercised, all claims of, as the case may be, USV MS A or USV MS B to receive an Interest payment are forfeited.

f) Authorisation to determine the further USV MS Terms and Conditions

The USV MS Terms and Conditions may stipulate that in the case of a conversion, the Company may also deliver treasury shares of the Company, shares from authorised capital or other considerations.

USV MS A and USV MS B have to commit themselves vis-à-vis the Company to transfer the respective subscription shares to be issued to them, immediately after their issuance to CHESSE Depository Nominees Pty Ltd, ACN 071 346 506, with business address: 20 Bridge Street, Sydney NSW 2000, Australia (“**CDN**”), with CDN to hold the subscription shares pursuant to the ASX Settlement Operating Rules and such number of CDIs to be allocated to USV MS A and/or USV MS B, instead of subscription shares, as corresponds to the beneficial ownership

of the subscription shares, for as long as CDIs are quoted by the ASX.

Subject to the ASX Listing Rules, the Management Board shall be authorised to determine the further details concerning the issue and structure of the USV MS Convertible Bonds in the USV MS Terms and Conditions, specifically the term and conversion period.

The USV MS Terms and Conditions shall include provisions pursuant to which the USV MS Conversion Price may be amended during the term as a result of anti-dilution protection. The USV MS Terms and Conditions shall equally provide that where a capital measure or comparable measure is implemented at the Company, and to the extent permitted by the ASX Listing Rules and mandatory German law, the Management Board (together with the Supervisory Board) may seek shareholder's approval or take other measures that would permit the issue of subscription rights or shares (or CDIs) to USV MS A and/or USV MS B in such a way that USV MS A or USV MS B would maintain *pari passu* a stake in the Company that each of them would have, had they already exercised their respective USV MS Conversion Right at the respective point in time.

Further, the USV MS Terms and Conditions will provide for the USV MS Convertible Bonds to constitute subordinated claims of USV MS A and USV MS B against the Company ranking after all unsubordinated creditors of the Company. The Company will also not be required to make any payment to USV MS A and USV MS B under the USV MS Convertible Bonds if and to the extent such payment would give cause for the commencement of insolvency proceedings over the assets of the Company.

The Management Board (with the consent of the Supervisory Board) will only issue the USV MS Convertible Bonds referred to in this item 1 if resolutions 2 and 5 are passed by the required majorities.

2. Cancellation of the Conditional Capital 2018/I

The Conditional Capital 2018/I contained in Sec. 3 para. 4 of the Constitution is cancelled, taking effect with the point in time of the registration of the Conditional Capital 2020/I, as proposed for resolution hereafter under 3., is being registered with the commercial register of the Local Court of Charlottenburg, which is competent for the Company.

3. Conditional Capital 2020/I

a) Creation of a Conditional Capital 2020/I

The share capital of the Company shall be conditionally increased by up to EUR 7,717.00 (in words: seven thousand seven hundred seventeen Euros) by the issue of up to 7,717 new no-par-value registered shares of the Company (Conditional Capital 2020/I). The purpose of the

Conditional Capital 2020/I is solely to permit the issue of shares upon the exercise of the conversion right under the USV MS Convertible Bonds granted to USV MS A and USV MS B on the basis of the authorisation under agenda item 1. no. 1 above.

Pursuant to the aforementioned authorisation under agenda item 1. no. 1, the issuance of the subscription shares shall be made at a conversion price of AUD 500.00 per subscription share, which corresponds to a price of AUD 0.50 per CDI, since one (1) CDI represents a beneficial ownership of 1/1,000th in one (1) share of the Company. For the number of subscription shares resulting therefrom, the conversion ratio as determined by the authorisation under agenda item 1. no. 1 c) above shall be decisive. The conditional capital increase will only be implemented, and subscription shares will only be issued, to the extent that USV MS A and/or USV MS B exercises its respective USV MS Conversion Right and to the extent the respective USV MS Conversion Right is not serviced by treasury shares, or shares from authorised capital or other considerations.

The subscription shares participate in profits from the beginning of the fiscal year in which they are created and for all subsequent fiscal years. In deviation hereof, the Management Board can, if legally permissible and with the approval of the Supervisory Board, determine that the subscription shares participate in profits from the beginning of such fiscal year for which at the time of the exercise of the respective USV MS Conversion Right still no resolution by the general meeting as to the appropriation of the balance sheet profit has been passed, including the financial year preceding the issuance.

The Management Board shall be authorised to determine the further details of the execution of the conditional capital increase. The Supervisory Board shall be authorised to amend the Constitution of the Company in accordance with the respective utilisation of the Conditional Capital 2020/I as well as after expiration of the conversion period.

b) Amendment of the Constitution

Section 3 of the Constitution is supplemented by a new paragraph 10. The new Section 3 para. 10 of the Constitution shall be worded as follows:

*“(10) The share capital of the Company is conditionally increased by up to EUR 7,717.00 (in words: seven thousand seven hundred seventeen Euros) by the issue of up to 7,717 new no-par-value registered shares of the Company (Conditional Capital 2020/I). The Conditional Capital 2020/I is solely to permit the issue of shares upon the exercise of the conversion right under the convertible bonds (“**USV MS Convertible Bonds**”) granted to USV MARLEY SPOON A, LLC (“**USV MS A**”) and USV MARLEY SPOON B, LLC (“**USV MS B**”) on the basis of the authorisation of the general meeting of the Company of January 29, 2020 under agenda item 1, no. 1.*

Pursuant to the authorisation of the general meeting of the Company of January 29, 2020 under agenda item 1, no. 1., the issuance of the subscription shares shall be made at a conversion price of AUD 500.00 per subscription share, which corresponds to a price of AUD 0.50 per CHESSE Depository Interest of the Company quoted by the Australian Securities Exchange (ASX) (“CDI”), since one (1) CDI represents a beneficial ownership of 1/1,000th in one (1) share of the Company. For the number of subscription shares resulting therefrom, the conversion ratio as determined by the aforementioned authorisation under agenda item 1 no. 1. c) shall be decisive. The conditional capital increase will only be implemented, and subscription shares will only be issued, to the extent that USV MS A and/or USV MS B exercises its conversion right and to the extent the conversion right is not serviced by treasury shares, or shares from authorised capital or other considerations.

The subscription shares participate in profits from the beginning of the fiscal year in which they are created and for all subsequent fiscal years. In deviation hereof, the Management Board can, if legally permissible and with the approval of the Supervisory Board, determine that the subscription shares participate in profits from the beginning of such fiscal year for which at the time of the exercise of the conversion right still no resolution by the general meeting as to the appropriation of the balance sheet profit has been passed, including the financial year preceding the issuance.

The Management Board is authorised to determine the further details of the execution of the conditional capital increase. The Supervisory Board is authorised to amend the Constitution of the Company in accordance with the respective utilisation of the Conditional Capital 2020/I as well as after expiration of the conversion period.”

Item 2:

Resolution on the granting of an authorisation to issue a convertible bond in the nominal amount of AUD 4,047,250.00 to W23 Investments Pty Limited against contribution in kind and under the exclusion of subscription rights

On September 26, 2019, W23 Investments Pty Limited, established under the laws of Australia and a group company of the Woolworths group, which has its registered office at: 1 Woolworths Way Bella Vista NSW 2153, Australia (hereinafter also referred to as “**Woolworths**”) and the Company entered into a loan agreement (the “**WOW Loan Agreement**”), in which Woolworths committed itself to grant to the Company, amongst others, a loan in the aggregate amount of AUD 4,047,250 (the “**WOW Loan**”). Instead of repaying the WOW Loan, the Company has a unilateral substitution right (the “**WOW Substitution Right**”) to replace the WOW Loan together with accrued interest thereon by the issuance of a convertible bond (the “**WOW Convertible Bond**”) with a principal amount of up to AUD 4,047,250.00 (“**WOW Principal Amount**”) to Woolworths. In order for the Company to be able to exercise the WOW Substitution Right, the Company seeks to be granted an authorisation to issue such WOW Convertible Bond to Woolworths.

Further, in order to enable the Company to issue shares of the Company to Woolworths upon exercise of its conversion right under the WOW Convertible Bond, the Company will propose, under agenda item 3 below, a new Authorized Capital 2020/I (as defined below) which will include an authorisation of the Management Board to issue, with the consent of the Supervisory Board, new shares to Woolworths under the exclusion of subscription rights of the existing shareholders upon exercise of its conversion right under the WOW Convertible Bond.

The Management Board and Supervisory Board therefore propose to resolve as follows:

1. Authorisation to issue the WOW Convertible Bond against contribution in kind and under the exclusion of subscription rights

a) Principal amount, authorisation period, number of shares

The Management Board shall be authorised until April 29, 2020 (inclusive), with the consent of the Supervisory Board, to issue a registered convertible bond (WOW Convertible Bond) to Woolworths in the aggregate nominal amount of up to AUD 4,047,250.00 (WOW Principal Amount), with a term of up to five years as of the day the WOW Convertible Bond is issued and to grant Woolworths a conversion right (“**WOW Conversion Right**”) to, upon exercise of the WOW Conversion Right, receive ordinary registered shares of the Company in accordance with the terms and conditions of the WOW Convertible Bond (hereinafter referred to as the “**WOW Convertible Bond Terms and Conditions**”). The issuance of the WOW Convertible Bond shall only be made upon exercise of the WOW Substitution Right by the Company

pursuant to the WOW Loan Agreement, for the purpose of a replacement of the WOW Loan, *i.e.* against contribution in kind.

b) Exclusion of subscription rights

The shareholders' subscription rights with respect to the WOW Convertible Bond are excluded. With a view to the WOW Substitution Right of the Company regarding the WOW Loan, Woolworths shall solely be permitted to subscribe the WOW Convertible Bond.

c) Conversion Right

Woolworths shall have the right to convert the WOW Convertible Bond during the conversion period set out in the WOW Convertible Bond Terms and Conditions, in whole but not in part, into new no-par-value registered shares of the Company (the "**WOW Conversion Shares**") upon the occurrence of a conversion event pursuant to the WOW Convertible Bond Terms and Conditions. The WOW Conversion Right must be exercised within the exercise period set out in the WOW Convertible Bond Terms and Conditions.

d) Number of shares to be issued and conversion price

The number of shares to be issued by the Company upon exercise of the WOW Conversion Right by Woolworths ("**WOW Conversion Shares Number**") is calculated by (i) multiplying the WOW Principal Amount with the AustCo Growth Factor (as defined below), and (ii) dividing the resulting product by the WOW Conversion Price (as defined below). The Company shall not compensate Woolworths for any fractions of conversion shares that occur upon conversion.

The "**AustCo Growth Factor**" corresponds to the Relevant Revenue (as defined below) for the most recently reported financial half-year ending prior to the occurrence of a relevant conversion event (for the avoidance of doubt, being, in the case of the publication of the financial statements of the Company for its financial half-years, the financial half-year to which the relevant half-year financial statements relate, and in the case of the publication of the financial statements of the Company for its financial years, the financial half-year ending December 31 of the financial year to which the relevant annual financial statements relate) as reported in the Australian segment of the relevant financial statements of the Company divided by the Relevant Revenue (as defined below) for the financial half-year ended June 30, 2019 or failing such as per the financial information provided to Woolworths in accordance with the Loan Agreement.

"**WOW Conversion Price**" means the price per share of the Company which corresponds to the arithmetic volume-weighted average price per CDI of the Company quoted by the Australian Securities Exchange ("**ASX**") on the ASX during the 30 trading days immediately preceding the day on which a relevant conversion event occurs, multiplied by 1,000 since one

(1) CDI represents the economic ownership of 1/1,000th in one (1) share of the Company, provided that the WOW Conversion Price may not be less than the fractional nominal amount per share in the Company's nominal share capital.

“Relevant Revenue” means the revenue of the Company's Australian subsidiary, MarleySpoon Pty Ltd (ACN 603 969 571), from goods sold with respect to its Meal Kit Business (as defined below) and Other Meal Kit Business (as defined below) as reported in the Australian segment of the relevant financial statements of the Company or failing such as per the financial information provided to Woolworths in accordance with the WOW Convertible Bond Terms and Conditions (for the avoidance of doubt, excluding any discounts granted to customers), adjusted, if applicable, by adding any revenue of the Company or any of the subsidiaries of the Company from goods sold in Australia with respect to their Meal Kit Business and Other Meal Kit Business.

“Meal Kit Business” means an online subscription food service business that sends customers pre-portioned or partially prepared food ingredients and recipes to enable customers to prepare home cooked meals as a standalone service.

“Other Meal Kit Business” means a business which provides or creates pre-portioned or partially prepared food ingredients and recipes to enable customers to prepare home cooked meals.

e) Adjustment of WOW Conversion Shares Number

The number of conversion shares to be issued by the Company upon exercise of the WOW Conversion Right (WOW Conversion Shares Number) shall be adjusted in the following cases:

If the number of WOW Conversion Shares calculated by a) dividing the WOW Principal Amount by the Discounted WOW Issue Date Price (as defined below) (the **“Adjusted WOW Conversion Shares Number I”**); and/or b) dividing the WOW Principal Amount by the Discounted Signing Date Price (as defined below) (the **“Adjusted WOW Conversion Share Number II”**) is lower than the WOW Conversion Shares Number, the number of WOW Conversion Shares to be issued and delivered by the Company upon conversion will be adjusted and be equal to the lower of the Adjusted WOW Conversion Shares Number I and the Adjusted WOW Conversion Shares Number II.

“Discounted WOW Issue Date Price” means the price per share of the Company which corresponds to 80% of the arithmetic volume-weighted average price per CDI on the ASX during the 30 trading days immediately preceding the resolution of the Management Board of the Company to issue, with the consent of the Supervisory Board of the Company, the WOW Convertible Bond (**“Averaging Period”**), multiplied by 1,000 since one (1) CDI represents the

economic ownership of 1/1,000th in one (1) share of the Company.

“Discounted Signing Date Price” means a price per share of the Company in the amount of AUD 300.00.

f) Additional Cash Payment

If the Adjusted WOW Conversion Shares Number I is lower than the lower of (i) the WOW Conversion Shares Number and (ii) the Adjusted WOW Conversion Shares Number II, the Company will pay to Woolworths upon conversion an additional cash amount which will be calculated as follows:

- (i) where the Adjusted WOW Conversion Shares Number II is higher than the WOW Conversion Shares Number, by multiplying (i) the result of the difference between the WOW Conversion Shares Number and the Adjusted WOW Conversion Shares Number I with (ii) the WOW Conversion Price.
- (ii) where the WOW Conversion Shares Number is higher than the Adjusted WOW Conversion Shares Number II, by multiplying (i) the result of the difference between the Adjusted WOW Conversion Shares Number II and the Adjusted WOW Conversion Shares Number I with (ii) the WOW Conversion Price.

g) Cash Settlement Option

If (i) the conversion would result in a participation of Woolworths in the Company’s share capital exceeding 24.9% by number of shares in the Company’s share capital on a fully diluted basis, (ii) the WOW Conversion Price would be less than the fractional nominal amount per share in the Company’s nominal share capital, or (iii) the Company’s aggregate available conditional and authorized capitals are not sufficient to meet the number of WOW Conversion Shares to be issued and delivered by the Company upon conversion (taking into account any adjustment to the number of WOW Conversion Shares), the Company will be entitled to settle in cash an amount calculated by multiplying the number of the WOW Cash Settlement Shares (as defined below) settled in cash with the WOW Conversion Price.

“WOW Cash Settlement Shares” means (x) in the case of (i) above, the WOW Conversion Shares which upon issuance and delivery to Woolworths would result in the participation of Woolworths in the Company’s share capital exceeding 24.9% by number of shares in the Company’s share capital on a fully diluted basis, (y) in the case of (ii) above, all WOW Conversion Shares, and (z) in the case of (iii) above, the WOW Conversion Shares which cannot be met by the Company’s aggregate available conditional and authorized capitals.

h) Interest

The WOW Convertible Bond shall bear interest on the WOW Principal Amount at a rate of

7.00 per cent. per annum (“**WOW Interest**”). WOW Interest shall accrue from and including the issue date to but excluding the maturity date or, in the case of a termination of the WOW Convertible Bond for redemption before the maturity date on the date of redemption (“**WOW Redemption Date**”). The WOW Interest shall become due and payable on the maturity date or, in the case of a termination of the WOW Convertible Bond for redemption, on the WOW Redemption Date. If Woolworths exercises its WOW Conversion Right, all accrued WOW Interest shall be forfeited.

i) Authorisation to determine the further WOW Convertible Bond Terms and Conditions

Subject to the ASX Listing Rules, the Management Board shall be authorised to determine the further details concerning the issue and structure of the WOW Convertible Bond in the WOW Convertible Bond Terms and Conditions, specifically the term, the conversion period, the conversion events, the exercise period and an additional redemption amount which shall be payable upon redemption of the WOW Convertible Bond.

Woolworths shall commit itself *vis-à-vis* the Company to transfer the WOW Conversion Shares to be issued to it, immediately after their issuance to CHESS Depository Nominees Pty Ltd, ACN 071 346 506, with business address: 20 Bridge Street, Sydney NSW 2000, Australia (“**CDN**”), and endeavour to enter into an agreement with CDN, with the obligation of CDN to hold the WOW Conversion Shares in trust pursuant to the ASX Settlement Operating Rules and such number of CDIs to be allocated to Woolworths, instead of WOW Conversion Shares, as corresponds to the beneficial ownership of the WOW Conversion Shares, for as long as CDIs are quoted by the ASX. This commitment shall not apply to any WOW Conversion Shares which are settled in cash.

The Management Board (with the consent of the Supervisory Board) will only issue the WOW Convertible Bond referred to in this agenda item 2, no. 1 if resolutions 3 and 4 are passed by the required majorities.

Item 3:

Resolution on the cancellation of the existing Authorized Capital 2019/I and the creation of an Authorized Capital 2020/I, with the authorisation of the Management Board to exclude subscription rights with the consent of the Supervisory Board as well as the corresponding amendment of Sec. 3 para. 3 of the Constitution

The Authorized Capital 2019/I in the aggregate amount of EUR 64,485.00, which currently exists at the Company, shall be cancelled and a new Authorized Capital 2020/I shall be implemented, since certain authorisations under the Authorized Capital 2019/I are no longer required (such as the authorisation under the current Authorized Capital 2019/I in Section 3 para. 3 (ii), para. 3 (iii) and

para. 3 (x) of the current Constitution) and in order to, in addition to maintaining the previous authorisations which are still required under the Authorized Capital 2019/I, create new authorisations that will permit the Company to issue additional shares to USV MS A and USV MS B, if the Company issues the USV Convertible Bonds, which may be required to fulfil subscription rights by USV MS A and/or USV MS B under the USV MS Convertible Bonds, to the extent the Conditional Capital 2020/I is not sufficient; and to issue shares to Woolworths, if the Company issues the WOW Convertible Bond and if Woolworths exercises the WOW Conversion Right. Further, the Authorized Capital 2020/I shall enable the Company to quickly and flexibly cover its financial requirements in the framework of its business purpose, and to swiftly seize arising market opportunities and strategic options.

Under the Authorized Capital 2020/I, the Management Board shall be authorized, amongst others, to exclude in specific cases, with the consent of the Supervisory Board, the subscription rights of the existing shareholders, also including the cases hitherto provided for by the Authorized Capital 2019/I, to the extent they are still relevant. In addition, for certain authorisations the subscription rights of the shareholders will be excluded as hitherto provided for by the Authorized Capital 2019/I. Further, new authorisations shall be implemented pursuant to which the Management Board, with the consent of the Supervisory Board, will be authorized (i) to issue shares to USV MS A and USV MS B upon exercise of the respective USV MS Conversion Right under the USV MS Convertible Bonds to the extent the Conditional Capital 2020/I to be created pursuant to agenda item 1, no. 3 is not sufficient to back the respective USV MS Conversion Shares and (ii) to issue shares to Woolworths upon the exercise of the WOW Conversion Right under the WOW Convertible Bond granted on the basis of the authorisation under agenda item 2 no. 1. above; in both of these cases, the subscription right of the shareholders will be excluded.

The Management Board and Supervisory Board therefore propose to resolve as follows:

1. Cancellation of the Authorized Capital 2019/I

The authorisation of the Management Board contained in Sec. 3 para. 3 is cancelled, taking effect with the point in time of the registration of the Authorized Capital 2020/I, as proposed in the resolution hereafter under no. 2. and no. 3., being registered with the commercial register of the Local Court of Charlottenburg, which is competent for the Company.

2. Authorized Capital 2020/I

The Management Board is authorized until January 28, 2025, to increase the share capital of the Company on one or more occasions with the approval of the Supervisory Board (by a total of up to EUR 67,960.00 (in words: sixty-seven thousand nine hundred sixty Euros) by issuing up to 67,960 new no-par-value registered shares against contributions in cash and/or in kind

(Authorized Capital 2020/I).

In principle, the shareholders are to be offered subscription rights. The shares may also be subscribed by one or more banks or enterprises within the meaning of Section 186 para. 5 sentence 1 AktG with the obligation to offer the shares to the shareholders of the Company. In addition, the shares can be subscribed by a trustee (the “**Trustee**”) with the obligation to hold the shares in trust and to allocate, instead of those shares, such number of so-called *CHESS Depository Interests* (“**CDIs**”), e.g. in the form of CUFS (*CHESS Units of Foreign Securities*), as corresponds to the new shares – with one CDI being a unit of beneficial ownership in shares of the Company – to the respective beneficial owners.

The subscription right of the shareholders is excluded for one or more capital increases in the context of the Authorized Capital 2020/I

- (i) for the purpose of serving subscription rights which have been issued to Kreos Capital V (Expert Fund) LP in the framework of the so-called “Kreos Warrant Agreement” dated March 16, 2016 and in the framework of the “2018 Kreos Warrant Agreement” dated April 12, 2018;
- (ii) in order to issue new shares to W23 Investments Pty Limited upon exercise of its Tranche 2 Conversion Right under a Tranche 2 Convertible Bond issued by the Company to W23 Investments Pty Limited on the basis of the authorisation of the general meeting of August 29, 2019 under agenda item 1, no. 1;
- (iii) in order to issue new shares to W23 Investments Pty Limited upon exercise of its Tranche 1 Conversion Right under a Tranche 1 Convertible Bond issued by the Company to W23 Investments Pty Limited on the basis of the authorisation of the general meeting of August 29, 2019 under agenda item 1, no. 1;
- (iv) in order to issue new shares to USV MARLEY SPOON A, LLC and USV MARLEY SPOON B, LLC upon exercise of their respective USV MS Conversion Right under the USV MS Convertible Bonds issued by the Company to USV MARLEY SPOON A, LLC and USV MARLEY SPOON B, LLC on the basis of the authorisation of the general meeting of January 29, 2020 under agenda item 1, no. 1;
- (v) in order to issue new shares to W23 Investments Pty Limited upon exercise of its WOW Conversion Right under a WOW Convertible Bond issued by the Company to W23 Investments Pty Limited on the basis of the authorisation of the general meeting of January 29, 2020 under agenda item 2, no. 1.

Further, the Management Board is authorized to exclude the subscription rights of shareholders with the consent of the Supervisory Board for one or more capital increases in the context of the Authorized Capital 2020/I

- (vi) in order to exclude fractional amounts from the subscription right;
- (vii) in the event of a capital increase against cash contributions, provided that the issue price of the new shares is not significantly lower than the stock exchange price of the shares of the Company already listed; however, this authorisation shall be subject to the provision that the pro rata amount of the share capital attributable to the shares sold under the exclusion of the shareholders' subscription rights, in accordance with Section 186 para. 3 s. 4 of the German Stock Corporation Act (*Aktiengesetz*, "**AktG**"), shall not exceed 10% of the share capital of the Company at the time the Authorized Capital 2020/I comes into effect or – in the case such amount is lower – at the time the Authorized Capital 2020/I is exercised. Towards the above threshold of 10% of the share capital shall also count (a) any shares that are sold during the term of the Authorized Capital 2020/I on the basis of an authorisation to sell treasury shares according to Sections 71 para. 1 no. 8 s. 5, 186 para. 3 s. 4 AktG, provided that the shareholders' subscription rights are excluded, (b) any shares that are issued during the term of the Authorized Capital 2020/I to satisfy subscription or conversion or option rights or obligations arising from convertible bonds and/or warrant bonds, profit participation rights and/or income bonds (or any combination of these instruments) (together the "**Bonds**"), provided that such Bonds are issued subject to the exclusion of the shareholders' subscription rights in analogous application of Section 186 para. 3 s. 4 AktG; and (c) any shares that are issued during the term of the Authorized Capital 2020/I on the basis of other capital measures, provided that such shares are issued subject to the exclusion of the shareholders' subscription rights in analogous application of Section 186 para. 3 s. 4 AktG;
- (viii) to the extent necessary in order to be able to grant new shares of the Company to holders or creditors of Bonds that will be issued by the Company or its subordinated group companies upon their exercise of conversion or option rights or fulfilment of conversion or option obligations, and to the extent necessary in order to grant holders of convertible or option rights or creditors of convertible bonds or warrant bonds with conversion obligations that will be issued by the Company or its subordinated group companies a subscription right to new shares in the amount to which they would be entitled to as shareholders upon exercise of the option or conversion rights or fulfilment of their conversion or option obligations;
- (ix) for up to 12,313 new shares in the event of a capital increase against contributions in kind, in particular in the context of mergers or acquisitions (including indirect acquisitions) of companies, businesses, parts of businesses, participations or other assets or claims for the acquisition of assets, including claims against the Company or any of its group companies.

The subscription right of the shareholders can also be excluded, pursuant to the provisions above, in favour of the Trustee who can subscribe the new shares with the obligation to hold the shares in trust and to allocate a corresponding number of CDIs to the respective beneficial

owners instead of the shares.

The Management Board is authorized to determine any further details of the capital increase and its implementation, subject to the consent of the Supervisory Board; this also includes the determination of the profit participation of the new shares, which may, in deviation of Section 60 para. 2 AktG, also participate in the profit of completed fiscal years, for which still no resolution by the general meeting as to the appropriation of the balance sheet profit has been passed. To the extent the subscription right is excluded pursuant to lit. (a) above, those new shares are each issued at an issuance amount of € 1.00 without additional payment.

The Supervisory Board is authorized to adjust the wording of the Constitution accordingly after the utilization of the Authorized Capital 2020/I or upon expiry of the period for the utilization of the Authorized Capital 2020/I.

3. Amendment to the Constitution

Sec. 3 para. 3 of the Constitution of the Company is correspondingly amended and restated in its entirety as follows:

“(3) *The Management Board is authorized until January 28, 2025, to increase the share capital of the Company on one or more occasions with the approval of the Supervisory Board by a total of up to € 67,960.00 (in words: sixty-seven thousand nine hundred sixty Euros) by issuing up to 67,960 new no-par-value registered shares against contributions in cash and/or in kind (Authorized Capital 2020/I).*

In principle, the shareholders are to be offered subscription rights. The shares may also be subscribed by one or more banks or enterprises within the meaning of Section 186 para. 5 sentence 1 of the German Stock Corporation Act (Aktiengesetz, “AktG”) with the obligation to offer the shares to the shareholders of the Company. In addition, the shares can be subscribed by a trustee (the “Trustee”) with the obligation to hold the shares in trust and to allocate, instead of those shares, such number of so-called CHESS Depository Interests (“CDIs”), e.g. in the form of CUFS (CHESS Units of Foreign Securities), as corresponds to the new shares – with one CDI being a unit of beneficial ownership in shares of the Company – to the respective beneficial owners.

The subscription right of the shareholders is excluded for one or more capital increases in the context of the Authorized Capital 2020/I

(i) *for the purpose of serving subscription rights which have been issued to Kreos Capital V (Expert Fund) LP in the framework of the so-called “Kreos Warrant Agreement” dated March 16, 2016 and in the framework of the “2018 Kreos Warrant Agreement” dated April 12, 2018;*

- (ii) *in order to issue new shares to W23 Investments Pty Limited upon exercise of its Tranche 2 Conversion Right under a Tranche 2 Convertible Bond issued by the Company to W23 Investments Pty Limited on the basis of the authorisation of the general meeting of August 29, 2019 under agenda item 1, no. 1;*
- (iii) *in order to issue new shares to W23 Investments Pty Limited upon exercise of its Tranche 1 Conversion Right under a Tranche 1 Convertible Bond issued by the Company to W23 Investments Pty Limited on the basis of the authorisation of the general meeting of August 29, 2019 under agenda item 1, no. 1;*
- (iv) *in order to issue new shares to USV MARLEY SPOON A, LLC and USV MARLEY SPOON B, LLC upon exercise of their respective USV MS Conversion Right under the USV MS Convertible Bonds issued by the Company to USV MARLEY SPOON A, LLC and USV MARLEY SPOON B, LLC on the basis of the authorisation of the general meeting of January 29, 2020 under agenda item 1, no. 1;*
- (v) *in order to issue new shares to W23 Investments Pty Limited upon exercise of its WOW Conversion Right under a WOW Convertible Bond issued by the Company to W23 Investments Pty Limited on the basis of the authorisation of the general meeting of January 29, 2020 under agenda item 2, no. 1.*

Further, the Management Board is authorized to exclude the subscription rights of the shareholders with the consent of the Supervisory Board for one or more capital increases in the context of the Authorized Capital 2020/I

- (vi) *in order to exclude fractional amounts from the subscription right;*
- (vii) *in the event of a capital increase against cash contributions, provided that the issue price of the new shares is not significantly lower than the stock exchange price of the shares of the Company already listed; however, this authorisation shall be subject to the provision that the pro rata amount of the share capital attributable to the shares sold under the exclusion of the shareholders' subscription rights, in accordance with Section 186 para. 3 s. 4 AktG, shall not exceed 10% of the share capital of the Company at the time the Authorized Capital 2020/I comes into effect or – where such amount is lower – at the time the Authorized Capital 2020/I is exercised. Towards the above threshold of 10% of the share capital shall also count (a) any shares that are sold during the term of the Authorized Capital 2020/I on the basis of an authorisation to sell treasury shares according to Sections 71 para. 1 no. 8 s. 5, 186 para. 3 s. 4 AktG, provided that the shareholders' subscription rights are excluded, (b) any shares that are issued during the term of the Authorized Capital 2020/I to satisfy subscription or conversion or option rights or obligations arising from convertible bonds and/or*

warrant bonds, profit participation rights and/or income bonds (or any combination of these instruments) (together the “**Bonds**”), provided that such Bonds are issued subject to the exclusion of the shareholders’ subscription rights in analogous application of Section 186 para. 3 s. 4 AktG; and (c) any shares that are issued during the term of the Authorized Capital 2020/I on the basis of other capital measures, provided that such shares are issued subject to the exclusion of the shareholders’ subscription rights in analogous application of Section 186 para. 3 s. 4 AktG;

- (viii) to the extent necessary in order to be able to grant new shares of the Company to holders or creditors of Bonds that will be issued by the Company or its subordinated group companies upon their exercise of conversion or option rights or fulfilment of conversion or option obligations, and to the extent necessary in order to grant holders of convertible or option rights or creditors of convertible bonds or warrant bonds with conversion obligations that will be issued by the Company or its subordinated group companies a subscription right to new shares in the amount to which they would be entitled to as shareholders upon exercise of the option or conversion rights or fulfilment of their conversion or option obligations;
- (ix) for up to 12,313 new shares in the event of a capital increase against contributions in kind, in particular in the context of mergers or acquisitions (including indirect acquisitions) of companies, businesses, parts of businesses, participations or other assets or claims for the acquisition of assets, including claims against the Company or any of its group companies.

The subscription right of the shareholders can also be excluded, pursuant to the provisions above, in favour of the Trustee who can subscribe the new shares with the obligation to hold the shares in trust and to allocate a corresponding number of CDIs to the respective beneficial owners instead of the shares.

The Management Board is authorized to determine any further details of the capital increase and its implementation, subject to the consent of the Supervisory Board; this also includes the determination of the profit participation of the new shares, which may, in deviation of Section 60 para. 2 AktG, also participate in the profit of completed fiscal years, for which still no resolution by the general meeting as to the appropriation of the balance sheet profit has been passed. To the extent the subscription right is excluded pursuant to lit. (i) above, those new shares are each issued at an issuance amount of € 1.00 without additional payment.

The Supervisory Board is authorized to adjust the wording of the Constitution accordingly after the utilization of the Authorized Capital 2020/I or upon expiry of the period for the utilization of the Authorized Capital 2020/I.”

Item 4:

Resolution on the granting of an authorisation to issue an option bond in the nominal amount of EUR 5,000 with a detachable warrant to Venture Lending & Leasing VIII, LLC and to issue an option bond in the nominal amount of EUR 5,000 with a detachable warrant to Venture Lending & Leasing IX, LLC, each under the exclusion of subscription rights and the creation of an Authorized Capital 2020/II, with the authorisation of the Management Board to exclude subscription rights with the consent of the Supervisory Board as well as the amendment of Sec. 3 of the Constitution

On November 20, 2019, Venture Lending & Leasing VIII, Inc., Venture Lending & Leasing IX, Inc. and Marley Spoon Inc., a Delaware corporation and a subsidiary of the Company, have entered into a loan and security agreement and supplement (together the “**WTI Loan Agreement**”) in the aggregate amount of USD 15,000,000.00 (“**WTI Loan**”) to be paid out in two tranches. At the end of November 2019, the first tranche of the WTI Loan in the aggregate amount of USD 7,500,000.00 (“**First WTI Loan Tranche**”), of which each Venture Lending & Leasing VIII, Inc. and Venture Lending & Leasing IX, Inc. had paid USD 3,750,000.00, was paid out. The second tranche of the WTI Loan in the aggregate amount of USD 7,500,000.00 (“**Second WTI Loan Tranche**”), of which each Venture Lending & Leasing VIII, Inc. and Venture Lending & Leasing IX, Inc. committed USD 3,750,000.00, is anticipated to be disbursed to Marley Spoon Inc. on July 31, 2020. In addition to the interest payable under the WTI Loan Agreement, it was agreed that the issuance by the Company of an option bond in the nominal amount of EUR 5,000 with a detachable warrant (“**VLL8 Option Bond with Warrant**”) to Venture Lending & Leasing VIII, Inc. and the issuance of an option bond in the nominal amount of EUR 5,000 with a detachable warrant (“**VLL9 Option Bond with Warrant**” and together with the VLL8 Option Bond with Warrant the “**Option Bonds with Warrants**”) to Venture Lending & Leasing IX, Inc. would be an essential condition to the funding under the WTI Loan Agreement and was part of the overall consideration for the financing provided under and in connection with the WTI Loan Agreement. Venture Lending & Leasing VIII, Inc. has assigned its right to receive the VLL8 Option Bond with Warrant to its parent, Venture Lending & Leasing VIII, LLC (“**VLL8**”), and Venture Lending & Leasing IX, Inc. has assigned its right to receive the VLL9 Option Bond with Warrant to its parent, Venture Lending & Leasing IX, LLC (“**VLL9**”). Therefore, the Company seeks to be granted an authorisation to issue the Option Bonds with Warrants to VLL8 and VLL9, respectively.

In addition, in order to enable the Company to issue shares of the Company to the respective holder of the warrants in the event such warrant holder exercises the respective warrant, a new authorized capital 2020/II shall be created.

The Management Board and Supervisory Board therefore propose to resolve as follows

1. **Authorisation to issue an option bond in the nominal amount of EUR 5,000 with a detachable warrant to Venture Lending & Leasing VIII, LLC (VLL8) and to issue an option bond in the nominal amount of EUR 5,000 with a detachable warrant to Venture Lending & Leasing IX, LLC (VLL9), in each case under the exclusion of subscription rights**

a) Nominal amount, authorisation period, number of shares

The Management Board shall be authorised until April 29, 2020 (inclusive), with the consent of the Supervisory Board, to issue (i) a bearer option bond with a nominal amount of EUR 5,000.00 to VLL8 (“**VLL8 Option Bond**”) which shall have one (1) warrant attached to it and (ii) a bearer option bond with a nominal amount of EUR 5,000.00 to VLL9 (“**VLL9 Option Bond**”) and together with the VLL8 Option Bond, the “**Option Bonds**” and each an “**Option Bond**”) which shall each have one (1) warrant attached to it.

Each of the Option Bonds shall be repayable by the Company at its nominal amount plus accrued interest on the fifth anniversary of the termination of the WTI Loan Agreement, the latest date of such termination to occur being January 31, 2023 (“**Loan Termination Date**”).

b) Warrants

The VLL8 Option Bond and the VLL9 Option Bond shall each have one (1) warrant attached to it (respectively the “**VLL8 Warrant**” and the “**VLL9 Warrant**” and together the “**Warrants**”). The VLL8 Warrant and the VLL9 Warrant shall each entitle the respective holder of the VLL8 Warrant and the VLL9 Warrant (respectively a “**Warrant Holder**”) in accordance with the respective terms and conditions of the Warrants (respectively the “**VLL8 Warrant Terms and Conditions**” and the “**VLL9 Warrant Terms and Conditions**” and together the “**Warrant Terms and Conditions**”) to subscribe, against payment of the Warrant Share Subscription Price (as defined below) the Warrant Shares (as defined below). The VLL8 Warrant is to be separated from the VLL8 Option Bond and the VLL9 Warrant is to be separated from the VLL9 Option Bond, in each case, on the day of issuance of the respective Option Bond and each Warrant shall then be transferable separately.

“**Warrant Shares**” or “**Warrant Share**” means, subject to the provisions of the following sentence (i) ordinary no-par-value shares in the Company or (ii) following a Delisting (as defined below) and no New Listing (as defined below) having occurred, the New Shares (as defined below), in each case with the rights, preferences and privileges as set forth in the constitution of the Company and as elected by the respective Warrant Holder of the VLL8 Warrant and the VLL9 Warrant. If the respective Warrant Holder exercises the Warrant in connection or after a Reorganisation (as defined below) of the Company and provided that the share class does not exist anymore due to a conversion of those shares into a different class of

shares, then the Warrant Shares shall be the share class that any other holder of the respective class of Warrant Shares has received in the course of such conversion.

“**Listing**” means the admission of the CDIs to the official list of ASX.

“**Delisting**” means the publication of an announcement by ASX with respect to a removal of the Company from the official list of ASX.

“**New Listing**” means the admission to an official listing, other than the Listing, of any part of the Shares or the admission of any of the Company’s shares to trading on any segment of the Frankfurt Stock Exchange or on any other Recognized Stock Exchange becoming effective.

“**Recognized Stock Exchange**” means the New York Stock Exchange, Nasdaq Capital Market, Nasdaq Global Market, Regulated Market Frankfurt Stock Exchange, SIX Swiss Exchange, Euronext Stock Exchange, the London Stock Exchange and, following a Delisting, the ASX.

Following a Delisting and no New Listing having occurred, “**New Shares**” means the shares in the Company of such (sub-)class as issued by the Company in any next round of equity financing of the Company (consummated after the issue date of the Warrants and whilst the Warrants are still outstanding) for which the Warrant Holder has opted at the corresponding New Issue Price (as defined below) of such equity financing round for which the Warrant Holder has opted, and “**New Share**” shall mean, following a Delisting and no New Listing having occurred, any one of them. For the avoidance of doubt, the Warrant Holder’s option to have the Warrants be exercisable for New Shares shall be a continuing option as to each and every round of equity financing the Company consummates after the issue date and following a Delisting, whilst no New Listing has occurred, whilst the Warrants are still outstanding, provided that such option shall apply to the Warrants.

Following a Delisting and no New Listing having occurred, “**New Issue Price**” means the lowest price (including nominal amount as well as any statutory and non-statutory payments to the Company’s capital reserves) which an existing or new investor has agreed to pay per one corresponding New Share; provided, however, that in case a discount on such a New Share has been granted to certain investors of the respective equity financing round entered into by the Company after the issue date of the Warrants (but excluding in any event any instruments pursuant to which newly issued shares, options or contingent rights are granted exclusively to members of the management board of the Company or employees or directors of the Company or of a subsidiary, as the case may be), such discounted price shall also apply in favour of the Warrant Holder to the effect that it shall be deemed the New Issue Price of the respective financing round for which the Warrant Holder has opted. It is understood, for the avoidance of doubt, that any deductions made by an existing or new investor of the Company in respect of

external costs incurred by such investor or reimbursement of costs by the Company to such investor in accordance with the then applicable investment and/or shareholders' agreement shall not be deemed a discount for the purposes of determination of (and shall not reduce) the New Issue Price.

“Reorganisation” means (A) the consolidation, subdivision or reduction of shares in the capital of the Company, or (B) any corporate restructuring in accordance with the German Act on the Transformation of Companies (*Umwandlungsgesetz*)); it is, however, understood, that any measure in accordance with the German Act on the Transformation of Companies (*Umwandlungsgesetz*) which results in an acquisition of all shares in the Company by a third party or parties (e.g. merger) shall not qualify (and shall not be deemed and treated) as “Reorganisation” within the meaning and for the purposes of this definition, if in the context of such measure the shareholders or CDI-holders of the Company do not obtain 50% or more of the total voting rights conferred on all shares in the equity share capital of the acquiring entity.

c) Subscription price for Warrant Shares

The subscription price of one Warrant Share shall amount to AUD 390.00 (“**Warrant Share Subscription Price**”) and includes the par value (i.e. the nominal amount) of such Warrant Share; this corresponds to a price of AUD 0.39 per CDI, since one (1) CDI represents a beneficial ownership of 1/1,000th in one (1) share of the Company.

The Warrant Share Subscription Price may be adjusted in certain events in accordance with the Warrant Terms and Conditions, provided that the Warrant Share Subscription Price may not be less than the fractional nominal amount per share in the Company's nominal share capital of EUR 1.00.

d) Number of Warrant Shares to be issued

Each Warrant Holder may exercise the respective Warrant in accordance with the respective Warrant Terms and Conditions to subscribe, against payment of the Warrant Share Subscription Price per Warrant Share, up to 5,643 Warrant Shares representing a fractional amount of the nominal share capital of the Company of EUR 1.00 each, i.e. in aggregate up to a maximum of 11,286 Warrant Shares, corresponding to 11,286,000 CDIs, may be issued under the Warrants.

The Warrants may be exercised in (x) whole or, (y) solely in the case of a liquidation of the respective Warrant Holder which requires the distribution of the Warrant Holder's assets to its limited partners also in part (on one or more occasions).

The number of Warrant Shares which the respective Warrant Holder may subscribe is calculated as follows:

$$x = m / n$$

Whereby:

x = number of Warrant Shares to be issued to the Warrant Holder, brought down to a whole figure (“**Total Warrant Entitlement**”);

m = the sum of (i) 1,100,483.76 Australian Dollars, plus (ii) the product of (x) 1,100,483.76 Australian Dollars and (y) a fraction, the numerator of which is the aggregate, original nominal amount of all loans advanced to Marley Spoon Inc. by, with respect to the VLL8 Warrant, Venture Lending & Leasing VIII, Inc., and, with respect to the VLL9 Warrant, by Venture Lending & Leasing IX, Inc., pursuant to the WTI Loan Agreement, and the denominator of which is 11,004,837.68 Australian Dollars (such sum, the “**Total Warrant Amount**”);

n = Warrant Share Subscription Price

It is understood that in the case the Warrant Holder in the respective exercise notice chooses to exercise the Warrants only partially in the case of a liquidation of the respective Warrant Holder which requires the distribution of such Warrant Holder’s assets to its limited partners in accordance with the Warrant Terms and Conditions, “m” for the purposes of calculation of the “x” pursuant to the above formula shall equal such part of the Total Warrant Amount in respect of which the Warrants have been exercised. For the purposes of subsequent exercise(s) of the Warrants, “m” within the meaning of the above formula shall equal the Total Warrant Amount less the aggregate portions of the Total Warrant Amount in respect of which the Warrants have been previously exercised. Once the Warrants have been exercised in respect of the entire Total Warrant Amount, all rights of the Warrant Holder under the Warrant shall lapse.

e) Cash settlement of Warrants

If and to the extent that due to legal reasons the Company is unable to issue the Warrant Shares from its conditional or authorized capital and in addition the Company is also unable to deliver treasury shares as Warrant Shares upon the exercise of the Warrants, the Warrant Shares which the Company is unable to issue and deliver to the respective Warrant Holder shall be settled in cash by payment of an amount to the Warrant Holder within five business days of the day the Warrants were exercised (“**Exercise Date**”) and which is calculated as follows:

- (i) for as long as the Listing continues, or following a New Listing, by multiplying the Market Price with the number of the Warrant Shares which the Company is unable to issue and deliver to the Warrant Holder. “**Market Price**” means the price per share of the Company which corresponds to the arithmetic volume-weighted average price per

CDI on the ASX on the Exercise Date, multiplied by 1,000 since one CDI represents the economic ownership of 1/1,000th in one share of the Company, and converted into USD at the euro foreign exchange reference rates between euro (EUR) and Australian dollar (AUD) and US dollar (USD) as published on the official website of the European Central Bank (ECB) on the Exercise Date, rounded to the nearest full cent with USD 0.005 being rounded upwards, or

- (ii) following a Delisting and no New Listing having occurred, by multiplying the New Issue Price with the number of the Warrant Shares which the Company is unable to issue and deliver to the Warrant Holder.

f) Exclusion of subscription rights

The shareholders' subscription right with respect to the VLL8 Option Bond and the VLL8 Warrant and the VLL9 Option Bond and the VLL9 Warrant shall be excluded and exclusively VLL8 and VLL9 shall be permitted to subscribe the respective option bonds with warrants.

g) Interest

Each of the Option Bonds bears interest (the "Interest") in the amount of 4 % (four per cent) per annum on its nominal amount from and including the date of receipt by the Company of the purchase price for the respective Option Bond ("**Option Bond Issue Date**"), to (but excluding) the day of the fifth anniversary of the Loan Termination Date ("**Option Bond Payment Date**"). Interest falls due for the whole term of the Option Bonds on the Option Bond Payment Date. Interest shall cease to accrue on the day immediately prior to the day at which the respective Option Bond is due for redemption. The amount of interest accrued at any time will not bear interest itself (no compounding of interest).

h) Authorisation to determine the further terms and conditions of the Option Bonds and the Warrants

Subject to the ASX Listing Rules, the Management Board shall be authorised to determine the further details concerning the issue and structure of the Option Bonds in the terms and conditions of the respective Option Bond and of the Warrants in the respective Warrant Terms and Conditions, specifically the repayment date of the Option Bonds and the exercise period for the Warrants.

The Warrant Terms and Conditions shall include provisions pursuant to which the Total Warrant Entitlement may be adjusted during the term as a result of anti-dilution protection.

The Warrant Terms and Conditions shall include provisions pursuant to which, following a Delisting and no New Listing having occurred and in the event that the rights, preferences or privileges of the Warrant Shares are amended or modified, or a recapitalization,

reclassification, conversion or exchange of the outstanding Warrant Shares is effected in connection with an equity or debt financing transaction which occurs (each, as applicable, a **“Pay-to-Play Transaction”**), the Warrants (and the Warrant Shares issuable thereunder) shall be exempt from such Pay-to-Play Transaction, and shall automatically and without any action required by the respective Warrant Holder become exercisable for the type of securities as would have been issued or exchanged, or would have remained outstanding or been purchasable, as the case may be, in respect of the Warrant Shares issuable thereunder had the respective Warrant Holder exercised its Warrant in full prior to such event.

The Warrant Terms and Conditions shall also include provisions pursuant to which, in connection with any equity or convertible debt securities that the Company may from time to time propose to offer or sell after the Warrants have been issued (**“Future Offering”**), the Company shall grant to the respective Warrant Holder one of the following rights:

- (i) such number of subscription rights which is necessary to invest up to the greater of (x) Five Hundred Thousand United States Dollars and (y) such amount of cash as is required to enable the respective Warrant Holder to purchase that number of any equity or convertible debt securities as will enable the respective Warrant Holder to own or acquire immediately after completion of such offering the same percentage of the securities of the Company (on a fully diluted basis) as the respective Warrant Holder owned and/or had the right to purchase (including under the Warrants, under any other warrant instrument held by the respective Warrant Holder or otherwise with respect to any securities owned by the respective Warrant Holder) immediately prior to commencement of such offering (the **“Pro-Rata Investment”**), except if such pro-rata offering by the Company would breach any law, regulation or stock exchange requirement; or
- (ii) adjust the Total Warrant Entitlement as is required to enable the respective Warrant Holder to partially exercise the Warrants as will enable it to own or acquire upon partial exercise of the Warrants the same percentage of securities of the Company (on a fully diluted basis) as if the respective Warrant Holder had acquired securities pursuant to the Pro-Rata Investment (with the Warrant Share Subscription Price for those Warrants corresponding to the price per security payable in the Future Offering).

However, the respective Warrant Holder shall not have any obligation to subscribe or acquire the Company’s securities in any such Future Offering.

The Management Board (with the consent of the Supervisory Board) will only issue the Option Bonds with Warrants referred to in this item 4 if the resolution under agenda item 9 no. 3 is passed by the required majorities.

2. **Authorized Capital 2020/II**

The Management Board is authorized until January 28, 2025, to increase the share capital of the Company on one or more occasions with the approval of the Supervisory Board by a total of up to EUR 11,300.00 (in words: eleven thousand three hundred Euros) by issuing up to 11,300 new no-par-value registered shares against contributions in cash (“**Authorized Capital 2020/II**”).

The subscription right of the shareholders is excluded. The Authorized Capital 2020/II may solely be utilized for the purpose of issuing new shares in the Company (“**Warrant Shares**”) against payment of the respective Warrant Share Subscription Price in the event of an exercise of either or both of the two warrants issued by the Company on the basis of the authorisation granted by the general meeting of January 29, 2020 under agenda item 4, no. 1 (“**Warrants**”). The Authorized Capital 2020/II will only be utilized, and a corresponding capital increase will only be consummated to the extent that one or both Warrants are exercised and the respective corresponding Warrant Shares are issued.

The Management Board, subject to the consent of the Supervisory Board, is authorized to determine any further details of the capital increase and its implementation in accordance with the Warrant Terms and Conditions; this also includes the determination of the profit participation of the Warrant Shares, which may, in deviation of Section 60 para. 2 AktG, also participate in the profit of completed fiscal years, for which still no resolution by the general meeting as to the appropriation of the balance sheet profit has been passed.

The Supervisory Board is authorized to adjust the wording of the Constitution accordingly after the utilization of the Authorized Capital 2020/II or upon expiry of the period for the utilization of the Authorized Capital 2020/II.

3. **Amendment to the Constitution**

Section 3 of the Constitution is supplemented by a new paragraph 11. The new Section 3 para. 11 of the Constitution shall be worded as follows:

*“(11) The Management Board is authorized until January 28, 2025, to increase the share capital of the Company on one or more occasions with the approval of the Supervisory Board by a total of up to EUR 11,300.00 (in words: eleven thousand three hundred Euros) by issuing up to 11,300 new no-par-value registered shares against contributions in cash (“**Authorized Capital 2020/II**”).*

*The subscription right of the shareholders is excluded. The Authorized Capital 2020/II may solely be utilized for the purpose of issuing new shares in the Company (“**Warrant Shares**”) against payment of the respective Warrant Share Subscription*

Price in the event of an exercise of either or both of the two warrants issued by the Company on the basis of the authorisation granted by the general meeting of January 29, 2020 under agenda item 4, no. 1 (“Warrants”). The Authorized Capital 2020/II will only be utilized, and a corresponding capital increase will only be consummated to the extent that one or both Warrants are exercised and the respective corresponding Warrant Shares are issued.

The Management Board, subject to the consent of the Supervisory Board, is authorized to determine any further details of the capital increase and its implementation in accordance with the Warrant Terms and Conditions; this also includes the determination of the profit participation of the Warrant Shares, which may, in deviation of Section 60 para. 2 AktG, also participate in the profit of completed fiscal years, for which still no resolution by the general meeting as to the appropriation of the balance sheet profit has been passed.

The Supervisory Board is authorized to adjust the wording of the Constitution accordingly after the utilization of the Authorized Capital 2020/II or upon expiry of the period for the utilization of the Authorized Capital 2020/II.”

Item 5:

Resolution on the increase of the Company’s share capital by up to EUR 79,260.00 through the issuance of up to 79,260 new no-par value registered shares with a fractional amount of the nominal share capital of EUR 1.00 per share against contributions in cash with shareholders’ subscription rights

The Management Board and Supervisory Board propose to the shareholders to resolve on a capital increase with shareholders’ subscription rights as follows:

The Company’s share capital shall be increased by up to EUR 79,260.00 through the issuance of up to 79,260 new no-par value registered shares (the “**New Shares**” and each a “**New Share**”) with a fractional amount of the nominal share capital of EUR 1.00 per New Share against contributions in cash with shareholders’ subscription rights (the “**Ordinary Capital Increase**”). The New Shares shall be offered to the existing shareholders. Certain jurisdictions may be exempted from the offer. New Shares which have not been subscribed by the existing shareholders may be subscribed by one or several backstop investors.

The subscription ratio at which the New Shares shall be offered to the existing shareholders shall be based on the overall volume of the up-to Ordinary Capital Increase, which the Management Board will determine with the consent of the Supervisory Board at the beginning of the subscription period. The subscription price shall be determined by the Management Board, with the consent of the Supervisory

Board, either at the beginning of the subscription period, or no later than three days before the subscription period ends, and will be published in the German Federal Gazette (*Bundesanzeiger*). The New Shares shall be issued at an issue amount of EUR 1.00 per New Share (“**Issue Amount**”) (minimum issue amount pursuant to Sec. 9 para. 1 of the German Stock Corporation Act (*Aktiengesetz*)). The subscription right for fractions of shares shall be excluded.

The subscription right of the existing shareholders may only be exercised during the subscription period as of the publication of the subscription offer in the German Federal Gazette (*Bundesanzeiger*).

The Management Board shall be authorized, with the consent of the Supervisory Board, to determine the further details of the Ordinary Capital Increase and its consummation, in particular the final volume of the Ordinary Capital Increase, the subscription ratio, the subscription price and the further conditions for the issue of the New Shares, including the determination of the profit participation of the new shares, which may, in deviation of Section 60 para. 2 of the German Stock Corporation Act (*Aktiengesetz*, AktG) also participate in the profit of completed fiscal years, for which still no resolution by the general meeting as to the appropriation of the balance sheet profit has been passed.

The Ordinary Capital Increase shall be consummated (i.e. the application to the commercial register to register the Ordinary Capital Increase shall have been made) no later than July 29, 2020 (inclusive), otherwise this resolution shall be void (*ungültig*).

The Supervisory Board is authorized to amend the wording of Sec. 3 paras. (1) and (2) of the Constitution (registered share capital, division into no-par value shares) in accordance with the consummation of the Ordinary Capital Increase.

Item 6:

Resolution on the election of a new supervisory board member

1. Background

The Supervisory Board currently consists of four members pursuant to sections 95 and 96 para. 1 of the German Stock Corporation Act (*Aktiengesetz*, AktG) and section 7 para. 1 of the Company’s Constitution. Since the Company is not subject to co-determination, its Supervisory Board is comprised solely of shareholder representatives. Pursuant to section 102 para. 1 AktG and section 7 para. 2 of the Company’s Constitution, the Supervisory Board members are elected for a period terminating at the end of the general meeting that resolves on the formal approval of the Supervisory Board members’ acts for the second fiscal year following the commencement of their term of office. The fiscal year in which the term of office begins shall not be included in this calculation. Pursuant to section 7 para. 3 of the Company’s Constitution, for members of the Supervisory Board who leave office before the end of their term, a successor shall be elected for the remaining term of the member

who has left office, unless the general meeting specifies a shorter term for such successor.

Patrick O’Sullivan was elected to the Supervisory Board in June 2018 and his term of office regularly expires after the termination of the general meeting that resolves on the formal approval of the Supervisory Board members’ acts for the second fiscal year following the commencement of their term of office, whereby the fiscal year in which the term of office begins shall not be counted, i.e. presumably after the termination of the ordinary general meeting of the Company in the year 2021. However, on December 21, 2019, Patrick O’Sullivan announced that he would step down as a member of the Supervisory Board as of the end of the extraordinary shareholders’ meeting on January 29, 2020. One new member of the Supervisory Board must therefore be elected as a successor of Patrick O’Sullivan.

2. Election of Robin Low

That said, the Supervisory Board proposes to resolve as follows:

Robin Low is elected as a member of the Supervisory Board with effect after the end of the extraordinary shareholders’ meeting on January 29, 2020 and she shall be appointed for the remaining term of office of Patrick O’Sullivan, i.e. for the period until the termination of the general meeting that resolves on the formal approval of the Supervisory Board members’ acts for the second fiscal year following the commencement of Patrick O’Sullivan’s office, whereby the fiscal year in which the term of office began shall not be counted, i.e. presumably after the termination of the ordinary general meeting of the Company in the year 2021.

3. Profession, residence and further information

Robin Low is currently a non-executive director of Appen Limited, AUB Group, CSG Limited and IPH Limited. Robin is also on the board of the Australian Reinsurance Pool Corporation and is Deputy Chair of the Auditing and Assurance Standards Board. Her residence is in Kirribilli (Sydney), Australia. A detailed CV of Robin Low can be found on the Company’s investor relations website under the section “Investor Services – General Meetings”:

<https://ir.marleyspoon.com/investor-centre/>

Item 7:

Resolution pursuant to which, for the purposes of ASX Listing Rule 7.1, and for all other ASX Listing Rule purposes, the Company be approved and authorised to issue, until April 29, 2020 the USV MS A Convertible Bond to USV MS A and to issue the USV MS B Convertible Bond to USV MS B, and to issue shares in the Company, and CDIs in respect of such shares, upon the conversion of the USV MS A Convertible Bond and the USV MS B Convertible Bond

Note: The Management Board (with the consent of the Supervisory Board) will only issue the USV MS Convertible Bonds referred to in agenda item 1 if the resolutions under agenda item 1, agenda item 3 and this agenda item 7 are passed by the required majorities.

Note: A voting exclusion statement applies to this resolution 7 and is set out in no. 4 in full below.

Note: Defined terms in this agenda item 7 have the same meaning as those terms in agenda item 1.

4. Background

ASX Listing Rule 7.1 provides, subject to exceptions, that a company may not issue or agree to issue equity securities which represent more than 15% of the company's issued share capital within any 12-month period without obtaining shareholder approval. If the Company issued the USV MS Convertible Bonds it would not currently have sufficient capacity under ASX Listing Rule 7.1 for the issue of shares in the Company if the USV MS Convertible Bonds were converted at this time. Accordingly, the Company will only issue the USV MS Convertible Bonds if the issuance is approved by shareholders under ASX Listing Rule 7.1 by a simple majority (50%) of votes cast. In addition, if shareholders approve the issue of the USV MS Convertible Bonds and the USV MS Convertible Bonds are issued, the shares issued on the conversion of the USV MS Convertible Bonds will not be counted towards the Company's 15% capacity set by ASX Listing Rule 7.1.

5. Information for shareholders

ASX Listing Rule 7.3 requires certain information to be provided to shareholders for the purpose of seeking approval of an issue under Listing Rule 7.1.

a) The number of securities which may be issued

The Company may issue the USV MS A Convertible Bond with a principal amount of USD 2,651,892.62, being the USV MS A Principal Amount and it may issue the USV MS B Convertible Bond with a principal amount of USD 124,594.88, being the USV MS B Principal Amount.

USV MS A and USV MS B may each convert the respective USV MS Convertible Bond into

ordinary shares of the Company in accordance with the respective USV MS Terms and Conditions.

The conversion ratio is calculated by dividing the nominal amount of the respective USV MS Convertible Bond by the conversion price determined for one share of the Company (as defined below), with the conversion being based on the Euro (EUR) foreign exchange reference rate, as published on the official website of the European Central Bank (ECB), between US-dollars (i.e. USD converted into Euros) and Australian dollars (i.e. AUD converted into Euros) on the day prior to the resolution of the Management Board on the issuance of the respective USV MS Convertible Bond. The conversion price for one share of the Company is AUD 500.00 (the “**USV MS Conversion Price**”), which corresponds to a price of AUD 0.50 per CDI of the Company quoted by the Australian Securities Exchange (ASX), since one (1) CDI represents a beneficial ownership of 1/1,000th in one (1) share of the Company. The respective USV MS Terms and Conditions shall determine for each of the USV MS Convertible Bonds the fixed number of shares to be subscribed for (subscription shares) upon exercise of the respective USV MS Conversion Right (as defined in **Annex 1**) based on the conversion ratio described above. The number of subscription shares may be commercially rounded up or down to the next whole number.

Example calculation: By way of example, if the applicable foreign exchange reference rate were 1 EUR to 1.1115 USD and 1 EUR to 1.6227 AUD (as on December 18, 2019), the total nominal amount of USD 2,776,487.50 would convert into EUR 2,497,964.46 and the conversion price of AUD 500.00 would translate to EUR 308.13. The number of subscription shares to be issued in aggregate if all Convertible Bonds were converted would therefore be 8,106 shares (EUR 2,497,964.46 / EUR 308.13) corresponding to 8,106,000 CDIs. This would represent 4.9% (rounded) of the Company’s nominal share capital/CDIs following the issue of the subscription shares as follows:

USV MS A: 7,743 shares (4.6%)

USV MS B: 363 shares (0.2%)

The maximum number of shares which may be issued on conversion of the USV MS Convertible Bonds amounts to in aggregate 8,200 new shares (subject to adjustment, in accordance with the ASX Listing Rules).

b) Date of issue

The USV MS Convertible Bonds may be issued by the Company until April 29, 2020.

Issues of shares on conversion of the respective USV MS Convertible Bonds could occur progressively during the conversion period (as defined in **Annex 1**) (however each USV MS Convertible Bond may only be converted in whole not in part), depending on if and when the

respective USV MS Convertible Bond is converted by USV MS A or USV MS B.

c) Conversion price

Each of the respective USV MS Convertible Bonds are convertible into shares at a conversion price of AUD 500.00 per share, which corresponds to a price of AUD 0.50 per CDI (subject to adjustment as described above and in **Annex 1**).

d) Persons to whom the Convertible Bonds may be issued

The USV MS A Convertible Bond may be issued to USV Marley Spoon A, LLC. The USV MS B Convertible Bond may be issued to USV Marley Spoon B, LLC.

Neither USV MS A, nor USV MS B are a related party of the Company for the purposes of the ASX Listing Rules.

e) USV MS Terms and Conditions

The proposed USV MS Terms and Conditions are summarised in this invitation, including in particular in **Annex 1** to this invitation.

The shares (and CDIs) issued upon conversion of the respective USV MS Convertible Bond will rank *pari passu* with, and on the same terms as, the existing ordinary shares of the Company (and CDIs) on issue.

f) Use of proceeds

The USV MS Convertible Bonds will only be used to enable the Company to exercise its respective USV MS Substitution Right pursuant to the USV MS Loan Agreement, as set out in detail under agenda item 1 no. 1 above; the USV MS Loan Agreement was granted by USV MS A and USV MS B to the Company for general corporate purposes.

6. Resolution by shareholders

Based on the above, namely with a view to ASX Listing Rule 7.1 and further ASX Listing Rule purposes, the Management Board requests the general meeting, pursuant to Sec. 119 para. 2 of the German Stock Corporation Act (*Aktiengesetz, AktG*), to adopt the required resolutions.

The Management Board and Supervisory Board propose that the general meeting resolves as follows:

“For the purposes of ASX Listing Rule 7.1, and for all other ASX Listing Rule purposes, the Company is hereby approved and authorised to issue, until April 29, 2020 the USV MS A Convertible Bond to USV MS A and to issue the USV MS B Convertible Bond to USV MS B, and to issue shares in the Company, and CDIs in respect of such shares, upon the conversion

of the USV MS A Convertible Bond and the USV MS B Convertible Bond.”

7. Voting Exclusion Statement

The Company will disregard any votes cast in favour of this resolution by or on behalf of any person who is expected to participate in the issue of the USV MS Convertible Bonds and by any person who might obtain a material benefit as a result of the issue, except a benefit solely in the capacity of a holder of shares if this resolution is passed, or any associate of that person. However, the Company need not disregard a vote if:

- it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

Item 8:

Resolution pursuant to which, for the purposes of ASX Listing Rule 7.1, and for all other ASX Listing Rule purposes, the Company be approved and authorised to issue, until April 29, 2020 the WOW Convertible Bond to Woolworths, and to issue shares in the Company, and CDIs in respect of such shares, upon the conversion of the WOW Convertible Bond

Note: The Management Board (with the consent of the Supervisory Board) will only issue the WOW Convertible Bond referred to in agenda item 2 no. 1 if the resolutions under agenda item 2, agenda item 3 and this agenda item 8 are passed by the required majority.

Note: A voting exclusion statement applies to this resolution 8 and is set out in no. 4 in full below.

Note: Defined terms in this agenda item 8 have the same meaning as those terms in agenda item 2.

1. Background

ASX Listing Rule 7.1 provides, subject to exceptions, that a company may not issue or agree to issue equity securities which represent more than 15% of the company’s issued share capital within any 12-month period without obtaining shareholder approval. If the Company issued the WOW Convertible Bond it would not currently have sufficient capacity under ASX Listing Rule 7.1 for the issue of shares in the Company if the WOW Convertible Bond was converted at this time. Accordingly, the Company will only issue the WOW Convertible Bond if the issuance is approved by shareholders under ASX Listing Rule 7.1 by a simple majority (50%) of votes cast. In addition, if shareholders approve the issue of the WOW Convertible Bond and the WOW Convertible Bond is issued, the shares issued on the conversion of the

WOW Convertible Bond will not be counted towards the Company's 15% capacity set by ASX Listing Rule 7.1.

2. Information for shareholders

ASX Listing Rule 7.3 requires certain information to be provided to shareholders for the purpose of seeking approval of an issue under Listing Rule 7.1.

a) The number of securities which may be issued

The Company may issue the WOW Convertible Bond with a principal amount of AUD 4,047,250, being the WOW Principal Amount.

Woolworths may convert the WOW Convertible Bond into ordinary shares of the Company in accordance with the WOW Convertible Bond Terms and Conditions.

The conversion ratio will be calculated as set out in agenda item 2 no. 1, paragraph d) and e). In certain circumstances the number of shares to be issued on conversion of the WOW Convertible Bond may be adjusted, which may result in a cash payment to Woolworths (for further details, see agenda item 2, no. 1 paragraph f)). Under certain circumstances, the Company has a Cash Settlement Option (for further details, see agenda item 2, no. 1 paragraph g)).

The WOW Convertible Bond Terms and Conditions shall determine the number of shares to be subscribed for (WOW Conversion Shares) upon exercise of the WOW Conversion Right (as defined in **Annex 2**) based on the conversion ratio and adjustment (if any), as described in agenda item 2. The number of WOW Conversion Shares may be commercially rounded down to the next whole number.

b) Date of issue

The WOW Convertible Bond may be issued by the Company until April 29, 2020.

Issue of shares on conversion of the WOW Convertible Bond may occur upon a WOW Conversion Event during the WOW Conversion Period and must be exercised within the WOW Exercise Period (each as defined in **Annex 2**). The WOW Convertible Bond may only be converted in whole not in part.

c) WOW Conversion price

The conversion price of shares in the Company on conversion of the WOW Convertible Bond is the arithmetic volume-weighted average price per CDI on the ASX during the 30 trading days immediately preceding the day on which the relevant conversion event occurs, multiplied by 1,000 since one (1) CDI represents the economic ownership of 1/1,000th in one (1) share of the Company, provided that the WOW Conversion Price may not be less than the fractional

nominal amount per share in the Company's nominal share capital. Also see agenda item 2 no. 1 paragraph d) and e) for further details.

d) Persons to whom the WOW Convertible Bond may be issued

The beneficiary who may be issued the WOW Convertible Bond is W23 Investment Pty Limited ACN 633 803 979.

Woolworths is not a related party of the Company for the purposes of the ASX Listing Rules.

e) WOW Convertible Bond Terms and Conditions

Proposed WOW Convertible Bond Terms and Conditions are summarised in this invitation, including in particular in **Annex 2** to this invitation.

The shares (and CDIs) issued upon conversion of the WOW Convertible Bond will rank *pari passu* with, and on the same terms as, the existing ordinary shares of the Company (and CDIs) on issue.

f) Use of proceeds

The WOW Convertible Bond to be issued to Woolworths will only be used to enable the Company to exercise its WOW Substitution Right pursuant to the WOW Loan Agreement, as set out in detail under agenda item 2 above; the WOW Loan Agreement was granted by Woolworths to the Company for general corporate purposes.

3. Resolution by the shareholders

Based on the above, namely with a view to ASX Listing Rule 7.1 and further ASX Listing Rule purposes, the Management Board requests the general meeting, pursuant to Sec. 119 para. 2 of the German Stock Corporation Act (*Aktiengesetz, AktG*), to adopt the required resolutions.

The Management Board and Supervisory Board propose that the general meeting resolves as follows:

“For the purposes of ASX Listing Rule 7.1, and for all other ASX Listing Rule purposes, the Company is hereby approved and authorised to issue, until April 29, 2020 the WOW Convertible Bond to Woolworths, and to issue shares in the Company, and CDIs in respect of such shares, upon the conversion of the WOW Convertible Bond.”

4. Voting Exclusion Statement

The Company will disregard any votes cast in favour of this resolution by or on behalf of any person who is expected to participate in the issue of the WOW Convertible Bond and by any

person who might obtain a material benefit as a result of the issue, except a benefit solely in the capacity of a holder of shares if this resolution is passed, or any associate of that person. However, the Company need not disregard a vote if:

- it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

Item 9:

Resolution pursuant to which, for the purposes of ASX Listing Rule 7.4, and for all other ASX Listing Rule purposes, shareholders ratify the issue of shares in the Company and CDIs to Acacia

Note: A voting exclusion statement applies to this resolution 9 and is set out in no. 4 in full below.

1. Background

Acacia Partners, L.P., Acacia Institutional Partners, L.P. and Acacia Conservation Fund, L.P. (together, “**Acacia**”) have subscribed for a total of 9,850 shares in the Company for a total price of AUD 2,462,500.00 (“**Issue**”). The 9,850 shares have been issued to Acacia on December 20, 2019.

ASX Listing Rule 7.1 provides, subject to exceptions, that a company may not issue or agree to issue equity securities which represent more than 15% of the company’s issued share capital within any 12-month period without obtaining shareholder approval. ASX Listing Rule 7.4 sets out an exception to ASX Listing Rule 7.1. It provides that where the company in a general meeting ratifies a prior issue of securities (and provided that the prior issue did not breach ASX Listing Rule 7.1) those securities will be deemed to have been made with shareholder approval for the purpose of ASX Listing Rule 7.1. The Company is seeking shareholder ratification of this issue to provide the Company with the flexibility to issue equity securities up to the 15% annual placement capacity set out in ASX Listing Rule 7.1 without that capacity being diminished by the Issue. The issue of the shares did not breach ASX Listing Rule 7.1.

2. Information for the shareholders

ASX Listing Rule 7.5 requires certain information to be provided to shareholders for the purpose of seeking ratification of an issue of shares under Listing Rule 7.4.

- a) The number of securities issued

The Company issued 9,850 shares in the Company, being 9,850,000 CDIs, on December 20,

2019.

b) Issue price of shares

The shares were issued at AUD 250.00 per share, being AUD 0,25 per CDI.

c) Terms of the shares issued

The shares issued rank *pari passu* with, and on the same terms as, the existing ordinary shares of the Company (and CDIs) on issue.

d) Persons to whom the shares were issued

3,940 shares were issued to Acacia Partners, L.P., 2,955 shares were issued to Acacia Institutional Partners, L.P. and 2,955 shares were issued to Acacia Conservation Fund, L.P. Following the Issue and assuming that Acacia does not buy or sell further shares or CDIs, nor converts the convertible bonds held by Acacia, as at the date of this notice, each of the Acacia entities will hold approximately:

Acacia Partners, L.P.	8,420 shares (5.3%)
Acacia Conservation Fund LP	7,115 shares (4.5%)
Acacia Institutional Partners, L.P.	6,795 shares (4.3%)

of the CDIs on issue in the Company.

Acacia is not a related party of the Company for the purposes of the ASX Listing Rules.

e) Use of proceeds

The proceeds from the Issue, being AUD 2,462,500.00, will be used for general business expenses and to further develop the business.

3. Resolution by the shareholders

Based on the above, namely with a view to ASX Listing Rule 7.4 and further ASX Listing Rule purposes, the Management Board requests the general meeting, pursuant to Sec. 119 para. 2 of the German Stock Corporation Act (*Aktiengesetz, AktG*), to adopt the required resolutions.

The Management Board and Supervisory Board propose that the general meeting resolves as follows:

“For the purposes of ASX Listing Rule 7.4, and for all other ASX Listing Rule purposes, shareholders ratify the issue of shares in the Company and CDIs to Acacia.”

4. Voting Exclusion Statement

The Company will disregard any votes cast in favour of this resolution by or on behalf of Acacia Partners, L.P., Acacia Institutional Partners, L.P. and Acacia Conservation Fund, L.P. and by any person who might obtain a material benefit as a result of the issue, except a benefit solely in the capacity of a holder of shares if this resolution is passed, or any associate of that person. However, the Company need not disregard a vote if:

- it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

Item 10:

Resolution pursuant to which, for the purposes of ASX Listing Rule 7.1, and for all other ASX Listing Rule purposes, the Company be approved and authorised to issue, until April 29, 2020 to the following beneficiaries (hereinafter each a “Beneficiary” and together the “Beneficiaries”) Venture Lending & Leasing VIII, LLC and Venture Lending & Leasing IX, LLC (as respectively defined under agenda item 4 above) two Warrants, and to issue shares in the Company, and CDIs in respect of such shares, upon the exercise of the Warrants

Note: The Management Board (with the consent of the Supervisory Board) will only issue the two Warrants referred to in agenda item 4 if this resolution 10 is passed by the required majority.

Note: A voting exclusion statement applies to this resolution 10 and is set out in para. 4 in full below.

1. Background

ASX Listing Rule 7.1 provides, subject to exceptions, that a company may not issue or agree to issue equity securities which represent more than 15% of the company’s issued share capital within any 12-month period without obtaining shareholder approval. If the Company issued the Warrants it would not currently have sufficient capacity under ASX Listing Rule 7.1 for the issue of shares in the Company if all the Warrants were exercised at this time. Accordingly, the Company will only issue the Warrants if the issuance is approved by shareholders under ASX Listing Rule 7.1 by a simple majority (50%) of votes cast. In addition, if shareholders approve the issue of the Warrants and those Warrants are issued, the shares issued on the exercise of the Warrants will not be counted towards the Company’s 15% capacity set by ASX Listing Rule 7.1.

2. Information for the shareholders

ASX Listing Rule 7.3 requires certain information to be provided to shareholders for the purpose of seeking approval of an issue under Listing Rule 7.1.

a) The number of securities which may be issued

The Company may issue two (2) Warrants. The VLL8 Warrant will be attached to the VLL8 Option Bond and the VLL9 Warrant will be attached to the VLL9 Option Bond (as described under agenda item 4 above). The VLL8 Warrant is to be separated from the VLL8 Option Bond and the VLL9 Warrant is to be separated from the VLL9 Option Bond, in each case on the day of issuance of the respective Option Bonds and shall then be transferable separately to a new Warrant Holder.

Each Warrant Holder may exercise the respective Warrant in accordance with the respective Warrant Terms and Conditions to subscribe, against payment of the Warrant Share Subscription Price per Warrant Share, up to 5,643 Warrant Shares representing a fractional amount of the nominal share capital of the Company of EUR 1.00 each, i.e. in aggregate up to a maximum of 11,286 Warrant Shares, corresponding to 11,286,000 CDIs. This would represent 6.6% of the Company's nominal share capital/CDIs following the issue of the Warrant Shares.

The number of Warrant Shares which the respective Warrant Holder may subscribe is calculated as follows:

$$x = m / n$$

Whereby:

x = number of Warrant Shares to be issued to the Warrant Holder, brought down to a whole figure ("**Total Warrant Entitlement**");

m = the sum of (i) AUD 1,100,483.76, plus (ii) the product of (x) AUD 1,100,483.76 and (y) a fraction, the numerator of which is the aggregate, original nominal amount of all loans advanced to Marley Spoon Inc. by, with respect to the VLL8 Warrant, Venture Lending & Leasing VIII, Inc. and, with respect to the VLL9 Warrant, by Venture Lending & Leasing IX, Inc., pursuant to the WTI Loan Agreement, and the denominator of which is AUD 11,004,837.68 (such sum, the "**Total Warrant Amount**");

n = Warrant Share Subscription Price (as defined in agenda item 4 above).

It is understood that in the case the Warrant Holder in the respective exercise notice chooses to exercise the Warrants only partially in the case of a liquidation of the respective Warrant Holder which requires the distribution of such Warrant Holder's assets to its limited partners in accordance with the Warrant Terms and Conditions, "m" for the purposes of calculation of the "x" pursuant to the above formula shall equal such part of the Total Warrant Amount in respect of which the Warrants have been exercised. For the purposes of subsequent exercise(s) of the Warrants, "m" within the meaning of the above formula shall equal the Total Warrant Amount less the aggregate portions of the Total Warrant

Amount in respect of which the Warrants have been previously exercised. Once the Warrants have been exercised in respect of the entire Total Warrant Amount, all rights of the Warrant Holder under the Warrant shall lapse.

Example calculation: If VLL8 lends the entire USD 7,500,000.00 (corresponding to AUD 11,004,837.68), which it committed to lend to the Company under the WTI Loan Agreement and the Warrant Holder exercises the VLL8 Warrant in full, the number of Warrant Shares to be issued to it is calculated as follows:

$$x = m / n$$

where:

$$m = \text{AUD } 1,100,483.76 + [\text{AUD } 1,100,483.76 * (\text{AUD } 11,004,837.68 / \text{AUD } 11,004,837.68)]$$

$$n = \text{AUD } 390.00$$

$$x = \text{AUD } 2,200,967.52 / \text{AUD } 390.00 \text{ which } = 5,643 \text{ (rounded down to next whole figure)}$$

The number of Warrant Shares to be issued to the holder of the VLL8 Warrant Bond would therefore amount of 5,643, which represents 3.3% of the Company's nominal share capital/CDIs following the issue of the Warrant Shares.

If VLL9 also lends the entire USD 7,500,000.00 (corresponding to AUD 11,004,837.68), which it committed to lend to the Company under the WTI Loan Agreement and a Warrant Holder exercises the VLL9 Warrant in full, the number of Warrant Shares to be issued to the holder of the VLL9 Warrant would also amount to 5,643, which would represent 3.3% of the Company's nominal share capital/CDIs following the issue of the Warrant Shares. In aggregate, 11,286 Warrant Shares representing 6.6% of the Company's nominal share capital/CDIs following the issue of the Warrant Shares may be issued in aggregate under the VLL8 Warrant and the VLL9 Warrant, unless adjustments apply.

Note: The above is an example only. Results may differ, if for example, the tranches under the WTI Loan Agreement are not paid out in full. The figures in this item 2 a) assume that all Warrants are issued and no permitted conversion adjustments have occurred (referred to further in Annex 3) and that no other shares have been issued by the Company, including in respect of existing convertible bonds.

If and to the extent that due to legal reasons the Company is unable to issue the Warrant Shares from its conditional or authorized capital and in addition the Company is also unable to deliver treasury shares as Warrant Shares upon the exercise of the Warrants, the Warrant Shares which the Company is unable to issue and deliver to the respective Warrant Holder shall be settled in cash by payment of an amount to the Warrant Holder within five business days of the Exercise Date. For further information see agenda item 4 e) above.

b) Date of issue

The Warrants are intended to be issued by the Company no later than April 29, 2020.

Issues of shares on exercise of the Warrants could occur progressively during the exercise period (as defined in **Annex 3**), depending on if and when the Warrants are exercised by the respective Warrant Holder. The Warrants may be exercised in (x) whole or, (y) solely in the case of a liquidation of the respective Warrant Holder which requires the distribution of the Warrant Holder's assets to its limited partners also in part (on one or more occasions).

c) Warrant Share Subscription Price

As noted above, the Warrants can be exercised into shares at a subscription price of AUD 390.00 per Warrant Share, which corresponds to a price of AUD 0.39 per CDI (subject to adjustment as described in **Annex 3**).

d) Persons to whom the Warrants may be issued

The Option Bonds to which the Warrants are attached may be issued to Venture Lending & Leasing VIII, LLC (VLL8) and Venture Lending & Leasing IX, LLC (VLL9). On the day of issuance of the respective Option Bonds, the VLL8 Warrant is to be separated from the VLL8 Option Bond and the VLL9 Warrant is to be separated from the VLL9 Option Bond and will then be transferable separately to a new Warrant Holder.

VLL8 and VLL9 are not related parties of the Company for the purposes of the ASX Listing Rules.

e) Terms and Conditions of the Warrants

Proposed Terms and Conditions of the Warrants are summarised in this invitation, including in particular in **Annex 3** to this invitation.

The shares (and CDIs) issued upon exercise of the Warrants will rank *pari passu* with, and on the same terms as, the existing ordinary shares of the Company (and CDIs) on issue.

f) Use of proceeds

The proceeds will be used for general business expenses and to further develop the business.

3. Resolution by shareholders

Based on the aforementioned, namely with a view to ASX Listing Rule 7.1 and further ASX Listing Rule purposes, the Management Board requests the general meeting, pursuant to Sec. 119 para. 2 of the German Stock Corporation Act (*Aktiengesetz, AktG*), to adopt the required resolutions.

The Management Board and Supervisory Board propose that the general meeting resolves as follows:

“For the purposes of ASX Listing Rule 7.1, and for all other ASX Listing Rule purposes, the Company

is hereby approved and authorised to issue, until April 29, 2020 to the following beneficiaries Venture Lending & Leasing VIII, LLC and Venture Lending & Leasing IX, LLC two Warrants, and to issue shares in the Company, and CDIs in respect of such shares, upon the exercise of the Warrants.”

4. Voting Exclusion Statement

The Company will disregard any votes cast in favour of this resolution by or on behalf of any person who is expected to participate in the issue of the Warrants and by any person who might obtain a material benefit as a result of the issue, except a benefit solely in the capacity of a holder of shares if this resolution is passed, or any associate of that person. However, the Company need not disregard a vote if:

- it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

II.

Report of the Management Board on agenda item 1

(resolution on the granting of an authorisation to issue a convertible bond in the nominal amount of USD 2,651,892.62 to USV MARLEY SPOON A, LLC and a convertible bond in the nominal amount of USD 124,594.88 to USV MARLEY SPOON B, LLC, each under the exclusion of subscription rights, and the cancellations of the existing Conditional Capital 2018/I as well as the corresponding amendment of Sec. 3 para. 4 of the Constitution and the creation of a new Conditional Capital 2020/I and a corresponding amendment of Section 3 of the Constitution (insertion of a new Section 3 para. 10 of the Constitution))

Under agenda item 1 no. 1 of the general meeting of January 29, 2020, the Management Board and the Supervisory Board propose to be granted an authorisation to issue, until April 29, 2020, a convertible bond to USV MS A in the nominal amount of USD 2,651,892.62 and to issue a convertible bond to USV MS B in the nominal amount of USD 124,594.88, to cancel the existing Conditional Capital 2018/I and to create a new Conditional Capital 2020/I. Since the authorisation proposed under agenda item 1 no. 1 on the issuance of convertible bonds to USV MS A and USV MS B (hereinafter collectively also referred to as “USV”) proposes an exclusion of shareholders’ subscription rights, the Management Board is providing this report to the general meeting pursuant to Section 221 para. 4 sentence 2 in connection with Section 186 para. 4 sentence 2 of the German Stock Corporation Act (*Aktiengesetz*) on the reasons for the exclusion of the shareholders’ subscription rights. In addition, the proposed USV MS Terms and Conditions are summarised in this invitation, including in particular in **Annex 1** to this invitation.

The USV MS Convertible Bonds shall have a term of up to three years as of their issuance date and shall grant USV MS A and USV MS B a conversion right for up to 8,200 shares of the Company with an aggregate fractional amount of the nominal share capital of up to EUR 8,200.00.

The Convertible Bonds will only be issued in compliance with the ASX Listing Rules.

1. Background on the authorisation to issue the USV MS Convertible Bonds

An adequate capitalisation is material for the further positive development of the Company. By issuing the USV MS Convertible Bonds, the Company shall be given the option to support its capital needs and further strengthen its liquidity. By issuing the USV MS Convertible Bonds, the Company can utilise an attractive financing opportunity, which will provide capital to the enterprise, whereas interest payments will only become due in where USV MS A and/or USV MS B do not exercise their respective USV MS Conversion Right.

The authorisation proposed to the general meeting on January 29, 2020 under agenda item 1 no. 1 shall enable the Company to replace the USV Loan in the aggregate amount of USD 2,776,487.50, with an interest of 12% p.a., which USV MS A and USV MS B have granted to the Company by way

of an agreement dated September 25, 2019. For this purpose, the Management Board shall be authorised, with the consent of the Supervisory Board, to issue the two USV MS Convertible Bonds against contribution in kind for the sole purpose to replace the USV Loan with the respective aggregate nominal amount. The interest rate in the amount of the 12-months USD-LIBOR (as of December 17, 2019: -0.27371%) plus 5% p.a. set forth in the proposed authorisation to issue the USV MS Convertible Bonds is currently much more attractive than the interest rate under the USV Loan Agreement (which amounts to 12%). Therefore, the Management Board and the Supervisory Board believe it is generally reasonable to replace the USV Loan Agreement by the issuance of the USV MS Convertible Bonds. The USV Loan Agreement contains a respective unilateral substitution right of the Company.

Should the general meeting not pass the resolutions under agenda item 1 to grant to the Company the authorisation to issue the USV MS Convertible Bonds, create the respectively required conditional and authorized capital, and permit the issue of the USV MS Convertible Bonds to USV for the purposes of the ASX Listing Rules, USV will be entitled to request prepayment of the USV Loan in full and, if at a later point in time a USV MS Change of Control (as defined in **Annex 1**) or a sale of all or substantially all of the assets of the Company occurs, the Company will be required to pay an additional payment in the amount of USD 2,776,487.50 to USV as additional consideration for the investment by USV in the Company made through the USV Loan Agreement.

In addition, pursuant to the proposed USV MS Terms and Conditions, the following shall apply:

If the USV Convertible Bonds are issued to USV, and subsequently a USV MS Change of Control in the Company occurs or a sale of all or substantially all of the assets of the Company occurs, and the Company elects to terminate and redeem one or all of the USV MS Convertible Bonds issued to USV, the Company will also have to pay an additional payment in the amount of USD 2,776,487.50 (where not all of the USV MS Convertible Bonds are terminated and redeemed, the additional payment only amounts to the nominal amount of the terminated and redeemed USV MS Convertible Bond). However, the Company is not required to pay the additional payment to USV if a USV MS Change of Control or a sale of all or substantially all of the assets of the Company occurs, and if the Company exercises its right to convert the USV MS Convertible Bonds into shares.

In addition, if the USV MS Convertible Bonds to USV are not issued and the USV Loan Agreement continues, the Company must not declare or pay any dividend during the term of the USV Loan Agreement pursuant to the terms of the USV Loan.

2. Reasons for the exclusion of shareholders' subscription rights

When convertible bonds are issued, shareholders are generally to be granted a subscription right (Section 221 para. 4 sentence 1 of the German Stock Corporation Act (*Aktiengesetz*)). The authorisation proposed under agenda item 1 to issue the USV MS Convertible Bonds proposes an

exclusion of shareholders' subscription rights for the benefit of the lenders USV MS A and USV MS B, vis-à-vis which the Company has the USV MS Substitution Right. The Management Board and the Supervisory Board believe it is reasonable and in the best interests of the Company to exclude the shareholders' subscription rights, since otherwise a timely issue of the USV MS Convertible Bonds, to replace the USV Loan Agreement would not be possible.

Based on the aforementioned reasons, the proposed exclusion of subscription rights is also necessary, since otherwise the exercise of the USV Substitution Right by the Company vis-à-vis USV would not be possible in the timeframe proposed.

Based on the aforementioned reasons and after careful consideration of the interests at stake for the enterprise, against the interests of the shareholders to maintain their respective share in the Company – and therefore indirectly the respective interests of the CDI-holders, the Management Board and the Supervisory Board deem the exclusion of subscription rights appropriate and therefore, overall, reasonably justified. As already referred to, an adequate capitalisation is material for the further positive development of the Company. The option to replace the USV Loan Agreement by issuing the USV MS Convertible Bonds supports such adequate capitalisation.

3. Assessment of the proposed conversion price

The authorisation proposed under agenda item 1 no. 1 shall authorise the Management Board to issue a convertible bond to USV MS A in the nominal amount of USD 2,651,892.62 and to issue a convertible bond to USV MS B in the nominal amount of USD 124,594.88. In both cases, the conversion price for one share of the Company shall amount to AUD 500.00, which corresponds to the price of AUD 0.50 per CDI, since one (1) CDI represents a beneficial ownership of 1/1,000th in one (1) share of the Company.

The price of AUD 0.50 per CDI proposed in the authorisations, i.e. the conversion price of AUD 500.00 per share of the Company, is appropriate from the point of view of the Company. USV MS A and USV MS B are willing to acquire shares of the Company at this price upon exercise of their respective USV MS Conversion Right. The shareholders – and indirectly the CDI-holders – will thereby not be subject to an excessive dilution in their participation.

4. Creation of the required conditional capital

To enable the Company to issue, upon exercise of the USV MS Conversion Right stemming from the USV MS Convertible Bonds, the corresponding subscription shares, the required new conditional capital shall be created by inserting a new Sec. 3 para. 10 into the Constitution. Given that the USV MS Convertible Bonds to be issued shall be denominated in US dollars, yet the conversion price is denominated in Australian dollars, the authorized capital proposed for resolution to the general meeting provides for an upward buffer with a view to potential exchange rate fluctuations.

With respect to the USV MS Convertible Bonds to be issued to USV, a new conditional capital in the amount of up to EUR 7,717.00 („**Conditional Capital 2020/I**“), corresponding to up to 7,717 new shares, i.e. approximately 4.9% of the current share capital of the Company, shall be created.

In addition, to enable the Company to issue additional shares upon exercise of the respective USV MS Conversion Right under the USV MS Convertible Bonds for which the Conditional Capital 2020/I does not suffice, a new authorized capital shall be created by cancelling the Authorized Capital 2019/I and creating a new authorized capital 2020/I in the aggregate amount of EUR 67,960.00 and which will contain an exclusion of subscription rights under (iv).

In addition, the USV MS Terms and Conditions shall provide for the Company to be able to use treasury shares of the Company, shares from authorised capital or other considerations to satisfy its obligations under the USV MS Convertible Bonds on any conversion.

5. Assessment by the Management Board prior to issuing any USV MS Convertible Bonds

The Management Board will in each case thoroughly assess whether a utilisation of the authorisation proposed under agenda item 1 no. 1 on the issuance of the USV MS Convertible Bonds is in the best interests of the Company. Currently, the Management Board – as well as the Supervisory Board – believes it is generally reasonable to issue the USV MS Convertible Bonds to USV for the reasons set out above, and contemplates to make use of a corresponding authorisation, should the general meeting grant the authorisation and pass the resolutions under agenda items 1, 3 and 7. In this context, the Management Board will in particular thoroughly assess whether the stipulated conversion price in the circumstances is appropriate at the respective point in time. If the Management Board utilises the afore described authorisation to issue the USV MS Convertible Bonds, it will report on this matter in the following general meeting.

III.

Report of the Management Board on agenda item 2

(resolution on the granting of an authorisation to issue a convertible bond in the nominal amount of AUD 4,047,250.00 to W23 Investments Pty Limited against contribution in kind and under the exclusion of subscription rights)

Under agenda item 2 no. 1 of the general meeting on January 29, 2020, the Management Board and the Supervisory Board propose to be granted an authorisation to issue a convertible bond to Woolworths with a nominal amount of AUD 4,047,250.00. The authorisation also proposes an exclusion of shareholders' subscription rights. With respect to the WOW Convertible Bond, the new Authorized Capital 2020/I, which is proposed for resolution to the shareholders under agenda item 3, shall include an authorisation to issue new shares under the exclusion of subscription rights of the existing shareholders to Woolworths to fulfil the WOW Conversion Right.

The Management Board is providing this report to the general meeting pursuant to Section 221 para. 4 sentence 2 in connection with Section 186 para. 4 sentence 2 of the German Stock Corporation Act (*Aktiengesetz*) on the reasons for the exclusion of the shareholders' subscription rights. In addition, the proposed terms and conditions of the WOW Convertible Bond are summarised in this invitation, including in particular in **Annex 2** to this invitation.

The WOW Convertible Bond shall have a term of up to five years as of its respective issuance date and Woolworths will have a conversion right for such number of shares of the Company as calculated pursuant to agenda item 2, no. 1 d) and e) above and which may be supplemented by a cash payment as described under agenda item 2, no. 1 f). As described under agenda item 2, no. g), if (i) the conversion would result in a participation of Woolworths in the Company's share capital exceeding 24.9% by number of shares in the Company's share capital on a fully diluted basis, (ii) the WOW Conversion Price would be less than the fractional nominal amount per share in the Company's nominal share capital, or (iii) the Company's aggregate available authorized capital is not sufficient to meet the number of WOW Conversion Shares, as the case may be and taking into account any adjustment to the number of conversion shares, to be issued and delivered by the Company upon conversion, the Company will be entitled to settle in cash an amount calculated by multiplying the number of respective Cash Settlement Shares (WOW Cash Settlement Shares) settled in cash with the WOW Conversion Price.

The WOW Convertible Bond will only be issued in compliance with the ASX Listing Rules.

1. Background on the authorisation proposed for resolution

An adequate capitalisation is material for the further positive development of the Company. By issuing the WOW Convertible Bond, the Company shall be given the option to support its capital needs and further strengthen its liquidity. The issuance of the WOW Convertible Bond is part of a strategic

partnership between the Company and Woolworths. As of the date of this invitation, Woolworths holds approximately 5.52% of the CDIs on issue in the Company.

The authorisation proposed to the general meeting on January 29, 2020 under agenda item 2, no. 1 shall enable the Company to replace the WOW Loan in the aggregate amount of AUD 4,047,250.00 with an interest of 7% p.a., which Woolworths has granted to the Company by way of the WOW Loan Agreement dated September 26, 2019. For this purpose, the Management Board shall be authorised, with the approval of the Supervisory Board, to issue the WOW Convertible Bond against contribution in kind for the sole purpose to replace the WOW Loan with the respective aggregate nominal amount.

The Management Board and the Supervisory Board believe it is generally reasonable to replace the WOW Loan by the issuance of the WOW Convertible Bond. The WOW Loan Agreement contains a respective unilateral substitution right of the Company (WOW Substitution Right).

Should the general meeting not pass the resolutions under agenda item 2 and agenda item 3 to grant the Company the authorisation to issue the WOW Convertible Bond to Woolworths and to create the required Authorized Capital 2020/I and permit the issue of the WOW Convertible Bond to Woolworths for the purposes of the ASX Listing Rules, Woolworths will be entitled to request prepayment of the WOW Loan together with any accrued WOW Interest.

2. Reasons for the exclusion of shareholders' subscription rights

When convertible bonds are issued, shareholders are generally to be granted a subscription right (Section 221 para. 4 sentence 1 of the German Stock Corporation Act (*Aktiengesetz*)). The authorisations proposed under agenda item 2 no. 1 to issue the WOW Convertible Bond, proposes an exclusion of the shareholders' subscription rights for the benefit of Woolworths *vis-à-vis* which the Company has the WOW Substitution Right. The Management Board and the Supervisory Board believe it is reasonable and in the best interests of the Company to exclude the shareholders' subscription rights, since otherwise a timely issue of the WOW Convertible Bond to Woolworths to replace the WOW Loan Agreement would not be possible and the Company would have to repay the WOW Loan plus accrued interest.

Based on the aforementioned reasons, the proposed exclusion of subscription rights is also necessary, since otherwise the exercise of the substitution right(s) of the Company *vis-à-vis* Woolworths would not be possible in the timeframe proposed.

Based on the aforementioned reasons and after careful consideration of the interests at stake for the enterprise, against the interests of the shareholders to maintain their respective share in the Company – and therefore indirectly the respective interests of the CDI-holders, the Management Board and the Supervisory Board deem the exclusion of subscription rights appropriate and therefore, overall, reasonably justified. As already mentioned, an adequate capitalisation is material for the further

positive development of the Company. The option to replace the WOW Loan by issuing the WOW Convertible Bond, and the raising of substantial additional liquidity supports such adequate capitalisation. In addition, the Cash Settlement Option (as described under agenda item 2, no. 1 paragraph g) provides a unilateral option for the Company to avoid that Woolworths will acquire more than 24.9% of the shares in the Company by exercising its conversion right under the WOW Convertible Bond. In addition, this has the effect that the equity dilution of the existing shareholders will be capped.

3. Assessment of the proposed WOW Conversion Price

The proposed authorisations shall authorise the Management Board to issue the WOW Convertible Bond to Woolworths with a nominal amount of up to AUD 4,047,250.00. Under the WOW Conversion Right Woolworths will have the right to be issued such number of shares of the Company at the WOW Conversion Price as calculated pursuant to agenda item 2, no. 1 d) and e) above and a potential additional cash payment claim as described under agenda item 2, no. 1 f).

The calculation of the number of shares and the respective conversion price as proposed in the authorisations is appropriate from the point of view of the Company, because it allows the Company to secure the major part of Woolworths' investment not on the current share price, but on a future share price (at least 2 years after issuance of the WOW Convertible Bond) that is expected to be higher than the current share price.

4. Creation of the required capitals

To enable the Company to issue, upon exercise of the WOW Conversion Right stemming from the WOW Convertible Bond, a new authorized capital shall be created by cancelling the Authorized Capital 2019/I and creating a new Authorized Capital 2020/I in the aggregate amount of EUR 67,960.00 by replacing Sec. 3 para. 3 of the Constitution and which will, amongst other authorisations, contain a respective authorisation for the Management Board and exclusion of subscription rights under (v). The Authorized Capital 2020/I will also back the USV MS Conversion Rights under the USV MS Convertible Bonds and therefore the Authorized Capital 2020/I will also contain a respective authorisation for the Management Board and exclusion of subscription rights under (iv).

5. Assessment by the Management Board prior to issuing the WOW Convertible Bond

The Management Board will thoroughly assess whether a utilisation of the authorisations proposed under agenda item 2 no. 1 on the issuance of the WOW Convertible Bond is in the best interests of the Company. Currently, the Management Board, as well as the Supervisory Board, believe it is generally reasonable to issue the WOW Convertible Bond to Woolworths for the reasons set out above, and

contemplates to make use of the corresponding authorisation, should the general meeting grant the authorisations and pass the resolution under agenda items 2, 3 and 8. At the time of issuance of the WOW Convertible Bond, the Management Board will, in particular, thoroughly assess whether the conversion price in the circumstances is appropriate at the respective point in time. If the Management Board utilises the authorisation under agenda item 2 no. 1 to issue the WOW Convertible Bond, it will report on this matter in the following general meeting.

IV.

Report of the Management Board on agenda item 3

(resolution on the creation of an Authorized Capital 2020/I, with the authorisation of the Management Board to exclude subscription rights with the consent of the Supervisory Board, and cancellation of the existing Authorized Capital 2019/I as well as the corresponding amendment of Sec. 3 para. 3 of the Constitution)

With regard to agenda item 3 of the general meeting on January 29, 2020, the Management Board and the Supervisory Board propose to cancel the Authorized Capital 2019/I and replace it with a new Authorized Capital 2020/I. The Management Board is providing this report to the general meeting pursuant to Section 203 para. 2 sentence 2, in conjunction with Section 186 para. 4 sentence 2 Stock Corporation Act (*Aktiengesetz*) on the reasons for the exclusion of the shareholders' subscription rights.

By way of a resolution of the extraordinary general meeting on August 29, 2019, the Management Board was authorized, with the consent of the Supervisory Board, to increase the share capital of the Company, on one or several occasions during the period until August 28, 2024, by up to EUR 74,335.00, by issuing up to 74,335 new, no-par-value registered shares against contributions in cash and/or in kind (Authorized Capital 2019/I).

The Authorized Capital 2019/I as of the date of this invitation amounts to EUR 64,485.00.

In order for the Company to remain flexible in the future to increase its equity capital as necessary (including issuing new shares against cash contributions and with the exclusion of subscription rights), the existing Authorized Capital 2019/I shall be cancelled, a new authorized capital shall be resolved and the Constitution is to be amended accordingly. The new authorized capital under agenda item 3 of the extraordinary general meeting on January 29, 2020, shall authorize the Management Board, with the consent of the Supervisory Board, to increase the Company's share capital, on one or several occasions during the period until January 28, 2025, by up to EUR 67,960.00, by issuing up to 67,960 new no-par-value registered shares against contribution in cash and/or in kind (Authorized Capital 2020/I).

The Authorized Capital 2020/I will enable the Company to continue to raise the capital it needs for its further development on the capital markets in the short term by issuing new shares, and to be flexible enough to benefit from a favourable market environment in order to fulfil any future financing requirements quickly. As decisions regarding the fulfilment of any future capital requirements generally have to be taken at short notice, it is important that the Company is not restricted by the frequency of annual general meetings or by the long notice period required for convening an extraordinary general meeting. Legislators have made accommodations for this situation in the form of the "authorized capital".

Upon utilization of the Authorized Capital 2020/I for the issuance of shares against contributions in cash and/or in kind, shareholders shall, in principle, have subscription rights (Section 203 para. 1 sentence 1, in conjunction with Section 186 para. 1 Stock Corporation Act (*Aktiengesetz*)), although indirect subscription rights within the meaning of Section 186 para. 5 Stock Corporation Act (*Aktiengesetz*) shall also suffice. According to the law, the issuance of shares with the granting of such an indirect subscription right is not deemed to be an exclusion of subscription rights. Shareholders are ultimately granted the same subscription rights as with a direct subscription. For settlement-related reasons, only one or several banks are involved in the transaction. In addition, the shares can be subscribed by a Trustee with the obligation to hold the shares in trust and to allocate, instead of those shares, such number of CDIs, e.g. in the form of CUFS (CHESS Units of Foreign Securities), as corresponds to the new shares – with one CDI being a unit of beneficial ownership in shares of the Company – to the respective beneficial owners.

The authorisation shall provide for certain cases in which the subscription rights of shareholders shall be excluded:

- For the purpose of serving subscription rights which have been issued to Kreos Capital V (Expert Fund) LP in the framework of the so-called “Kreos Warrant Agreement” dated March 16, 2016 and in the framework of the “2018 Kreos Warrant Agreement” dated April 12, 2018. This exclusion is required in order for the Company to be able to fulfil obligations it has entered into in the Kreos Warrant Agreement and in the framework of the 2018 Kreos Warrant Agreement.
- The subscription right of the shareholders shall be excluded in order to issue new shares to Woolworths upon exercise of its Tranche 2 Conversion Right under a Tranche 2 Convertible Bond which was issued by the Company to Woolworths on the basis of the authorisation of the general meeting of August 29, 2019 under agenda item 1, no. 1 on September 26, 2019. The proposed Authorized Capital 2020/I (ii) is required to enable the Company to issue the respective Tranche 2 Conversion Shares to Woolworths upon exercise of its respective Tranche 2 Conversion Right under the Tranche 2 Convertible Bond.
- The subscription right of the shareholders shall be excluded in order to issue new shares to Woolworths upon exercise of its Tranche 1 Conversion Right under a Tranche 1 Convertible Bond which was issued by the Company to Woolworths on the basis of the authorisation of the general meeting of August 29, 2019 under agenda item 1, no. 1 on September 26, 2019. The proposed Authorized Capital 2020/I (iii) is required to enable the Company to issue the respective Tranche 1 Conversion Shares to Woolworths upon exercise of its respective Tranche 1 Conversion Right under the Tranche 1 Convertible Bond.
- The subscription right of the shareholders shall be excluded in order to issue new shares to USV MS A and/or USV MS B upon exercise of their respective USV MS Conversion Right under the USV MS Convertible Bonds which may be issued by the Company to USV MS A and USV MS B

on the basis of the authorisation of the general meeting of January 29, 2020 under agenda item 1, no. 1. The proposed Authorized Capital 2020/I (iv) is required to enable the Company to issue additional conversion shares to USV MS A and/or USV MS B upon exercise of their respective USV MS Conversion Right under the USV MS Convertible Bonds, which cannot be fulfilled with the Conditional Capital 2020/I.

- In addition, the subscription right of the shareholders shall be excluded in order to issue new shares to Woolworths upon exercise of its WOW Conversion Right under the WOW Convertible Bond which may be issued by the Company to Woolworths on the basis of the authorisation of the general meeting of January 29, 2020 under agenda item 2, no. 1. The proposed Authorized Capital 2020/I (v) is required to enable the Company to issue conversion shares to Woolworths upon exercise of the WOW Conversion Right under the WOW Convertible Bond.

In addition, the Management Board shall be authorized, with the consent of the Supervisory Board, to exclude subscription rights in certain cases:

- In order to exclude fractional amounts from the subscription right. The aim of this exclusion of subscription rights is to simplify the process of issuing new shares with basic subscription rights to shareholders, as this makes a technically feasible subscription ratio possible. The value of the fractional amounts is usually low per shareholder, therefore, the potential dilutive effect is likewise considered to be low. On the other hand, the cost of issuing shares without such an exclusion is significantly higher. The exclusion therefore serves to ensure that an issuance is practical and easier to carry out. If necessary, the fractions of new shares excluded from the shareholders' subscription rights shall be realized either by sale on the stock exchange or in any other manner so as to best further the Company's interests. The Management Board and Supervisory Board deem the potential exclusion of subscription rights as factually justified for these reasons and reasonable in consideration of shareholder interests.
- Subscription rights can also be excluded in the event of cash capital increases, if the shares are issued at a price that is not significantly lower than the market price and such an increase in capital does not exceed 10% of the share capital (simplified exclusion of subscription rights in accordance with Section 186 para. 3 sentence 4 Stock Corporation Act (*Aktiengesetz*)).

This authorisation enables the Company to respond flexibly to any favourable capital market situations that arise and to flexibly place new shares at very short notice, without having to offer subscription rights for at least two weeks. The exclusion of subscription rights allows for an extremely quick response and placement close to the market price, *i.e.* without the usual discount for issuing subscription rights. This lays the foundations for achieving the highest possible disposal amount and for increasing equity as much as possible. The authorisation for the simplified exclusion of subscription rights is objectively justified also by the fact that an increased cash inflow can often be generated. Such a capital increase must not exceed 10% of the share

capital that exists on the date on which the authorisation becomes effective or on the date on which it is exercised. The resolution proposal also provides for a deduction clause. The restriction to a maximum of 10% of the share capital, to which this exclusion of subscription rights relates, shall include shares that were issued to serve bonds with conversion or option rights or conversion or option obligations pursuant to Section 221 para. 4 sentence 2, in conjunction with Section 186 para. 3 sentence 4 Stock Corporation Act (*Aktiengesetz*), during the term of this authorisation, with the exclusion of subscription rights and which are to be issued based on the conversion price prevailing at the time of the resolution of the Management Board concerning the utilization of the Authorized Capital 2020/I, insofar as these bonds were issued, as specified by Section 186 para. 3 sentence 4 Stock Corporation Act (*Aktiengesetz*), during the period of this authorisation, with the exclusion of subscription rights. The sale of treasury shares shall also be included, insofar as they are sold within the term of this authorisation based on an authorisation pursuant to Section 71 para. 1 No. 8 sentence 5 clause 2, in conjunction with Section 186 para. 3 sentence 4 Stock Corporation Act (*Aktiengesetz*), with the exclusion of subscription rights.

The simplified exclusion of subscription rights strictly specifies that the issue price of the new shares may not be significantly lower than the market price. Any discount on the prevailing market price or the arithmetic volume-weighted market price during an appropriate period prior to the final fixing of the issue amount shall, with the exception of special circumstances in individual cases, presumably be no more than approx. 5% of the relevant market price. This also takes into account the shareholders' protection requirement in terms of a dilution of the value of their shareholding. Fixing the issue price close to the market price ensures that the value of a subscription right to the new shares is very low and shareholders have the option to maintain their relative shareholding by acquiring the requisite number of shares on the stock exchange.

- The Management Board shall also be able to exclude subscription rights, with the consent of the Supervisory Board, insofar as this is necessary to grant the holders of convertible or option rights or creditors of convertible bonds or warrant bonds with conversion obligations that will be issued by the Company or its subordinated group companies a subscription right to new shares. The terms and conditions of issuance for bonds with conversion or option rights or conversion or option obligations often contain a dilution protection provision, which grants the holders or creditors a subscription right to new shares in the event of subsequent share issuances and certain other measures. They will thus be treated as though they were already shareholders. In order to be able to provide the bonds with such dilution protection, shareholders' subscription rights must be excluded from these shares. This facilitates the placement of the bonds and thus fulfils the shareholders' interests in the Company having an optimum financial structure. Furthermore, the exclusion of subscription rights may also have the advantage for the holders or creditors of bonds that, in the case of the authorisation being exercised, the option or conversion price for the holders

or creditors of already existing bonds does not have to be discounted in accordance with the respective terms and conditions of the bonds.

- Subscription rights can also be excluded for capital increases against contributions in kind for up to 12,313 new shares. The Company should also be able to continue to make acquisitions, in particular of companies, parts of companies, participations or other assets, and respond to acquisition and merger offers, to strengthen its competitiveness, and increase the profitability and value of the Company. In addition, the Company should be in a position to make flexible decisions by issuing shares against the contribution of claims against the Company or any of its group companies.

The option to use Company shares as acquisition currency gives the Company the necessary scope to seize such acquisition opportunities quickly and flexibly, and allows the Company to acquire entities in return for shares. It should also be possible, in some circumstances, to acquire assets in return for shares and to issue shares against the contribution of claims against the Company or any of its group companies. In these cases, it must be possible to exclude shareholders' subscription rights. Given that such acquisitions or other (financing) opportunities often have to be made at short notice, it is important that these decisions cannot only be resolved at the annual general meetings, which are held just once a year, or at extraordinary general meetings which require a long statutory invitation period. This requires an authorized capital, which the Management Board is able to access quickly with the consent of the Supervisory Board.

If the Management Board and the Supervisory Board utilized this authorisation before the date of this extraordinary general meeting to issue the New Shares, the implementation of a new authorisation to allow the Company to exclude subscription rights for capital increases against contributions in kind for up to 12,313 new shares would renew the Company's flexibility to seize such opportunities quickly and flexibly.

If, during the course of a financial year, the Management Board exercises one of the aforementioned authorisations to exclude subscription rights as part of a capital increase from the Authorized Capital 2020/I, the Management Board shall report on this matter at the next general meeting.

V.

Report of the Management Board on agenda item 4

(Resolution on the granting of an authorisation to issue an option bond in the nominal amount of EUR 5,000 with a detachable warrant to Venture Lending & Leasing VIII, LLC and to issue an option bond in the nominal amount of EUR 5,000 with a detachable warrant to Venture Lending & Leasing IX, LLC, each under the exclusion of subscription rights and the creation of an Authorized Capital 2020/II, with the authorisation of the Management Board to exclude subscription rights with the consent of the Supervisory Board as well as the amendment of Sec. 3 of the Constitution)

Under agenda item 4 no. 1 of the general meeting of January 29, 2020, the Management Board and the Supervisory Board propose to be granted an authorisation to issue, until April 29, 2020, an option bond in the nominal amount of EUR 5,000 with a detachable warrant to Venture Lending & Leasing VIII, LLC and to issue an option bond in the nominal amount of EUR 5,000 with a detachable warrant to Venture Lending & Leasing IX, LLC. The VLL8 Warrant is to be separated from the VLL8 Option Bond and the VLL9 Warrant is to be separated from the VLL9 Option Bond, in each case on the day of issuance of the respective Option Bond and shall then be transferable separately. Each Warrant shall grant the respective Warrant Holder the right to subscribe up to 5,643 shares of the Company with an aggregate fractional amount of the nominal share capital of up to EUR 5,643.00. The Option Bonds with Warrants will only be issued in compliance with the ASX Listing Rules.

Since the authorisation proposed under agenda item 4 no. 1 on the issuance of the Option Bonds with detachable Warrants to VLL8 and VLL9 (hereinafter collectively also referred to as “WTI”) proposes an exclusion of shareholders’ subscription rights, the Management Board is providing this report to the general meeting pursuant to Section 221 para. 4 sentence 2 in connection with Section 186 para. 4 sentence 2 of the German Stock Corporation Act (*Aktiengesetz*) on the reasons for the exclusion of the shareholders’ subscription rights. In addition, the proposed terms and conditions of the Option Bonds and of the Warrants are summarised in this invitation, including in particular in **Annex 3** to this invitation.

1. Background on the authorisation to issue the Option Bonds with Warrants

It was agreed in the WTI Loan Agreement that the issuance of the Option Bonds with Warrants would be an essential condition to the funding under the WTI Loan Agreement and was part of the overall consideration for the financing provided under and in connection with the WTI Loan Agreement. The authorisation proposed to the general meeting on January 29, 2020 under agenda item 4 no. 1 shall therefore enable the Company to issue the two Option Bonds with Warrants to VLL8 and VLL9. The Management Board and the Supervisory Board believe it is generally reasonable to issue the Option Bonds with Warrants, since the issuance of the Option Bonds with Warrants is an integral part of the

WTI Loan Agreement and an adequate capitalisation is material for the further positive development of the Company. Overall, the WTI Loan Agreement and the issuance of the Option Bonds with Warrants shall give the Company the option to support its capital needs and further strengthen its liquidity by adhering to its commitments under the WTI Loan Agreement.

Also, should the general meeting not pass the resolutions under agenda items 4 and 11 to grant to the Company the authorisation to issue the Option Bonds with Warrants, create the respectively required authorized capital, and permit the issue of the Option Bonds with Warrants to WTI for the purposes of the ASX Listing Rules, Venture Lending & Leasing VIII, Inc. and Venture Lending & Leasing IX, Inc. will be entitled to request prepayment of all payments already made until then under the WTI Loan together with any accrued interest. In addition, pursuant to the WTI Loan Agreement, if the Company does not issue the VLL8 Option Bond with Warrants or the VLL9 Option Bond with Warrants, Marley Spoon Inc. agreed in the WTI Loan Agreement that on the first to occur of either (i) the closing of a change of control at the Company or (ii) December 31, 2024, Venture Lending & Leasing VIII, Inc., or as the case may be Venture Lending & Leasing IX, Inc., shall each have the right to demand a cash payment in an amount equal to the sum of (1) USD 1,437,500 and (2) the product of (x) USD 1,437,500 and (y) a fraction, the numerator of which is the aggregate, original principal amount of all loans advanced to Marley Spoon Inc. by Venture Lending & Leasing VIII, Inc., or respectively in the case of Venture Lending & Leasing IX, Inc. by Venture Lending & Leasing IX, Inc., and the denominator of which is \$7,500,000. Such right by Venture Lending & Leasing VIII, Inc. and Venture Lending & Leasing IX, Inc. only exists, if the Company does not issue the Option Bonds with Warrants.

2. Reasons for the exclusion of shareholders' subscription rights

When option bonds with warrants are issued, shareholders are generally to be granted a subscription right pursuant to an analogous application of Section 221 para. 4 sentence 1 of the German Stock Corporation Act (*Aktiengesetz*). The authorisation proposed under agenda item 4 to issue the Option Bonds with Warrants proposes an exclusion of shareholders' subscription rights for the benefit of VLL8 and VLL9. The Management Board and the Supervisory Board believe it is reasonable and in the best interests of the Company to exclude the shareholders' subscription rights, since otherwise a timely issue of the Option Bonds with Warrants would not be possible.

Based on the background on the authorisation to issue the Option Bonds with Warrants, the aforementioned reasons and after careful consideration of the interests at stake for the enterprise, against the interests of the shareholders to maintain their respective share in the Company – and therefore indirectly the respective interests of the CDI-holders – the Management Board and the Supervisory Board deem the exclusion of subscription rights appropriate and therefore, overall, reasonably justified. As already referred to, an adequate capitalisation is material for the further

positive development of the Company. The issue of the Option Bonds with Warrants in accordance with the WTI Loan Agreement supports such adequate capitalisation.

3. Assessment of the proposed Warrant Share Subscription Price

The authorisation proposed under agenda item 4 no. 1 shall authorise the Management Board to issue two Option Bonds, each in the nominal amount of EUR 5,000.00 with a detachable warrant, to VLL8 and VLL9. In both cases, the subscription price of one Warrant Share shall amount to AUD 390.00; this corresponds to a price of AUD 0.39 per CDI, since one (1) CDI represents a beneficial ownership of 1/1,000th in one (1) share of the Company.

The Warrant Share Subscription Price may be adjusted in certain events in accordance with the Warrant Terms and Conditions, provided that the Warrant Share Subscription Price may not be less than the fractional nominal amount per share in the Company's nominal share capital of EUR 1.00.

The price of AUD 0.39 per CDI proposed in the authorisations, i.e. the Warrant Share Subscription Price of AUD 390.00 per share of the Company, is appropriate from the point of view of the Company as it corresponds to the volume-weighted average price per CDI during the 30 trading days prior to the closing of the WTI Loan Agreement, multiplied by 1,000, since one CDI represents a beneficial ownership of 1/1,000th in one (1) share of the Company. The shareholders – and indirectly the CDI-holders – will thereby not be subject to an excessive dilution in their participation.

4. Creation of the required authorized capital

To enable the Company to issue, upon exercise of the Warrants, the corresponding Warrant Shares, the required new authorized capital in the amount of up to EUR 11,300.00 (to account for a small upward buffer), and corresponding to up to 11,300 new shares, i.e. approximately 7.1% of the current share capital of the Company, shall be created by inserting a new Sec. 3 para. 11 into the Constitution.

In addition, the Warrant Terms and Conditions shall provide for the Company to be able to use treasury shares of the Company, shares from other authorised capital or conditional capital or other considerations to satisfy its obligations under the Warrants.

5. Assessment by the Management Board prior to issuing any Option Bonds with Warrants

The Management Board will in each case thoroughly assess whether a utilisation of the authorisation proposed under agenda item 4 no. 1 on the issuance of the Option Bonds with Warrants is in the best interests of the Company. Currently, the Management Board – as well as the Supervisory Board – believes it is generally reasonable to issue the Option Bonds with Warrants to WTI for the reasons set out above, and contemplates to make use of a corresponding authorisation, should the general meeting grant the authorisation. In this context, the Management Board will in particular thoroughly assess

whether the stipulated Warrant Share Subscription Price in the circumstances is appropriate at the respective point in time. If the Management Board utilises the afore described authorisation to issue the Option Bonds with Warrants, it will report on this matter in the following general meeting.

VI.

Report of the Management Board on agenda item 5 regarding

the exclusion of subscription rights for fractions of shares

Agenda item 5 of the general meeting of January 29, 2020, allows for the exclusion of subscription rights for fractions of shares in connection with the proposed Ordinary Capital Increase. In principle, shareholders shall be granted a subscription right for the New Shares to be created by way of the Ordinary Capital Increase. However, for mere fractions of shares, the subscription right shall be excluded. Such fractions of shares may result from the size of the capital increase and the implementation of a practicable subscription ratio. With respect to fractions of shares, the exclusion of the subscription right is useful and market practice, since it simplifies the consummation of the capital increase and allows to determine a practicable subscription ratio. Fractions of shares which are excluded from the subscription right may be allocated to potential backstop investors. The Management Board is providing this report to the general meeting pursuant to Section 186 para. 4 sentence 2 of the German Stock Corporation Act (*Aktiengesetz*) on the reasons for the exclusion of the shareholders' subscription rights. The Management Board and Supervisory Board deem the potential exclusion of subscription rights as factually justified for these reasons and reasonable in consideration of shareholder interests.

VII.

Additional information for shareholders

Availability on the Company's website

The invitation to the extraordinary general meeting of the Company on January 29, 2020, is also available on the Company's website at:

<https://ir.marleyspoon.com/investor-centre/>

Participation and exercise of voting rights in the general meeting

All shareholders who are registered in the share register of the Company on the day of the general meeting and who have registered themselves for participation in the general meeting on time are eligible to attend the general meeting and cast votes. The registration must arrive by no later than January 22, 2020, 12:00 p.m. (midnight) (CET) / January 23, 2020, 10:00 a.m. (AEDT), at the Company's address as follows:

Marley Spoon AG

Paul-Lincke-Ufer 39-40

Attn: Dr. Mathias Hansen

10999 Berlin

Germany

Email: mathias.hansen@marleyspoon.com

With copy to: Lisa.Dadswell@boardroomlimited.com.au

Shareholders registered in the share register who cannot attend the general meeting in person may be represented by an authorised representative of their choice (or a proxy), including a financial institution or a shareholder association. The power of attorney is to be granted in text form (Section 16 para. 2 sentence 1 of the Constitution), *i.e.* in writing, via facsimile or email. The form requirement does not apply if a financial institution, a shareholder association or a person or institution that is considered equivalent pursuant to Section 135 para. 8 or Section 135 para. 10 in connection with Section 125 para. 5 of the German Stock Corporation Act is granted power of attorney, given that the aforementioned institutions or persons have to only keep a verifiable record of such power of attorney pursuant to Section 135 para. 1 sentence 2 of the German Stock Corporation Act.

Motions and election proposals

Each shareholder is entitled to submit counter-motions or election proposals with respect to the agenda items. The Company will make motions by shareholders, including the shareholder's name, explanation and statement of the administration, if any, available, if the shareholder has sent to the following address at least 14 days prior to the extraordinary general meeting, *i.e.* by no later than

January 14, 2020, 12:00 p.m. (midnight) (CET) / January 15, 2020, 10:00 a.m. (AEDT), a counter-motion against a proposal by the Management Board and/or the Supervisory Board regarding a certain agenda item together with an explanation:

Marley Spoon AG

Attn: Dr. Mathias Hansen

Paul-Lincke-Ufer 39-40

10999 Berlin

Germany

Email: mathias.hansen@marleyspoon.com

With copy to: Lisa.Dadswell@boardroomlimited.com.au

These regulations apply *mutatis mutandis* to election proposals submitted by a shareholder. The election proposal does not have to be supported by a statement of grounds. The right of each shareholder to submit counter-proposals with respect to agenda items or election proposals during the general meeting also without a prior submission to the Company remains unaffected.

Live transmission of the extraordinary general meeting

Shareholders and CDI-holders may apply by no later than January 22, 2020, 12:00 p.m. (midnight) (CET) / January 23, 2020, 10:00 a.m. (AEDT) for the general meeting to be webcast live over the internet. In such case, they will be sent a link and confidential access data with which they will be able to access the online transmission of the extraordinary general meeting on January 29, 2020, beginning at 9:00 a.m. (CET) / 7:00 p.m. (AEDT). The Chairman of the general meeting may then determine that the entire extraordinary general meeting on January 29, 2020 will be webcast live to shareholders and CDI-holders of Marley Spoon AG over the internet starting at 9:00 a.m. (CET) / 7:00 p.m. (AEDT). The live transmission of the extraordinary general meeting does not allow for a participation in the general meeting within the meaning of Section 118 para. 1 sentence 2 of the German Stock Corporation Act.

CDI holders wishing to access the online transmission of the extraordinary general meeting shall request the link and the confidential access data by sending their full name and CDI holder number for verification before the aforementioned date to:

Marley Spoon AG

Attn: Dr. Mathias Hansen

Paul-Lincke-Ufer 39-40

10999 Berlin

Germany

Email: mathias.hansen@marleyspoon.com

With copy to: Lisa.Dadswell@boardroomlimited.com.au

VIII.

Additional information for CDI holders

CDI holders will be able to vote at the general meeting by:

1. instructing the Company's CDI Depository, CHESSE Depository Nominees Pty Ltd ("CDN"), as the legal owner, to vote the shares underlying their CDIs in a particular manner. A CDI Voting Instruction Form will be sent to CDI holders with this invitation and this must be completed and returned to in accordance with the instructions on the form; or
2. informing Marley Spoon AG that they wish to nominate themselves or another person to be appointed as CDN's proxy with respect to their shares underlying multiples of 1,000 CDIs for the purposes of attending and voting at the general meeting. CDI holders may do this by completing and returning the CDI Voting Instruction Form sent to them with this invitation in accordance with the instructions on the form; or
3. converting their CDIs (in multiples of 1,000) into a holding of shares and voting these shares at the general meeting (however, if thereafter the former CDI holder wishes to sell their investment on ASX it would be necessary to convert the shares back to CDIs). In order to vote in person, the former CDI holder has to appear at the Company's business premises in Berlin, Germany. Furthermore, the conversion and entry into the Company's share register must be completed before January 22, 2020, 12:00 p.m. (midnight) (CET) / January 23, 2020, 10:00 a.m. (AEDT), and registration for attendance of the general meeting must have arrived at the Company's address – as set out under Section VI. above – by no later than January 22, 2020, 12:00 p.m. (midnight) (CET) / January 23, 2020, 8:00 a.m. (AEDT)

To obtain a copy of CHESSE Depository Nominee's Financial Services Guide, go to www.asx.com.au/CDIs or phone 1300 300 279 if you would like one sent to you by mail.

Berlin, Germany, December 2019

The Management Board

* * * *

Annex 1

Proposed Key Terms of the USV MS Convertible Bonds

Issuer	Marley Spoon AG (the “Company”).
Aggregate Principal Amount of the 2 USV MS Convertible Bonds	USD 2,776,487.50.
Form	Both USV MS Convertible Bonds (as defined below) will be in the form of a registered bond.
Convertible Bonds, Principal Amounts and Beneficiaries	<p>(1) one (1) convertible bond in the principal amount of USD 2,651,892.62 will be issued to USV Marley Spoon A, LLC (the “USV MS A Convertible Bond”);</p> <p>(2) one (1) convertible bond in the principal amount of USD 124,594.88 will be issued to USV Marley Spoon B, LLC (the “USV MS B Convertible Bond” and together with the USV MS A Convertible Bond the “USV MS Convertible Bonds” and each a “USV MS Convertible Bond”; and USV Marley Spoon A, LLC “USV MS A” and USV Marley Spoon B, LLC “USV MS B”).</p>
Issue Price	100% of its respective principal amount.
Redemption Price	100% of its respective principal amount.
Interest	Twelve-months USD LIBOR + 5.00%. An interest payment will only be made at the Maturity Date of the respective Convertible Bond or on any early redemption of the respective USV MS Convertible Bond. If the USV MS Conversion Right (as defined below) is exercised, all accrued interest will be forfeited.
USV MS Conversion Right	Each of USV MS A and USV MS B has the right to convert its respective USV MS Convertible Bond into registered shares of the Company, in whole but not in part, during the conversion period (as defined below) (each a “ USV MS Conversion Right ”).

USV MS Conversion Period	The period starting five (5) business days after the Conditional Capital 2020/I and the Authorized Capital 2020/I from which the conversion shares shall be issued is registered in the commercial register of the local court of Berlin-Charlottenburg under the Company’s docket number and ending at 4 p.m. (local time Sydney, Australia) on the trading day prior to the Maturity Date subject to certain conversion exclusion periods.
Underlying Shares	Registered shares with no par-value of the Company, each representing a fractional amount of the Company’s registered share capital of EUR 1.00. The shares (and CDIs) issued upon conversion of the USV MS Convertible Bonds will rank <i>pari passu</i> with, and on the same terms as, the existing ordinary shares (and CDIs) on issue.
Maximum Number of Shares to be Issued	Given that the USV MS Convertible Bonds to be issued shall be denominated in US dollars, yet the USV MS Conversion Price (as defined below) is denominated in Australian dollars, the authorized capital proposed for resolution to the shareholders provide for an upward buffer, with a view to potential exchange rate fluctuations. Based on the aforementioned, the maximum number of shares which may be issued on conversion of the bonds in aggregate totals 8,200 new shares (subject to adjustment, in accordance with the ASX Listing Rules, referred to below).
Delivery of CDIs	USV MS A and USV MS B will have to commit themselves to transfer the respective shares to be issued to them on conversion of the respective USV MS Convertible Bond, immediately after their issuance to CHESS Depository Nominees Pty Ltd, ACN 071 346 506, with business address: 20 Bridge Street, Sydney NSW 2000, Australia (“CDN”), with CDN to hold such shares pursuant to the ASX Settlement Operating Rules and such number of CDIs to be allocated to USV MS A and/or USV MS B, instead of the shares, as corresponds to the beneficial ownership of the shares, for as long as CDIs are quoted by the ASX.
USV MS Conversion Price per Share	AUD 500.00 (the “USV MS Conversion Price”).
USV MS Issue Date	To be determined for each USV MS Convertible Bond by the Management Board until April 29, 2020.

Maturity 3 years after the issue date of the respective USV MS Convertible Bond (the “**USV MS Maturity Date**”).

Redemption and Early Termination of the USV MS Convertible Bonds Each USV MS Convertible Bond will be redeemed at its respective USV MS Maturity Date at its respective principal amount plus accrued interest, to the extent the respective USV MS Convertible Bond has not previously been redeemed or cancelled and no conversion notice has been issued by USV MS A and/or USV MS B.

USV MS A and USV MS B may terminate their respective USV MS Convertible Bond for redemption before the respective USV MS Maturity Date in the case of an USV MS Event of Default (as defined below).

The Company may terminate the respective USV MS Convertible Bond for redemption before the USV MS Maturity Date in the case of a USV MS Change of Control or a sale of all or substantially all of the assets of the Company occurs (as defined below).

Status of the USV MS Convertible Bonds Unsecured and subordinated. The USV MS Convertible Bonds will rank *pari passu* among themselves.

Subordination In the event of a dissolution or liquidation of the Company or the commencement of any insolvency, bankruptcy or similar legal proceedings or other procedure in respect to the assets of the Company (each case “**Insolvency or Liquidation Proceedings**”), all claims under the USV MS Convertible Bonds are subordinated in full to the Preferred Obligations of the Company, and no payment will be made in respect of the claims under the USV MS Convertible Bonds, until the Preferred Obligations of the Company are finally discharged in full.

The Company will not make any payment, and USV MS A and USV MS B are not entitled to request payment, in respect of the claims under the USV MS Convertible Bonds if and to the extent such payment would give cause for the commencement of insolvency proceedings over the assets of the Company.

Prior to the commencement of Insolvency or Liquidation Proceedings the Company will only make payments in respect of the claims under the USV MS Convertible Bonds from (i) any future distributable annual profits

(*ausschüttbare Jahresgewinne*) or (ii) any other free assets (*sonstiges freies Vermögen*).

“**Preferred Obligations**” means the claims of all current and future creditors of the Company within the meaning of Section 39 para. 1 no. 1 to 5 of the German Insolvency Code (*Insolvenzordnung*).

Restriction on new Restricted Indebtedness under the USV MS Convertible Bonds As long as any amounts of principal or interest remain outstanding under the USV MS Convertible Bonds, the Company will not incur any New Restricted Indebtedness without the prior consent of each of USV MS A and USV MS B.

“**New Restricted Indebtedness**” means any indebtedness incurred by the Company after the USV MS Issue Date for or in respect of (i) moneys borrowed from banks or other financial institutions or (ii) any bond or loan convertible into share capital of the Company, except for (A) any moneys borrowed from Berliner Volksbank e.G. with a principal amount (together with the principal amount of any moneys borrowed from Berliner Volksbank e.G. and outstanding on the issue date) of up to EUR 5,000,000.00, (B) any of the USV MS Convertible Bonds, (C) the WOW Convertible Bond and (iii) any moneys borrowed under any third-party asset-backed financing or customary working capital financing (including, but not limited to, bank overdrafts) provided that the aggregate principal amount outstanding thereunder (together with the principal amount of any moneys borrowed under any third-party asset-backed financing or customary working capital financing and outstanding on the USV MS Issue Date) does not exceed EUR 5,000,000.00.

USV MS Events of Default (summary only) The Company does not pay on the respective due date any amount payable pursuant to the respective USV MS Convertible Bond, unless failure to pay is caused by administrative or technical error and payment is made within five business days of its due date.

The Company does not comply with any provision of the respective USV MS Convertible Bond unless the failure to comply is capable of remedy and is remedied within 20 business days of USV MS A and/or USV MS B, as the case may be, giving notice to the Company of the failure to comply.

(A) Any Financial Indebtedness of the Company is not paid when due nor

within any applicable grace period and the obligation to pay it is not being disputed in good faith. (B) Any Financial Indebtedness of the Company is validly declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described). No Event of Default will occur under 3.) if the aggregate amount of Financial Indebtedness falling within paragraphs (A) and (B) is less than EUR 100,000.00 (or its equivalent in any other currency or currencies).

Insolvency:

- (i) The Company:
 - a) is unable or admits inability to pay its debts as they fall due (*zahlungsunfähig*) within the meaning of Section 17 of the German Insolvency Code (*Insolvenzordnung*),
 - b) is overindebted within the meaning of Section 19 of the German Insolvency Code (*Insolvenzordnung*); or
 - c) by reason of actual or anticipated financial difficulties, commences negotiations with a class or category of its creditors (excluding USV MS A and USV MS B in their respective capacity as beneficiary) with a view to rescheduling a material amount of any of its indebtedness;
 - d) files for insolvency (*Antrag auf Eröffnung eines Insolvenzverfahrens*) or the directors of the Company are required by law to file for insolvency; or
 - e) the competent court takes any of the actions set out in Section 21 of the German Insolvency Code (*Insolvenzordnung*) or the competent court institutes or rejects (for reason of insufficiency of its funds to implement such proceedings) insolvency proceedings against it (*Eröffnung des Insolvenzverfahrens*).
- (ii) A moratorium is declared in respect of all or any substantial part of the indebtedness of the Company.
- (iii) Any corporate action, legal proceedings or other formal procedure or formal step is 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) of the Company;
- b) a composition, compromise, assignment or arrangement with any class or category of creditor of the Company (excluding USV MS A and USV MS B in their respective capacity as beneficiary) with a view to avoiding actual or anticipated financial difficulties;
- c) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Company or any of its assets; or
- d) the enforcement of any security over any assets of the Company,
- e) or any analogous formal procedure or formal step is taken in any jurisdiction.

This shall not apply to any action, proceedings or step which is frivolous or vexatious and is discharged, stayed or dismissed within 20 business days of commencement.

Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of the Company having an aggregate value of EUR 100,000.00 (or its equivalent in any other currency or currencies) and in respect of indebtedness aggregating EUR 100,000.00 (or its equivalent in any other currency or currencies) and is not discharged within 20 business days.

The Company ceases, threatens to cease, or suspends to carry on all or a material part of its business.

It is or becomes unlawful or impossible for the Company to perform any of its obligations under the respective Convertible Bond or to comply with any other obligation which USV MS A and USV MS B, acting reasonably, considers material under the respective USV MS Convertible Bond.

An event or circumstance which has a Material Adverse Effect.

“Material Adverse Effect” means a material adverse change, event, circumstance or development with respect to, or material adverse effect on:

- a) the business, assets, liabilities, capitalisation, operations or financial condition, prospects or results of operations of the Company and its subsidiaries, taken as a whole;
- b) the ability of the Company to perform its payment obligations under the USV MS Convertible Bonds; or
- c) subject to the Legal Reservations, the validity or enforceability of the obligations of the Company with respect to the respective USV MS Convertible Bond or the rights or remedies of USV MS A and/or USV MS B under the respective USV MS Convertible Bond.

“Legal Reservations” means any general and indispensable principles of, or rights and defenses under, any applicable law.

“Financial Indebtedness” means any indebtedness for or in respect of:

- a) moneys borrowed;
- b) any amount raised pursuant to any issue of bonds, notes, commercial papers or any similar instrument (other than notes issued in the ordinary course of trading);
- c) the amount of any liability in respect of any lease contract which would, in accordance with IFRS, be treated as a balance sheet liability (other than a lease contract which would, in accordance with IFRS in force prior to January 1, 2019, have been treated as an operating lease);
- d) receivables sold or discounted (other than any receivables to the extent they are sold or discounted on a non-recourse basis);

- e) any amount raised under any other transaction of a type not referred to in any other paragraph of this definition required by IFRS to be shown as a borrowing in the audited consolidated balance sheet of the Company;
- f) for the purpose of 3.) above (*Cross Default*) only, any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);
- g) for the purpose of 3.) above (*Cross Default*) only, any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- h) (without double counting) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (g) above.

USV MS Change of Control In the case of a USV MS Change of Control (as defined below), the Company shall, by giving no less than 30 days' prior notice ("**USV MS Termination Notice**"), elect to either (i) terminate the USV MS Convertible Bonds prior to the respective USV MS Maturity Date and redeem the USV MS Convertible Bonds at their respective principal amounts plus accrued interest or (ii) convert the USV MS Convertible Bonds. If the respective USV MS Convertible Bond is declared due for early redemption by the Company, the respective USV MS Conversion Right with respect to such USV MS Convertible Bond may no longer be exercised by USV MS A or USV MS B from the receipt of the notice of termination.

"**USV MS Change of Control**" means any person or group of persons acting in concert (in each case other than a person being a direct or indirect shareholder of the Company at the issue date) gains direct or indirect control of the Company.

"**control**" of the Company means:

- a) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
 - (i) cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of the Company;
 - (ii) appoint or remove all, or the majority, of the directors of the Company; or
 - (iii) give directions with respect to the operating and financial policies of the Company with which the directors of the Company are obliged to comply; or
- b) the holding beneficially of more than 50% of the issued share capital of the Company (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

“**acting in concert**” (*Verhalten abstimmen*) means, a group of persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-operate, through the acquisition directly or indirectly of shares in the Company by any of them, either directly or indirectly, to obtain or consolidate control of the Company within the meaning of Section 30 (2) of the German Securities Acquisition and Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz*).

Adjustments of the Conversion Price

If, prior to the last day of the conversion period or any earlier date relevant for conversion or redemption the Company increases its share capital from capital reserves, a share split or combining of shares of the Company is carried out, the share capital of the Company is decreased, the Company increases its share capital against contributions with subscription rights or the Company issues other securities with preemptive rights, an independent financial expert shall determine, as soon as possible, based on generally accepted mathematical principles what adjustment to the USV MS Conversion Price is fair and reasonable in order to keep up the respective Beneficiary’s economic position with a view to the USV MS Conversion Price, and on which date such adjustment should take effect. On this date, such adjustment (if any) will be made and will take effect. The Company may engage the advice or services of any lawyers or other experts whose advice or services it deems necessary

and may rely upon any advice so obtained.

An adjustment shall not be made to the extent that the USV MS Conversion Price for one share would thereby fall below the pro rata amount of the share capital for one share of the Company. Sec. 9 para. 1 in conjunction with Sec. 199 para. 2 of the German Stock Corporation Act (*Aktiengesetz*) remains unaffected.

Notwithstanding the aforementioned, any adjustment to the conversion of the USV MS Convertible Bonds must comply with the ASX Listing Rules.

**Anti-dilution
Protection**

Before USV MS A and/or USV MS B have exercised their respective USV MS Conversion Right and been delivered shares/CDIs, either of them will not have the right to participate in any offering of securities of the Company as a result of being a holder of a USV MS Convertible Bond or CDIs. (The foregoing does not impact any rights of USV MS A and USV MS B which arise by virtue of being a shareholder (or CDI holder) in the Company.)

In the case of a capital measure or comparable measure being implemented at the Company and to the extent permitted by the ASX Listing Rules and mandatory German law, the Management Board (together with the Supervisory Board) may seek shareholder's approval or take other measures that would permit the issue of subscription rights or shares (or CDIs) to USV MS A and USV MS B in such a way that USV MS A and USV MS B would maintain *pari passu* a stake in the Company that each of them would have, had they already exercised their respective USV MS Conversion Right.

Transfer Restrictions

Neither USV MS A nor USV MS B may assign its respective USV MS Convertible Bond or any of the rights under its USV MS Convertible Bond (*Abtretungsverbot*), except with the consent of the Company.

No Quotation

The Convertible Bonds will not be quoted by ASX.

**Participation/Voting
Rights**

Before USV MS A and/or USV MS B have exercised their respective USV MS Conversion Right and been delivered shares/CDIs, it will not be allowed to participate or vote at shareholders' meetings of the Company as a result of being a holder of a USV MS Convertible Bond. (The foregoing does not impact any rights of USV MS A and USV MS B which arise by virtue of either being a shareholder (or CDI holder) in the Company.)

Annex 2

Proposed Key Terms of the WOW Convertible Bond

Issuer	Marley Spoon AG (the “ Company ”).
Aggregate Principal Amount of the WOW Convertible Bond	AUD 4,047,250.00.
Form	The WOW Convertible Bond (as defined below) will be in the form of a registered bond.
WOW Convertible Bond, Principal Amount and Beneficiary	One (1) convertible bond in the principal amount of AUD 4,047,250.00 (“WOW Principal Amount”) will be issued to W23 Investments Pty Limited (the “WOW Convertible Bond” and W23 Investments Pty Limited hereafter (“Woolworths”).
WOW Issue Price	100% of the WOW Principal Amount.
WOW Redemption Price	100% of the WOW Principal Amount.
Additional Redemption Amount	Upon redemption, the Issuer will pay to Woolworths an additional redemption amount of AUD which will correspond to the interest amount that had accumulated under the WOW Loan Agreement up until the WOW Issue Date (as defined below).
WOW Interest	7.00 per cent. per annum. An interest payment will only be made at the WOW Maturity Date (as defined below) or on any early redemption of the WOW Convertible Bond. If the WOW Conversion Right (as defined below) is exercised, all accrued interest will be forfeited.
WOW Conversion Right	WOW has the right to convert the WOW Convertible Bond during the WOW Conversion Period (as defined below), in whole but not in part, into new no-

par-value registered shares of the Company (the “**WOW Conversion Shares**”) in accordance with the terms and conditions upon the occurrence of a WOW Conversion Event (as defined below) (the “**WOW Conversion Right**”). The WOW Conversion Right must be exercised within the WOW Exercise Period (as defined below).

WOW Conversion Period Conversion Period means a period commencing five Business Days after the Authorized Capital 2020/I from which the WOW Conversion Shares shall be issued is registered in the commercial register of the local court of Berlin-Charlottenburg under the Issuer’s docket number and ending at 4 p.m. (local time Sydney, Australia) on the trading day prior to the WOW Maturity Date, provided that if the last day of the WOW Conversion Period falls in a Excluded Period, the WOW Conversion Period will terminate on the last trading day prior to the commencement of the Excluded Period (the “**WOW Conversion Period**”).

“**Excluded Period**”. The exercise of the WOW Conversion Right is excluded during any of the following periods:

- (a) in connection with an ordinary or other shareholders’ meeting (*Hauptversammlung*) of the Company, a period commencing on the fifth trading day prior to and including the last day for the registration for such shareholders’ meeting (*Hauptversammlung*) and ending on the trading day (excluding) following such shareholders’ meeting (*Hauptversammlung*);
- (b) a period of 14 days before the end of the financial year of the Company; and
- (c) a period commencing on the date on which an offer by the Company to its shareholders to subscribe shares, warrants on own shares, or notes/bonds with conversion or option rights, profit linked bonds or profit participation certificates, or a similar offer (including, but not limited to, offers with respect to split-up (§ 123(2) of the German Transformation Act (*Umwandlungsgesetz*)) is published in the German Federal Gazette (*Bundesanzeiger*) and ending on the last day of the relevant subscription period (*inclusive*), provided that such period shall not exceed 25 business days.

WOW Conversion Event The exercise of the WOW Conversion Right requires the occurrence of one of the following WOW Conversion Events (each a “**WOW Conversion Event**”):

- (a) the publication of the financial statements of the Company for its financial half-years ending June 30, 2021, June 30, 2022, June 30, 2023, and June 30, 2024;
- (b) the publication of the financial statements of the Company for its financial years ending December 31, 2021, December 31, 2022, December 31, 2023, and December 31, 2024;
- (c) the date falling 60 trading days prior to the respective Maturity Date (as defined below);
- (d) an Event of Default (as defined below);
- (e) the earlier of:
 - (i) the date on which the Company notifies Woolworths that it has become aware of, or has received, an offer, bid or approach that is reasonably likely to result in a WOW Change of Control (as defined below) or the sale of all or substantially all of the assets of the Company whether in a single transaction or a series of related transactions; or
 - (ii) the date on which the Company makes an announcement on the ASX in relation to a potential transaction that is reasonably likely to result in a WOW Change of Control or the sale of all or substantially all of the assets of the Company whether in a single transaction or a series of related transactions; or
- (f) the date on which an announcement by ASX with respect to a removal of the Company from the Official List of ASX is being published.

WOW Exercise Period With respect to the WOW Convertible Bond, the WOW Conversion Right must be exercised within the following periods (the “**WOW Exercise Period**”)

- (a) with respect to a conversion upon the publication of the financial statements of the Company for its financial half-year ending June 30, 2021, June 30, 2022, June 30, 2023, and June 30, 2024 or the publication of the financial statements of the Company for its financial year ending December 31, 2021, December 31, 2022, December 31, 2023, and December 31, 2024, a period of five business days commencing on the occurrence of the relevant WOW Conversion Event;
- (b) with respect to a conversion upon the date falling 60 trading days prior to the WOW Maturity Date (as defined below), a period of five business days commencing on the date falling 60 trading days prior to the WOW Maturity Date (as defined below);
- (c) with respect to a conversion upon the occurrence of a WOW Conversion Event set out in paragraph (d) or (e) of the definition of “WOW Conversion Event” above, a period commencing on the relevant WOW Conversion Event and ending on the last day of the WOW Conversion Period; and
- (d) with respect to the publication of an announcement by ASX with respect to a removal of the Company from the official list of ASX, a period of five business days commencing on the date of such WOW Conversion Event.

Underlying Shares

Registered shares with no par-value of the Company, each representing a fractional amount of the Company’s registered share capital of EUR 1.00. The shares (and CDIs) issued upon conversion of the WOW Convertible Bond will rank *pari passu* with, and on the same terms as, the existing ordinary shares (and CDIs) on issue.

Number of WOW Conversion Shares to be Issued to Woolworths and WOW Conversion Price

Under the WOW Convertible Bond, the respective number of conversion shares to be issued and delivered by the Company upon exercise of the WOW Conversion Right by Woolworths (the “**WOW Conversion Shares Number**”) is calculated by:

- (i) multiplying the WOW Principal Amount with the AustCo Growth Factor, and (ii) dividing the resulting product by the WOW Conversion Price.

The “**AustCo Growth Factor**” corresponds to the Relevant Revenue (as defined below) for the most recently reported financial half-year ending prior to the occurrence of the relevant WOW Conversion Event (for the avoidance of doubt, being, in the case of the publication of the financial statements of the Company for its financial half-years, the financial half-year to which the relevant half-year financial statements relate, and in the case of the publication of the financial statements of the Company for its financial years, the financial half-year ending December 31 of the financial year to which the relevant annual financial statements relate) as reported in the Australian segment of the relevant financial statements of the Company divided by the Relevant Revenue for the financial half-year ended June 30, 2019 or failing such as per the financial information provided to the Beneficiary in accordance with the terms and conditions.

“**WOW Conversion Price**” means the price per share of the Company which corresponds to the arithmetic volume-weighted average price per CDI on the ASX during the 30 trading days immediately preceding the day on which the relevant WOW Conversion Event occurs, multiplied by 1,000 since one (1) CDI represents the economic ownership of 1/1,000th in one (1) share of the Company, provided that the WOW Conversion Price may not be less than the fractional nominal amount per share in the Company’s nominal share capital.

“**Meal Kit Business**” means an online subscription food service business that sends customers pre-portioned or partially prepared food ingredients and recipes to enable customers to prepare home cooked meals as a standalone service.

“**Other Meal Kit Business**” means a business which provides or creates pre-portioned or partially prepared food ingredients and recipes to enable customers to prepare home cooked meals.

“**Relevant Revenue**” means the revenue of MarleySpoon Pty Ltd (ACN 603 969 571) (hereinafter “**AustCo**”) from goods sold with respect to its Meal Kit Business and Other Meal Kit Business as reported in the Australian segment of the relevant financial statements of the Company or failing such as per the financial information provided to Woolworths in accordance with the terms and conditions (for the avoidance of doubt, excluding any discounts granted to customers), adjusted, if applicable, by adding any revenue of the Company or any of the subsidiaries of the Company from goods sold in Australia with respect to their Meal Kit

Business and Other Meal Kit Business.

Adjustment of Number of WOW Conversion Shares With respect to the WOW Convertible Bond the number of WOW Conversion Shares may be adjusted upon exercise of the WOW Conversion Right if by:

- a) dividing the WOW Principal Amount by the Discounted WOW Issue Date Price (in each case the “**Adjusted Conversion Shares Number I**”); and/or
- b) dividing the WOW Principal Amount by the Discounted WOW Signing Date Price (the “**Adjusted WOW Conversion Share Number II**”)

the resulting number of WOW Conversion Shares is lower than the WOW Conversion Shares Number, the number of WOW Conversion Shares to be issued and delivered by the Company upon conversion will be adjusted and be equal to the lower of the respective Adjusted WOW Conversion Shares Number I and the respective Adjusted WOW Conversion Shares Number II.

“**Discounted WOW Issue Date Price**” means the price per share of the Company in the amount which corresponds to 80% of the arithmetic volume-weighted average price per CDI on the ASX during the 30 trading days immediately preceding the resolution of the Management Board of the Company to issue, with the consent of the Supervisory Board of the Company, the WOW Convertible Bond (“**Averaging Period**”), multiplied by 1,000 since one (1) CDI represents the economic ownership of 1/1,000th in one (1) share of the Company.

“**Discounted WOW Signing Date Price**” means a price per share of the Company in the amount of AUD 300.00.

Additional Payment **Cash** A. If the Adjusted WOW Conversion Shares Number I is lower than the lower of (i) the WOW Conversion Shares Number and (ii) the Adjusted WOW Conversion Shares Number II, the Company will pay to Woolworths upon conversion an additional cash amount which will be calculated as follows:

- (a) where the Adjusted WOW Conversion Shares Number II is higher than the WOW Conversion Shares Number, by multiplying (i) the result of the difference between the WOW Conversion Shares Number and the Adjusted WOW Conversion Shares Number I with (ii) the WOW Conversion Price.
- (b) where the WOW Conversion Shares Number is higher than the Adjusted WOW Conversion Shares Number II, by multiplying (i) the result of the difference between the Adjusted WOW Conversion Shares Number II and the Adjusted WOW Conversion Shares Number I with (ii) the WOW Conversion Price.

Adjustments to Discounted WOW Issue Date Price If, prior to the last day of the WOW Conversion Period or any earlier date relevant for conversion or redemption, the Company increases its share capital from reserves or retained earnings, a share split or combining of shares of the Company is carried out, the share capital of the Company is decreased, the Company increases its share capital against contributions with subscription rights or the Company issues other securities with preemptive rights or the Company makes any kind of distributions in kind or in cash to its shareholders, an independent financial expert selected jointly by the Company and Woolworths and paid for by the Company shall determine, as soon as possible, based on generally accepted mathematical principles what adjustment to the Discounted WOW Issue Date Price, is fair and reasonable in order for it to economically still represent 80% of the arithmetic volume-weighted average price per CDI on the ASX during the respective Averaging Period.

On this date, such adjustment (if any) will be made and will take effect.

Cash Settlement Option Under the WOW Convertible Bond, if (i) the conversion would result in a participation of Woolworths in the Company's share capital exceeding 24.9% by number of shares in the Company's share capital on a fully diluted basis, (ii) the WOW Conversion Price would be less than the fractional nominal amount per share in the Company's nominal share capital, or (iii) the Company's aggregate available conditional and authorized capitals are not sufficient to meet the number of WOW Conversion Shares to be issued and delivered by the Company upon conversion (taking into account any adjustment to the number of WOW Conversion Shares), the Company will be entitled to settle in cash an amount calculated by multiplying the number of the WOW Cash Settlement Shares settled in cash with the WOW Conversion Price.

WOW Cash Settlement Shares means, in each case, (x) in the case of (i) above, the respective WOW Conversion Shares which upon issuance and delivery to Woolworths would result in the participation of Woolworths in the Company's share capital exceeding 24.9% by number of shares in the Company's share capital on a fully diluted basis, (y) in the case of (ii) above, all respective WOW Conversion Shares, and (z) in the case of (iii) above, the WOW Conversion Shares which cannot be met by the Company's aggregate available conditional and authorized capitals.

Delivery of CDIs

Woolworths will transfer to CDN all WOW Conversion Shares issued with respect to the WOW Convertible Bond, and endeavor to enter into a corresponding mutual agreement with CDN, with the obligation of CDN to hold the WOW Conversion Shares in trust for Woolworths and to deliver such number of CDIs to Woolworths which corresponds to the number of WOW Conversion Shares multiplied by 1,000 at the latest five business days after the WOW Conversion Shares have been issued to Woolworths, for the avoidance of doubt, not taking into consideration, if applicable, any WOW Conversion Shares which are settled in cash pursuant to the terms and conditions.

WOW Issue Date

To be determined for the WOW Convertible Bond by the Management Board until April 29, 2020.

WOW Maturity

5 years after the issue date of the WOW Convertible Bond (the "**WOW Maturity Date**").

Redemption and Early Termination

The WOW Convertible Bond will be redeemed at the WOW Maturity Date at the WOW Principal Amount plus accrued interest, up to, but excluding the date of redemption (the "**WOW Redemption Date**"), to the extent the WOW Convertible Bond has not previously been redeemed or repurchased and cancelled and no conversion notice has been issued by Woolworths.

Woolworths may terminate the WOW Convertible Bond for redemption before the WOW Maturity Date at the WOW Principal Amount together with accrued interest, up to, but excluding the WOW Redemption Date, early in the case of a WOW Event of Default (as defined below) or a WOW Change of Control (as defined below).

Woolworths may terminate the WOW Convertible Bond and demand immediate redemption thereof at the WOW Principal Amount, together with accrued interest, up to, but excluding the WOW Redemption Date, upon the publication of an announcement by ASX with respect to a removal of the Company from the official list of ASX (delisting).

Status of the WOW Convertible Bond The WOW Convertible Bond constitutes a senior secured claim of Woolworths against the Company.

Restriction on new Restricted Indebtedness As long as any amounts of principal or interest remain outstanding under the WOW Convertible Bond, the Company undertakes that neither it nor AustCo will incur any Financial Indebtedness (as defined below) other than, with respect to the Company, Permitted Financial Indebtedness (as defined below) or, with respect to AustCo, Permitted AustCo Financial Indebtedness (as defined below) after the date on which the respective Convertible Bond is issued without the prior consent of the Beneficiary.

“Default” means a WOW Event of Default or any event or circumstance specified in the terms and conditions which would (with the expiry of a grace period, the giving of notice, the making of any determination under the WOW Convertible Bond or a security agreement entered into with respect to it or any combination of any of the foregoing) be a WOW Event of Default.

“Group” means the Company and its subsidiaries for the time being.

“Permitted AustCo Financial Indebtedness” means Financial Indebtedness:

- (a) arising in connection with the WOW Convertible Bond;
- (b) arising in connection with a security agreement;
- (c) owed to the Company and which is subordinated on the terms set out in the AustCo share pledge agreement;
- (d) owed to any member of the Group (other than the Company) in an amount not exceeding AUD 250,000 in aggregate at any time;

- (e) which is subordinated on terms satisfactory to the Beneficiary;
- (f) arising under a foreign exchange transaction for spot or forward delivery entered into in connection with protection against fluctuation in currency rates where that foreign exchange exposure arises in the ordinary course of trade;
- (g) under leases and hire purchase contracts constituting Financial Indebtedness of vehicles, plant, equipment or computers, provided that the aggregate amount of all such items so leased under outstanding leases by AustCo does not exceed AUD 500,000 (or its equivalent) in any financial year of AustCo;
- (h) which is a guarantee pursuant to Part 2M.6 of the Corporations Act or an equivalent provision;
- (i) in respect of any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in connection with rental or lease payment obligations of AustCo;
- (j) arising under facilities between AustCo and National Australia Bank Limited existing at the date of the Loan Agreement provided that such Financial Indebtedness does not exceed the aggregate amount of AUD 3,000,000 at any time;
- (k) not permitted by the preceding paragraphs and the outstanding principal amount of which does not exceed AUD 500,000 (or its equivalent) in aggregate at any time provided that such Financial Indebtedness is not owed to any member of the group; and
- (l) otherwise with the prior written consent of the Beneficiary, which (other than if a Default is subsisting) shall not be unreasonably withheld or delayed.

“Permitted Financial Indebtedness” means Financial Indebtedness:

- (a) arising under the WOW Loan Agreement or the AustCo share pledge agreement;
- (b) arising in respect of the WOW Convertible Bond;
- (c) arising under transactions between the Company and its Subsidiaries;
- (d) arising under a foreign exchange transaction for spot or forward delivery entered into in connection with protection against fluctuation in currency rates where that foreign exchange exposure arises in the ordinary course of trade;
- (e) in respect of any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in connection with (i) rental or lease payment obligations or (ii) the ordinary course of business of the Company;
- (f) arising under the registered convertible bond (*auf den Namen lautende Wandelschuldverschreibung*) with a principal amount of USD 10,888,140 issued to USV Marley Spoon A, LLC on March 22, 2019;
- (g) arising under the registered convertible bond (*auf den Namen lautende Wandelschuldverschreibung*) with a principal amount of USD 511,860 issued to USV Marley Spoon B, LLC on March 22, 2019;
- (h) arising under the registered convertible bond (*auf den Namen lautende Wandelschuldverschreibung*) with a principal amount of USD 1,138,000 issued to Acacia Conservation Fund, LP on March 22, 2019;
- (i) arising under the registered convertible bond (*auf den Namen lautende Wandelschuldverschreibung*) with a principal amount of USD 1,138,000 issued to Acacia Conservation Master Fund (Offshore), LP on March 22, 2019;

- (j) arising under the registered convertible bond (*auf den Namen lautende Wandelschuldverschreibung*) with a principal amount of USD 23,000,000 issued to W23 Investments Pty Limited on September 26, 2019;

- (k) arising under the registered convertible bond (*auf den Namen lautende Wandelschuldverschreibung*) with a principal amount of USD 2,950,000 issued to W23 Investments Pty Limited on September 26, 2019;

- (l) for or in respect of any moneys borrowed from Berliner Volksbank e.G. with a principal amount (together with the principal amount of any moneys borrowed from Berliner Volksbank e.G. and outstanding on the Issue Date) of up to EUR 5,000,000;

- (m) arising under the finance lease agreement with BNP Paribas Lease Group S.A.,

- (n) arising under the finance lease agreement with BLG Bizerka Leasing GmbH dated March 2, 2018;

- (o) in respect of the guaranty agreement between CSC Leasing Company as lessor, Marley Spoon Inc. as lessee and Marley Spoon AG as guarantor relating to a master equipment lease agreement between CSC Leasing Company as lessor and Marley Spoon Inc. as lessee with a principal amount of up to USD 5,000,000 (including the principal amount outstanding thereunder on the issue date of the respective Convertible Bond);

- (p) for or in respect of any moneys borrowed under (i) any third-party asset-backed financing or (ii) any customary working capital financing (including, but not limited to, bank overdrafts, bank guarantees, letters of credit, factoring and reverse factoring), provided that the aggregate amount of any Financial Indebtedness permitted pursuant to this paragraph (o) and permitted pursuant to (j) of the definition “Permitted AustCo Financial Indebtedness” does not exceed EUR 8,000,000 (or the equivalent in any other currencies) in the aggregate at any time; and

- (q) arising under (i) USD 2,776,487.50 loan agreement dated September 25, 2019 between the Company and USV Marley Spoon A, LLC and USV Marley Spoon B, LLC as lenders and (ii) the USV MS A Convertible Bond and the USV MS B Convertible Bond, in each case provided that no amendment shall be made to any of the documents referred to under (i) and (ii) without the consent of Woolworths.

“**Subsidiary**” means a subsidiary within the meaning of §§ 15 – 17 of the German Stock Corporation Act (*Aktiengesetz*).

WOW Default only) **Events of Default (summary only)** Woolworths may declare the WOW Convertible Bond due and demand immediate redemption thereof at the WOW Principal Amount, together with accrued interest, up to, but excluding the WOW Redemption Date, in the following events or circumstances (each such event or circumstances a “**WOW Event of Default**”):

- (a) *Non-payment.* The Company or AustCo does not pay on the due date any amount payable with respect to the WOW Convertible Bond or a security agreement at the place and in the currency in which it is expressed to be payable unless (i) its failure to pay is caused by administrative or technical error; and (ii) payment is made within five business days of its due date.
- (b) *Other obligations.* The Company or AustCo does not comply with any provision of the terms and conditions or a security agreement. No WOW Event of Default will occur if the failure to comply is capable of remedy and is remedied within 20 business days of Woolworths giving notice to the Company of the failure to comply.
- (c) *Misrepresentation.* Any representation or statement made or deemed to be made by the Company or AustCo in the WOW Loan Agreement, a security agreement or any other document delivered by the Company or AustCo under or in connection with the WOW Loan Agreement or a security agreement is or proves to have been incorrect or misleading in any material respect when made or deemed to be made, provided that no WOW Event of Default pursuant to the foregoing will occur if the misrepresentation or misstatement, or the circumstances giving rise to it is/are capable of remedy and is/are

remedied within five business days of the earlier of (i) Woolworths giving notice to the Company and (ii) the Company becoming aware of the misrepresentation.

(d) *Cross default.*

- (iv) Any Financial Indebtedness of the Company or AustCo is not paid when due nor within any applicable grace period and the obligation to pay it is not being disputed in good faith.
- (v) Any Financial Indebtedness of the Company or AustCo is validly declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- (vi) No WOW Event of Default will occur if the aggregate amount of Financial Indebtedness falling within paragraphs (i) and (ii) is less than EUR 100,000.00 (or its equivalent in any other currency or currencies).

(e) *Insolvency.*

(i) *The Company:*

- (A) is unable or admits inability to pay its debts as they fall due (*zahlungsunfähig*) within the meaning of Section 17 of the German Insolvency Code (*Insolvenzordnung*);
- (B) is overindebted within the meaning of Section 19 of the German Insolvency Code (*Insolvenzordnung*);
- (C) by reason of actual or anticipated financial difficulties, commences negotiations with a class or category of its creditors (excluding the Beneficiary in its capacity as such) with a view to rescheduling a material amount of any of its indebtedness;

- (D) files for insolvency (*Antrag auf Eröffnung eines Insolvenzverfahrens*) or the directors of the Company are required by law to file for insolvency; or
 - (E) the competent court takes any of the actions set out in Section 21 of the German Insolvency Code (*Insolvenzordnung*) or the competent court institutes or rejects (for reason of insufficiency of its funds to implement such proceedings) insolvency proceedings against it (*Eröffnung des Insolvenzverfahrens*).
- (ii) *In respect of AustCo:*
- (A) an administrator is being appointed;
 - (B) (x) it resolving to appoint a controller or analogous person in its respect or in respect of its property; (y) an application being made to a court for an order to appoint a controller, provisional liquidator, trustee for creditors or in bankruptcy or analogous person in its respect or in respect of its property; or (z) an appointment of the kind referred to in subparagraph (B)(y) being made (whether or not following a resolution or application);
 - (C) the holder of a security (including such under the Australian Personal Property Securities Act 2009 (Cth) (“**PPSA**”) or any agent on its behalf, appointing a controller or taking possession of any of its property (including seizing its property within the meaning of section 123 of the PPSA) where the amount secured is in excess of AUD 100,000;
 - (D) it being taken under section 459F(1) of the Australian Corporations Act to have failed to comply with a statutory demand where the amount demanded is in excess of AUD 100,000;

- (E) an application being made to a court for an order for its winding up;
- (F) an order being made, or it passing a resolution, for its winding up;
- (G) it (x) suspending payment of its debts, stating that it is unable to pay its debts or being or becoming otherwise insolvent; or (y) being unable to pay its debts or otherwise insolvent;
- (H) by reason of actual or anticipated financial difficulties, commences negotiations with a view to entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors;
- (I) a court or other authority enforcing any judgment or order against it for payment of money or the recovery of any property; or
- (J) any analogous event under the laws of any applicable jurisdiction, unless this takes place as part of a solvent reconstruction, amalgamation, merger or consolidation that has been approved by the Lender (such consent not to be unreasonably withheld).

Paragraphs (ii)(A), (B)(y), (B)(z), (C), (D) or (J) shall not apply to any action, proceeding or step which is frivolous or vexatious and is discharged, stayed or dismissed within 20 business days of commencement.

- (iii) A moratorium is declared in respect of all or any substantial part of the indebtedness of the Company or AustCo.

(f) *Insolvency proceedings.* Any corporate action, legal proceedings or other formal procedure or formal step is taken in relation to:

- (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganization (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Company;
- (ii) a composition, compromise, assignment or arrangement with any class or category of creditor of the Company (excluding Woolworths in its capacity as such) with a view to avoiding actual or anticipated financial difficulties;
- (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Company or any of its assets; or
- (iv) the enforcement of any Security over any assets of the Company,

or any analogous formal procedure or formal step is taken in any jurisdiction.

Lit. (f) shall not apply to any action, proceedings or step which is frivolous or vexatious and is discharged, stayed or dismissed within 20 business days of commencement.

- (g) *Creditors' process.* Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of the Company or AustCo having an aggregate value of EUR 100,000.00 (or its equivalent in any other currency or currencies) and in respect of indebtedness aggregating EUR 100,000.00 (or its equivalent in any other currency or currencies) and is not discharged within 20 business days.
- (h) *Cessation of business.* The Company or AustCo ceases, threatens to cease, or suspends to carry on all or a material part of its business.
- (i) *Unlawfulness and repudiation.* It is or becomes unlawful or impossible for the Company or AustCo to perform any of its

obligations under the respective terms and conditions or a security agreement to which it is a party or to comply with any other obligation which Woolworths, acting reasonably, considers material under the respective terms and conditions. The Company or AustCo repudiates the respective terms and conditions or a security agreement to which it is a party or evidences an intention to repudiate the respective terms and conditions or a security agreement.

- (j) *Material adverse change*. An event or circumstance occurs which has a Material Adverse Effect (as defined below).

“Financial Indebtedness” means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised pursuant to any issue of bonds, notes, commercial papers or any similar instrument (other than notes issued in the ordinary course of trading);
- (c) the amount of any liability in respect of any lease contract which would, in accordance with IFRS, be treated as a balance sheet liability (other than a lease contract which would, in accordance with IFRS in force prior to 1 January 2019, have been treated as an operating lease);
- (d) receivables sold or discounted (other than any receivables to the extent they are sold or discounted on a non-recourse basis);
- (e) any amount raised under any other transaction of a type not referred to in any other paragraph of this definition required by IFRS to be shown as a borrowing in the audited consolidated balance sheet of the Company;
- (f) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the

termination or close-out of that derivative transaction, that amount) shall be taken into account);

- (g) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (h) (without double counting) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (g) above.

“**IFRS**” means international accounting standards within the meaning of the IAS Regulation 1606/2002.

“**Legal Reservations**” means any general and indispensable principles of, or rights and defenses under, any applicable law.

“**Material Adverse Effect**” means a material adverse change, event, circumstance or development with respect to, or material adverse effect on:

- (a) the business, assets, liabilities, capitalization, operations or financial condition, prospects or results of operations of the Company and its Subsidiaries, taken as a whole;
- (b) the ability of the Company to perform its payment obligations under the WOW Convertible Bond; or
- (c) subject to the Legal Reservations, the validity or enforceability of the obligations of the Company with respect to the WOW Convertible Bond or the rights or remedies of the Beneficiary under these terms and conditions or the validity or enforceability of the obligations of the Company under the AustCo share pledge agreement or the AustCo security agreement or the effectiveness of ranking of the Security created or expressed to be created pursuant to the AustCo share pledge agreement or AustCo security agreement.

“**Security**” means a mortgage, land charge, charge, pledge, lien, assignment or transfer for security purposes, retention of title arrangement or other

security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

Effect of remedy. The right to declare the WOW Convertible Bond due and demand immediate redemption thereof or to exercise the WOW Conversion Right in respect of a WOW Event of Default (other than a WOW Event of Default pursuant to (e) and (f) above shall expire if the event or circumstances giving rise to such WOW Event of Default have been remedied before any of such rights is exercised.

WOW Change of Control Upon the occurrence of (i) a WOW Change of Control, or (ii) the sale of all or substantially all of the assets of the Company whether in a single transaction or a series of related transactions, the Beneficiary may, by giving no less than 20 business days' notice of termination declare the WOW Convertible Bond due and demand immediate redemption thereof at the WOW Principal Amount, together with accrued interest, up to, but excluding the WOW Redemption Date.

“WOW Change of Control” means any person or group of persons acting in concert gains direct or indirect control of the Company.

“control” of the Company means:

(a) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:

(i) cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting (*Hauptversammlung*) of the Company;

(ii) appoint or remove all, or the majority, of the directors of the Company; or

(iii) give directions with respect to the operating and financial policies of the Company with which the directors of the Company are obliged to comply; or

(b) the holding beneficially of more than 50% of the issued share capital

of the Company (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

“**acting in concert**” (*Verhalten abstimmen*) means a group of persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-operate, through the acquisition directly or indirectly of shares in the Company by any of them, either directly or indirectly, to obtain or consolidate control of the Company within the meaning of § 30 (2) of the German Securities Acquisition and Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz*).

Transfer Restrictions Woolworths may not assign the WOW Convertible Bond or any of the rights under the WOW Convertible Bond (*Abtretungsverbot*), except with the consent of the Company or if the beneficiary assigns the WOW Convertible Bond to Woolworths Group Limited.

No Quotation The WOW Convertible Bond will not be quoted by ASX.

Participation/Voting Rights Before Woolworths has exercised the WOW Conversion Right and been delivered shares/CDIs, it will not be allowed to participate or vote at general meetings of the Company as a result of being a holder of the WOW Convertible Bond. (The foregoing does not impact any rights of Woolworths which arise by virtue of Woolworths being a shareholder (or CDI holder) in the Company.)

Annex 3

Proposed Key Terms of the Option Bonds with Warrants

Issuer	Marley Spoon AG (the “ Company ”).
Aggregate Nominal Amount of the Option Bonds	EUR 10,000.00.
Form	The Option Bonds (as defined below) will be in the form of bearer bonds.
Option Bonds with Warrants, Nominal Amount, Beneficiary and Warrants	<p>(1) one (1) option bond in the nominal amount of EUR 5,000 (the “VLL8 Option Bond”) will be issued to Venture Lending & Leasing VIII, LLC (“VLL8”), which shall have one (1) warrant attached to it (“VLL8 Warrant”), and</p> <p>(2) one (1) option bond in the nominal amount of EUR 5,000 (the “VLL9 Option Bond” and together with the VLL8 Option Bond, the “Option Bonds” and each an “Option Bond”) will be issued to Venture Lending & Leasing IX, LLC (“VLL9”), which shall have one (1) warrant attached to it (“VLL9 Warrant”).</p>
Issue Price of Option Bonds	100% of respective nominal amount of Option Bond.
Repayment Price of Option Bonds	100% of respective nominal amount of Option Bond.
Option Bond Issue Date	To be determined for each Option Bond by the Management Board until April 29, 2020.
Repayment of Option Bonds	On the fifth anniversary of the day of termination of the WTI Loan Agreement, the latest date of such termination to occur being January 31, 2023 (“ WTI Loan Termination Date ”).
Interest on Option Bonds	4.00 per cent per annum on the nominal amount of each Option Bond from and including the date of receipt by the Company of the purchase price for the

respective Option Bond (“**Option Bond Issue Date**”), to (but excluding) the day of the fifth anniversary of the WTI Loan Termination Date (“**Option Bond Payment Date**”). Interest falls due for the whole term of the Option Bonds on the Option Bond Payment Date. Interest shall cease to accrue on the day immediately prior to the day at which the respective Option Bond is due for redemption. The amount of interest accrued at any time will not bear interest itself (no compounding of interest).

Status of the Option Bonds The Option Bonds will rank *pari passu* among themselves.

Termination of the Option Bonds Each of the Option Bonds may be terminated by its holder and will have to be repaid at its respective nominal amount plus interest accrued in the event that:

- (a) insolvency proceedings are commenced by a court against the Company’s assets or in case the Company applies for the commencement of such proceedings or offers an out-of-court settlement in order to avoid insolvency proceedings being brought, or
- (b) the Company is in liquidation.

Warrants The VLL8 Option Bond and the VLL9 Option Bond shall each have one (1) warrant attached to it (respectively the “**VLL8 Warrant**” and the “**VLL9 Warrant**” and together the “**Warrants**”). The VLL8 Warrant and the VLL9 Warrant shall each entitle the respective holder of the VLL8 Warrant and the VLL9 Warrant (respectively a “**Warrant Holder**”) in accordance with the respective terms and conditions of the Warrants (respectively the “**VLL8 Warrant Terms and Conditions**” and the “**VLL9 Warrant Terms and Conditions**” and together the “**Warrant Terms and Conditions**”) to subscribe, against payment of the Warrant Share Subscription Price (as defined below) per Warrant Share (as defined below), up to 5,643 Warrant Shares representing a fractional amount of the nominal share capital of the Company of EUR 1.00 each, i.e. in aggregate up to a maximum of 11,286 Warrant Shares. The VLL8 Warrant is to be separated from the VLL8 Option Bond and the VLL9 Warrant is to be separated from the VLL9 Option Bond, in each case on the Option Bond Issue Date of the respective Option Bond and each Warrant shall then be transferable separately.

Warrant Exercise Period The Warrants may be exercised in (x) whole or, (y) solely in the case of a liquidation of the respective Warrant Holder which requires the distribution of the Warrant Holder’s assets to its limited partners also in part (on one or more occasions), in each case of (x) and (y) by the respective Warrant Holder within the following periods (each such period an “**Exercise Period**”):

- (a) for as long as the Listing of the Company continues or following a New Listing during the period from the Option Bond Issue Date until 5.30 pm local time Frankfurt a.M., Germany, on the Option Bond Termination Date, or
- (b) following a delisting at any time during the period from the Option Bond Issue Date and until 5.30 pm local time Frankfurt a.M., Germany, on the Option Bond Termination Date.

“**Listing**” means the admission of the CDIs to the official list of ASX.

“**Delisting**” means the publication of an announcement by ASX with respect to a removal of the Company from the official list of ASX.

“**New Listing**” means the admission to an official listing, other than the Listing, of any part of the Shares or the admission of any of the Shares to trading on any segment of the Frankfurt Stock Exchange or on any other Recognized Stock Exchange becoming effective.

“**Recognized Stock Exchange**” means the New York Stock Exchange, Nasdaq Capital Market, Nasdaq Global Market, Regulated Market Frankfurt Stock Exchange, SIX Swiss Exchange, Euronext Stock Exchange, the London Stock Exchange and, following a Delisting, the ASX.

For as long as the Listing continues, or following a New Listing, the exercise of the Warrants is excluded during any of the following periods (each an “**Excluded Period**”):

- (a) in connection with an ordinary or other shareholders’ meeting (*Hauptversammlung*) of the Company, a period commencing on the fifth trading day prior to and including the last day for the registration for such shareholders’ meeting (*Hauptversammlung*) and ending on the trading day (excluding) following such shareholders’ meeting (*Hauptversammlung*);
- (b) a period of 14 days before the end of the financial year of the Company; and
- (c) a period commencing on the date on which an offer by the Company to its shareholders or CDI-holders to subscribe shares, CDIs, warrants on own shares, or notes/bonds with conversion or option rights, profit linked bonds or profit participation certificates, or a similar offer (including, but not limited to, offers with respect to a split-up (§ 123(2) of the German Transformation Act (*Umwandlungsgesetz*)) is published in the German Federal Gazette (*Bundesanzeiger*) and ending on the last day of the relevant subscription period (inclusive); provided that such period shall not exceed 35 business days.

Warrant Shares

- (i) Ordinary no-par-value shares in the Company or (ii) following a Delisting

and no New Listing having occurred, the New Shares (as defined below), in each case with the rights, preferences and privileges as set forth in the constitution of the Company and as elected by the respective Warrant Holder of the VLL8 Warrant and the VLL9 Warrant. If the respective Warrant Holder exercises the Warrant in connection or after a Reorganisation (as defined below) of the Company and provided that the share class does not exist anymore due to a conversion of those shares into a different class of shares, then the Warrant Shares shall be the share class that any other holder of the respective class of Warrant Shares has received in the course of such conversion.

Following a Delisting and no New Listing having occurred, “**New Shares**” means the shares in the Company of such (sub-)class as issued by the Company in any next round of equity financing of the Company (consummated after the issue date of the Warrants and whilst the Warrants are still outstanding) for which the Warrant Holder has opted at the corresponding New Issue Price (as defined below) of such equity financing round for which the Warrant Holder has opted, and “**New Share**” shall mean, following a Delisting and no New Listing having occurred, any one of them. For the avoidance of doubt, the Warrant Holder’s option to have the Warrants be exercisable for New Shares shall be a continuing option as to each and every round of equity financing the Company consummates after the issue date and following a Delisting, whilst no New Listing has occurred, whilst the Warrants are still outstanding, provided that such option shall apply to the Warrants.

Following a Delisting and no New Listing having occurred, “**New Issue Price**” means the lowest price (including nominal amount as well as any statutory and non-statutory payments to the Company’s capital reserves) which an existing or new investor has agreed to pay per one corresponding New Share; provided, however, that in case a discount on such a New Share has been granted to certain investors of the respective equity financing round entered into by the Company after the issue date of the Warrants (but excluding in any event any instruments pursuant to which newly issued shares, options or contingent rights are granted exclusively to members of the management board of the Company or employees or directors of the Company or of a subsidiary, as the case may be), such discounted price shall also apply in favour of the Warrant Holder to the effect that it shall be deemed the New Issue Price of the respective financing round for which the Warrant Holder has opted. It is understood, for the avoidance of doubt, that any deductions made by an existing or new investor of the Company in respect of external costs incurred by such investor or reimbursement of costs by the Company to such investor in accordance with the then applicable investment and/or shareholders’ agreement shall not be deemed a discount for the purposes of determination of (and shall not reduce) the New Issue Price.

„**Reorganisation**” means (A) the consolidation, subdivision or reduction of

shares in the capital of the Company, or (B) any corporate restructuring in accordance with the German Act on the Transformation of Companies (*Umwandlungsgesetz*)); it is, however, understood, that any measure in accordance with the German Act on the Transformation of Companies (*Umwandlungsgesetz*) which results in an acquisition of all shares in the Company by a third party or parties (e.g. merger) shall not qualify (and shall not be deemed and treated) as “Reorganisation” within the meaning and for the purposes of this definition, if in the context of such measure the shareholders or CDI-holders of the Company do not obtain 50% or more of the total voting rights conferred on all shares in the equity share capital of the acquiring entity.

Warrant Share Subscription Price AUD 390.00 per Warrant Share (the “**Warrant Share Subscription Price**”). This corresponds to a price of AUD 0.39 per CDI, since one (1) CDI represents a beneficial ownership of 1/1000th in one (1) share of the Company. The Warrant Share Subscription Price may be adjusted in certain events in accordance with the Warrant Terms and Conditions, provided that the Warrant Share Subscription Price may not be less than the fractional nominal amount per share in the Company’s nominal share capital of EUR 1.00.

Number of Warrant Shares to be Issued to the Warrant Holder and Warrant Share Subscription Price The respective Warrant Holders may only exercise the Warrants and subscribe for Warrant Shares as follows:

- (a) 50% of the Total Warrant Entitlement (as defined below) upon and following closing of the WTI Loan Agreement,
- (b) 25% of the of the Total Warrant Entitlement (as defined below) upon and following the Borrower drawing the first tranche under the WTI Loan Agreement, and
- (c) 25% of the Total Warrant Entitlement (as defined below) upon and following the Borrower drawing the second tranche under the WTI Loan Agreement.

Each Warrant Holder may exercise the respective Warrant in accordance with the respective Warrant Terms and Conditions to subscribe, against payment of the Warrant Share Subscription Price per Warrant Share, up to 5,643 Warrant Shares representing a fractional amount of the nominal share capital of the Company of EUR 1.00 each, i.e. in aggregate up to a maximum of 11,286 Warrant Shares, corresponding to 11,286,000 CDIs, may be issued under the Warrants.

The number of Warrant Shares which the respective Warrant Holder may subscribe is calculated as follows:

$$x = m / n$$

Whereby:

x = number of Warrant Shares to be issued to the Warrant Holder, brought down to a whole figure (“**Total Warrant Entitlement**”);

m = the sum of (i) 1,100,483.76 Australian Dollars, plus (ii) the product of (x) 1,100,483.76 Australian Dollars and (y) a fraction, the numerator of which is the aggregate, original nominal amount of all loans advanced to Marley Spoon Inc. by, with respect to the VLL8 Warrant, Venture Lending & Leasing VIII, Inc. and, with respect to the VLL9 Warrant, by Venture Lending & Leasing IX, Inc., pursuant to the WTI Loan Agreement, and the denominator of which is 11,004,837.68 Australian Dollars (such sum, the “**Total Warrant Amount**”);

n = Warrant Share Subscription Price

It is understood that in case the Warrant Holder in the respective exercise notice chooses to exercise the Warrants only partially in the case of a liquidation of the respective Warrant Holder which requires the distribution of such Warrant Holder’s assets to its limited partners in accordance with the Warrant Terms and Conditions, “m” for the purposes of calculation of the “x” pursuant to the above formula shall equal such part of the Total Warrant Amount in respect of which the Warrants have been exercised. For the purposes of subsequent exercise(s) of the Warrants, “m” within the meaning of the above formula shall equal the Total Warrant Amount less the aggregate portions of the Total Warrant Amount in respect of which the Warrants have been previously exercised. Once the Warrants have been exercised in respect of the entire Total Warrant Amount, all rights of the Warrant Holder under the Warrant shall lapse. For an example calculation see item 10 no. 2 a) of the invitation.

Cash Settlement of Warrants If and to the extent that due to legal reasons the Company is unable to issue the Warrant Shares from its conditional or authorized capital and in addition the Company is also unable to deliver treasury shares as Warrant Shares upon the exercise of the Warrants, the Warrant Shares which the Company is unable to issue and deliver to the respective Warrant Holder shall be settled in cash by payment of an amount to the Warrant Holder within five business days of the day the Warrants were exercised (“**Exercise Date**”) and which is calculated as follows:

(a) for as long as the Listing continues, or following a New Listing, by multiplying the Market Price with the number of the Warrant Shares which the Company is unable to issue and deliver to the Warrant Holder. “**Market Price**” means the price per share of the Company which corresponds to the arithmetic volume-weighted average price per CDI on the ASX on the Exercise Date, multiplied by 1,000 since one CDI represents the economic ownership of 1/1,000th in one share of the

Company, and converted into USD at the euro foreign exchange reference rates between euro (EUR) and Australian dollar (AUD) and US dollar (USD) as published on the official website of the European Central Bank (ECB) on the Exercise Date, rounded to the nearest full cent with USD 0.005 being rounded upwards, or

- (b) following a Delisting and no New Listing having occurred, by multiplying the New Issue Price with the number of the Warrant Shares which the Company is unable to issue and deliver to the Warrant Holder.

Adjustment of Number of Warrant Shares and/or Warrant Share Subscription Price In the event of a capital increase from corporate funds (stock split), the Total Warrant Entitlement shall be increased in the same proportion as the registered capital of the Company, and the Warrant Share Subscription Price be adjusted downwards considering the increased capital of the Company and vice versa (i.e. the Total Warrant Entitlement shall be reduced and the Warrant Share Subscription Price be adjusted upwards proportionately) in the event of a capital reduction from corporate funds (stock combination).

If any Reorganisation shall take place during the Exercise Period prior to completion of the exercise of the Warrants, then all Warrant Shares which shall derive (whether directly or indirectly) from the Warrants shall be deemed to be subject to such Reorganisation so that references in the Warrant Terms and Conditions to the Warrant Shares and the Warrant Share Subscription Price shall be appropriately adjusted to take account of such Reorganisation. Any dispute as to the Reorganisation and the adjustment to the Warrant Shares and the Warrant Share Subscription Price (if any) shall be referred to the auditors of the Company without delay by the Company, who shall act as experts and not as arbitrators and their certificate as to the Reorganisation, Warrant Shares and the Subscription Price (if any) shall be final and binding on the parties.

Calculation of any preferences under Warrants Following a Delisting and no New Listing having occurred and for purposes of any preference calculation (e.g. in connection with a liquidation preference or the payment of preferred dividends based on a certain fixed or guaranteed interest rate or the like) under the Company's constitution:

- (a) the calculation starts for the Warrant Holder as from the later of (i) the date on which the Warrant Shares are issued to the Warrant Holder or (ii) the date applicable for the other investors in the respective class of stock to which the Warrant Shares belong to; and
- (b) provided that the Warrant Holder has fulfilled its payment obligations under the Warrant Terms and Conditions, the deemed subscription price of the Warrant Shares shall be the price paid by investors for the class of shares corresponding to the Warrant Shares ("**Deemed Subscription Price**") and the Company, if and to the extent it is in the Company's legal

power and is permissible under applicable laws, undertakes to procure that any payment or other distribution to be made to the Warrant Holder which is based on or calculated by reference to the issue price or subscription price of a share of the class corresponding to the Warrant Shares shall in respect of the Warrant Shares be based on or calculated by reference to the Deemed Subscription Price.

Pay-to-Play Clause

Following a Delisting and no New Listing having occurred and in the event that the rights, preferences or privileges of the Warrant Shares are amended or modified, or a recapitalization, reclassification, conversion or exchange of the outstanding Warrant Shares is effected in connection with an equity or debt financing transaction which occurs after the date hereof (each, as applicable, a **“Pay-to-Play Transaction”**), the Warrants (and the Warrant Shares issuable thereunder) shall be exempt from such Pay-to-Play Transaction, and shall automatically and without any action required by the Warrant Holder become exercisable for the type of securities as would have been issued or exchanged, or would have remained outstanding or been purchasable, as the case may be, in respect of the Warrant Shares issuable thereunder had the Warrant Holder exercised its respective Warrant in full prior to such event.

Pro-rata investment right under Warrants (anti-dilution protection)

Until the earlier of (i) completion of the exercise of Warrants in full and (ii) the expiry of the Exercise Period and (iii) the occurrence of an Exit Event (as defined below) the Company will in connection with any equity or convertible debt securities that the Company may propose to offer or sell after the Option Bond Issue Date (**“Future Offering”**) grant to the respective Warrant Holder one of the following rights:

- (a) such number of subscription rights which is necessary to invest up to the greater of (x) USD 500,000.00 and (y) such amount of cash as is required to enable the Warrant Holder to purchase that number of any equity or convertible debt securities as will enable the Warrant Holder to own or acquire the same percentage of the securities of the Company as it owned immediately prior to commencement of such offering (the **“Pro-Rata Investment”**), except if such pro-rata offering by the Company would breach any law, regulation or stock exchange requirement, or
- (b) adjust the Total Warrant Entitlement as is required to enable the Warrant Holder to partially exercise the Warrants as will enable it to own or acquire upon partial exercise of the Warrants the same percentage of securities of the Company as if the Warrant Holder had acquired securities pursuant to the Pro-Rata Investment (with the subscription price for those Warrant Shares corresponding to the price per security payable in the Future Offering).

In case any offer or invitation is made to any holders of any class of shares in

the Company or CDIs to acquire any of their shares or CDIs by way of purchase or pursuant to a scheme of arrangement or if any proposal or arrangement is put to any holders of any class of shares in the Company or CDIs while the Warrants remain to be exercised in full, the Company shall use reasonable endeavors to convince the relevant parties involved that such offer is made or put pro-rata to the Warrant Holder and shall notify the Warrant Holder not less than ten (10) business days' notice of the happening of such event to enable the Warrant Holder to participate in such proposal or arrangement.

Consequences of an Exit Event and/or Sale Event

In the case of an Exit Event (as defined below) the Company shall, to the extent legally permissible, give the respective Warrant Holder not less than ten (10) business days advance notice of the proposed occurrence of an Exit Event and provide additional information on the proposed Exit Event.

The Warrant Holder shall have the right at any time within the Exercise Period to subscribe, and (at its option) – if in respect of an Exit Event – conditionally on or immediately prior to completion of the Exit Event, subscribe the Warrant Shares it is entitled to against payment of the Warrant Share Subscription Price. Subject to the Company having complied with its notification obligations in full, if the Warrants have not been exercised on the occurrence of (i) a Share Sale where (A) 50% or more of the Company's shares are being sold or (B) one single party, except for CDN or any equivalent depository, becomes the sole shareholder or CDI-holder of the Company or (ii) a liquidation of the Company, the Warrants shall lapse. For the avoidance of doubt (save as set out before in relation to a Share Sale where (A) 50% or more of the Company's Shares are being sold or (B) one single party, except for CDN, becomes the sole shareholder or CDI-holder of the Company), the Warrants shall not lapse on the occurrence of any other Exit Event and shall be exercisable (in accordance with Warrant Terms and Conditions) prior to, upon or following an Exit Event, until the lapse of the Exercise Period.

In the event that during the Exercise Period the entire issued share capital of the Company is sold or is to be sold where as a result of such sale the shareholders, except for CDN or any other depository, or CDI-holders of the Company would hold shares in the capital of the acquirer of the Company (the "**New Purchaser**") which confer in aggregate more than 50% of the total voting rights conferred on all the shares in the equity share capital of that New Purchaser, provided that the Warrants have not been exercised and completed prior to the date of such sale, the Company shall use all reasonable endeavors to procure that the New Purchaser issues warrants to the Warrant Holders in place of the Warrants on terms approved by the respective Warrant Holder, substantially similar to the Warrant Terms and Conditions and with the same economic benefit to the respective Warrant Holder (the "**New Warrants**").

Upon issue of the New Warrants the Warrants shall lapse.

“**Exit Event**” means any signing of a binding agreement providing for an obligation to consummate (or the occurrence of) a liquidation of the Company, a Sale Event or, following a Delisting a New Listing.

“**Sale Event**” means sale to a bona fide third party (the “**Purchaser**”), in each case in one transaction or a series of one or more related transactions, of (i) more than 50% (according to their nominal value) of all of the Company’s shares (“**Share Sale**”) or (ii) more than 50% of the Company’s assets including non-activated assets or assets that cannot be activated (at market value) (“**Asset Sale**”), whereby the term “sale” shall include, for clarification purposes, any disposal (*Veräußerung bzw. Übertragung*) of shares by the Company’s shareholders, or assets by the Company, respectively, due to a swap (*Tausch*) or a contribution (*Einbringung*) or a conversion (*Umwandlung*), as the case may be, within the meaning of the German Act on the Transformation of Companies (*Umwandlungsgesetz*)) resulting in a transformed company (and/or surviving entity, as the case may be) in which the shareholders of the Company hold less than 50% of the shares.

Termination Warrants	of Pursuant to the WTI Loan Agreement, Marley Spoon Inc. agreed that upon the first to occur of either (i) the closing of a change of control at the Company or (ii) December 31, 2024, Venture Lending & Leasing VIII, Inc. and Venture Lending & Leasing IX, Inc. shall each have the option to exchange their respective Warrant (if same has not been exercised as of such time) for a cash payment (such cash payment, respectively the “ VLL8 Payment ” and the “ VLL9 Payment ”) in an amount equal to the sum of (1) USD 1,437,500 and (2) the product of (x) USD 1,437,500 and (y) a fraction, the numerator of which is the aggregate, original principal amount of all loans advanced to Marley Spoon Inc. by, with respect to the VLL8 Warrant, Venture Lending & Leasing VIII, Inc. and, with respect to the VLL9 Warrant, by Venture Lending & Leasing IX, Inc., and the denominator of which is USD 7,500,000. If Venture Lending & Leasing VIII, Inc. opts to receive the VLL8 Payment and/or Venture Lending & Leasing IX, Inc. opts to receive the VLL9 Payment, the respective Warrant shall terminate upon receipt of such payment.
Title to Warrants	The respective Warrant Holder will be recognized by the Company as the sole absolute owner of the Warrants.
No Quotation	The Option Bonds will not be quoted on ASX or any other stock exchange.
Participation/Voting	Before the Warrant Holders have exercised their respective Warrants and been

Rights

delivered Shares/CDIs, it will not be allowed to participate or vote at shareholders' meetings of the Company. The foregoing does not impact any rights of a Warrant Holder which arises by virtue of it either being a shareholder or a CDI holder in the Company.

* * * *

MARLEY SPOON

MARLEY SPOON AG

ARBN 625 684 068

LODGE YOUR INSTRUCTION



ONLINE

www.linkmarketservices.com.au



BY MAIL

Marley Spoon AG
C/- Link Market Services Limited
Locked Bag A14
Sydney South NSW 1235 Australia



BY FAX

+61 2 9287 0309



BY HAND

Link Market Services Limited
1A Homebush Bay Drive, Rhodes NSW 2138; or
Level 12, 680 George Street, Sydney NSW 2000



ALL ENQUIRIES TO

Telephone: 1300 554 474

Overseas: +61 1300 554 474

LODGEMENT OF A CDI VOTING INSTRUCTION FORM

This CDI Voting Instruction Form (and any Power of Attorney under which it is signed) must be received at an address given above by **10:00am (AEDT) Thursday 23 January 2020**. Any CDI Voting Instruction Form received after that time will be invalid.

CDI Voting Instruction Forms may be lodged using the reply paid envelope or:



ONLINE

www.linkmarketservices.com.au

Login to the Link website using the holding details as shown on the CDI Voting Instruction Form. Select 'Voting' and follow the prompts to lodge your vote. To use the online lodgement facility, stockholders will need their "Holder Identifier" (Securityholder Reference Number (SRN) or Holder Identification Number (HIN) as shown on the reverse of this CDI Voting Instruction Form).

HOW TO COMPLETE THIS CDI VOTING INSTRUCTION FORM

YOUR NAME AND ADDRESS

This is your name and address as it appears on the Company's CDI register. If this information is incorrect, please make the correction on the form. CDI Holders sponsored by a broker should advise their broker of any changes. **Please note: you cannot change ownership of your CDIs using this form.**

DIRECTION TO CHESS DEPOSITARY NOMINEES PTY LTD

Each CHESS Depositary Interest (CDI) is evidence of an indirect ownership in the Company's shares of common stock (Shares). The underlying Shares are registered in the name of CHESS Depositary Nominees Pty Ltd (CDN). As holders of CDIs are not the legal owners of the Shares, CDN is entitled to vote at the Meeting of stockholders on the instruction of the registered holders of the CDIs.

APPOINTMENT OF A PROXY

If you wish to attend the Meeting in person or appoint some person or company other than CDN, who need not be a stockholder, to attend and vote at the Meeting as CDN's proxy or any adjournment or postponement thereof, please insert your name(s) or the name of your chosen appointee in the box in Step 2. Link will then send you a legal form of proxy which will grant you or the person specified by you the right to attend and vote at the Meeting. Please remember that a legal proxy is subject to all terms and conditions that apply to proxies as outlined in the *Notice of Annual General Meeting* including any cut off time for receipt of valid proxies.

SIGNING INSTRUCTIONS

You must sign this form as follows in the spaces provided:

Individual: where the holding is in one name, the holder must sign.

Joint Holding: where the holding is in more than one name, either holder may sign.

Power of Attorney: to sign under Power of Attorney, you must lodge the Power of Attorney with Link. If you have not previously lodged this document for notation, please attach a certified photocopy of the Power of Attorney to this form when you return it.

Companies: with respect to an Australian company, where the company has a Sole Director who is also the Sole Company Secretary, this form must be signed by that person. If the company (pursuant to section 204A of the *Corporations Act 2001*) does not have a Company Secretary, a Sole Director can also sign alone. Otherwise this form must be signed by a Director jointly with either another Director or a Company Secretary. Please indicate the office held by signing in the appropriate place. With respect to a U.S. company or other entity, this form may be signed by one officer. Please give full name and title under the signature.

NAME SURNAME
 ADDRESS LINE 1
 ADDRESS LINE 2
 ADDRESS LINE 3
 ADDRESS LINE 4
 ADDRESS LINE 5
 ADDRESS LINE 6



X9999999999

CDI VOTING INSTRUCTION FORM

Note: Voting instructions in accordance with Option A will only be valid and accepted if this form, executed by you, is received in accordance with the instructions above by no later than **10:00am (AEDT) Thursday 23 January 2020**. To ensure that any proxy appointed under Option B is eligible to vote in accordance with your instructions, you should also ensure that this form, executed by you with the box in Option B completed, is received in accordance with the instructions above by no later than that time.

STEP 1: OPTION A

DIRECTION TO CHESSE DEPOSITARY NOMINEES PTY LTD

I/We being a holder of CHESSE Depository Interests (CDIs) of Marley Spoon AG (Company) hereby direct CHESSE Depository Nominees Pty Ltd (CDN) to vote the shares underlying my/our CDI holding at the Extraordinary General Meeting of shareholders of the Company to be held at **9:00 am (CET) / 7:00 pm (AEDT) on Wednesday, 29 January 2020 at Paul-Lincke-Ufer 39-40, 10999 Berlin, Germany**, and at any adjournment or postponement of that Meeting, in accordance with the following directions. By execution of this CDI Voting Instruction Form the undersigned hereby authorises CDN to appoint such proxies, attorneys or their substitutes in their discretion to vote in accordance with the directions set out below.

STEP 1: OPTION B

PROXY APPOINTMENT– this only needs to be completed if you wish to attend the Meeting or appoint another person to attend the Meeting as your proxy. Leave this box blank if you wish to have votes cast in accordance with Option A.

If you wish to attend the Meeting in person or appoint another person or company other than CDN, who need not be a stockholder, to attend and vote at the Meeting as CDN's proxy or any adjournment or postponement thereof, please insert their name(s) in this box.

Link will then send you a legal form of proxy which will grant you or the person specified by you the right to attend and vote at the Meeting as CDN's proxy. Please remember that a legal proxy is subject to all terms and conditions that apply to proxies and authorised representatives as outlined in the *Notice of Annual General Meeting* including any cut off time for receipt of valid proxies.

VOTING INSTRUCTIONS

Please read the voting instructions overleaf before marking any boxes with an

STEP 3

Resolutions	For	Against	Abstain*	For	Against	Abstain*
1 Resolution on the granting of an authorisation to issue a convertible bond in the nominal amount of USD 2,651,892.62 to USV MARLEY SPOON A, LLC and a convertible bond in the nominal amount of USD 124,594.88 to USV MARLEY SPOON B, LLC, each against contribution in kind and under the exclusion of subscription rights, and the cancellation of the existing Conditional Capital 2018/I as well as the corresponding amendment of Sec. 3 para. 4 of the Constitution and the creation of a new Conditional Capital 2020/I and a corresponding amendment of Section 3 of the Constitution (insertion of a new Section 3 para. 10 of the Constitution)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2 Resolution on the granting of an authorisation to issue a convertible bond in the nominal amount of AUD 4,047,250.00 to W23 Investments Pty Limited against contribution in kind and under the exclusion of subscription rights	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Resolution on the cancellation of the existing Authorized Capital 2019/I and the creation of an Authorized Capital 2020/I, with the authorisation of the Management Board to exclude subscription rights with the consent of the Supervisory Board as well as the corresponding amendment of Sec. 3 para. 3 of the Constitution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4 Resolution on the granting of an authorisation to issue an option bond in the nominal amount of EUR 5,000 with a detachable warrant to Venture Lending & Leasing VIII, LLC and to issue an option bond in the nominal amount of EUR 5,000 with a detachable warrant to Venture Lending & Leasing IX, LLC, each under the exclusion of subscription rights and the creation of an Authorized Capital 2020/II, with the authorisation of the Management Board to exclude subscription rights with the consent of the Supervisory Board as well as the amendment of Sec. 3 of the Constitution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5 Resolution on the increase of the Company's share capital by up to EUR 79,260.00 through the issuance of up to 79,260 new no-par value registered shares with a fractional amount of the nominal share capital of EUR 1.00 per share against contributions in cash with shareholders' subscription rights	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6 Resolution on the election of a new supervisory board member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7 Resolution pursuant to which, for the purposes of ASX Listing Rule 7.1, and for all other ASX Listing Rule purposes, the Company be approved and authorised to issue, until April 29, 2020 the USV MS A Convertible Bond to USV MS A and to issue the USV MS B Convertible Bond to USV MS B, and to issue shares in the Company, and CDIs in respect of such shares, upon the conversion of the USV MS A Convertible Bond and the USV MS B Convertible Bond	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8 Resolution pursuant to which, for the purposes of ASX Listing Rule 7.1, and for all other ASX Listing Rule purposes, the Company be approved and authorised to issue, until April 29, 2020 the WOW Convertible Bond to Woolworths, and to issue shares in the Company, and CDIs in respect of such shares, upon the conversion of the WOW Convertible Bond	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9 Resolution pursuant to which, for the purposes of ASX Listing Rule 7.4, and for all other ASX Listing Rule purposes, shareholders ratify the issue of shares in the Company and CDIs to Acacia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10 Resolution pursuant to which, for the purposes of ASX Listing Rule 7.1, and for all other ASX Listing Rule purposes, the Company be approved and authorised to issue, until April 29, 2020 to the following beneficiaries (hereinafter each a "Beneficiary" and together the "Beneficiaries") Venture Lending & Leasing VIII, LLC and Venture Lending & Leasing IX, LLC (as respectively defined under agenda item 4 above) two Warrants, and to issue shares in the Company, and CDIs in respect of such shares, upon the exercise of the Warrants	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

i * If you do not mark the "For" or "Against" box your vote will not be counted. If you wish to vote a portion of your CDI's, see voting instructions overleaf

STEP 4

SIGNATURE OF CDI HOLDERS – THIS MUST BE COMPLETED

CDI Holder 1 (Individual)	Joint CDI Holder 2 (Individual)	Joint CDI Holder 3 (Individual)
<input type="text"/>	<input type="text"/>	<input type="text"/>
Sole Director and Sole Company Secretary	Director/Company Secretary (Delete one)	Director

This form should be signed by the CDI Holder in accordance with the instructions overleaf.

MMM PRX2002N

