



# Information Memorandum

18 March 2024

## A\$ Debt Issuance Programme

Nestlé Capital Corporation as **Issuer**

Nestlé S.A. as **Guarantor**

### **Arranger**

RBC Capital Markets

### **Dealer**

RBC Capital Markets

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# Important Notice

## Introduction

This Information Memorandum relates to a debt issuance programme (the **Programme**) established by Nestlé Capital Corporation, a limited liability company incorporated in the state of Delaware in the United States of America with company number 886483 (the **Issuer**) for the issue, from time to time, of medium term notes (**Notes**) in registered uncertificated form.

Each Tranche of Notes will be guaranteed by Nestlé S.A., a company with unlimited duration and organised under the Swiss Code of Obligations (the **Guarantor**) under a Swiss law governed joint and several suretyship (*cautionnement solidaire*) pursuant to Article 496 of the Swiss Code of Obligations (the **Guarantee** and together, the **Guarantees**). A separate Guarantee will be issued in respect of each Tranche of Notes. Nestlé S.A. is the ultimate holding company of the Nestlé group of companies (the **Nestlé Group**).

Terms used in this Information Memorandum but not otherwise defined have the meaning given to them in the Conditions (as defined below).

## Responsibility for Information

The Issuer has authorised the issue of this Information Memorandum and accepts responsibility for it, other than information relating to the names, addresses and other details of the Relevant Parties (as defined below) in the Directory.

Other than confirming that their respective names, addresses and other details in this Information Memorandum in the Directory are correct as at the Preparation Date (as defined below), none of the Arranger and the Agents, nor any Dealer appointed to the Programme or in respect of a particular issue of Notes (nor any director, employee, agent, adviser or affiliate of any such person) (together the **Relevant Parties**) has been involved in the preparation of this Information Memorandum or makes any representation or warranty, express or implied, about and assumes no responsibility for the correctness or completeness of, or any errors or omissions in, any information, statement, opinion or forecast contained in this Information Memorandum or in any previous, accompanying or subsequent material or presentation with respect to or in connection with the Issuer, the Guarantor, the Programme or any Notes.

Each Relevant Party accordingly disclaims all and any liability whether arising in tort, contract or otherwise which it might otherwise have in respect of this Information Memorandum. The Relevant Parties and advisers named in this Information Memorandum have acted pursuant to the terms of their respective engagements, have not authorised or caused the issue of, and take no responsibility for, this Information Memorandum and do not make, and should not be taken to have verified, any statement or information in this Information Memorandum (other than in respect of their name, address and other details in the Directory in this Information Memorandum).

## No Offer

This Information Memorandum does not, and is not intended to, constitute and may not be used as an offer or invitation by or on behalf of the Issuer (or any of their respective affiliates), the Guarantor or any Relevant Party to any person to subscribe for, purchase or otherwise deal in any Notes.

This Information Memorandum has been prepared by the Issuer solely for use in connection with the Programme and the proposed offering of the Notes under the Programme as described herein. Neither the Issuer nor the Guarantor has authorised its use for any other purpose. This Information Memorandum may not be copied or reproduced in whole or in part. It may be disclosed only to actual and prospective investors and their agents, professional advisers and, if applicable, their affiliated entities.

Potential investors in debt instruments which may be issued by the Issuer, the Guarantor or any other member of the Nestlé Group under any other debt programme should refer to any disclosure or offering document relevant to the issue of those debt instruments.

### **Conditions of Issue**

Notes will be issued in series (**Series**). Each Series may comprise of one or more tranches (each a **Tranche**) having one or more issue dates and on conditions that are otherwise identical (other than, to the extent relevant, in respect of the issue price and the first payment of interest).

Each issue of Notes will be made pursuant to such documentation as the Issuer may determine.

The terms and conditions (**Conditions**) applicable to the Notes are included in this Information Memorandum. In the case of each issue of a Tranche or Series of Notes, a pricing supplement (**Pricing Supplement**) will be issued, which shall supplement, amend, modify or replace the Conditions applicable to the Notes of the relevant Tranche or Series. A pro forma Pricing Supplement is set out in this Information Memorandum.

The Issuer may also publish a supplement to this Information Memorandum (or additional Information Memoranda) which describes the issue of Notes (or particular classes of Notes) not otherwise described in this Information Memorandum. A Pricing Supplement or a supplement to this Information Memorandum may also supplement, amend, modify or replace any information set out in, or incorporated by reference into, a Pricing Supplement or this Information Memorandum.

### **Investors to obtain Independent Advice**

This Information Memorandum contains only summary information with respect to the Notes, the Issuer, the Guarantor, the Nestlé Group and the Guarantees. Neither the information contained in this Information Memorandum nor any other information supplied in connection with the Programme or any Notes is intended to provide the basis of any credit or other evaluation and should not be considered or relied on as a recommendation or a statement of opinion (or a report of either of those things) by the Issuer, the Guarantor or any Relevant Party that any recipient of this Information Memorandum or any other information supplied in connection with the Programme or any Notes should subscribe for, purchase or otherwise deal in any Notes or any rights in respect of any Notes. Furthermore, this Information Memorandum contains only general information and does not take into account the objectives, financial situation or needs of any potential investor.

Each investor contemplating subscribing for, purchasing or otherwise dealing in any Notes or any rights in respect of any Notes should:

- (a) make and rely upon (and shall be taken to have made and relied upon) its own independent investigation of the terms and conditions of the Notes and the rights and obligations attaching to the Notes;
- (b) determine for themselves the sufficiency and relevance of the information contained in this Information Memorandum and any other information supplied in connection with the Programme or the issue of any Notes, and must base their investment decision solely upon their independent assessment and such investigations as they consider necessary;
- (c) consult their own tax advisers concerning the application of any tax laws applicable to their particular situation; and
- (d) make and rely upon (and shall be taken to have made and relied upon) its own independent investigation of the financial condition and affairs of, and its own appraisal of the creditworthiness of, the Issuer and the Guarantor.

None of the Relevant Parties undertakes to review the financial condition or affairs of the Issuer or the Guarantor or any of their affiliates at any time or to inform any holder of Notes (each a **Noteholder**) or potential investor in Notes of information about the Issuer or the Guarantor or any of their affiliates coming to its attention and make no representation about the ability of the Issuer or the Guarantor to comply with its obligations under the Notes or the Guarantor to comply with its obligations under a Guarantee.

No Relevant Party makes any representation as to the performance of the Issuer or the Guarantor, the maintenance of capital or any particular rate of return, nor does any Relevant Party guarantee the payment of capital or any particular rate of capital or income return, in each case, on any Notes. No reliance may be placed on the Relevant Parties for financial, legal, taxation, accounting or investment advice or recommendations of any sort.

## **Risks**

Neither this Information Memorandum nor any other information supplied in connection with the Programme or the issue of any Notes describes all of the risks of an investment in any Notes.

Prospective investors should consult their own professional, financial, legal and tax advisers about risks associated with an investment in any Notes and the suitability of investing in the Notes in light of their particular circumstances.

To the extent that any forward looking statements are made in this Information Memorandum, those statements reflect the views of the Issuer and the Guarantor as at the Preparation Date. Such statements involve known and unknown risks, uncertainties, assumptions and other important factors that could cause the actual results, performance or achievements of the Issuer to differ materially from the results, performance or achievements expressed, implied or projected in this Information Memorandum.

Neither the Issuer nor the Guarantor nor any of their respective officers or any other party associated with the preparation of this Information Memorandum make any representation or warranty (either express or implied) as to the accuracy or likelihood of any forward looking statement or any events or results expressed or implied in any forward looking statement. Neither the Issuer nor the Guarantor nor any of their respective officers or any other party associated with the preparation of this Information Memorandum guarantee that any specific objective of the Issuer or the Guarantor will be achieved.

## **Documents Incorporated by Reference**

This Information Memorandum is to be read in conjunction with all documents which are deemed to be incorporated into it by reference as set out below. This Information Memorandum shall, unless otherwise expressly stated, be read and construed on the basis that such documents are so incorporated and form part of this Information Memorandum.

The following documents are incorporated by reference in and form part of this Information Memorandum (the **Incorporated Documents**):

- (a) all amendments and supplements to this Information Memorandum prepared and circulated by the Issuer from time to time;
- (b) the most recently published annual audited financial statements of the Guarantor and the consolidated financial statements of the Nestlé Group from time to time;
- (c) the most recently published Guarantor's Annual Review of the Nestlé Group from time to time;
- (d) the most recently published unaudited interim consolidated financial statements of the Nestlé Group from time to time;
- (e) the most recently published audited Annual Financial Report of the Issuer from time to time;
- (f) the most recently published interim unaudited financial statements of the Issuer from time to time;

- (g) each Pricing Supplement and all documents stated therein to be incorporated in this Information Memorandum; and
- (h) all other documents stated by the Issuer to be incorporated in this Information Memorandum by reference,

except that any forecast financial information, or analysis and/or opinions relating to forecast financial information or any information or statements either expressly or implicitly that is or might be considered to be forward-looking, contained in the documents referred to in subparagraphs (b) to (g) above shall not be incorporated by reference in, nor form part of, this Information Memorandum.

Any statement contained in this Information Memorandum shall be modified or superseded to the extent that a statement contained in any document subsequently incorporated by reference into this Information Memorandum modifies or supersedes such statement (including whether expressly or by implication). Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Information Memorandum.

Except as provided above, no other information, including any information on the internet sites of the Issuer or the Guarantor or any of their respective affiliates or in any document incorporated by reference in any of the Incorporated Documents, is incorporated by reference into this Information Memorandum.

The financial statements and reports of the Guarantor, the Nestlé Group and the Issuer that form part of the Incorporated Documents from time to time as referred to in subparagraphs (b) to (g) above will be made available on the website of the Nestlé Group at <https://www.nestle.com/investors/publications> and <https://www.nestle.com/investors/bonds/investorbonds/debt-issuance-program-documents>.

Copies of the Incorporated Documents may be obtained during normal business hours from the offices of the Issuer (as specified in the Directory) or the Registrar or such other person specified in a Pricing Supplement, to the extent not made available on the website of the Nestlé Group.

Investors should review, among other things, the Incorporated Documents when deciding whether or not to purchase, or otherwise deal in any Notes or rights in respect of any Notes.

Neither the content of any website nor the content of any website accessible from hyperlinks within such website is incorporated (or deemed incorporated) by reference into, or forms a part of, this Information Memorandum. Only the English language version of an Incorporated Document is incorporated by reference into this Information Memorandum.

### **Preparation of financial statements**

The consolidated financial statements of the Guarantor were prepared in accordance with IFRS Accounting Standards (*IFRS*) issued by the International Accounting Standards Board (*IASB*) and with Swiss law and the non-consolidated annual accounts of the Guarantor have been prepared in accordance with accounting principles required by Swiss law (32nd title of the Swiss Code of Obligations). The financial statements of the Issuer were prepared in accordance with IFRS as adopted by the European Union.

### **Currency of Information**

The information in this Information Memorandum is correct and complete as at the Preparation Date (as defined below).

The delivery and distribution of this Information Memorandum or any offer or issue of Notes after the Preparation Date does not imply nor should it be relied upon as a representation or warranty that there has been no change since the Preparation Date in the affairs or financial condition of the Issuer, the Guarantor or any other person or entity named or referred to in this Information Memorandum or that the information in this Information Memorandum is correct at any time after the Preparation Date.

Neither the Issuer nor the Guarantor is under any obligation to Noteholders to update this Information Memorandum at any time after the issue of Notes.

**Preparation Date** means:

- (a) in relation to any amendment or supplement to this Information Memorandum, the date indicated on the face of that amendment or supplement;
- (b) in relation to the most recently published financial statements or reports incorporated by reference in this Information Memorandum, the period to which, or as of which, such accounts or reports relate;
- (c) in relation to any other document issued by the Issuer and stated to be incorporated by reference in this Information Memorandum, the date indicated on its face as being its date of release or effectiveness; and
- (d) in relation to all other information contained in this Information Memorandum, the date set out on the cover page of this Information Memorandum, or, if the information has been amended or supplemented, the date indicated on the face of that amendment or supplement.

#### **Authorised Material**

Only information contained in this Information Memorandum (including incorporated by reference) or as otherwise authorised in writing by the Issuer may be relied on as having been authorised by or on behalf of the Issuer.

No person has been authorised to give any person information or make any representations, warranties or statements not contained in or consistent with this Information Memorandum in connection with the Issuer, the Programme or the issue or sale of the Notes and, if given or made, such information or representation, warranty or statement must not be relied on as having been authorised by the Issuer, the Guarantor or any Relevant Party.

#### **Restrictions on Circulation**

Neither the Notes nor the Guarantee have been, nor will be, registered under the United States Securities Act of 1933, as amended (**Securities Act**). The Notes are being offered outside the United States (see the section headed 'Selling and Transfer Restrictions') by the Dealers in accordance with Regulation S under the Securities Act (**Regulation S**), and may not be offered, sold or delivered, directly or indirectly, within the United States or to, or for the account or benefit of, U.S. persons (as defined in the Securities Act) except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act.

The Financial Statements of the Issuer are prepared in compliance with IFRS and are not meant for distribution in the U.S. or to be used for investment purposes by U.S. investors.

The distribution of this Information Memorandum, including any Pricing Supplement, and the offer for subscription or purchase and invitations to subscribe for or buy Notes may be restricted by law in certain jurisdictions.

None of the Issuer, the Guarantor or any Relevant Party represents that this Information Memorandum may be lawfully distributed, or that Notes may be lawfully offered, in compliance with any applicable registration or other requirements in any such jurisdiction, or pursuant to an exemption available thereunder, or assume any responsibility for facilitating any such distribution or offering.

In particular, no action has been taken by any of those parties which would permit a public offering of any Notes or distribution of this Information Memorandum in any jurisdiction where action for that purpose is required.

Accordingly, no Notes may be offered or sold, directly or indirectly, and neither this Information Memorandum nor any advertisement or other offering material prepared in connection with an offer of Notes or the Programme may be distributed or published in any jurisdiction, except under circumstances that will result in compliance with any applicable laws, regulations and directives and the Dealers have represented, or will represent, that all offers by them will be made in accordance with any applicable laws, regulations and directives in force in the jurisdictions where such offers are made. Persons into whose possession this Information Memorandum comes or any Notes come must inform themselves about, and observe, any such laws, regulations and directives.

Neither this Information Memorandum nor any other disclosure document in relation to the Notes has been, or will be, lodged with the Australian Securities and Investments Commission, the Australian Securities Exchange operated by ASX Limited (ABN 98 008 624 691) (**ASX**) or any other governmental body or agency.

This Information Memorandum is not, and does not purport to be, a document containing disclosure to investors for the purposes of Parts 6D.2 or 7.9 of the *Corporations Act 2001* (Cth) (the **Corporations Act**).

In respect of offers or invitations received in Australia, Notes may only be issued or sold in circumstances that would not require disclosure to investors under Parts 6D.2 or 7.9 of the Corporations Act. Such Notes may only be issued or sold if the consideration payable by the relevant purchaser is a minimum of A\$500,000 or its foreign currency equivalent (disregarding amounts, if any, lent by the Issuer or other person offering Notes or its associates (within the meaning of those expressions in Part 6D.2 of the Corporations Act)), unless the offer or sale does not otherwise require disclosure to investors under Parts 6D.2 or Part 7.9 of the Corporations Act.

#### **PROHIBITION OF SALES TO EEA RETAIL INVESTORS**

The Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the European Economic Area (**EEA**). For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4(1) of Directive 2014/65/EU (as amended, **MiFID II**); (ii) a customer within the meaning of Directive (EU) 2016/97 (the **Insurance Distribution Directive**), where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II; or (iii) not a qualified investor as defined in the Regulation (EU) 2017/1129 (as amended, the **Prospectus Regulation**). Consequently no key information document required by Regulation (EU) No 1286/2014 (as amended, the **PRIPs Regulation**) for offering or selling the Notes or otherwise making them available to retail investors in the EEA has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the EEA may be unlawful under the PRIPs Regulation.

#### **PROHIBITION OF SALES TO UK RETAIL INVESTORS**

The Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the United Kingdom (**UK**). For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client, as defined in point (8) of Article 2 of Regulation (EU) No 2017/565 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018 (the **EUWA**); (ii) a customer within the meaning of the provisions of the Financial Services and Markets Act 2000 (the **FSMA**) and any rules or regulations made under the FSMA to implement the Insurance Distribution Directive, where that customer would not qualify as a professional client, as defined in point (8) of Article 2(1) of Regulation (EU) No 600/2014 as it forms part of domestic law by virtue of the EUWA; or (iii) not a qualified investor as defined in Article 2 of Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA. Consequently, no key information document required by the PRIPs Regulation as it forms part of domestic law by virtue of the EUWA (the



**UK PRIIPs Regulation**) for offering or selling the Notes or otherwise making them available to retail investors in the UK has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the UK may be unlawful under the UK PRIIPs Regulation.

**EU MiFID II Product Governance/Target Market** – The Pricing Supplement in respect of any Notes may include a legend entitled "EU MiFID II Product Governance/Target Market" which will outline the target market assessment in respect of the Notes and which channels for distribution of the Notes are appropriate. Any person subsequently offering, selling or recommending the Notes (a **distributor**) should take into consideration the target market assessment; however, a distributor subject to MiFID II is responsible for undertaking its own target market assessment in respect of the Notes (by either adopting or refining the target market assessment) and determining appropriate distribution channels.

A determination will be made in relation to each issue of Notes about whether, for the purpose of the MiFID Product Governance rules under EU Delegated Directive 2017/593 (the **MiFID Product Governance Rules**), any Dealer subscribing for any Notes is a manufacturer in respect of such Notes, but otherwise neither the Arranger nor the Dealers nor any of their respective affiliates will be a manufacturer for the purpose of the MiFID Product Governance Rules.

**UK MiFIR Product Governance/Target Market** – The Pricing Supplement in respect of any Notes may include a legend entitled "UK MiFIR Product Governance/Target Market" which will outline the target market assessment in respect of the Notes and which channels for distribution of the Notes are appropriate. Any distributor should take into consideration the target market assessment; however, a distributor subject to the UK MiFIR Product Governance Rules set out in the FCA Handbook Product Intervention and Product Governance Sourcebook (the **UK MiFIR Product Governance Rules**) is responsible for undertaking its own target market assessment in respect of the Notes (by either adopting or refining the target market assessment) and determining appropriate distribution channels.

A determination will be made in relation to each issue of Notes about whether, for the purpose of the UK MiFIR Product Governance Rules, any Dealer subscribing for any Notes is a manufacturer in respect of such Notes, but otherwise neither the Arranger nor the Dealers nor any of their respective affiliates will be a manufacturer for the purpose of the UK MiFIR Product Governance Rules.

#### **Notification under Section 309B(1)(c) of the Securities and Futures Act 2001 of Singapore**

In connection with Section 309B of the Securities and Futures Act 2001 of Singapore (the **SFA**) and the Securities and Futures (Capital Markets Products) Regulations 2018 of Singapore (the **CMP Regulations 2018**), the Issuer has determined, and hereby notifies all relevant persons (as defined in Section 309A(1) of the SFA), that the Notes issued or to be issued under the Programme are 'prescribed capital markets products' (as defined in the CMP Regulations 2018) and Excluded Investment Products (as defined in MAS Notice SFA 04-N12: Notice on the Sale of Investment Products and MAS Notice FAA-N16: Notice on Recommendations on Investment Products), unless otherwise stated in the Pricing Supplement in respect of any Notes.

For a description of certain restrictions on offers, sales and delivery of Notes and a distribution of this Information Memorandum, Pricing Supplement or other offering material relating to the Notes, see the section headed 'Selling and Transfer Restrictions'.

#### **Stabilisation**

Stabilisation activities are not permitted in Australia in circumstances where such action could reasonably be expected to affect the price of notes or other securities traded in Australia or on a financial market (as defined in the Corporations Act) operated in Australia.

## **Agency and distribution arrangements**

The Issuer has agreed to pay fees for the Agents for undertaking their respective roles and reimburse them for certain of their expenses incurred in connection with the Programme and the offer and sale of Notes.

The Issuer may also pay a Dealer a fee in respect of the Notes subscribed by it, may agree to reimburse the Arranger and/or the Dealers for certain expenses incurred in connection with this Programme and may indemnify the Dealers against certain liabilities in connection with the offer and sale of Notes.

Each Relevant Party is acting solely as an arm's length contractual counterparty and not as an advisor or fiduciary to the Issuer or any prospective purchaser of the Notes. Furthermore, neither the receipt of this Information Memorandum or any other offering materials by any person nor any other matter shall be deemed to create or give rise to an advisory or fiduciary duty (or any other duty) or relationship between the Relevant Party and that person (including, without limitation, in respect of the preparation and due execution of the documents in connection with the Programme or any Notes and the power, capacity or authorisation of any other party to enter into and execute such documents).

The Relevant Parties are involved in a wide range of financial services and businesses including securities trading and brokerage activities and providing commercial and investment banking, investment management, corporate finance, credit and derivative, trading and research products and services, out of which conflicting interests or duties may arise. In the ordinary course of these activities, the Relevant Parties or the funds which they manage or advise or the funds within which they may have a direct or indirect interest, may from time to time have long or short positions in, or buy and sell (on a principal basis or otherwise), or have pecuniary or other interests in, or act as a market maker in, the Notes or securities, derivatives, commodities, futures or options identical or related to the Notes and may trade or otherwise effect transactions, for its own account or the accounts of investors or any other party that may be involved in the issue of Notes or the Programme. The Relevant Parties may receive fees, brokerage and commissions and may act as a principal in dealing in any Notes.

## **Credit ratings**

Credit ratings referred to in this Information Memorandum or in a Pricing Supplement should not be taken as recommendations by a rating agency to buy, sell or hold Notes. They may be revised, suspended or withdrawn at any time by the relevant rating agency.

Credit ratings are for distribution only to a person:

- (a) who is not a 'retail client' within the meaning of section 761G of the Corporations Act and is also a sophisticated investor, professional investor or other investor in respect of whom disclosure is not required under Parts 6D.2 or 7.9 of the Corporations Act; and
- (b) who is otherwise permitted to receive credit ratings in accordance with applicable law in any jurisdiction in which the person may be located.

Anyone who is not such a person is not entitled to receive this Information Memorandum and anyone who receives this Information Memorandum must not distribute it to any person who is not entitled to receive it.

## **Currencies**

In this Information Memorandum references to '**A\$**' or '**Australian dollars**' are to the lawful currency of the Commonwealth of Australia. **Forward-looking Statements**

Certain statements, other than statements of historical facts, included in this Information Memorandum, including, without limitation, those regarding the Issuer's or the Guarantor's financial position, business strategy, expenditure, investment or other plans and objectives of management for future operations, constitute 'forward-looking statements'. Forward-looking statements can be identified by the use of

forward-looking words such as 'may,' 'should,' 'expect,' 'believe,' 'anticipate,' 'plan,' 'estimate,' 'scheduled' or 'continue' or the negative of such terms or comparable terminology. These forward-looking statements involve known and unknown risks, uncertainties, assumptions and other important factors that could cause the actual results, performance or achievements of the Issuer, the Guarantor, or industry results, to be materially different from future results, performance or achievements expressed or implied by such forward-looking statements. Such forward-looking statements are based on numerous assumptions regarding the Issuer's or the Guarantor's present and future business strategies and the environment in which they will operate in the future. Various factors exist that could cause actual results, performance or achievements to differ materially from those in the forward-looking statements. Neither the Issuer, the Guarantor, any Relevant Person, nor any other person gives any representation, assurance or guarantee that the occurrence of the events expressed or implied in any forward-looking statements in this Information Memorandum will actually occur and you are cautioned not to place undue reliance on such forward-looking statements. The forward-looking statements in this Information Memorandum reflect views held only as of the applicable Preparation Date. The Issuer and the Guarantor disclaim any obligation or undertaking to disseminate after the date of this Information Memorandum any updates or revisions to any forward-looking statements contained herein to reflect any change in expectations in relation thereto or any change in events, conditions or circumstances on which any such statement is based. Any subsequent written and forward-looking statements that may be released and are attributable to the Issuer or persons acting on its behalf are also expressly qualified in their entirety by the above cautionary statements.

## Summary of the Programme

The following does not purport to be complete and is a brief summary only. It is qualified by, and should be read in conjunction with, the rest of this Information Memorandum and, in relation to any Notes, in conjunction with the relevant Pricing Supplement and the applicable Conditions of the Notes. Capitalised terms used in the summary are defined in the Conditions.

Each Pricing Supplement will provide particular information relating to a relevant Tranche or Series of Notes to be issued. A reference to a 'Pricing Supplement' does not limit the provisions or features of this Programme which may be supplemented, amended, modified or replaced by a Pricing Supplement in relation to a particular Tranche or Series of Notes.

<b>Issuer:</b>	Nestlé Capital Corporation, a company incorporated in the state of Delaware in the United States of America with company number 886483 and any New Entity which is substituted for the Issuer under Condition 15 ( <i>Substitution of Issuer as principal debtor</i> )
<b>Guarantor:</b>	Nestlé S.A., a company with unlimited duration and organised under the Swiss Code of Obligations.  Nestlé S.A. primarily acts as the ultimate holding company of the Nestlé Group.
<b>Guarantee:</b>	Issues of Notes under the Programme will benefit from a joint and several suretyship ( <i>cautionnement solidaire</i> ) granted by the Guarantor pursuant to Article 496 of the Swiss Code of Obligations.  See the section below headed ' <i>Summary and Form of the Guarantee</i> '.
<b>Programme description:</b>	A non-underwritten debt issuance programme ( <b>Programme</b> ) under which, subject to applicable laws and directives, the Issuer may elect, from time to time, to issue medium term notes ( <b>Notes</b> ) in registered uncertificated form.
<b>Programme limit:</b>	There is no limit on the aggregate principal amount of Notes which may be issued by the Issuer under the Programme.
<b>Programme term:</b>	The Programme shall continue until terminated by the Issuer giving notice to the Arranger and each Dealer that the Programme will be terminated pursuant to the Dealer Agreement dated 18 March 2024 (as may be amended, restated and/or supplemented from time to time, the <b>Dealer Agreement</b> ) between (amongst others) the Issuer and the Arranger and Dealers, or such earlier date as agreed in writing by the Issuer and the Arranger and Dealers that the Programme will be terminated.
<b>Arranger:</b>	As at the date of this Information Memorandum, the Arranger is Royal Bank of Canada.
<b>Dealer:</b>	As at the date of this Information Memorandum, the Dealer is:  Royal Bank of Canada  Additional Dealers may be appointed by the Issuer from time to time under the Programme generally, or as a Dealer for a particular issue of Notes only.  Contact details and particulars of the ABN and AFSL (if applicable) for the Arranger and the Dealer are set out in the Directory section.
<b>Registrar and Issuing Agent:</b>	BTA Institutional Services Australia Limited (ABN 48 002 916 396) and/or any other person appointed by the Issuer to perform registry functions and to establish and maintain a Register (as defined below) in Australia on the Issuer's behalf in respect of

	<p>a Tranche or Series from time to time as specified in the relevant Pricing Supplement or as notified in accordance with the Conditions.</p> <p>Contact details for the Registrar and Issuing Agent are set out in the Directory section.</p>
<b>Calculation Agent:</b>	<p>If a calculation agent is required for the purpose of calculating any amount or making any determination under a Note (each a <b>Calculation Agent</b>), such appointment will be notified in the relevant Pricing Supplement.</p> <p>The Issuer may terminate the appointment of a Calculation Agent, appoint additional or other Calculation Agents or elect to have no Calculation Agent. Where no Calculation Agent is appointed, the calculation of interest, principal and other payments in respect of the relevant Notes will be made by the Issuer.</p>
<b>Agents:</b>	<p>Each Registrar, Issuing Agent, Calculation Agent and any other person appointed by the Issuer to perform other agency functions with respect to any Series or Tranche of Notes (details of such appointment may be set out in the relevant Pricing Supplement).</p>
<b>Method of issue:</b>	<p>The Notes will be issued in series (each a <b>Series</b>) having one or more issue dates and on terms otherwise identical (or identical other than in respect of the first payment of interest), on the basis that the Notes of each Series being intended to be interchangeable with all other Notes of the Series.</p> <p>Each Series may be issued in tranches (each a <b>Tranche</b>) on the same or different Issue Dates. The specific terms of each Tranche (which will be completed, where necessary, with the relevant terms and conditions and, save in respect of the Issue Date, Issue Price, first payment of interest and principal amount of the Tranche, will be identical to the terms of other Tranches of the same Series) will be completed in the Pricing Supplement.</p> <p>A Pricing Supplement will be prepared in respect of each Tranche of Notes which will provide particular information relating to that Tranche of Notes to be issued as part of the Series.</p> <p>The form of the Pricing Supplement is set out in this Information Memorandum.</p>
<b>Types of Notes:</b>	<p>Notes may be issued with the following features as set out in the relevant Pricing Supplement:</p> <ul style="list-style-type: none"> <li>(a) Floating Rate Notes: Notes bearing a floating rate of interest payable at such rate and on such basis as agreed at the time of issue;</li> <li>(b) Fixed Rate Notes: Notes bearing a fixed rate of interest payable at such rate and on such basis as agreed at the time of issue; or</li> <li>(c) Other Notes: Notes bearing such repayment and other features as agreed at the time of issue.</li> </ul>
<b>Form:</b>	<p>Notes will be issued in registered uncertificated form and will be debt obligations of the Issuer which are constituted by, and owing under, a note deed poll made by the Issuer on 18 March 2024 (<b>Note Deed Poll</b>), or such other deed or deed poll made by the Issuer as is specified in the relevant Pricing Supplement. Notes will take the form of, and be evidenced by, entries in a register (<b>Register</b>) maintained by a Registrar.</p>
<b>Currency:</b>	<p>Notes will be issued in Australian dollars or, subject to any applicable legal or regulatory restrictions, may be issued in any other freely available and freely transferable currency that is agreed between the Issuer and the relevant Dealers in</p>

	respect of the issuance of Notes and as may be specified in the relevant Pricing Supplement.
<b>Tenor:</b>	Subject to all applicable laws and directives, Notes may have any tenor as may be specified in the relevant Pricing Supplement or as may be agreed between the Issuer and the relevant Dealer.
<b>Title:</b>	<p>Entry of the name of a person in the Register in respect of a Note in registered form constitutes the obtaining or passing of title to the Note and is conclusive evidence that the person whose name is so entered is the registered holder of the Note.</p> <p>The Issuer will procure that the Registrar must correct for any fraud or any manifest or proven error of which it becomes aware.</p> <p>Notes which are lodged in the Austraclear System will be registered in the name of Austraclear. If a Note is lodged in the Austraclear System and registered in the name of Austraclear, neither the Issuer nor the Registrar will recognise any interest in those Notes other than the interest of Austraclear as the Noteholder. Interests in Notes which are held in a clearing system will be determined in accordance with the rules and regulations of the relevant clearing system.</p> <p>No certificate or other evidence of title will be issued to holders of Notes issued in Australia unless the Issuer determines that certificates should be available or it is required to do so pursuant to any applicable law or directive.</p>
<b>Denominations:</b>	<p>Subject to all applicable laws and directives, Notes will be issued in the single denomination specified in the relevant Pricing Supplement.</p> <p>In respect of offers or invitations received in Australia, Notes may only be issued if:</p> <p>(a) the aggregate consideration payable to the Issuer by the relevant offeree or invitee is at least A\$500,000 (or its equivalent in an alternative currency, and, in either case, disregarding moneys lent by the Issuer or other person making the offer or invitation or its associates) or the issue does not otherwise require disclosure to investors under Parts 6D.2 or 7.9 of the Corporations Act; and</p> <p>(b) the offer or invitation does not constitute an offer or invitation to a 'retail client' as defined for the purposes of section 761G of the Corporations Act.</p> <p>Please see section of this Information Memorandum headed 'Selling and Transfer Restrictions'.</p>
<b>Status and ranking of Notes:</b>	The Notes constitute direct, unconditional, unsubordinated and (subject to Condition 3 ( <i>Negative pledge</i> )) unsecured obligations of the Issuer and will at all times rank <i>pari passu</i> among themselves and equally with all other unsubordinated and unsecured obligations of the Issuer from time to time outstanding (other than obligations mandatorily preferred by law).
<b>Status and ranking of Guarantees:</b>	The obligation of the Guarantor under each Guarantee constitutes a direct, unsecured (subject to the provisions of Condition 3 ( <i>Negative pledge</i> )) and unsubordinated obligation of the Guarantor and will rank <i>pari passu</i> with all other present and future unsecured and unsubordinated obligations outstanding of the Guarantor (other than obligations mandatorily preferred by law applying to companies generally).
<b>Negative pledge:</b>	The Noteholders will have the benefit of a negative pledge in respect of Relevant Indebtedness (as defined in Condition 1.1 ( <i>Definitions</i> )) as set out in Condition 3 ( <i>Negative pledge</i> ).

<b>Events of Default:</b>	The Events of Default applicable to the Notes will be as set out in Condition 10 ( <i>Events of Default</i> ), or as otherwise stated in the relevant Pricing Supplement.
<b>Consequences of an Event of Default:</b>	Condition 10.2 ( <i>Consequences of an Event of Default</i> ) sets out what action may be taken if an Event of Default occurs and is subsisting with respect to a Series of Notes.
<b>Substitution of Issuer:</b>	As set out in Condition 15 ( <i>Substitution of Issuer as principal debtor</i> ), the Issuer (or any previous substitute under Condition 15) may at any time be substituted as the principal debtor under the Notes by the Guarantor or any subsidiary of the Guarantor without the consent of the Noteholders provided that the requirements set out in Condition 15 are complied with.
<b>Use of proceeds:</b>	The net proceeds realised from each issue of Notes by the Issuer will be used for general corporate purposes, or otherwise as stated in the relevant Pricing Supplement.
<b>Clearing Systems:</b>	<p>The Issuer intends that Notes will be transacted within a clearing system.</p> <p>The Issuer may apply to Austraclear for approval for any Notes to be traded on the Austraclear System. Upon approval by Austraclear, those Notes will be traded through Austraclear in accordance with the rules and regulations of the Austraclear System. Such approval by Austraclear is not a recommendation or endorsement by Austraclear of such Notes.</p> <p>The rights of a holder of interests in a Note held through the Austraclear System are subject to the rules and regulations of the Austraclear System.</p> <p>On admission to the Austraclear System, interests in the Notes may be held for the benefit of the system operated by Euroclear Bank SA/NV (<b><i>Euroclear</i></b>) or the system operated by Clearstream Banking S.A. (<b><i>Clearstream</i></b>). In these circumstances, entitlements in respect of holdings of interests in the Notes in Euroclear would be held in the Austraclear System by a nominee of Euroclear (currently HSBC Custody Nominees (Australia) Limited) while entitlements in respect of holdings of interests in the Notes in Clearstream would be held in the Austraclear System by a nominee of Clearstream (currently, BNP Paribas Australia Branch).</p> <p>The rights of a holder of interests in a Note held through Euroclear or Clearstream are subject to the respective rules and regulations for accountholders of Euroclear and Clearstream and their respective nominees and the rules and regulations of the Austraclear System.</p> <p>In addition, any transfer of interests in a Note which is held through Euroclear or Clearstream will to the extent such transfer will be recorded in the Austraclear System and is in respect of offers or invitations received in Australia be subject to the Corporations Act and the other requirements set out in the Conditions.</p> <p>The Issuer is not responsible for the operation of the clearing arrangements which is a matter for the clearing institutions, their nominees, their participants and the investors.</p>
<b>Transfer procedures:</b>	<p>There are certain restrictions on the transfer of Notes, as specified in Condition 5 (<i>Transfers</i>).</p> <p>Notes held in a clearing system may only be transferred in accordance with the rules and regulations of the relevant clearing system.</p> <p>Notes may only be transferred if:</p> <p>(a) in the case of Notes to be transferred in, or into, Australia, the offer or invitation</p>

	<p>giving rise to the transfer:</p> <p>(i) is for an aggregate consideration payable to the Issuer by the relevant transferee of at least A\$500,000 (or its equivalent in an alternative currency and, in either case, disregarding moneys lent by the Issuer or its associates to the transferee) or the offer or invitation (including any resulting issue) does not otherwise require disclosure to investors under Parts 6D.2 or 7.9 of the Corporations Act; and</p> <p>(ii) does not constitute an offer or invitation to a 'retail client' as defined for the purposes of section 761G of the Corporations Act;</p> <p>(b) at all times, the transfer complies with all applicable laws and directives of the jurisdiction where the transfer takes place.</p>
<b>Payments:</b>	<p>Payments to persons who hold Notes through the Austraclear System or any other clearing system will be made in accordance with the rules and regulations of Austraclear or such other clearing system.</p> <p>If Notes are not lodged in Austraclear or any other clearing system, payments will be made to the account of the registered holder noted in the Register on the Record Date for the payment in accordance with Condition 7 (<i>Payments</i>).</p> <p>The Record Date for payments of principal and interest is 5.00 pm in the place where the Register is maintained on the eighth calendar day before a payment date.</p>
<b>Issue Price:</b>	<p>Notes may be issued at any price on a fully or partly paid basis as specified in the relevant Pricing Supplement.</p>
<b>Redemption at maturity:</b>	<p>Unless previously redeemed or purchased and cancelled by the Issuer (in accordance with the applicable Conditions), each Note will be redeemed on its Maturity Date at the Outstanding Principal Amount or such other Redemption Amount as may be specified in or calculated or determined in accordance with the provisions of the relevant Pricing Supplement.</p> <p>To the extent that Notes are held in the Austraclear System or other clearing system, Notes will be redeemed at maturity in a manner consistent with the applicable rules and regulations of that system.</p>
<b>Redemption prior to maturity:</b>	<p>The relevant Pricing Supplement will indicate either that the relevant Notes cannot be redeemed prior to their stated maturity (other than in specified circumstances including for taxation reasons) or that such Notes will be redeemable at the option of the Issuer and/or the Noteholders upon giving notice to the Noteholders or the Issuer, as the case may be, on a date or dates specified prior to such stated maturity and at a price or prices and on such other terms as may be agreed between the Issuer and the relevant Dealer(s). The terms of any such redemption, including notice periods, any relevant conditions to be satisfied and the relevant redemption dates and prices will be indicated in the relevant Pricing Supplement.</p> <p>The relevant Pricing Supplement may provide that Notes may be redeemable in two or more instalments on such dates and in such manner as is indicated in the applicable Pricing Supplement.</p>



<b>Stamp duty:</b>	<p>Any stamp duty incurred on the issue of the Notes will be for the account of the Issuer. Any stamp duty incurred on a transfer of Notes will be for the account of the relevant investors.</p> <p>As at the date of this Information Memorandum, no stamp duty is payable in Australia on the issue, transfer or redemption of the Notes. However, investors are advised to seek independent advice regarding any stamp duty or other taxes imposed by another jurisdiction upon the issue, transfer or redemption of Notes, or interests in Notes in any jurisdiction.</p>
<b>Taxes:</b>	<p>All payments under the Notes made by and on behalf of the Issuer shall be made free and clear of, and without withholding or deduction for or on account of, any present or future taxes, duties, assessments or governmental charges of any Government Agency levied by or on behalf of any Tax Jurisdiction, unless the withholding or deduction is required by law. If the Issuer is obliged to make a deduction or withholding, then, subject to certain exceptions stipulated in the Conditions, it will pay the relevant Noteholder(s) an Additional Amount in respect of such deduction or withholding (as provided in Condition 8 (<i>Taxation</i>)).</p> <p>See pages 66 to 72 of this Information Memorandum for a more detailed summary of the key Australian, United States and Swiss tax consequences in respect of payments made under the Notes and the Guarantees.</p> <p>Investors should obtain their own taxation advice regarding the taxation implications of investing in Notes.</p>
<b>FATCA:</b>	<p>If the Issuer, or any other person through whom payments on the Notes are made, is required to withhold or deduct amounts under or in connection with, or in order to ensure compliance with FATCA (as defined in the Conditions), the Issuer shall be entitled to make such withholding or deduction and shall have no obligation to gross up any payment under the Conditions or to pay any Additional Amount or other amount for such withholding or deduction.</p>
<b>Listing:</b>	<p>It is not currently intended that the Notes will be listed on any stock or securities exchange or quoted on a quotation system.</p> <p>An application may be made for the Issuer to be admitted to the official list of, and/or Notes of a particular Series to be quoted on, the Australian Securities Exchange operated by ASX or on any other stock or securities exchange or quotation system (in accordance with applicable laws and directives).</p> <p>Any Notes which are listed or quoted on the ASX will not be transferred through, or registered on, the Clearing House Electronic Sub-Register System operated by ASX Settlement Pty Limited (ABN 49 008 504 532) and will not be 'Approved Financial Products' for the purposes of that system. Interest in the Notes will instead be held in, and transferable through, the Austraclear System.</p> <p>The relevant Pricing Supplement in respect of the issue of any Tranche of Notes will specify whether or not such Notes will be quoted on any stock or securities exchange.</p>
<b>Selling Restrictions:</b>	<p>The offering, sale and delivery of the Notes and the distribution of this Information Memorandum and other material in relation to any of the Notes will be subject to such restrictions as may apply in any jurisdiction in connection with the offering and sale of a particular Tranche of Notes. See the section headed 'Selling and Transfer Restrictions' below.</p>

	Additional selling restrictions may be specified in a Pricing Supplement for any offer, sale or delivery of Notes in any other jurisdiction.
<b>Investors to obtain independent advice:</b>	An investment in Notes issued under the Programme involves certain risks. This Information Memorandum does not describe the risks of an investment in any Notes, risks related to the Issuer or otherwise. Prospective investors should consult their own professional, financial, legal and tax advisers about risks associated with an investment in any Notes and the suitability of investing in the Notes in light of their particular circumstances.
<b>Rating:</b>	<p>Notes may be rated, as specified in the relevant Pricing Supplement.</p> <p><b>A credit rating is not a recommendation to buy, sell or hold Notes and may be subject to revision, suspension or withdrawal at any time by the assigning rating agency. Each credit rating should be evaluated independently to any other credit rating.</b></p> <p><b>Credit ratings are for distribution only to a person (a) who is not a ‘retail client’ within the meaning of section 761G of the Corporations Act and is also a sophisticated investor, professional investor or other investor in respect of whom disclosure is not required under Parts 6D.2 or 7.9 of the Corporations Act, and (b) who is otherwise permitted to receive credit ratings in accordance with applicable law in any jurisdiction in which the person may be located. Anyone who is not such a person is not entitled to receive this Information Memorandum and anyone who receives this Information Memorandum must not distribute it to any person who is not entitled to receive it.</b></p>
<b>Governing Law:</b>	<p>The Note Deed Poll, the Notes and all related documentation will be governed by the laws of New South Wales, Australia.</p> <p>The Guarantees will be governed by the laws of Switzerland.</p>

# Nestlé Capital Corporation

## **General**

Nestlé Capital Corporation (the **Issuer**) was incorporated in the State of Delaware in 1980. The address of the Issuer's registered office is The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, United States and the address of its principal place of business is 1812 North Moore Street, Arlington, Virginia 22209, United States.

## **Organisational Structure**

NCC is a wholly owned subsidiary of Nestlé Holdings, Inc., which is a wholly owned indirect subsidiary of the Guarantor. The Issuer's principal business activity is managing the liquidity of Nestlé Holdings, Inc. and the latter's subsidiaries and U.S. affiliates.

# Nestlé S.A.

## General

Nestlé S.A. was founded in 1866 as “Anglo-Swiss Condensed Milk Company”. Following the merger in 1905 with “Farine lactée Henri Nestlé” (founded in Vevey in 1867), the company was renamed “Nestlé and Anglo-Swiss Condensed Milk Company” and in 1977 adopted the present name, Nestlé S.A.

Nestlé S.A. is a company with unlimited duration and is organised under the Swiss Code of Obligations. The registered offices of Nestlé S.A. are Avenue Nestlé 55, 1800 Vevey, Canton of Vaud, Switzerland and Zugerstrasse 8, 6330 Cham, Canton of Zug, Switzerland. Nestlé S.A. was registered with the Commercial Registry of the Canton of Zug on 9 March 1883 and with the Commercial Registry of the Canton of Vaud on 19 July 1905.

## Business Overview

Nestlé S.A. is the holding company of the Nestlé group of companies (the “**Nestlé Group**” or the “**Group**”). The Nestlé Group manufactures and distributes food and beverage products in the following categories: powdered and liquid beverages, water, milk, ice cream and nutrition products, prepared dishes and cooking aids, confectionery and petcare. Nestlé also manufactures and distributes nutritional science products through its globally managed business Nestlé Health Science.

Nestlé S.A. is extensively engaged in research and development activities in most sectors of modern nutrition.

The Nestlé Group’s objective, through the efforts of its around 270,000 employees, working with partners of the Nestlé Group, is to unlock the power of food to enhance quality of life for everyone, today and for generations to come.

# Summary and Form of the Guarantee

## 1. Summary of Guarantee

In respect of each Tranche of Notes issued by the Issuer, the Guarantor will execute and deliver a Guarantee in substantially the form (subject to completion) set out in section 2 below. Each Guarantee will be deposited for the benefit of the relevant Noteholders with the Registrar.

Each Guarantee is a joint and several suretyship (*cautionnement solidaire*) pursuant to Article 496 of the Swiss Code of Obligations. A joint and several suretyship pursuant to Article 496 of the Swiss Code of Obligations is not a full and unconditional guarantee, but rather it is a guarantee that is accessory in nature, which means that its enforceability is dependent upon the legal validity and enforceability of the primary obligation to which it relates. This means that the Guarantor will only have an obligation to pay a Noteholder an amount under the Guarantee if and to the extent such Noteholder has a legally valid and enforceable claim against the Issuer to pay such amount under the relevant Tranche of Notes. A joint and several suretyship pursuant to Article 496 of the Swiss Code of Obligations is also governed by a number of statutory provisions of Swiss law that are designed to protect the surety, among other things, that:

- (i) the terms of the Guarantee will limit the aggregate amount payable by the Guarantor to the Noteholders (including amounts in respect of principal, interest and other amounts due and unpaid under the Notes) to a fixed amount in the Specified Currency of the Notes, the so-called Maximum Guarantee Amount. The Maximum Guarantee Amount under the Guarantee relating to each Tranche of Notes will be equal to the payment of the principal and three years' interest in respect of such Notes. That is (i) the initial aggregate principal amount of the relevant Tranche of Notes, plus (ii) three multiplied by the product of (x) the interest rate per annum applicable to such Notes and (y) the initial aggregate principal amount of such Notes;
- (ii) any defences that the Issuer may assert against a Noteholder, whether available to the Issuer under the terms of the Notes or under Australian law or otherwise, may, as a rule, also be asserted by the Guarantor against such Noteholder with respect to claims under the related Guarantee (even if the Issuer has itself waived or otherwise not exercised any such defence);
- (iii) if a Noteholder seeks to enforce the Guarantee against the Guarantor in Switzerland, the Guarantor may petition the competent court to stay the enforcement proceeding against it until such time as insolvency or related proceedings against the relevant Issuer are completed without such Noteholder having been paid in full for amounts owed to it under the Notes, so long as the Guarantor posts sufficient collateral;
- (iv) in the event of insolvency proceedings in respect of the Issuer, if a Noteholder fails to file its claims against the Issuer under such Note or to do everything conscionable to safeguard its rights under such Note in such proceedings, such Noteholder will forfeit its claims against the Guarantor under the related Guarantee if and to the extent that the Guarantor suffers damages as a result of such failure; and
- (v) in accordance with Swiss law on suretyships, a Noteholder cannot make any further claim under or in connection with the Guarantee after its termination date, unless legal proceedings are initiated by such Noteholder prior to the end of the

four week period following such termination date and pursued by such Noteholder without significant interruption.

Any dispute that might arise out of or in connection with the Guarantees will fall within the exclusive jurisdiction of the courts of the Canton of Vaud, Switzerland (venue being the City of Vevey). This means, among other things, that, in respect of any such dispute, service of process upon the Guarantor must be effected in Switzerland in accordance with Swiss procedural rules, and it is unlikely that investors would be able to enforce in Switzerland against the Guarantor any judgment obtained from an Australian court with respect to any such dispute.

## 2. Form of the Guarantee

The Guarantee to be issued by the Guarantor in respect of each Tranche of Notes shall be in the following form:

*THIS GUARANTEE is entered into on [issue date] by Nestlé S.A. for the benefit of the holders for the time being of the Notes (as defined below). Each holder of a Note is a "Noteholder".*

### WHEREAS

- (a) *Nestlé Capital Corporation (the "Issuer") has established an A\$ Debt Issuance Programme in respect of which it has issued an Information Memorandum dated [#] 2024 and granted a Note Deed Poll dated [#] 2024 (the "Note Deed Poll") pursuant to which it may issue debt instruments from time to time;*
- (b) *Notes issued under the A\$ Debt Issuance Programme are to be guaranteed by Nestlé S.A. (the "Guarantor"); and*
- (c) *the Issuer has agreed to issue [title of Notes being issued] (the "Notes") on [issue date].*

*The Guarantor as joint and several surety (caution solidaire) according to Article 496 of the Swiss Code of Obligations hereby irrevocably guarantees to each Noteholder the due and punctual payment, in accordance with the terms and conditions of the Notes (the "Conditions"), of the principal, interest (if any) and any other amounts due and payable by the Issuer to such Noteholder under the Notes up to a maximum amount of [insert details/basis of calculation] (in words: [insert number in words]) (the "Maximum Guarantee Amount"), upon the following terms:*

1. *In the event of any failure by the Issuer [or any corporation substituted pursuant to Condition 15 (Substitution of Issuer as principal debtor) (hereinafter called the "Relevant Issuer")] punctually to pay any such principal, interest (if any) or other amount as and when the same becomes due in accordance with the Conditions, and, except in the event that the Relevant Issuer's insolvency is evident, provided that the relevant Noteholder shall have made a request to the Relevant Issuer for payment of such amount, the Guarantor as joint and several surety will on demand pay to the relevant Noteholder any such principal, interest (if any) or other amount.*
2. *The Guarantor confirms, with respect to each Note, that it does not have and will not assert as a defence to any claim under this Guarantee (i) any right to require any proceedings to be brought first against the Relevant Issuer or any paying agent, or (ii) any right to require filing of claims with any court, or (iii) any suspension or cancellation of the Relevant Issuer's obligation to make payments under the Notes for the reasons described in Article 501 paragraph 4 of the Swiss Code of Obligations, and covenants that this Guarantee will not be discharged except by complete performance of the obligations contained in each Note or otherwise in accordance with Clause 6 hereof.*

3. *This Guarantee extends, subject to the Maximum Guarantee Amount, to all principal, interest (if any) and other amounts due and payable by the Relevant Issuer to the Noteholder under the Notes, and Article 499 paragraph 2 of the Swiss Code of Obligations is not applicable to this Guarantee.*
4. *Amounts payable under this Guarantee (including interest (if any), and any other amount due and payable by the Relevant Issuer) may not exceed the Maximum Guarantee Amount in the aggregate.*
5. *This Guarantee constitutes a direct, unsecured (subject to the provisions of Condition 3 (Negative pledge)) and unsubordinated obligation of the Guarantor and will rank pari passu with all other present and future unsecured and unsubordinated obligations outstanding of the Guarantor (other than obligations mandatorily preferred by law applying to companies generally).*
6. *This Guarantee will continue in full force and effect until the earlier of (i) the date on which all sums payable in respect of the Notes shall have been paid in full, and (ii) the date which is 365 days after [maturity date of the Notes], at which date it will expire automatically without further notice, except, to the extent applicable, as described in Article 510 paragraph 3 of the Swiss Code of Obligations.*
7. *The Guarantor agrees that it shall comply with and be bound by those provisions contained in Condition 2.8 (Guarantee), Condition 2.9 (Status of the Guarantee), Condition 3(b) (Negative pledge), Condition 8.2 (Additional Issuer payments) and Condition 8.3 (Additional Guarantor payments) insofar as the same relate to the Guarantor.*
8. *This Guarantee is governed by, and shall be construed in accordance with, the substantive laws of Switzerland.*
9. *The courts of the Canton of Vaud, Switzerland, (venue being the City of Vevey) shall have exclusive jurisdiction to settle any and all disputes arising out of or in connection with this Guarantee.*

*Dated [Issue Date]*

*Nestlé S.A.*

*By: .....*

*By: .....*

# Conditions of the Notes

The following are the Conditions of the Notes which, as amended, supplemented, modified or replaced by an applicable Pricing Supplement, apply to each Note constituted by the Note Deed Poll (specified in the applicable Pricing Supplement). References to the "Pricing Supplement" in these Conditions do not limit the provisions which may be amended, supplemented, modified or replaced by the Pricing Supplement in relation to a particular Series of Notes.

Each Noteholder, and each person claiming through or under each such Noteholder, is bound by and is deemed to have notice of, the Information Memorandum, the provisions contained in the Note Deed Poll, these Conditions (including any applicable Pricing Supplement) and the Guarantee. Electronic copies of these documents are available for inspection during usual business hours and on reasonable notice at the Specified Office of the Issuer or from such other person specified in the relevant Pricing Supplement.

## 1 Interpretation

### 1.1 Definitions

The following words have these meanings in these Conditions unless the contrary intention appears.

**Additional Amounts** has the meaning given in Condition 8.2.

**Agency Agreement** means:

- (a) the Agency and Registry Services Agreement dated on or about 18 March 2024 between the Issuer, the Guarantor and BTA Institutional Services Australia Limited (ABN 48 002 916 396) as the Issuing Agent and Registrar;
- (b) any other agreement between the Issuer and an Agent for agency and registry services for the Notes; and/or
- (c) any other agency agreement between the Issuer and an Agent in connection with the issue of Notes.

**Agent** means any Registrar, Issuing Agent and Calculation Agent and any additional agent appointed by the Issuer under any Agency Agreement in connection with any issue of Notes, or any of them as the context requires.

**Alternate Financial Institution** means a bank or financial institution which is an Australian Prudential Regulatory Authority authorised deposit taking institution that is authorised to carry on banking business in Australia pursuant to the *Banking Act 1959* (Cth).

**Austraclear** means Austraclear Ltd (ABN 94 002 060 773) or its successor.

**Austraclear Regulations** means the regulations known as the 'Austraclear Regulations', together with any instructions or directions, established by Austraclear (as amended or replaced from time to time) to govern the use of the Austraclear System and binding on the participants in that system.

**Austraclear System** means the clearing and settlement system operated by Austraclear in Australia for holding securities and electronic recording and settling of transactions in those securities between participants of the system.

**Benchmark Rate** means, for a Floating Rate Note and for an Interest Period, either BBSW Rate or AONIA Rate as specified in the relevant Pricing Supplement or such other rate so specified in the Pricing Supplement.

**Business Day** means:



- (a) a day on which banks are open for general banking business in Sydney, Melbourne, Zurich, New York and London and any other city specified in the relevant Pricing Supplement as a 'Relevant Business Centre', not being a Saturday, Sunday or public holiday in any such place; and
- (b) if a Note to be held in the Austraclear System is to be issued or a payment is to be made in respect of a Note through the Austraclear System, and/or any other clearing system specified in the relevant Pricing Supplement, a day on which Austraclear and/or such other clearing system is open for business.

**Business Day Convention** means, in respect of a Note, the convention specified in the relevant Pricing Supplement, for adjusting any relevant date if it would otherwise fall on a day that is not a Business Day. The following terms, when used in conjunction with the term **Business Day Convention** and a date, shall mean that an adjustment will be made if that date would otherwise fall on a day that is not a Business Day so that:

- (a) if **following** is specified, that date will be the following Business Day;
- (b) if **floating** is specified, that date is postponed to the next following day which is a Business Day unless that day falls in the next calendar month, in which event:
  - (i) that date will be the preceding Business Day; and
  - (ii) each subsequent Interest Payment Date will be the last Business Day in the month which falls the number of months or other period specified as the Interest Period in the relevant Pricing Supplement after the preceding Interest Payment Date occurred;
- (c) if **modified following** or **modified** is specified, that date will be the following Business Day unless that day falls in the next calendar month, in which case that date will be the preceding Business Day; and
- (d) if **preceding** is specified, that date will be the preceding Business Day.

If no convention is specified in the Pricing Supplement, the following Business Day Convention applies.

**Calculation Agent** means, in respect of a Note, the Issuing Agent or any other person specified in the Pricing Supplement as the party responsible for calculating the Interest Rate and other amounts required to be calculated under these Conditions.

**Call Option** has the meaning given in Condition 6.3.

**Call Option Notice** has the meaning given in Condition 6.3.

**Clean Up Condition** has the meaning given in Condition 6.6.

**Conditions** means, in relation to a Note, these terms and conditions as amended, supplemented, modified or replaced by the Pricing Supplement applicable to such Note.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Day Count Basis** means in respect of the calculation of an amount of interest on any Interest Bearing Note for any period of time (from and including the first day of such period to but excluding the last day of such period) (**Calculation Period**) the day count basis specified in the relevant Pricing Supplement and:

- (a) if **Actual/365** or **Actual/Actual** is specified, the actual number of days in the Calculation Period in respect of which payment is being made (being inclusive of the first day, but exclusive of the last day, of that Calculation Period) divided by 365 (or, if any portion of

that Calculation Period falls in a leap year, the sum of (i) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366; and (ii) the actual number of days in that portion of the Calculation Period falling in a non-leap year divided by 365);

- (b) if **Actual/365 (Fixed)** is specified, the actual number of days in the Calculation Period in respect of which payment is being made divided by 365;
- (c) if **30/360** or **Bond Basis** is specified, the number of days in the Calculation Period in respect of which payment is being made (being inclusive of the first day, but exclusive of the last day, of that Calculation Period) divided by 360; the number of days to be calculated as follows:

$$\text{Day Count Basis} = \frac{[360 \times (Y_2 - Y_1)] + [30 \times (M_2 - M_1)] + (D_2 - D_1)}{360}$$

where:

'Y<sub>1</sub>' is the year, expressed as a number, in which the first day of the Calculation Period falls;

'Y<sub>2</sub>' is the year, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

'M<sub>1</sub>' is the calendar month, expressed as a number, in which the first day of the Calculation Period falls;

'M<sub>2</sub>' is the calendar month, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

'D<sub>1</sub>' is the first calendar day, expressed as a number, of the Calculation Period, unless such number would be 31, in which case D<sub>1</sub> will be 30; and

'D<sub>2</sub>' is the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless such number would be 31 and D<sub>1</sub> is greater than 29, in which case D<sub>2</sub> will be 30;

- (d) if **RBA Bond Basis** or **Australian Bond Basis** is specified, one divided by the number of Interest Payment Dates in a year (or where the Calculation Period does not constitute an Interest Period, the actual number of days in the Calculation Period divided by 365 (or, if any portion of the Calculation Period falls in a leap year, the sum of:
  - (i) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366; and
  - (ii) the actual number of days in that portion of the Calculation Period falling in a non-leap year divided by 365)); or
- (e) such other basis as may be specified in the relevant Pricing Supplement as being the applicable basis for the calculation of the amount of interest in respect of a Series of Notes.

**Early Termination Amount** means, in relation to a Note, the Outstanding Principal Amount or other redemption amount as may be specified in, or determined in accordance with the provisions of, the relevant Pricing Supplement.

**Event of Default** means an event specified in Condition 10.

**Extraordinary Resolution** has the meaning given to it in the Meeting Provisions.

**FATCA** means:

- (a) sections 1471 to 1474 of the United States of America Internal Revenue Code of 1986 or any associated regulations or other official guidance;
- (b) any treaty, law, regulation or other official guidance enacted in any other jurisdiction, or relating to an intergovernmental agreement between the United States of America and any other jurisdiction, which (in either case) facilitates the implementation of paragraph (a) above; or
- (c) any agreement under the implementation of paragraphs (a) or (b) above, with the United States of America Internal Revenue Service, the United States of America government or any governmental or taxation authority in any other jurisdiction.

**Fixed Rate Note** means a Note that bears interest at a fixed rate, as specified in the relevant Pricing Supplement.

**Floating Rate Note** means a Note that bears interest at a floating or variable rate, as specified in the relevant Pricing Supplement.

**Government Agency** means any government or any governmental, semi-governmental or judicial entity or authority of any jurisdiction or any political subdivision. It also includes any self-regulatory organisation established under statute or any stock exchange.

**Guarantee** means, in respect of a Tranche of Notes, the Swiss law governed joint and several suretyship (*cautionnement solidaire*) pursuant to Article 496 of the Swiss Code of Obligations entered into by the Guarantor in respect of that Tranche of Notes.

**Guarantor** means Nestlé S.A., a company with unlimited duration and organised under the Swiss Code of Obligations.

**Information Memorandum** means, in respect of a Note, the information memorandum referred to in the relevant Pricing Supplement.

**Interest Accrual Date** means, in relation to an Interest Bearing Note, the date specified in the Pricing Supplement as the date on and from which interest accrues on that Note.

**Interest Amount** means, in relation to an Interest Bearing Note and an Interest Period, the amount of interest payable in respect of the Interest Bearing Note for that Interest Period as determined under Condition 4.4.

**Interest Bearing Note** means a Fixed Rate Note, Floating Rate Note or any Other Note which is specified in the relevant Pricing Supplement as bearing interest.

**Interest Payment Date** means, in relation to an Interest Bearing Note, each date specified in, or determined in accordance with the provisions of, the relevant Pricing Supplement as a date on which a payment of interest on that Note is due and as adjusted, if necessary, for the purpose of payment or for the calculation of interest for Floating Rate Notes, in accordance with the Business Day Convention.

**Interest Period** means, in relation to an Interest Bearing Note, the period from and including an Interest Payment Date (or, in the case of the first period, the Interest Accrual Date) to but excluding the next Interest Payment Date, provided that the final Interest Period shall end on (but exclude) the Maturity Date (or, if the Note is redeemed earlier, the date on which it is or is required to be redeemed).

**Interest Rate** means, in relation to an Interest Bearing Note, the rate of interest (expressed as a per cent. per annum) payable in respect of the Interest Bearing Note specified in, or calculated or determined in accordance with the provisions of, the relevant Pricing Supplement.

**Issue Date** means, in relation to a Note, the date recorded or to be recorded in the Register as

the date on which the Note is issued and as may be specified, or determined, in accordance with, the Pricing Supplement.

**Issue Price** means, in relation to a Note, the issue price specified in, or calculated or determined in accordance with the provisions of, the relevant Pricing Supplement for that Note.

**Issuer** means Nestlé Capital Corporation, a company incorporated in the state of Delaware with company number 886483 and any New Entity which is substituted for the Issuer under Condition 15 (*Substitution of Issuer as principal debtor*).

**Issuing Agent** means BTA Institutional Services Australia Limited (ABN 48 002 916 396) in its capacity as issuing and paying agent or any other issuing and paying agent specified in the relevant Pricing Supplement or appointed by the Issuer from time to time in accordance with these Conditions.

**Margin** means the 'Margin' as specified or determined in accordance with the relevant Pricing Supplement.

**Maturity Date** means, in relation to a Note, the date specified in the relevant Pricing Supplement as the Maturity Date (and as adjusted in accordance with the Business Day Convention).

**Meeting Provisions** means the provisions for the convening of meetings and passing of resolutions by Noteholders set out in the Schedule to these Conditions.

**Note** means a debt obligation specified in the relevant Pricing Supplement and issued by the Issuer which is constituted by and owing under the Note Deed Poll, title to which is recorded in and evidenced by an inscription in the Register, and includes an interest or right in the Note. All references to "Notes" must, unless the context otherwise requires, be read and construed as references to the Notes of a particular Series.

**Note Deed Poll** means the document entitled 'Note Deed Poll' dated on or about 18 March 2024 made by the Issuer.

**Note Documents** means, in respect of a Series and a Tranche, the Note Deed Poll, the Agency Agreement, the Guarantee and the relevant Pricing Supplement as amended and replaced from time to time.

**Noteholder** means a person whose name is for the time being entered in the Register as a holder of a Note.

**Optional Call Date** means, in respect of a redemption in accordance with Condition 6.3, the date specified for redemption in a notice issued in accordance with Condition 6.3.

**Optional Put Date** means, in respect of a redemption in accordance with Condition 6.4, each date (if any) specified as such in the Pricing Supplement.

**Optional Redemption Amount (Call)** means, in respect of a Note for which the relevant Pricing Supplement specifies the Call Option as being applicable, the amount so specified in the Pricing Supplement.

**Optional Redemption Amount (Put)** means, in respect of a Note for which the relevant Pricing Supplement specifies the Put Option as being applicable, the amount so specified in the Pricing Supplement.

**Ordinary Resolution** has the meaning given to it in the Meeting Provisions.

**Other Note** means a Note (other than a Fixed Rate Note or Floating Rate Note) having the features agreed at the time of issue and set out in the relevant Pricing Supplement.

**Outstanding Principal Amount** means, in relation to a Note, the principal amount outstanding

on that Note from time to time.

**Pricing Supplement** means, in relation to any Notes of a Tranche or Series, the pricing supplement prepared in relation to those Notes and confirmed in writing by the Issuer and the Guarantor.

**Put Option** has the meaning given in Condition 6.4.

**Record Date** means 5pm in the place where the Register is maintained on the date which is eight calendar days before the payment date or other relevant date, or any other date so specified in the relevant Pricing Supplement.

**Redemption Amount** means, in relation to a Note, the Outstanding Principal Amount as at the date of redemption or such other redemption amount as may be specified in or calculated or determined in accordance with the provisions of the relevant Pricing Supplement or these Conditions.

**Register** means a register of Noteholders maintained by the Issuer or by the Registrar on behalf of the Issuer in which is entered the name and address of Noteholders whose Notes are carried on that Register, the amount of Notes held by each Noteholder and the Tranche, Series, Issue Date and transfer of those Notes and any other particulars which the Issuer or Registrar sees fit.

**Registrar** means BTA Institutional Services Australia Limited (ABN 48 002 916 396) in its capacity as registrar of the Notes or such other person appointed by the Issuer to establish and maintain the Register on the Issuer's behalf from time to time.

**Regulations** means the Austraclear Regulations, or the terms and conditions and operating procedures of any other clearing system in which the Notes are held from time to time.

**Relevant Business Centre** in respect of a Note, has the meaning given in the relevant Pricing Supplement.

**Security Record** has the meaning given to it in the Austraclear Regulations.

**Series** means Notes having identical terms except that the Issue Date, the Issue Price and the amount of the first payment of interest may be different in respect of different Tranches it comprises, or as otherwise agreed and referred to in the Pricing Supplement as being a Series.

**Specified Office** means, in respect of a person, the office specified in the Information Memorandum or any other address notified to Noteholders from time to time.

**Tax** or **Taxes** means any taxes, levy, imposts, duty or other charges, or withholdings of a similar nature imposed by a Government Agency (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

**Tax Jurisdiction** means the United States, or a political subdivision or authority thereof or therein or Switzerland or any Government Agency thereof or therein having power to tax payments made by the Issuer of principal or interest on the Notes and, if the Issuer or the Guarantor becomes a tax resident in any tax jurisdiction other than the United States, or a political subdivision or authority thereof or therein, references to 'Tax Jurisdiction' shall include such other jurisdiction.

**Tranche** means Notes issued on the same Issue Date the terms of which are identical in all respects or as otherwise agreed and referred to in the relevant Pricing Supplement as being a Tranche.

**Transfer and Acceptance Form** means such form as the Registrar adopts in line with the then current market practice to effect a transfer of Notes.

## 1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural and the converse.
- (b) A gender includes all genders.
- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a **person, corporation, trust, partnership, unincorporated body** or other **entity** includes any of them.
- (e) A reference to a **Condition, annexure** or **schedule** is a reference to a Condition of, or an annexure or schedule to, these Conditions.
- (f) A reference to a **party** to an agreement or document includes the party's successors and permitted substitutes or assigns.
- (g) A reference to **legislation** or to a **provision of legislation** includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (h) A reference to **writing** includes an email and any means of reproducing words in a tangible and permanently visible form, and for the purposes of any party giving notice, includes any electronic transmission.
- (i) A reference to **conduct** includes an omission, statement or undertaking, whether or not in writing.
- (j) The meaning of terms is not limited by specific examples introduced by **including, or for example**, or similar expressions.
- (k) A reference to **law** includes common law, principles of equity and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them).
- (l) A reference to **directive** is a reference to a treaty, official directive or regulation having the force of law.
- (m) A reference to **Australian Dollars** or **A\$** means the lawful currency of the Commonwealth of Australia from time to time.
- (n) All references to **time** are to Sydney time.
- (o) A reference to a **Note** is a reference to a Note of a particular Series specified in the Pricing Supplement.
- (p) A reference to a **Noteholder** is a reference to the holder of Notes of a particular Series.
- (q) A reference to a **Pricing Supplement** is a reference to the Pricing Supplement applicable to the Notes of the particular Tranche specified in that Pricing Supplement.
- (r) A reference to a particular date on which a payment is to be made is a reference to that date adjusted in accordance with the applicable Business Day Convention (provided that in the case of Fixed Rate Notes only, such adjustment shall be for the purposes of payment but not accrual).

### 1.3 Document or agreement

A reference to:

- (a) an **agreement** includes a guarantee, undertaking, deed, agreement or legally enforceable arrangement whether or not in writing; and
- (b) a **document** includes an agreement (as so defined) in writing or a certificate, notice, instrument or document.

A reference to a specific agreement or document includes it as amended, novated, supplemented or replaced from time to time, except to the extent prohibited by a Note Document.

#### **1.4 References to principal and interest**

Unless the contrary intention appears, in these Conditions:

- (a) any reference to '**principal**' is taken to include the Redemption Amount, the Early Termination Amount, the Optional Redemption Amount (Call), the Optional Redemption Amount (Put), any Additional Amounts which may be payable in respect of principal under Condition 8 (*Taxation*), any premium payable by the Issuer in respect of Note, and any other amount in the nature of principal payable in respect of the Notes under these Conditions;
- (b) the principal amount of a Note which may vary by reference to a schedule or formula (where such determination has been previously made in accordance with these Conditions) is taken as at any time to equal its varied amount; and
- (c) any reference to '**interest**' is taken to include any Additional Amounts in respect of interest and any other amount in the nature of, or in substitution for, interest payable in respect of the Notes under these Conditions.

#### **1.5 Calculation of period of notice**

If a notice must be given within a certain period of days, the day on which the notice is given, and the day on which the meeting is to be held, are not to be counted in calculating that period.

## **2 Form, Title and Status of the Notes**

### **2.1 Form**

- (a) Each Note is issued in registered form by inscription in the Register.
- (b) Each Note is a separate debt obligation of the Issuer constituted by, and owing under, the Note Deed Poll and may (subject to Condition 5.6) be transferred separately from any other Note.
- (c) Noteholders are entitled to the benefit of, are bound by, and are deemed to have notice of all the provisions of the Note Deed Poll.

### **2.2 Registered owners**

- (a) The person whose name is inscribed in the Register as the registered owner of any Note from time to time will be treated by the Issuer, the Issuing Agent and the Registrar as the absolute owner of such Note for all purposes whether or not any payment in relation to such Note is overdue and regardless of any notice of ownership, trust or any other interest inscribed in the Register subject to rectification for fraud or manifest or proven error. Two or more persons registered as Noteholders are taken to be joint holders with right of survivorship between them. Neither the Issuer or the Registrar is, except as required by order of a court of competent jurisdiction or as provided by statute, obliged to take notice of any other claim to or in respect of a Note.

- (b) Upon a person acquiring title to a Note by virtue of becoming registered as the owner of that Note, all rights and entitlements arising by virtue of the Note Deed Poll in respect of that Note vest absolutely in the registered owner of the Note, so that no person who has previously been registered as the owner of the Note nor any other person has or is entitled to assert against the Issuer or the Registrar or the registered owner of the Note for the time being and from time to time any rights, benefits or entitlements in respect of the Note.

### **2.3 Denomination**

Notes will be denominated in Australian Dollars, unless otherwise stated in the relevant Pricing Supplement, and issued in denominations of A\$10,000 or such other denomination as set out in the relevant Pricing Supplement.

### **2.4 Inscription conclusive**

Each inscription in the Register in respect of a Note is:

- (a) sufficient and conclusive evidence to all persons and for all purposes that the person whose name is so inscribed is the registered owner of the Note;
- (b) evidence for the benefit of the relevant Noteholder, that a separate and individual acknowledgement by the Issuer of its indebtedness to that person is constituted by the Note Deed Poll and of the vesting in such person of all rights vested in a Noteholder by the Note Deed Poll; and
- (c) evidence that the person whose name is so inscribed is entitled to the benefit of an unconditional and irrevocable undertaking by the Issuer constituted by the Note Deed Poll that the Issuer will make all payments of principal, interest (if any) and any other amounts in respect of the Note in accordance with these Conditions.

### **2.5 Manifest or proven errors**

The making of, or the giving effect to, a manifest or proven error in an inscription into the Register will not avoid the constitution, issue or transfer of a Note. The Issuer will procure that the Registrar must correct any manifest or proven error of which it becomes aware.

### **2.6 No certificate**

- (a) Without limiting Condition 1.1(b), no certificate or other evidence of title shall be issued by or on behalf of the Issuer to evidence title to a Note unless the Issuer determines that certificates should be made available or that it is required to do so under any applicable law or directive.
- (b) The Issuer agrees, on request by a Noteholder, to procure the Registrar to provide (and the Registrar agrees to provide) to the Noteholder a certified extract of the particulars entered on the Register in relation to that Noteholder and the Notes held by it.

### **2.7 Status of the Notes**

- (a) The Notes constitute direct, unconditional, unsubordinated and (subject to Condition 3(a)) unsecured obligations of the Issuer and will at all times rank *pari passu* among themselves and equally with all other unsubordinated and unsecured obligations of the Issuer from time to time outstanding (other than obligations mandatorily preferred by law).
- (b) The ranking of Notes is not affected by the date of registration of any Noteholder in the Register.

### **2.8 Guarantee**



- (a) The payment of principal and interest in respect of each Note has been irrevocably guaranteed by the Guarantor pursuant to the Guarantee dated the Issue Date, which has been deposited for the benefit of the Noteholders with the Registrar. Each Guarantee will be in the form (subject to completion) set out in the Information Memorandum.
- (b) Noteholders are entitled to the benefit of, are bound by, and are deemed to have notice of all the provisions of the Guarantee.

## 2.9 Status of the Guarantee

The obligation of the Guarantor under each Guarantee constitutes a direct, unsecured (subject to the provisions of Condition 3(b) (*Negative pledge*)) and unsubordinated obligation of the Guarantor and will rank *pari passu* with all other present and future unsecured and unsubordinated obligations outstanding of the Guarantor (other than obligations mandatorily preferred by law applying to companies generally).

## 3 Negative pledge

So long as any of the Notes remain outstanding:

- (a) the Issuer will procure that, provided that security upon its assets is neither mandatory pursuant to applicable laws nor required as a prerequisite for governmental approvals, no Relevant Indebtedness (as defined below) now or hereafter existing of the Issuer will be secured by any mortgage, charge, lien, pledge or other security interest upon, or with respect to, the whole or any part of the present or future revenues or assets of the Issuer unless in any such case the Issuer shall, simultaneously with, or prior to, the creation of such security interest, take any and all action necessary to procure that all amounts payable under the Notes are secured by such security interest equally and rateably or such other security interest is provided for such amounts as is not materially less beneficial to the interests of the Noteholders or as shall be approved by an Extraordinary Resolution of the Noteholders; and
- (b) the Guarantor will procure that, provided that security upon its assets is neither mandatory pursuant to applicable laws nor required as a prerequisite for governmental approvals, no Relevant Indebtedness now or hereafter existing of the Guarantor and no guarantee or indemnity by the Guarantor of any Relevant Indebtedness of the Issuer will be secured by any mortgage, charge, lien, pledge or other security interest upon, or with respect to, the whole or any part of the present or future revenues or assets of the Guarantor unless in any such case the Guarantor shall, simultaneously with, or prior to, the creation of such security interest, take any and all action necessary to procure that all amounts payable under the Guarantee are secured by such security interest equally and rateably or such other security interest is provided for such amounts as is not materially less beneficial to the interests of the Noteholders or as shall be approved by an Extraordinary Resolution of the Noteholders, provided that in the event of a merger, amalgamation or consolidation of the Guarantor with another company the provisions of this Condition 3(b) shall not apply with regard to any security in respect of any Relevant Indebtedness over the assets of that other company which security exists at the time of such merger, amalgamation or consolidation (other than any such security created in contemplation thereof) and any such security thereafter created by the resulting or surviving entity in substitution for the aforesaid security over assets the value of which does not materially exceed the current value of the assets subject to such security immediately prior to such merger, amalgamation or consolidation.

For the purposes of this Condition 3, **Relevant Indebtedness** means any indebtedness now or hereafter existing which is in the form of or represented or evidenced by any bonds, notes or

other securities which, in any such case, are or are capable of being listed on any recognised stock exchange.

#### **4 Interest**

##### **4.1 Application**

Notes may be interest bearing on a fixed or floating rate basis or non-interest bearing, or a combination of any of the foregoing, as specified in the relevant Pricing Supplement.

##### **4.2 Period of accrual of interest**

Interest accrues on Interest Bearing Notes from (and including) the relevant Interest Accrual Date at the applicable Interest Rate. Interest ceases to accrue on such Notes from (and including) the relevant Maturity Date unless default is made in the payment of any principal amount in respect of such Notes. In that event, any overdue principal of an Interest Bearing Note continues to bear interest at the default rate specified in the relevant Pricing Supplement (or, if no default rate is specified, the last applicable Interest Rate), both before and after any judgment, until it is paid in full to the relevant Noteholder.

##### **4.3 Interest Payment Dates**

Interest which has accrued on a Note is payable in arrear on each Interest Payment Date.

##### **4.4 Calculation of Interest Amount**

The Interest Amount must be calculated by the Calculation Agent by applying the Interest Rate to the Outstanding Principal Amount of each applicable Interest Bearing Note, multiplying such sum by the relevant Day Count Basis for the relevant Interest Period and rounding (with halves being rounded up) the resultant figure to, in the case of Australian Dollars, the nearest cent and in the case of any other currency, the lowest amount of that currency available as legal tender in the country of that currency.

##### **4.5 Notification of Interest Rate and Interest Amount**

The Calculation Agent will notify the Issuer, the Noteholders, the Registrar, each other Agent and any stock or securities exchange or other relevant authority on which the Notes are listed, quoted or traded of the Interest Rate, the Interest Amount and the relevant Interest Payment Date.

Notice is to be given as soon as practicable after the Calculation Agent makes the relevant determination. However, notice of the Interest Rate, the Interest Amount and the relevant Interest Payment Date is to be given by the fourth day of the relevant Interest Period.

The Calculation Agent may amend its determination of any amount, item or date (or make appropriate alternative arrangements by way of adjustment) as a result of the extension or reduction of the Interest Period or calculation period without prior notice but must notify the Issuer, the Noteholders, the Registrar, each other Agent and each stock or securities exchange or other relevant authority on which the Notes are listed, quoted or traded after doing so.

##### **4.6 Notification, etc. to be final**

Except as provided in Condition 4.5, all notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of this Condition 4 by the Calculation Agent are (in the absence of wilful default, bad faith or manifest or proven error) binding on the Issuer, the Issuing Agent, the Registrar, each other Agent and all Noteholders and no liability to the Noteholders attaches to the Calculation Agent in connection with the exercise or non-exercise by it of its powers, duties and discretions or to the Issuer in connection with any direction to the Calculation Agent for the appointment of an

Alternate Financial Institution in the circumstances contemplated under the definition of BBSW Rate and/or AONIA Rate.

#### **4.7 Default interest payable on non-interest bearing Notes**

If, on the relevant Maturity Date for an Other Note which is non-interest bearing, any Outstanding Principal Amount is not paid for value on that day, interest will accrue on the unpaid amount at a rate per annum (expressed as a percentage per annum) equal to the rate specified for such purpose in the relevant Pricing Supplement.

#### **4.8 Floating Rate Notes**

If the Pricing Supplement specifies the Interest Rate applicable to that Tranche of Notes as being 'Floating Rate', the Interest Rate applicable to such Notes during each Interest Period will be the sum of the Margin and the Benchmark Rate, each as specified in the relevant Pricing Supplement.

#### **4.9 Benchmark Rate Determination**

- (a) Where BBSW Rate Determination or AONIA Rate Determination is specified in the relevant Pricing Supplement as the manner in which the Interest Rate is to be determined for each Interest Period, the Interest Rate applicable to the Floating Rate Notes for each such Interest Period is the sum of the Margin and either (x) the BBSW Rate or (y) the AONIA Rate as specified in the relevant Pricing Supplement.
- (b) Each Noteholder shall be deemed to acknowledge, accept and agree to be bound by, and consents to, the determination of, substitution for and any adjustments made to the BBSW Rate or the AONIA Rate, as applicable, in each case as described in this Condition 4.9 and in Condition 4.10 (*Benchmark Rate fallback*) below (in all cases without the need for any Noteholder consent). Any determination, decision or election (including a decision to take or refrain from taking any action or as to the occurrence or non-occurrence of any event or circumstance), and any substitution for and adjustments made to, the BBSW Rate or the AONIA Rate, as applicable, and in each case made in accordance with this Condition 4.9 and Condition 4.10, will, in the absence of manifest or proven error, be conclusive and binding on the Issuer, the Noteholder and each Agent and, notwithstanding anything to the contrary in these Conditions or other documentation relating to the Notes, shall become effective without the consent of any person.
- (c) If the Calculation Agent is unwilling or unable to determine a necessary rate, adjustment, quantum, formula, methodology or other variable in order to calculate the applicable Interest Rate, such rate, adjustment, quantum, formula, methodology or other variable will be determined by the Issuer (acting in good faith and in a commercially reasonable manner) or, an Alternate Financial Institution (acting in good faith and in a commercially reasonable manner) appointed by the Issuer (in its sole discretion) to so determine.
- (d) All rates determined pursuant to this Condition 4.9 and Condition 4.10 shall be expressed as a percentage rate per annum and the resulting percentage will be rounded if necessary to the fourth decimal place (i.e., to the nearest ten-thousandth of a percentage point) with 0.00005 being rounded upwards.

#### **4.10 Benchmark Rate fallback**

If:

- (a) a Temporary Disruption Trigger has occurred; or
- (b) a Permanent Discontinuation Trigger has occurred,

then the Benchmark Rate for an Interest Period, whilst such Temporary Disruption Trigger is continuing or after a Permanent Discontinuation Trigger has occurred, means (in the following order of application and precedence):

- (i) where BBSW Rate is the Applicable Benchmark Rate, if a Temporary Disruption Trigger has occurred with respect to the BBSW Rate, in the following order of precedence:
  - (A) first, the Administrator Recommended Rate;
  - (B) then the Supervisor Recommended Rate; and
  - (C) lastly, the Final Fallback Rate;
- (ii) where AONIA Rate is the Applicable Benchmark Rate or a determination of the AONIA Rate is required for the purposes of paragraph (i) above, if a Temporary Disruption Trigger has occurred with respect to AONIA, the rate for any day for which AONIA is required will be the last provided or published level of AONIA;
- (iii) where a determination of the RBA Recommended Rate is required for the purposes of paragraph (i) or (ii) above, if a Temporary Disruption Trigger has occurred with respect to the RBA Recommended Rate, the rate for any day for which the RBA Recommended Rate is required will be the last rate provided or published by the Administrator of the RBA Recommended Rate (or if no such rate has been so provided or published, the last provided or published level of AONIA);
- (iv) where BBSW Rate is the Applicable Benchmark Rate, if a Permanent Discontinuation Trigger has occurred with respect to the BBSW Rate, the rate for any day for which the BBSW Rate is required on or after the Permanent Fallback Effective Date will be the first rate available in the following order of precedence:
  - (A) first, if at the time of the BBSW Rate Permanent Fallback Effective Date, no AONIA Permanent Fallback Effective Date has occurred, the AONIA Rate;
  - (B) then, if at the time of the BBSW Rate Permanent Fallback Effective Date, an AONIA Permanent Fallback Effective Date has occurred, an RBA Recommended Rate has been created but no RBA Recommended Rate Permanent Fallback Effective Date has occurred, the RBA Recommended Fallback Rate; and
  - (C) lastly, if neither paragraph (A) nor paragraph (B) above apply, the Final Fallback Rate;
- (v) where AONIA Rate is the Applicable Benchmark Rate or a determination of the AONIA Rate is required for the purposes of paragraph (iv)(A) above, if a Permanent Discontinuation Trigger has occurred with respect to AONIA, the rate for any day for which AONIA is required on or after the AONIA Permanent Fallback Effective Date will be the first rate available in the following order of precedence:
  - (A) first, if at the time of the AONIA Permanent Fallback Effective Date, an RBA Recommended Rate has been created but no RBA Recommended Rate Permanent Fallback Effective Date has occurred, the RBA Recommended Rate; and
  - (B) lastly, if paragraph (A) above does not apply, the Final Fallback Rate; and

- (vi) where a determination of the RBA Recommended Rate is required for the purposes of paragraph (iv) or (v) above, respectively, if a Permanent Discontinuation Trigger has occurred with respect to the RBA Recommended Rate, the rate for any day for which the RBA Recommended Rate is required on or after that Permanent Fallback Effective Date will be the Final Fallback Rate.

When calculating an amount of interest in circumstances where a Fallback Rate other than the Final Fallback Rate applies, that interest will be calculated as if references to the BBSW Rate or AONIA Rate (as applicable) were references to that Fallback Rate. When calculating interest in circumstances where the Final Fallback Rate applies, the amount of interest will be calculated on the same basis as if the Applicable Benchmark Rate in effect immediately prior to the application of that Final Fallback Rate remained in effect but with necessary adjustments to substitute all references to that Applicable Benchmark Rate with corresponding references to the Final Fallback Rate.

#### 4.11 Definitions

For the purposes of Condition 4.9 and Condition 4.10:

**Adjustment Spread** means the adjustment spread as at the Adjustment Spread Fixing Date (which may be a positive or negative value or zero and determined pursuant to a formula or methodology) that is:

- (a) determined as the median of the historical differences between the BBSW Rate and AONIA over a five calendar year period prior to the Adjustment Spread Fixing Date using practices based on those used for the determination of the Bloomberg Adjustment Spread as at 18 March 2024, provided that for so long as the Bloomberg Adjustment Spread is published and determined based on the five year median of the historical differences between the BBSW Rate and AONIA, that adjustment spread will be deemed to be acceptable for the purposes of this paragraph (a); or
- (b) if no such median can be determined in accordance with paragraph (a), set using the method for calculating or determining such adjustment spread determined by the Calculation Agent (after consultation with the Issuer where practicable) to be appropriate;

**Adjustment Spread Fixing Date** means the first date on which a Permanent Discontinuation Trigger occurs with respect to the BBSW Rate;

**Administrator** means:

- (a) in respect of the BBSW Rate, ASX Benchmarks Pty Limited (ABN 38 616 075 417);
- (b) in respect of AONIA (or where AONIA is used to determine an Applicable Benchmark Rate), the Reserve Bank of Australia; and
- (c) in respect of any other Applicable Benchmark Rate, the administrator for that rate or benchmark or, if there is no administrator, the provider of that rate or benchmark,

and, in each case, any successor administrator or, as applicable, any successor administrator or provider;

**Administrator Recommended Rate** means the rate formally recommended for use as the temporary replacement for the BBSW Rate by the Administrator of the BBSW Rate;

**AONIA** means the Australian dollar interbank overnight cash rate (known as AONIA);

**AONIA Rate** means, for an Interest Period and in respect of an Interest Determination Date, the rate determined by the Calculation Agent to be Compounded Daily AONIA for that Interest Period

and Interest Determination Date plus if determining the AONIA Rate for the purposes of a fallback from the BBSW Rate, the Adjustment Spread;

**Applicable Benchmark Rate** means the Benchmark Rate specified in the relevant Pricing Supplement and, if a Permanent Fallback Effective Date has occurred with respect to the BBSW Rate, AONIA or the RBA Recommended Rate, then the rate determined in accordance with Condition 4.10 (*Benchmark Rate fallback*);

**BBSW Rate** means, for an Interest Period, the rate for prime bank eligible securities having a tenor closest to the Interest Period which is designated as the "AVG MID" on the 'Refinitiv Screen ASX29 Page' or "MID" rate on the 'Bloomberg Screen BBSW Page' (or any designation which replaces that designation on the applicable page, or any replacement page) at the Publication Time on the first day of that Interest Period;

**Benchmark Rate** means, when used in Condition 4.9 and Condition 4.10 (*Benchmark Rate fallback*) and this Condition 4.11, for an Interest Period, either the BBSW Rate or the AONIA Rate as specified in the relevant Pricing Supplement;

**Bloomberg Adjustment Spread** means the term adjusted AONIA spread relating to the BBSW Rate provided by Bloomberg Index Services Limited (or a successor provider as approved and/or appointed by ISDA from time to time as the provider of term adjusted AONIA and the spread) (**BISL**) on the Fallback Rate (AONIA) Screen (or by other means), or provided to, and published by, authorised distributors where Fallback Rate (AONIA) Screen means the Bloomberg Screen corresponding to the Bloomberg ticker for the fallback for the BBSW Rate accessed via the Bloomberg Screen <FBAK> <GO> Page (or, if applicable, accessed via the Bloomberg Screen <HP> <GO>) or any other published source designated by BISL;

**Compounded Daily AONIA** means, with respect to an Interest Period, the rate of return of a daily compound interest investment as calculated by the Calculation Agent on the Interest Determination Date, as follows:

$$\left[ \prod_{i=1}^{d_0} \left( 1 + \frac{AONIA_{i-5SBD} \times n_i}{365} \right) - 1 \right] \times \frac{365}{d}$$

where:

$AONIA_{i-5SBD}$  means the per annum rate expressed as a decimal which is the level of AONIA provided by the Administrator and published as of the Publication Time for the Sydney Business Day falling five Sydney Business Days prior to such Sydney Business Day "i";

$d$  is the number of calendar days in the relevant Interest Period;

$d_0$  is the number of Sydney Business Days in the relevant Interest Period;

$i$  is a series of whole numbers from 1 to  $d_0$ , each representing the relevant Sydney Business Day in chronological order from (and including) the first Sydney Business Day in the relevant Interest Period to (and including) the last Sydney Business Day in such Interest Period; and

$n_i$  for any Sydney Business Day "i", means the number of calendar days from (and including) such Sydney Business Day "i" up to (but excluding) the following Sydney Business Day; and

**Sydney Business Day or SBD** means any day on which commercial banks are open for general business in Sydney.

If, for any reason, Compounded Daily AONIA needs to be determined for a period other than an Interest Period, Compounded Daily AONIA is to be determined as if that period were an Interest Period starting on (and including) the first day of that period and ending on (but excluding) the last day of that period;

**Fallback Rate** means, where a Permanent Discontinuation Trigger for an Applicable Benchmark Rate has occurred, the rate that applies to replace that Applicable Benchmark Rate in accordance with Condition 4.10 (*Benchmark Rate fallback*);

**Final Fallback Rate** means, in respect of an Applicable Benchmark Rate, the rate:

- (a) determined by the Calculation Agent as a commercially reasonable alternative for the Applicable Benchmark Rate taking into account all available information that, in good faith, it considers relevant, provided that any rate (inclusive of any spreads or adjustments) implemented by central counterparties and/or futures exchanges with representative trade volumes in derivatives or futures referencing the Applicable Benchmark Rate will be deemed to be acceptable for the purposes of this paragraph (a), together with (without double counting) such adjustment spread (which may be a positive or negative value or zero) that is customarily applied to the relevant successor rate or alternative rate (as the case may be) in international debt capital markets transactions to produce an industry-accepted replacement rate for Benchmark Rate-linked floating rate notes at such time (together with such other adjustments to the Business Day Convention, interest determination dates and related provisions and definitions, in each case that are consistent with accepted market practice for the use of such successor rate or alternative rate for Benchmark Rate-linked floating rate notes at such time), or, if no such industry standard is recognised or acknowledged, the method for calculating or determining such adjustment spread determined by the Calculation Agent (in consultation with the Issuer) to be appropriate; provided that
- (b) if and for so long as no such successor rate or alternative rate can be determined in accordance with paragraph (a), the Final Fallback Rate will be the last provided or published level of that Applicable Benchmark Rate;

**Interest Determination Date** means, in respect of an Interest Period:

- (a) where the BBSW Rate applies or the Final Fallback Rate applies under paragraph (iv)(C) of Condition 4.10 (*Benchmark Rate fallback*), the first day of that Interest Period; and
- (b) otherwise, the third Business Day prior to the last day of that Interest Period;

**Interest Rate** means, in respect of a Note, the interest rate (expressed as a percentage rate per annum) payable in respect of that Note specified in the Pricing Supplement or calculated or determined in accordance with these Conditions and the Pricing Supplement;

**Non-Representative** means, in respect of an Applicable Benchmark Rate, that the Supervisor of that Applicable Benchmark Rate if the Applicable Benchmark Rate is the BBSW Rate, or the Administrator of the Applicable Benchmark Rate if the Applicable Benchmark Rate is the AONIA Rate or the RBA Recommended Rate:

- (a) has determined that such Applicable Benchmark Rate is no longer, or as of a specified future date will no longer be, representative of the underlying market and economic reality that such Applicable Benchmark Rate is intended to measure and that representativeness will not be restored; and

- (b) is aware that such determination will engage certain contractual triggers for fallbacks activated by pre-cessation announcements by such Supervisor (howsoever described) in contracts;

**Permanent Discontinuation Trigger** means, in respect of an Applicable Benchmark Rate:

- (a) a public statement or publication of information by or on behalf of the Administrator of the Applicable Benchmark Rate announcing that it has ceased or that it will cease to provide the Applicable Benchmark Rate permanently or indefinitely, provided that, at the time of the statement or publication, there is no successor administrator or provider, as applicable, that will continue to provide the Applicable Benchmark Rate and, in the case of the BBSW Rate, a public statement or publication of information by or on behalf of the Supervisor of the BBSW Rate has confirmed that cessation;
- (b) a public statement or publication of information by the Supervisor of the Applicable Benchmark Rate, the Reserve Bank of Australia (or any successor central bank for Australian dollars), an insolvency official or resolution authority with jurisdiction over the Administrator of the Applicable Benchmark Rate or a court or an entity with similar insolvency or resolution authority over the Administrator of the Applicable Benchmark Rate which states that the Administrator of the Applicable Benchmark Rate has ceased or will cease to provide the Applicable Benchmark Rate permanently or indefinitely, provided that, at the time of the statement or publication, there is no successor administrator or provider that will continue to provide the Applicable Benchmark Rate and, in the case of the BBSW Rate and a public statement or publication of information other than by the Supervisor, a public statement or publication of information by or on behalf of the Supervisor of the BBSW Rate has confirmed that cessation;
- (c) a public statement by the Supervisor of the Applicable Benchmark Rate if the Applicable Benchmark Rate is the BBSW Rate, or the Administrator of the Applicable Benchmark Rate if the Applicable Benchmark Rate is the AONIA Rate or the RBA Recommended Rate, as a consequence of which the Applicable Benchmark Rate will be prohibited from being used either generally, or in respect of the Notes, or that its use will be subject to restrictions or adverse consequences to the Issuer or a Noteholder;
- (d) as a consequence of a change in law or directive arising after the Issue Date of the first Tranche of Notes of a Series, it has become unlawful for the Calculation Agent, the Issuer or any other party responsible for calculations of interest under the Conditions to calculate any payments due to be made to any Noteholder using the Applicable Benchmark Rate;
- (e) a public statement or publication of information by the Supervisor of the Applicable Benchmark Rate if the Applicable Benchmark Rate is the BBSW Rate, or the Administrator of the Applicable Benchmark Rate if the Applicable Benchmark Rate is the AONIA Rate or the RBA Recommended Rate, stating that the Applicable Benchmark Rate is Non-Representative; or
- (f) the Applicable Benchmark Rate has otherwise ceased to exist or be administered on a permanent or indefinite basis;

**Permanent Fallback Effective Date** means, in respect of a Permanent Discontinuation Trigger for an Applicable Benchmark Rate:

- (a) in the case of paragraphs (a) and (b) of the definition of “Permanent Discontinuation Trigger”, the first date on which the Applicable Benchmark Rate would ordinarily have been published or provided and is no longer published or provided;



- (b) in the case of paragraphs (c) and (d) of the definition of “Permanent Discontinuation Trigger”, the date from which use of the Applicable Benchmark Rate is prohibited or becomes subject to restrictions or adverse consequences or the calculation becomes unlawful (as applicable);
- (c) in the case of paragraph (e) of the definition of “Permanent Discontinuation Trigger”, the first date on which the Applicable Benchmark Rate would ordinarily have been published or provided but is Non-Representative by reference to the most recent statement or publication contemplated in that paragraph and even if such Applicable Benchmark Rates continues to be published or provided on such date; or
- (d) in the case of paragraph (f) of the definition of “Permanent Discontinuation Trigger”, the date that event occurs;

**Publication Time** means:

- (a) in respect of the BBSW Rate, 12.00noon (Sydney time) or any amended publication time for the final intraday refix of such rate specified by the Administrator for the BBSW Rate in its benchmark methodology; and
- (b) in respect of AONIA, 4.00pm (Sydney time) or any amended publication time for the final intraday refix of such rate specified by the Administrator for AONIA in its benchmark methodology;

**RBA Recommended Fallback Rate** means, for an Interest Period and in respect of an Interest Determination Date, the rate determined by the Calculation Agent to be the RBA Recommended Rate for that Interest Period and Interest Determination Date;

**RBA Recommended Rate** means, in respect of any relevant day (including any day “i”), the rate (inclusive of any spreads or adjustments) recommended as the replacement for AONIA by the Reserve Bank of Australia (which rate may be produced by the Reserve Bank of Australia or another administrator) and as provided by the Administrator of that rate or, if that rate is not provided by the Administrator thereof, published by an authorised distributor in respect of that day;

**Supervisor** means, in respect of an Applicable Benchmark Rate, the supervisor or competent authority that is responsible for supervising that Applicable Benchmark Rate or the Administrator of that Applicable Benchmark Rate, or any committee officially endorsed or convened by any such supervisor or competent authority that is responsible for supervising that Applicable Benchmark Rate or the Administrator of that Applicable Benchmark Rate;

**Supervisor Recommended Rate** means the rate formally recommended for use as the temporary replacement for the BBSW Rate by the Supervisor of the BBSW Rate; and

**Temporary Disruption Trigger** means, in respect of any Applicable Benchmark Rate which is required for any determination:

- (a) the Applicable Benchmark Rate has not been published by the applicable Administrator or an authorised distributor and is not otherwise provided by the Administrator, in respect of, on, for or by the time and date on which that Applicable Benchmark Rate is required; or
- (b) the Applicable Benchmark Rate is published or provided but the Calculation Agent determines that there is an obvious or proven error in that rate.

## 5 Transfers

### 5.1 Austraclear

- (a) Unless the relevant Pricing Supplement otherwise provides, the Notes will be lodged, subject to the agreement of Austraclear, into the Austraclear System.
- (b) If the Notes are lodged into the Austraclear System, the Registrar will enter Austraclear in the Register as the Noteholder of those Notes. While those Notes remain in the Austraclear System:
  - (i) all payments and notices required of the Issuer or any Agent in relation to those Notes will be made or directed to Austraclear in accordance with the Austraclear Regulations, and neither the Issuer nor any Agent will recognise any interest in the Notes other than the interest of Austraclear as the Noteholder; and
  - (ii) all dealings (including transfers and payments) in relation to those Notes within the Austraclear System will be governed by the Austraclear Regulations and need not comply with these Conditions to the extent of any inconsistency.
- (c) If Austraclear is entered in the Register in respect of a Note, despite any other provision of these Conditions, that Note is not transferable on the Register, and the Issuer may not, and must procure that the Registrar does not, register any transfer of that Note, and the relevant member of the Austraclear System to whose security account the Note is credited in respect of that Note (the **Relevant Member**) has no right to request any registration or any transfer of that Note, except that:
  - (i) for any repurchase, redemption or cancellation (whether on or before the Maturity Date of the Note), a transfer of that Note from Austraclear to the Issuer (or as the Issuer directs) may be entered in the Register; and
  - (ii) if either:
    - (A) Austraclear gives notices to the Registrar stating that the Relevant Member has stated to Austraclear that it needs to be registered in relation to the Note in order to pursue any rights against the Issuer; or
    - (B) Austraclear purports to exercise any power it may have under the Austraclear Regulations from time to time or these Conditions, to require Notes to be transferred on the Register to the Relevant Member,

the Note may be transferred on the Register from Austraclear to the Relevant Member. In any of these cases, the Note will cease to be held in the Austraclear System.
- (d) If Austraclear is recorded in the Register as the Noteholder, each person in whose Security Record a Note is recorded is taken to acknowledge in favour of the Issuer, the Registrar and Austraclear that:
  - (i) the Registrar's decision to act as the Registrar of that Note is not a recommendation or endorsement by the Registrar or Austraclear in relation to that Note, but only indicates that the Registrar considers that the holding of the Note is compatible with the performance by it of its obligations as Registrar under the applicable Agency Agreement; and
  - (ii) the Noteholder does not rely on any fact, matter or circumstance contrary to sub-paragraph (i).

## 5.2 Transfers of Notes

Notes are transferable without the consent of the Issuer or the Registrar, subject to the Notes being transferred in whole (and not in part only) and in accordance with these Conditions. Notes

held in the Austraclear System or any other clearing system will be transferable only in accordance with the Regulations.

### **5.3 Conditions of Transfer**

Notes may only be transferred if:

- (a) in the case of Notes to be transferred in, or into, Australia, the offer or invitation giving rise to the transfer:
  - (i) is for an aggregate consideration payable to the Issuer by the relevant transferee of at least A\$500,000 (or its equivalent in an alternative currency and, in either case, disregarding moneys lent by the Issuer or its associates to the subscriber) or the offer or invitation (including any resulting issue) does not otherwise require disclosure to investors under Parts 6D.2 or 7.9 of the Corporations Act; and
  - (ii) does not constitute an offer or invitation to a 'retail client' as defined for the purposes of section 761G of the Corporations Act; and
- (b) at all times, the transfer complies with all applicable laws and directives of the jurisdiction where the transfer takes place.

### **5.4 Restrictions on transfers**

- (a) Transfers of Notes which are not lodged in a clearing system cannot be made between a Record Date and the relevant Interest Payment Date if a redemption of such Note is to occur during that period in accordance with these Conditions.
- (b) The Issuer is not required to arrange for the registration of a transfer of a Note during the period from 5pm on the Record Date for a payment or determination or exercise of voting rights in respect of the Note until the Business Day after the date payment is due or the result of the relevant resolutions are known, unless:
  - (i) the Record Date relates to a meeting that has been adjourned or a resolution to be passed without holding a meeting; and
  - (ii) the transferee has signed an acknowledgment of the proposed resolutions and the fact that it is not entitled to vote on the resolutions and will be bound by the resolutions in form and substance satisfactory to the Issuer.

### **5.5 Registration requirements for transfer not held in a clearing system**

Application for the transfer of Notes not held in the Austraclear System or another clearing system must be made by the lodgement of a Transfer and Acceptance Form with the Registrar at its Specified Office.

Every Transfer and Acceptance Form in respect of Notes must be:

- (a) signed by the transferor and the transferee;
- (b) delivered to the office of the Registrar for registration;
- (c) accompanied by such evidence as the Registrar may reasonably require to prove the title of the transferor or the transferor's right to transfer those Notes; and
- (d) duly completed and, if necessary stamped.

### **5.6 Registration of transfers**

Subject to this Condition 5, the Registrar must register a transfer of Notes. Upon entry of the name, address and all other required details of the transferee in the Register, the Issuer must recognise the transferee as the Noteholder entitled to the Notes the subject of the transfer. Entry

of such details in the Register constitutes conclusive proof of ownership by that transferee of those Notes. The transferor remains the owner of the relevant Notes until the required details of the transferee are entered in the Register in respect of those Notes.

#### **5.7 No fee**

No fee or other charge is payable to the Issuer or the Registrar in respect of the transfer or registration of any Note.

#### **5.8 CHESS**

Notes which are listed on the Australian Securities Exchange operated by ASX Limited (ABN 98 008 624 691) will not be transferred through, or registered on, the Clearing House Electronic Subregister System operated by ASX Settlement Pty Limited (ABN 49 008 504 532) and will not be 'Approved Financial Products' for the purposes of that system.

#### **5.9 Destruction**

Any Transfer and Acceptance Form may, with the prior written approval of the Issuer, be destroyed by the Registrar after the entry in the Register of the particulars set out in the form. On receipt of such approval, the Registrar must destroy the Transfer and Acceptance Form as soon as reasonably practicable and promptly notify the Issuer in writing of its destruction.

#### **5.10 Deceased persons**

The Registrar may decline to give effect to a transfer of any Notes entered in the Register in the name of a deceased person who has two or more personal representatives unless the Transfer and Acceptance Form is executed by all of them.

#### **5.11 Stamp Duty**

- (a) The Issuer will bear any stamp duty payable on the issue and subscription of the Notes.
- (b) The relevant Noteholder is responsible for any stamp duties or other similar taxes which are payable in any jurisdiction in connection with any transfer, assignment or any dealing with its Notes other than as set out in paragraph (a) above.

### **6 Redemption and Purchase**

#### **6.1 Maturity**

Unless previously redeemed or purchased and cancelled in accordance with these Conditions, each Note must be redeemed on its Maturity Date at its Redemption Amount.

#### **6.2 Purchase**

The Issuer, the Guarantor or any of their respective subsidiaries may at any time purchase all or some of the Notes, in the open market, by tender to all the Noteholders or by private agreement with all or any of the Noteholders, in each case, subject to compliance with any applicable law, directive or requirement of any stock or securities exchange or other relevant authority on which the Notes may be listed. Notes purchased under this Condition 6.2 may be cancelled or re-sold (and may be held pending resale), at the option of the purchaser. Any Notes so cancelled may not be reissued or resold and the obligations of the Issuer in respect of such Notes shall be discharged. Neither the Issuer nor the Guarantor nor any subsidiary, will be entitled to vote at any meeting of Noteholders in relation to Notes it holds.

#### **6.3 Optional Early Redemption (Call)**

- (a) If 'Optional Early Redemption (Call)' is specified in the relevant Pricing Supplement as being applicable (the **Call Option**), then the Issuer may, on giving not more than 60 nor less than 30 days' notice (a **Call Option Notice**) redeem all or some of the Notes at their

Optional Redemption Amount (Call), together with any accrued but unpaid interest on such Notes to (but excluding) the Optional Call Date.

- (b) The Issuer may only give a notice under Condition 6.3(a) if:
  - (i) the principal amount of Notes to be redeemed is a multiple of their applicable denomination;
  - (ii) the proposed redemption date is an 'Early Redemption Date (Call)' as specified in the Pricing Supplement; and
  - (iii) any other condition specified in the Pricing Supplement is satisfied.
- (c) The Call Option Notice shall be given by the Issuer to the Registrar, the Noteholders, each other Agent and any stock or securities exchange or other relevant authority on which the Notes are listed, and shall be signed by an authorised signatory of the Issuer and specify:
  - (i) the Series of Notes subject to redemption;
  - (ii) whether such Series is to be redeemed in whole or in part only and, if in part only, the aggregate principal amount of the Notes of the relevant Series which are to be redeemed; and
  - (iii) the Optional Call Date being the due date for such redemption, which shall be a Business Day.

Any such Call Option Notice shall be irrevocable, and the delivery of the notice shall oblige the Issuer to make the redemption specified in that notice.

- (d) If the Notes of a Series are to be redeemed in part only on any date in accordance with this Condition 6.3, each Note shall be redeemed in part in the proportion which the aggregate Outstanding Principal Amount of all outstanding Notes to be redeemed on the relevant Optional Call Date bears to the aggregate Outstanding Principal Amount of all outstanding Notes of the relevant Series on such date, or in such other manner as the Issuer deems fair and reasonable having regard to prevailing market practice and applicable parcel sizes and in each case, in compliance with any applicable law, directive or requirement of any applicable clearing system and stock or securities exchange or other relevant authority on which the Notes are listed.

#### 6.4 Optional Early Redemption (Put)

- (a) If 'Optional Early Redemption (Put)' is specified in the relevant Pricing Supplement as being applicable, then the Issuer shall, upon the exercise of the relevant option (the **Put Option**) by the Noteholder redeem such Note on the Optional Put Date in respect of which the Put Option is exercised as specified in the relevant Pricing Supplement at its Optional Redemption Amount (Put) together with any accrued but unpaid interest on the Note to (but excluding) the Optional Put Date if the following conditions are satisfied:
  - (i) the amount of Notes to be redeemed is a multiple of their denomination; and
  - (ii) any other relevant condition specified in the Pricing Supplement is satisfied.
- (b) In order to exercise the Put Option, the Noteholder must, not more than 60 days nor less than 30 days before the Optional Put Date, deposit with the Registrar a duly completed redemption notice (the **Put Option Notice**) in the form acceptable to the Registrar.
- (c) Once a duly completed Put Option Notice has been deposited in accordance with this Condition 6.4, it is irrevocable and may not be withdrawn.

- (d) A Noteholder may not require the Issuer to redeem any Note under this Condition 6.4 if the Issuer has given notice that it will redeem the Note under another applicable Condition.

## 6.5 Early redemption for tax reasons

- (a) The Issuer may redeem all (but not some) of the Notes of a Series in whole before their Maturity Date at the Redemption Amount together with any accrued but unpaid interest on such Notes to (but excluding) the redemption date if, as a result of any change in, or amendment to, the laws or regulations of a Tax Jurisdiction or any change in the application or official interpretation of such laws or regulations which change or amendment becomes effective on or after the Issue Date of the first Tranche of Notes of the relevant Series (a **Change in Law**):
  - (i) the Issuer is required to, or the Guarantor would be required to (if a demand was made under the Guarantee of the Notes), pay an Additional Amount in respect of a Note;
  - (ii) any interest payable in respect of a Note is not or may not be allowed as deduction for income tax purposes; or
  - (iii) the Issuer would be exposed to more than de minimis adverse tax consequence in relation to the Notes,

and such circumstance in paragraphs (i), (ii) or (iii) cannot be avoided by the Issuer or the Guarantor (as the case may be) taking reasonable measures available to it.

- (b) However, the Issuer may only do so if:
  - (i) the Issuer has given not more than 60 days nor less than 30 days' notice to the Registrar, the Noteholders, each other Agent and any stock or securities exchange or other relevant authority on which the Notes are listed;
  - (ii) before the Issuer gives notice of the proposed redemption under Condition 6.5(b)(i), the Registrar has received a certificate signed by an authorised signatories of the Issuer stating that the Issuer is entitled to effect such redemption for taxation reasons and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred;
  - (iii) in the case of Fixed Rate Notes, no notice of redemption can be given earlier than 90 days before the earliest date on which the Issuer or the Guarantor would be obliged to pay Additional Amounts; and
  - (iv) in the case of Floating Rate Notes:
    - (A) the proposed redemption date is an Interest Payment Date; and
    - (B) the notice of redemption is not more than 60 days nor less than 30 days before the Interest Payment Date occurring immediately before the earliest date on which the relevant circumstance in Condition 6.5(a)(i), (ii) or (iii) occurs.

## 6.6 Clean Up

- (a) If 'Clean Up Early Redemption (Call)' is specified in the relevant Pricing Supplement as being applicable and a Clean Up Condition (as defined below) subsists, the Issuer may

redeem all (but not some) of the Notes before their Maturity Date in accordance with this Condition 6.6.

- (b) If the Issuer wishes to redeem Notes under this Condition 6.6 it must give notice to the Noteholders of the relevant Series, the Registrar, each other Agent and any stock exchange or other relevant authority on which the Notes are listed, specifying the date for redemption of the Notes, which must comply with Condition 6.6(c).
- (c) The date fixed for redemption of any Notes under this Condition 6.6 must be at least 30 days (and not more than 60 days) after the date the notice is given.
- (d) Notice given under Condition 6.6(b)1.1(b) is irrevocable and the Issuer must redeem the Notes by paying to the relevant Noteholders the applicable Redemption Amount together with any accrued but unpaid interest on the Notes to (but excluding the date of redemption).
- (e) In this Condition 6.6, '**Clean Up Condition**' means, at any time in respect of a Series, that the Outstanding Principal Amount of the outstanding Notes of that Series at that time is less than 25 per cent. (or any other relevant percentage specified in the relevant Pricing Supplement) of the Outstanding Principal Amount of all of the Notes issued from time to time under that Series (including Notes which are no longer outstanding).

#### **6.7 Redemption on change of ownership of the Issuer**

If Nestlé S.A. shall cease to own, directly or indirectly, at least 51 per cent. of the outstanding voting stock or share capital, as the case may be, issued by the Issuer, the Issuer shall give notice to such effect by publication in accordance with Condition 12 (*Notices*) within 10 days of the occurrence of such circumstance. Such notice shall state that any Noteholder may cause their Notes to be redeemed in whole by depositing with the Registrar a duly completed redemption notice in a form acceptable to the Registrar, during the next 30 days commencing from the date of such publication. Each such Note will be redeemed on the fifth Business Day after the end of such 30-day period at its Redemption Amount, together (if applicable) with accrued but unpaid interest to the date fixed for redemption.

The delivery of a duly completed Redemption Notice thereon shall constitute an irrevocable election on the part of the holder thereof to cause such Note to be redeemed on the date fixed for redemption.

#### **6.8 Late payment**

If an amount is not paid under this Condition 6 when due, then interest continues to accrue on the unpaid amount (both before and after any demand or judgment) at the default rate specified in the Pricing Supplement (or, if no default rate is specified, the last applicable Interest Rate) until the date on which payment is made to the Noteholder.

### **7 Payments**

#### **7.1 Payments to Noteholders**

All payments under a Note must be made by the Issuer or the relevant Issuing Agent on its behalf in Australia, unless prohibited by law, and:

- (a) if the Notes are lodged in the Austraclear System by crediting, on the relevant Interest Payment Date, Maturity Date or other date on which a payment is due, the amount then due to the account of the Noteholder, in accordance with the Austraclear Regulations; or

- (b) if the Notes are not lodged in the Austraclear System by crediting, on the relevant Interest Payment Date, Maturity Date or other date on which a payment is due, the amount then due to the account notified by the relevant Noteholder to the Registrar,

and in either case, without set-off or counterclaim or any other deduction unless required by law.

If a Noteholder has not notified the Registrar of an account to which payments to it must be made by the close of business on the Record Date, payments in respect of the Note will be made in the relevant jurisdiction or financial centre for the currency in which the payment is made in such manner as the Issuer may determine in its sole discretion and in no such circumstances will the Issuer be responsible for, nor will the Noteholder be entitled to, any additional payments for any delay in payment where the Noteholder has not notified the Registrar of an account for payment.

If a payment in respect of the Note is prohibited by law from being made in Australia, such payment will be made in an international financial centre for the account of the relevant payee, and on the basis that the relevant amounts are paid in immediately available funds, freely transferable at the order of the payee.

## **7.2 Method of payment**

A payment made by electronic transfer is for all purposes taken to be made when the Issuer or the Issuing Agent gives an irrevocable instruction for the making of that payment by electronic transfer, being an instruction which would be reasonably expected to result, in the ordinary course of banking business, in the relevant funds reaching the account of the Noteholder on the same day as the day on which the instruction is given, provided that if the Issuer or the Issuing Agent is notified that the payment is not, was not, or is not expected to be received by the Noteholder, the Issuer or Issuing Agent will procure that the payment be made as soon as possible after notification provided, at any time, no double payment is made to that Noteholder and, in all events, the payment will not be taken to be made until such time as it is actually received by the Noteholder.

## **7.3 Currency of account**

The Issuer waives any right it has in any jurisdiction to pay an amount other than in the currency in which it is due. However, if a Noteholder receives an amount in a currency other than that in which it is due:

- (a) it may convert the amount received into the due currency (even though it may be necessary to convert through a third currency to do so) on the day and at such rates (including spot rate, same day value rate or value tomorrow rate) as it reasonably considers appropriate. It may deduct its usual costs in connection with the conversion; and
- (b) the Issuer satisfies its obligation to pay in the due currency only to the extent of the amount of the due currency obtained from the conversion after deducting the costs of the conversion.

## **7.4 Business Days**

- (a) If a payment is due under a Note on a day which is not a Business Day the date for payment will be adjusted according to the Business Day Convention applicable to that Note.
- (b) If payment is to be made to an account on a Business Day on which banks are not open for general banking business in the city in which the account is located, the Noteholder is not entitled to payment of such amount until the next Business Day on which banks in



such city are open for general banking business and is not entitled to any interest or other payment in respect of any such delay.

#### **7.5 Payments subject to fiscal laws**

All payments are subject to;

- (a) Condition 9 and to any applicable fiscal or other laws and directives in any jurisdiction; and
- (b) any withholding or deduction required pursuant to FATCA.

### **8 Taxation**

#### **8.1 Payments made free and clear**

All payments under the Notes must be made free and clear of, and without withholding or deduction for, or by reference to, any present or future Taxes levied by or on behalf of any Tax Jurisdiction unless required by law.

#### **8.2 Additional Issuer payments**

The Issuer or the Guarantor (if the Guarantor is obliged to make payments under the Guarantee) will, subject to the exceptions and limitations set forth below and to the extent permitted by law, pay as additional interest on a Note such as is necessary in order that the net payment by the Issuer, the Guarantor or any Issuing Agent of the principal of and interest on a Note to a holder who is a Non-U.S. Holder (as such term is defined below), after deduction for any present or future tax, assessment or governmental charge of the United States, or a political subdivision or authority thereof or therein, imposed by withholding with respect to the payment, will not be less than the amount provided for in such Note to be then due and payable; provided, however, that the foregoing obligation to pay additional amounts shall not apply to:

- (i) any Noteholder that is a U.S. Person;
- (ii) any tax, assessment or governmental charge that would not have been so imposed but for the existence of any present or former connection between such Noteholder or a beneficial owner (or between a fiduciary, settlor, beneficiary, member or shareholder of, or holder of power over, such Noteholder or beneficial owner, if such Noteholder or beneficial owner is an estate, trust, partnership or corporation) and the United States, including, without limitation, such Noteholder or beneficial owner (or fiduciary, settlor, beneficiary, member, shareholder or holder of a power) being considered as:
  - (A) being or having been present or engaged in a trade or business in the United States or having or having had a permanent establishment therein;
  - (B) having a current or former relationship with the United States, including a relationship as a citizen or resident or being treated as a resident thereof;
  - (C) being or having been a controlled foreign corporation or a passive foreign investment company each as defined for United States federal income tax purposes, a corporation that has accumulated earnings to avoid United States federal income tax or a private foundation or other tax-exempt organisation; or
  - (D) an actual or a constructive "10-percent shareholder" of the Issuer as defined in Section 871(h)(3) of the Code;

- (iii) any Noteholder who is a fiduciary or partnership or other than the sole beneficial owner of the Note, but only to the extent that a beneficiary or settlor with respect to such fiduciary or member of such partnership or a beneficial owner of the Note would not have been entitled to the payment of an additional amount had such beneficiary, settlor, member or beneficial owner been the Noteholder of such Note;
- (iv) any tax, assessment or governmental charge that would not have been imposed or withheld but for the failure of the Noteholder or beneficial owner to comply with certification, identification or information reporting or any other requirements under United States income tax laws and regulations, without regard to any tax treaty, with respect to the payment, concerning the nationality, residence, identity or connection with the United States of the Noteholder or a beneficial owner of such Note, if such compliance is required by United States income tax laws and regulations, without regard to any tax treaty, as a precondition to relief or exemption from such tax, assessment or governmental charge, including a failure of the Noteholder or of the beneficial owner of such Note to provide a valid U.S. Internal Revenue Service (**IRS**) Form W-8BEN or W-8BEN-E (or successor or substitute therefor) or other documentation as permitted by official IRS guidance;
- (v) any tax, assessment or governmental charge that would not have been so imposed or withheld but for the presentation by the Noteholder of such Note for payment on a date more than 30 days after the date on which such payment became due and payable or the date on which payment thereof is duly provided for, whichever occurs later;
- (vi) any estate, inheritance, gift, sales, transfer, excise, wealth or personal property tax or any similar tax, assessment or governmental charge;
- (vii) any tax, assessment or governmental charge that is payable otherwise than by withholding by the Issuer, the Guarantor or an Issuing Agent from the payment of the principal of or interest on such Note or on the Guarantee;
- (viii) any tax required to be withheld or deducted from a payment pursuant to FATCA;
- (ix) any tax required to be withheld or deducted pursuant to a notice or direction issued by the Commissioner of Taxation of Australia under section 255 of the Income Tax Assessment Act 1936 of Australia or section 260-5 of Schedule 1 to the Taxation Administration Act 1953 of Australia or any similar law;
- (x) any combination of items (i), (ii), (iii), (iv), (v), (vi), (vii), (viii) or (ix); or
- (xi) in such other circumstances as may be specified in the Pricing Supplement.

As used in this Condition and, if applicable, Condition 6 (*Redemption and Purchase*), "United States" means the United States of America, the Commonwealth of Puerto Rico and each possession of the United States of America and place subject to its jurisdiction. For this purpose, a "**U.S. Person**" is a person that is, for United States federal income tax purposes, (i) an individual citizen or resident of the United States, (ii) a corporation, partnership or other business entity organised in or under the laws of the United States or its political subdivisions, (iii) a trust subject to the control of a U.S. person and the primary supervision of a U.S. court or (iv) an estate the income of which is subject to United States federal income taxation regardless of its source.

### 8.3 Additional Guarantor payments

All payments in respect of the Notes by the Guarantor shall be made without withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature ("Taxes") imposed or levied by or on behalf of Switzerland, or any political subdivision of, or any authority in, or of, Switzerland having power to tax, unless the withholding or deduction of the Taxes is required by law. In the event that the Guarantor or any agent of the Guarantor is required by law to make such withholding or deduction, the Guarantor or agent of the Guarantor will pay to the extent permitted by law such Additional amounts as may be necessary in order that the net amounts received by the Noteholders after the withholding or deduction shall equal the respective amounts which would have been receivable in respect of the Notes in the absence of the withholding or deduction, except that no additional amount shall be payable in relation to any payment in respect of any Note:

- (i) where the withholding or deduction in question is required by virtue of the Noteholder having some connection with Switzerland other than the mere holding or ownership of such Note;
- (ii) where presentation of the Note is required, presented for payment more than 30 days after the Relevant Date (as defined below) except to the extent that a Noteholder would have been entitled to additional amounts on presenting the same for payment on such thirtieth day (assuming that day to have been a Business Day);
- (iii) where the Noteholder of which would be able to avoid such withholding or deduction by making a declaration of non-residence or similar claim for exemption but fails to do so;
- (iv) where any tax is required to be withheld or deducted from a payment in respect of a Note pursuant to laws enacted by Switzerland changing the Swiss federal withholding tax system from an issuer-based system to a paying agent-based system pursuant to which a person in Switzerland other than the Issuer or Guarantor is required to withhold or deduct tax on any interest;
- (v) where the Noteholder of which would be able to avoid such withholding or deduction by presenting the relevant Note to (to the extent that presentation is required), or otherwise arranging to receive payment through another Issuing Agent;
- (vi) where any tax is required to be withheld or deducted from a payment pursuant to FATCA; or
- (vii) where there is any combination of items (i), (ii), (iii), (iv), (v) or (vi).

As used herein, the **Relevant Date** means the date on which such payment first becomes due, except that, if the full amount of the moneys payable has not been duly received by the Agent on or prior to such due date, it means the date on which, the full amount of such moneys having been so received, notice to that effect is duly given to the Noteholders in accordance with Condition 12 (*Notices*).

## **9 Register**

### **9.1 Registrar's role**

The Issuer agrees, subject to any relevant Pricing Supplement, to procure that the Registrar does the following things:

- (a) establish and maintain the Register in Sydney or such other city in Australia as the Issuer and the Registrar may agree;

- (b) enter or cause to be entered in the Register:
  - (i) the name and address of each Noteholder and the respective amounts of Notes held by them;
  - (ii) the Issue Date;
  - (iii) the Maturity Date;
  - (iv) the Interest Rate;
  - (v) the Interest Payment Dates and any applicable payment details of the Notes;
  - (vi) any declaration of residence or non-residence, tax file number or Australian Business Number or exemption details as advised by the Noteholder from time to time;
  - (vii) the date on which a person becomes a Noteholder;
  - (viii) the date on which a person ceases to be a Noteholder;
  - (ix) all subsequent transfers and changes of ownership of the Notes; and
  - (x) the date on which each relevant Note is redeemed or is purchased and cancelled; and
- (c) comply with the obligations expressed in the Note Deed Poll and the Agency Agreement to be performed by the Registrar.

## **9.2 Registrar**

- (a) In acting under the Agency Agreement in connection with the Notes, the Registrar acts solely as agent of the Issuer and does not assume any obligations towards or relationship of agency or trust for or with any of the Noteholders save insofar as that any funds received by the Issuing Agent in accordance with the Agency Agreement shall, pending their application in accordance with the Agency Agreement, be held by it in a segregated account for the persons entitled thereto.
- (b) The Issuer reserves the right at any time to terminate the appointment of the Registrar in accordance with the Agency Agreement and to appoint successor or additional registrars, provided, however, that the Issuer must at all times maintain the appointment of a registrar with its specified office in Australia. Notice of any such termination of appointment will be given to the Noteholders in accordance with Condition 12.

## **9.3 Multiple Noteholders**

- (a) Subject to the Corporations Act, if more than four persons are the holders of a Note, the names of only four such persons will be entered in the Register.
- (b) Subject to the Corporations Act, if more than one person is the holder of a Note, the address of only one of them will be entered on the Register. If more than one address is notified to the Registrar, the address recorded in the Register will be the address of the Noteholder whose name appears first in the Register.

## **9.4 Noteholder change of address**

A Noteholder must promptly notify any change of address to the Registrar.

## **9.5 Closing of Register**

The registration of the transfer of a Note may be suspended by the Registrar (and the Register shall be closed for the purpose of determining entitlements to payment under a Note) after the close of business on the eighth or other day in accordance with the Regulations prior to each

Interest Payment Date (if any) and each Maturity Date of the Note or such other number of days as may be agreed by the Issuer and the Registrar and not contrary to the Regulations and notified promptly by the Issuer or the Registrar to the Noteholders.

#### **9.6 Transfer on death, bankruptcy or liquidation of Noteholder**

The Registrar must register a transfer of a Note to or by a person who is entitled to do so in consequence of:

- (a) the death or bankruptcy (in the case of natural persons) or the liquidation or winding up (in the case of a corporation) of a Noteholder; or
- (b) the making of any vesting orders by a court or other judicial or quasi judicial body, in accordance with any applicable laws and upon receipt by it of such evidence as to that entitlement or status.

#### **9.7 Trusts**

Without limitation, except as provided by statute or as required by order of a court of competent jurisdiction, no notice of any trust (whether express, implied or constructive) may be entered in the Register in respect of a Note and the Registrar is not obliged to recognise any trust.

#### **9.8 Issuing Agent**

Subject to the relevant Agency Agreement, the Issuer may vary or terminate the appointment of the Issuing Agent and appoint a new Issuing Agent at any time. Notice of any such change or any change in the specified offices of the Issuing Agent will be given to the Noteholders in accordance with Condition 12.

### **10 Events of Default**

#### **10.1 Events of Default**

Each of the following is an Event of Default in relation to Notes of any Series (whether or not it is in the control of the Issuer):

- (a) **(Non-payment)** default by the Issuer in the payment of:
  - (i) principal on the Notes;
  - (ii) any interest or any other amount on the Notes for 30 days after such interest or other amount on the Notes becomes due;
- (b) **(Breach of other obligations)** default by the Issuer in the due performance or observance of any obligation, condition or other provision (other than an obligation to make payment of principal or interest in respect of the Notes) contained in these Conditions applicable to the Notes or any obligation, condition or other provision for the benefit of Noteholders contained in the Note Deed Poll if such default shall not have been cured within 60 days after written notice thereof having been given to the Issuer by the holders of 25 per cent. or more in principal amount of the Notes then outstanding;
- (c) **(Bankruptcy or insolvency)**
  - (i) the entry of a decree or order for relief by a court having jurisdiction in the premises (1) in respect of the Issuer in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or (2) appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator or other similar official of the Issuer or for any substantial part of the property of the Issuer, or (3) ordering the winding up or liquidation of the affairs of the Issuer and

the continuance of any such decree or order unstayed and in effect for a period of 90 consecutive days; or

- (ii) the Issuer commencing a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consenting to the entry of an order for relief in an involuntary case under any such law or consenting to the appointment of or the taking of possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or other similar official of the Issuer, or the making by the Issuer of a general assignment for the benefit of creditors, or the failure by the Issuer generally to pay its debts as they become due, or the taking by the Issuer of any corporate action in furtherance of any of the foregoing;
- (d) **(Winding up)** the Issuer is wound up, dissolved or otherwise ceases to carry on its business, except in connection with a merger or other reorganisation pursuant to which the surviving company expressly assumes all the obligations of the Issuer with respect to the Notes, which obligations are irrevocably guaranteed by the Guarantor on terms substantially the same as those of the Guarantee;
- (e) **(Guarantor default)** default by the Guarantor in the due performance or observance of any obligation, condition or other provision under or in relation to the Guarantee of the Notes if such default shall not have been cured within 60 days after written notice thereof having been given to the Guarantor by the holders of 25 per cent. or more in principal amount of the Notes then outstanding;
- (f) **(Guarantor insolvency)** the Guarantor applies for or is subject to an amicable settlement with its creditors (*accord amiable*), or admits in writing that it is insolvent, or seeks or resolves to seek its judicial reorganisation (*concordat*), or the transfer of the whole of its business (*cession totale de l'entreprise*) or any such proceedings are instituted against it and remain undismissed for a period of 60 days or are uncontested, or it otherwise institutes or resolves to institute other proceedings for bankruptcy (*faillite*), judicial reorganisation, winding up, dissolution, liquidation, restructuring (*assainissement*), stay of bankruptcy proceedings (*ajournement de la faillite*) or any similar proceedings (or any such proceedings are instituted against it and remain undismissed for a period of 60 days or are uncontested), or makes conveyance or assignment for the benefit of, or enters into a composition with substantially all its creditors generally;
- (g) **(Guarantor winding up)** the Guarantor is wound up, dissolved or otherwise ceases to carry on its business, except in connection with a merger or other reorganisation pursuant to which the surviving company expressly assumes all the obligations of the Guarantor under the Guarantee; or
- (h) **(Guarantee ceases to be enforceable)** the Guarantee ceases to be the legal, valid and binding obligation of the Guarantor, enforceable in accordance with its terms, or the Guarantor contests or denies the validity of the Guarantee.

## 10.2 Consequences of an Event of Default

- (a) If an Event of Default with respect to the Notes has occurred and is continuing, any Noteholder of the Notes may, by written notice to the Issuer, declare such Notes held by that Noteholder to be due and payable immediately at their Redemption Amount, together with any accrued but unpaid interest to the date of repayment, unless such Event of Default in respect of the Notes shall have been cured, remedied or waived in accordance with the Meeting Provisions.

- (b) Any notice given by a Noteholder under paragraph (a) above declaring the Notes due shall become effective, and all Notes then outstanding shall become immediately due and payable at their Redemption Amount, together with accrued interest (if any) to the date of repayment, when the Issuer and Registrar has received such notices from the Noteholders holding not less than 25% in aggregate principal amount of the relevant Notes then outstanding, unless, prior to the time the Issuer receives notice in respect of such aggregate amount, the situation giving rise to the notice has been cured.

### **10.3 Notification**

- (a) If an Event of Default occurs (or, under Condition 10.1(b), an event which, after notice and lapse of time, would become an Event of Default), the Issuer must as soon as practicable after becoming aware of it, and unless such default has been cured or waived, notify the Registrar and any other Agent of the occurrence of the Event of Default (specifying details of it) and use its reasonable endeavours to ensure that the Registrar promptly notifies Noteholders of the occurrence of the Event of Default in accordance with Condition 12.
- (b) If there is a failure in the performance of any material obligation by the Issuer under the Notes or the Note Deed Poll which is capable of remedy, the Issuer must promptly after becoming aware of it, notify the Registrar and procure that the Registrar notify the Noteholders of such failure.

### **11 Time Limit for Claims**

A claim against the Issuer for a payment under a Note is void unless made within ten years (in the case of principal) or five years (in the case of interest and other amounts) of the due date for that payment or the date, if later, on which that payment is fully provided for by the Issuer.

### **12 Notices**

#### **12.1 Issuer, Guarantor and Registrar**

A notice or other communication to the Issuer, the Guarantor or the Registrar in connection with a Note:

- (a) must be in writing addressed as follows:
  - (i) if to the Issuer, to:
    - Address: 1812 North Moore Street  
Arlington  
VA 22209  
United States
    - Attention: The Company Secretary
    - Email: Alexandra.Neely@us.nestle.com; and  
Andrew.Glass@us.nestle.com
  - (ii) if to the Guarantor, to:
    - Address: Avenue Nestlé 55  
1800 Vevey  
Switzerland
    - Attention: Group Treasurer
    - Email: treasury.notification@nestle.com
  - (iii) if to the Registrar, to:

Address: Level 2  
1 Bligh Street  
Sydney NSW 2000  
Australia

Attention: Global Client Services Group

Email: BNYM\_CT\_Aus\_RMG@bnymellon.com

- (b) is conclusively deemed to be duly given or made if received or left at the address, email address or fax number of the recipient shown in this Condition (in the case of a facsimile, notice is duly given at the time indicated in a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the fax number of the recipient notified for the purpose of this Condition) or to any other address, fax number or email address which the recipient may have notified the sender but, if delivery or receipt is on a day on which business is not generally carried on in the place to which the communication is sent or is later than 4pm (local time), it will be conclusively taken to have been received at the commencement of business on the next day on which business is generally carried on in that place.

## 12.2 Noteholders

A notice or other communication to a Noteholder in connection with a Note:

- (a) must be in writing and may be given by prepaid post or delivery to the address of the Noteholder as shown in the Register at the close of business on the eighth day prior to the despatch of the relevant notice or communication and may also be given by an advertisement published in *The Australian Financial Review*, *The Australian* or any other newspaper circulating in Australia generally or if the Pricing Supplement specifies an additional or alternate newspaper, given by an advertisement published in that newspaper; and
- (b) is taken to be given or made, as the case may be, on the date the notice or other communication is so posted, delivered or made, as the case may be.

In addition, for so long as Notes are held on behalf of a clearing system, notices or communications to Noteholders may also be given by delivery to that Clearing System for communication by it to the Noteholders in accordance with the Regulations of that clearing system (including, in the case of the Austraclear System, the Austraclear Regulations). Any such communication shall be deemed to have been given to the Noteholders on the day on which the said notice was given to the relevant clearing system.

## 13 Meetings of Noteholders

Meetings of Noteholders may be convened in accordance with the Meeting Provisions. Any such meeting may consider any matters affecting the interests of Noteholders, including, without limitation, the variation of the terms of the Notes by the Issuer and the granting of approvals, consents and waivers.

## 14 Amendments

- (a) The Note Deed Poll, the Guarantee, the Conditions, the Notes and any Pricing Supplement may be amended, without the consent of any Noteholder, if the amendment:
- (i) is to give effect to the substitution of the Issuer under Condition 15, where the substitution is not materially prejudicial to the interests of the Noteholders;
  - (ii) is for the purposes of correcting any ambiguity or manifest or proven error;



- (iii) is for the purposes of correcting or supplementing any defective or inconsistent provisions, where that amendment is not materially prejudicial to the interests of the Noteholders;
  - (iv) is of a formal, minor or technical nature;
  - (v) is made to give effect to any successor rate or alternative rate for the BBSW Rate or AONIA Rate as provided in Condition 4.9 (*Benchmark Rate Determination*);
  - (vi) is to comply with mandatory provisions of the law of the jurisdiction in which the Issuer is established; or
  - (vii) only applies to Notes issued by it after the date of amendment.
- (b) The Note Deed Poll, the Guarantee, the Conditions, the Notes and any Pricing Supplement may otherwise be varied with the approval of the Noteholders affected by the variation by an Ordinary Resolution or Extraordinary Resolution (as the case may be) in accordance with the Meeting Provisions.
- (c) A variation which affects only a particular Series of Notes may be approved in accordance with the Meeting Provisions solely by the Noteholders of such Series.

#### **15 Substitution of Issuer as principal debtor**

The Issuer (or any previous substitute under this Condition 15) may at any time be substituted as the principal debtor under the Notes by the Guarantor or any subsidiary of the Guarantor (the **New Entity**) without the consent of the Noteholders. If the Issuer shall determine that a New Entity shall become the principal debtor, the Issuer shall give not less than 30 nor more than 45 days' notice, in accordance with Condition 12, to the Noteholders of such event and, immediately on the expiry of such notice, the New Entity shall become the principal debtor in respect of the Notes in place of the Issuer and the Noteholders shall cease to have any rights or claims whatsoever against the Issuer. However, no such substitution shall take effect until:

- (a) a note deed poll is executed or some other form of undertaking is given by the New Entity and delivered to the Registrar, agreeing to be bound by the provisions of the Note Deed Poll with any consequential amendments which the Issuer (or any previous substitute under this Condition 15) may deem appropriate as fully as if the New Entity had been named in the Note Deed Poll as the principal debtor in place of the Issuer (or of the previous substitute under this Condition 15);
- (b) if the New Entity is not the Guarantor, the Guarantor shall have entered into an irrevocable guarantee substantially in the form of the Guarantee in respect of the obligations of such New Entity;
- (c) where the New Entity is incorporated, domiciled or resident for tax purposes in, a territory other than or in addition to the United States of America or any political sub-division or any authority therein or thereof having power to tax, undertakings or covenants shall be given by the New Entity in terms corresponding to the provisions of Condition 8 with the substitution for (or, as the case may be, the addition to) the references to the United States of America of references to that other or additional territory in which the New Entity is incorporated, domiciled or resident or to whose taxing jurisdiction it is subject and (where applicable) Condition 6.5 shall be modified accordingly.

#### **16 Further Issues**

The Issuer may from time to time and without the consent of the Noteholders create and issue further notes or securities or other similar instruments. The Issuer may issue further notes so as to form a single Series with any Tranche of Notes.

## **17 Governing Law and Jurisdiction**

### **17.1 Governing law**

The Notes are governed by the law in force in New South Wales, Australia or any other jurisdiction specified in the relevant Pricing Supplement.

The Guarantee is governed by, and shall be construed in accordance with, Swiss law.

### **17.2 Jurisdiction**

The Issuer and the Guarantor irrevocably and unconditionally submits and the Noteholders are taken to have irrevocably and unconditionally submitted to the exclusive jurisdiction of the courts of New South Wales, Australia and courts of appeal from them. The Issuer and the Guarantor waives any right it has to object to any suit, action or proceedings (**Proceedings**) being brought in those courts, to claim that the Proceedings have been brought in an inconvenient forum, or to claim those courts do not have jurisdiction.

The courts of the Canton of Vaud, Switzerland, (venue being the City of Vevey) shall have exclusive jurisdiction to settle any and all disputes arising out of or in connection with the Guarantee.

### **17.3 Serving documents**

Without preventing any other method of service, any document in any Proceedings in the courts of New South Wales, Australia may be served on the Issuer or the Guarantor by being delivered or left with its process agent referred to in Condition 17.4.

### **17.4 Agent for service of process**

For so long as any of the Notes issued by it are outstanding, the Issuer and the Guarantor will ensure that there is an agent appointed to accept service of process on its behalf in New South Wales, Australia in respect of any Proceedings as may be brought in the courts of New South Wales, Australia or the Federal Courts of Australia.

The Issuer and the Guarantor irrevocably appoints Nestlé Australia Ltd of Nestlé Australia Ltd, Building D, 1 Homebush Bay Drive, Rhodes NSW 2138, Australia as its agent to receive any document referred to in Condition 17.3. The Issuer and the Guarantor agree that, in the event of Nestlé Australia Ltd being unable or unwilling for any reason so to act, it will immediately appoint another person as its agent for service of process in New South Wales, Australia in respect of any Proceedings. The Issuer and the Guarantor agree that failure by a process agent to notify it of any process will not invalidate service. Nothing herein shall affect the right to serve process in any other manner permitted by law.

## Schedule – Provisions for Meetings of Noteholders

### 1 Definitions

The following words have these meanings in this Schedule unless the contrary intention appears. In addition, terms defined in the Conditions have the same meaning when used in the Schedule.

**Block Voting Instruction** means a document issued by the Registrar and dated, in which:

- (a) it is certified by the Registrar that Notes of any Series (not being Notes in respect of which a Voting Certificate has been issued and is outstanding in respect of the meeting specified in such Block Voting Instruction and any adjournment of that meeting) are registered in the Register in the names of specified Noteholders;
- (b) it is certified by the Registrar that each Noteholder or a duly authorised agent on that person's behalf has instructed the Registrar that the votes attributable to the Notes of that Noteholder should be cast in a particular way in relation to the resolution or resolutions to be put to that meeting or any adjournment of that meeting and that all such instructions are, during the period commencing 48 hours prior to the time for which the meeting or adjourned meeting is convened and ending at the conclusion or adjournment thereof, neither revocable nor subject to amendment;
- (c) the total number and Series number of the Notes are listed distinguishing with regard to each such resolution between those in respect of which instructions have been given as aforesaid that the votes attributable to them should be cast in favour of the resolution and those in respect of which instructions have been so given that the vote attributable to them should be cast against the resolution; and
- (d) any person named in such document (*proxy*) is authorised and instructed by the Registrar to cast the vote attributable to the Notes so listed in accordance with the instructions referred to in (b) and (c) above and set out in such document.

**Extraordinary Resolution** means a resolution of Noteholders in accordance with paragraph 9.2 of this Schedule.

**Ordinary Resolution** means a resolution of Noteholders in accordance with paragraph 9.1 of this Schedule.

**Voting Certificate** means a certificate issued by the Registrar and dated, in which it is stated:

- (a) that on the date of the certificate Notes of any Series (not being Notes in respect of which a Block Voting Instruction has been issued and is outstanding in respect of the meeting specified in such Voting Certificate or any adjournment of the meeting) are registered in the Register; and
- (b) that the bearer of the certificate is entitled to attend and vote at that meeting or any adjournment of it in respect of the Notes represented by that certificate.

**24 hours** means a period of 24 hours including all or part of a day upon which banks are open for business in both the place where the relevant meeting is to be held and in the place where the Registrar has its specified office (disregarding for this purpose the day upon which such meeting is to be held) and such period shall be extended by one period or, to the extent necessary, more periods of 24 hours until there is included as aforesaid all or part of a day upon which banks are open for business in all of the places as aforesaid.

**48 hours** means a period of 48 hours including all or part of two days upon which banks are open for business both in the place where the relevant meeting is to be held and in the place where the Registrar has its specified office (disregarding for this purpose the day upon which such meeting

is to be held) and such period shall be extended by one period or, to the extent necessary, more periods of 24 hours until there is included as aforesaid all or part of two days upon which banks are open for business in all of the places as aforesaid.

## 2 Convening

The Issuer or a Noteholder may convene a meeting of the Noteholders at any time. The Issuer must convene a meeting upon the request in writing of Noteholders holding not less than one-tenth of the aggregate Outstanding Principal Amount of the Notes and if the Issuer makes default for a period of seven days in convening such a meeting the same may be convened by the requisitionists. Whenever the Issuer is about to convene any such meeting it must promptly give notice in writing to the Noteholders in accordance with paragraph 3 and to the Registrar of the proposed day, time and place of the meeting and the nature of the business to be transacted at the meeting. Whenever a Noteholder wishes to convene any such meeting it must give a notice to the Issuer.

A meeting may be held at two or more venues using any technology that gives the Noteholders as a whole a reasonable opportunity to participate at the same time,

## 3 Notice

Unless otherwise agreed in writing by each Noteholder, at least 21 days' notice (exclusive of the day on which the notice is given and of the day on which the relevant meeting is held) specifying the day, time and place of the meeting must be given to the Noteholders of Notes of the relevant Series at their addresses specified in the Register. Such notice must be given in the manner provided in the Conditions, must state generally the nature of the business to be transacted at the meeting thereby convened but (except for an Extraordinary Resolution) it shall not be necessary to specify in such notice the terms of any resolution to be proposed and must include statements to the effect that Voting Certificates may be obtained and proxies may be appointed until 48 hours before the time fixed for such meeting but not after that time. The accidental omission to give notice to, or the non-receipt of notice by, any Noteholder does not invalidate the proceedings at any meeting. A copy of the notice must also be given to the Registrar.

## 4 Proxies

- (a) A Noteholder may by a notice in writing in the form for the time being available from the specified office of the Registrar (**form of proxy**) signed by the Noteholder or, in the case of a corporation executed under its common seal or signed on its behalf by its duly appointed attorney or a duly authorised officer of the corporation and delivered to the specified office of the Registrar not less than 48 hours before the time fixed for the relevant meeting, appoint any person (also called a **proxy**) to attend and act on that Noteholder's behalf in connection with any meeting of the Noteholders and any adjourned such meeting.

- (b) Voting Certificates, Block Voting Instructions and forms of proxy must be valid for so long as the relevant Notes are duly registered in the name of the Noteholder certified in the relevant Voting Certificate or Block Voting Instruction or, in the case of a form of proxy, in the name of the appointor but not otherwise and despite any other provision of this Schedule and during the validity of it, the holder of any such Voting Certificate or (as the case may be) the proxy is, for all purposes in connection with any meeting of Noteholders, deemed to be the Noteholder of the Notes of the relevant Series to which that Voting Certificate, Block Voting Instructions or form of proxy relates.

## **5 Chairman**

A person (who may, but need not, be a Noteholder) nominated in writing by the Issuer shall be entitled to take the chair at the relevant meeting or adjourned meeting but if no such nomination is made or if at any meeting or adjourned meeting the person nominated is not present within 15 minutes after the time fixed for the holding of such meeting or is unable or unwilling to chair the meeting, the person or persons present in person holding Notes of the relevant Series or Voting Certificates or being proxies must choose one of their number to be chairman failing which the Issuer may appoint a chairman. The chairman of an adjourned meeting need not be the same person as was the chairman of the original meeting.

## **6 Quorum**

- (a) At any such meeting any one or more persons present in person holding Notes or Voting Certificates or being proxies representing in aggregate at least the proportion of the Outstanding Principal Amount of the relevant Series of Notes, as specified in the table in paragraph (b) below for the relevant type of resolution, form a quorum for the transaction of business and no business (other than the choosing of a chairman) may be transacted at any meeting unless the requisite quorum is present at the commencement of business.
- (b) If within 15 minutes (or such longer period not exceeding 30 minutes as the chairman may decide) from the time appointed for any such meeting a quorum is not present the meeting will, if convened on the requisition of Noteholders, be dissolved. In any other case, it will stand adjourned to the same day in the next week (or if such day is not a Business Day, the next succeeding Business Day) at the same time and place (except in the case of a meeting at which an Extraordinary Resolution is to be proposed in which case it shall stand adjourned for such period, being not less than 13 days nor more than 42 days, and to such place as may be appointed by the chairman either at or subsequent to such meeting and approved by the Registrar. At such adjourned meeting, the quorum is one or more persons present in person holding Notes or Voting Certificates or being proxies and holding or representing in the aggregate at least the proportion of the Outstanding Principal Amount of the relevant Series of Notes, as specified in the table in this paragraph for the relevant type of resolution. If within 15 minutes (or such longer period not exceeding 30 minutes as the chairman may decide) from the time appointed for any such adjourned meeting the chairman may either (with the approval of the Registrar) dissolve such meeting or adjourn the same for such period, being not less than 13 days (but without any maximum number of days), and to such place as may be appointed by the chairman either at or subsequent to such adjourned meeting and approved by the Registrar, and the provisions of this sentence shall apply to all further adjourned such meetings.

Type of resolution	Required proportion for any meeting except for meeting previously adjourned because of lack of quorum	Required proportion for meeting previously adjourned because of lack of quorum
Extraordinary Resolution requiring a Special Quorum	Not less than 66⅔ per cent.	Not less than 33⅓ per cent.
Extraordinary Resolution	Not less than 50 per cent.	No requirement
Ordinary Resolution	Not less than 5 per cent.	No requirement

- (c) The chairman may, with the consent of (and must if directed by) any such meeting, adjourn such meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting except business which might validly (but for lack of required quorum) have been transacted at the meeting from which the adjournment took place.
- (d) Unless otherwise agreed in writing by each Noteholder of the relevant Series at least 10 days' notice (exclusive of the day on which the notice is given and of the day on which the meeting is to be resumed) of any meeting adjourned because of lack of a quorum must be given and in the same manner as notice of an original meeting but such notice must state the quorum required at such adjourned meeting. If a meeting is adjourned other than for lack of a quorum, it is not necessary to give any notice of an adjourned meeting.

## 7 Right to Attend and Speak

The Issuing Agent, the Registrar, the Issuer (through their respective representatives) and their respective financial and legal advisers are entitled to attend and speak at any meeting of Noteholders. Otherwise, no person (other than the chairman, a Noteholder (or their respective representatives)) may attend or vote at any meeting of Noteholders or join with others in requesting the convening of such a meeting unless that person is the Noteholder of the relevant Series, is in possession of a Voting Certificate or is a proxy.

## 8 Voting

- (a) Every question submitted to a meeting will be decided in the first instance by a show of hands and in the case of equality of votes the chairman has, both on a show of hands and on a poll, a casting vote in addition to the vote or votes (if any) to which the chairman may be entitled as a Noteholder or as a holder of a Voting Certificate or as a proxy.
- (b) At any meeting, unless a poll is (before or on the declaration of the result of the show of hands) demanded by the chairman or the Issuer or by one or more persons holding one or more of the Notes of the relevant Series or holding a Voting Certificate or being proxies whatever the nominal amount of Notes so held or represented by him, a declaration by the chairman that a resolution has been carried or carried by a particular majority or lost or not carried by any particular majority is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
- (c) If at any meeting a poll is so demanded, it must be taken in such manner and (subject to paragraph (d)) either at once or after such adjournment as the chairman directs. The result of such poll is deemed to be the resolution of the meeting at which the poll was demanded as at the date of the taking of the poll. The demand for a poll does not prevent

the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

- (d) Any poll demanded at any meeting on the election of a chairman or on any question of adjournment must be taken at the meeting without adjournment.
- (e) A person named in any Block Voting Instruction or form of proxy need not be a Noteholder.
- (f) Each Block Voting Instruction and each form of proxy, together (if so required by the Registrar) with proof satisfactory to the Registrar of its due execution, must be deposited at the specified office in Australia of the Registrar not less than 24 hours before the time appointed for holding the meeting or adjourned meeting at which the proxy named in the Block Voting Instruction or form of proxy proposes to vote, failing which the form of Block Voting Instruction or proxy may not be treated as valid unless the chairman of the meeting decides otherwise before the meeting or adjourned meeting proceeds to business. A certified copy of each Block Voting Instruction or form of proxy and satisfactory proof of due execution (if applicable) must, if required by the Registrar, be produced by the proxy at the meeting or adjourned meeting but the Registrar is not obliged to investigate or be concerned with the validity of, or the authority of the proxy named in, any Block Voting Instruction or form of proxy.
- (g) Any vote given in accordance with the terms of a Block Voting Instruction or form of proxy will be valid despite the previous revocation or amendment of the Block Voting Instruction or form of proxy or any instructions of the Noteholder under which it was executed, unless notice in writing of such revocation or amendment has been received from the Noteholder who has executed such Block Voting Instruction or form of proxy by the Registrar at its specified office or by the Issuer at its registered office by the time being not less than 24 hours and 48 hours respectively before the commencement of the meeting or adjourned meeting at which the Block Voting Instruction or form of proxy is used.
- (h) The registered holder of a Note or, in the case of the joint holder, the person whose name first appears on the Register as one of the holders, is entitled to vote in respect of the Note either in person or by proxy or by representative.
- (i) Subject to paragraph 7, at a meeting convened for the purpose of considering a resolution:
  - (i) on a show of hands every person who is present in person and holds a Note or produces a Voting Certificate or is a proxy has one vote; and
  - (ii) on a poll every person who is present and holds a Note or produces a Voting Certificate or is a proxy has one vote in respect of each Australian dollar or such other amount as the Registrar may in its absolute discretion stipulate (or, in the case of meetings of holders of Notes denominated in another currency, such amount in such other currency as the Registrar in its absolute discretion may stipulate) of the Outstanding Principal Amount of Notes which that person holds or are represented by the Voting Certificate or in respect of which that person is a proxy.
- (j) Without affecting the obligations of the proxies named in any Block Voting Instruction or form of proxy, any person entitled to more than one vote need not use all votes or cast all the votes to which that person is entitled in the same way.

- (k) In determining whether the provisions relating to quorum, meeting and voting procedures or the signing of a written resolution are complied with, any Notes held in the name of the Issuer or any of its affiliates or other related entities must be disregarded.

## **9 Resolutions**

### **9.1 Ordinary Resolutions**

An Ordinary Resolution is passed if:

- (a) within one month from the date (in this paragraph (a), the **Relevant Date**) stated in the copies of the resolution sent for that purpose to the holders of Notes of the relevant Series, holders of more than 50 per cent. of the Outstanding Principal Amount of Notes of that Series at the Relevant Date signed the resolution; or
- (b) subject to paragraph 8(a) of this Schedule, a simple majority of the votes cast by holders of Notes of the relevant Series (present in person or by proxy or representative) at a meeting convened for that purpose vote in favour of the resolution.

### **9.2 Extraordinary Resolutions**

An Extraordinary Resolution is passed if:

- (a) within one month from the date (in this paragraph (a), the **Relevant Date**) stated in the copies of the resolution sent for that purpose to the holders of Notes of the relevant Series, holders of more than or equal to 75 per cent. of the Outstanding Principal Amount of Notes of that Series at the Relevant Date signed the resolution; or
- (b) subject to paragraph 8(a) of this Schedule, greater than or equal to three-fourths of the votes cast by holders of Notes of the relevant Series (present in person or by proxy or representative) at a meeting convened for that purpose vote in favour of the resolution.

### **9.3 More than one document**

A resolution in writing signed by Noteholders may be contained in one document or in several documents in like form each signed by one or more Noteholders.

### **9.4 Effective Date of written resolution**

A written resolution is deemed to have been passed on the date on which the last Noteholder whose signature on the resolution caused it to be passed signed it (as evidenced on its face).

## **10 Powers**

The Noteholders of the Notes of the same Series have, subject to the provisions contained in the Conditions of any Series, in addition to the powers set out above, but without affecting any powers conferred on other persons by this Schedule, the following powers exercisable by:

- (a) Ordinary Resolution:
  - (i) power to give any approval, authority, direction or sanction which under the Conditions is not required to be given by Extraordinary Resolution;
  - (ii) power to authorise any person to concur in and execute documents and do all such acts and things as may be necessary to carry out and give effect to any Ordinary Resolution (including the provision of a certified extract of that resolution);
  - (iii) power to appoint any persons (whether Noteholders or not) as a committee or committees to represent the interests of the Noteholders of Notes of that Series



- and to confer upon such committee or committees any powers or discretions which the Noteholders could themselves exercise by Ordinary Resolution; and
- (iv) power to approve the alteration of majority required to pass an Ordinary Resolution.
- (b) Extraordinary Resolution:
- (i) power to sanction any compromise or arrangement proposed to be made between the Issuer and the Noteholders or any of them;
  - (ii) power to sanction any proposal by the Issuer for any modification, abrogation, variation or compromise of, or arrangement in respect of, the rights of the Noteholders against the Issuer or the Guarantor whether such rights arise under those Notes, the Note Deed Poll, the Guarantee or otherwise;
  - (iii) power to give any approval, authority, direction or sanction which under the Conditions is required to be given by the Extraordinary Resolution;
  - (iv) power to sanction any scheme or proposal for the exchange or sale of the Notes for or the conversion of the Notes into or the cancellation of the Notes in consideration of shares, stock, notes, bonds, debentures, debenture stock and/or other obligations and/or securities of the Issuer or any other company formed or to be formed, or for or into or in consideration of cash, or partly for or into or in consideration of such shares, stock, notes, bonds, debentures, debenture stock and/or other obligations and/or securities as aforesaid and partly for or into or in consideration of cash otherwise than in accordance with the Conditions;
  - (v) power to authorise any person to concur in and execute documents and do all such acts and things as may be necessary to carry out and give effect to any Extraordinary Resolution (including the provision of a certified extract of that resolution);
  - (vi) power to appoint any persons (whether Noteholders or not) as a committee or committees to represent the interests of the Noteholders of Notes of that Series and to confer upon such committee or committees any powers or discretions which the Noteholders could themselves exercise by Extraordinary Resolution; and
  - (vii) power to approve the substitution of any entity in the place of the Issuer (or any previous substitute) as the principal debtor in respect of the Notes (other than as permitted under Condition 15 (*Substitution of Issuer as principal debtor*)).
- (c) Extraordinary Resolution also requiring a Special Quorum (if a meeting is to be held):
- (i) power to reduce or cancel the amount payable or, where applicable, modify, except where such modification is expressly provided for in the Note Documents or is in the opinion of the Calculation Agent bound to result in an increase, the method of calculating the amount payable or modify the date of payment or, where applicable, the method of calculating the date of payment in respect of any principal or interest in respect of the Notes;
  - (ii) power to reduce any Interest Rate specified in the applicable Pricing Supplement;
  - (iii) power to alter the currency in which payments under the Notes are to be made;
  - (iv) power to change the quorum (whether a Special Quorum or otherwise) required to pass an Extraordinary Resolution;

- (v) power to change the majority required to pass an Extraordinary Resolution; and
- (vi) power to make any amendment to this paragraph 10(c).

## **11 Resolutions Binding**

- (a) A resolution passed at a meeting of Noteholders of Notes of the relevant Series duly convened and held (or passed by those Noteholders in writing) in accordance with this Schedule is binding on all such Noteholders, whether present or not present at the meeting (or signing or not signing the written resolution), and each such Noteholder is bound to give effect to it accordingly. The passing of any such resolution is conclusive evidence that the circumstances of such resolution justify its passing.
- (b) The Issuer must give notice to the Noteholders, with a copy to the Registrar, of the result of the voting on a resolution within 14 days of such result being known but failure to do so will not invalidate the resolution. Such notice must be given in the manner provided in the Conditions.

## **12 Minutes to be Kept**

Minutes of all resolutions and proceedings at every meeting (or resolutions otherwise passed in accordance with this Schedule) must be made and duly entered in books to be from time to time provided for that purpose by the Issuer and any such minutes, if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings transacted or by the chairman of the next succeeding meeting of Noteholders of Notes of the relevant Series (or, where the resolution is passed otherwise than at a meeting, if purporting to be signed by a director or secretary of the Issuer), are conclusive evidence of the matters contained in them and until the contrary is proved every such minute in respect of the proceedings of which minutes have been made and signed in that manner is deemed to have been duly convened and held and all resolutions passed or proceedings transacted at that meeting are deemed to have been duly passed and transacted (or, where the resolution is passed otherwise than at a meeting, such resolution is deemed to have been duly passed).

## **13 Further Regulations**

Subject to all other provisions contained in this Schedule, the Issuer may without the consent of the Noteholders prescribe any further regulations regarding the holding of meetings of Noteholders and attendance and voting at such meetings as the Issuer may in its sole discretion consider reasonable, including any regulations and requirements as the Issuer thinks reasonable:

- (a) so as to satisfy itself that persons who purport to attend or vote at any meeting of such Noteholders are entitled to do so in accordance with these Meeting Provisions; and
- (b) as to the form of appointment of a Representative.

## **14 Effect on Series**

If and whenever there are Notes outstanding which are not identical and do not form one single Series then those Notes which are in all respects identical are deemed to constitute a separate Series of Notes and this Schedule has effect subject to the following:

- (a) a resolution which affects one Series only of the Notes is deemed to have been duly passed if passed at a meeting of the Noteholders of that Series;
- (b) a resolution which affects more than one Series but does not give rise to a conflict of interest between the Noteholders of any of the Series so affected is deemed to have

been duly passed if passed at a single meeting of the Noteholders of all Series so affected;

- (c) a resolution which affects more than one Series of Notes and gives or may give rise to a conflict of interest between the Noteholders of any of the Series so affected is deemed to have been duly passed if passed at separate meetings of the Noteholders of each Series so affected; and
- (d) in respect of a meeting referred to in paragraphs (a), (b) and (c), the preceding provisions of this Schedule apply with the necessary modifications as though references in those provisions to Notes and Noteholders (or Notes of the relevant Series and Noteholders of those Notes) were references to Notes of the Series in question and to the Noteholders of those Notes respectively.

## **15 Legal opinions**

The Issuer may rely on, and the Noteholders are bound by, a legal opinion from independent legal advisers of recognised standing in Australia to the effect that a resolution:

- (a) affects one Series only; or
- (b) if it affects more than one Series of Notes, does not give rise to a conflict of interest, for the purposes of determining the meeting or meetings which need to be held for the purposes of this paragraph 15.

# Taxation

The information provided below does not purport to be a comprehensive description of all tax considerations which may be relevant to a decision to purchase Notes. In particular, the information does not consider any specific facts or circumstances that may apply to a particular purchaser. Neither these statements nor any other statements in this Information Memorandum are to be regarded as advice on the tax position of any holder of the Notes or of any person acquiring, selling or otherwise dealing with the Notes or on any tax implications arising from the acquisition, sale or other dealings in respect of the Notes. The statements do not purport to be a comprehensive description of all the tax considerations that may be relevant to a decision to purchase, own or dispose of the Notes and do not purport to deal with the tax consequences applicable to all categories of investors, some of which (such as dealers in securities) may be subject to special rules.

Prospective purchasers of Notes are advised to consult their own tax advisers as to the tax consequences of the purchase, ownership and disposition of Notes, including the effect of any state or local taxes, under the tax laws applicable in the United States, Australia and each country of which they are residents.

## 1 Australian Taxes

The following is a summary of the Australian withholding tax treatment, at the date of this Information Memorandum, of payments of interest on the Notes to holders of Notes who are not resident of Australia and do not hold their Notes in carrying on business at or through a permanent establishment in Australia and certain other matters. It is a general guide and should be treated with appropriate caution. Prospective holders of Notes who are in any doubt as to their tax position should consult their professional advisers on the tax implications of an investment in the Notes for their particular circumstances.

### Interest withholding tax

So long as the Issuer continues to be a non-resident of Australia and the Notes issued by it are not attributable to a permanent establishment of the Issuer in Australia, payments of principal and interest made under Notes issued by it should not be subject to Australian interest withholding tax imposed under Division 11A of the Income Tax Assessment Act 1936 of Australia.

### Other Australian tax matters

The Issuer has been advised that under Australian law as presently in effect:

- (a) stamp duty and other taxes - no ad valorem stamp, issue, registration or similar taxes are payable in any Australian State or Territory on the issue or transfer of any Notes;
- (b) in relation to other withholding taxes on payments in respect of Notes, the better view is:
  - (i) so long as the Issuer continues to be a non-resident of Australia and does not carry on business at or through a permanent establishment in Australia, the tax file number requirements of Part VA of the Australian Income Tax Assessment Act 1936 and section 12-140 of Schedule 1 to the Taxation Administration Act 1953 of Australia (***Taxation Administration Act***) should not apply to the Issuer; and
  - (ii) supply withholding tax - payments in respect of the Notes can be made free and clear of the "supply withholding tax" imposed under section 12-190 of Schedule 1 to the Taxation Administration Act; and
- (c) goods and services tax (***GST***) - neither the issue nor receipt of the Notes will give rise to a liability for GST in Australia on the basis that the supply of Notes will comprise either an

input taxed financial supply or (in the case of an offshore subscriber) a GST-free supply. Furthermore, neither the payment of principal or interest by the Issuer, nor the disposal of the Notes, would give rise to any GST liability in Australia.

## **2 Switzerland Taxes**

### **General**

The following information is of a general nature only and is based on the laws in force in Switzerland as of the date of this Information Memorandum. It does not purport to be a comprehensive description of all tax implications that might be relevant to an investment decision. It is included herein solely for preliminary information purposes. It is not intended to be, nor should it be construed to be, legal or tax advice. Prospective investors in the Notes should consult their professional advisers with respect to particular circumstances, the effects of state, local or foreign laws to which they may be subject and as to their tax position.

### **Swiss Withholding Tax**

Neither payment of interest on, nor repayment of principal of, the Notes, by the Issuer, nor payments under the Guarantee by the Guarantor in respect thereof, will be subject to Swiss withholding tax. The Guarantor will ensure that, so long as any Notes guaranteed by the Guarantor are outstanding, the amount of proceeds from the issuance of Notes guaranteed by the Guarantor and from all other relevant outstanding debt instruments issued by a non-Swiss member of the Nestlé Group with the benefit of the guarantee provided by a Swiss member of the Nestlé Group that is being applied by any member of the Nestlé Group in Switzerland will not exceed the amount that is permissible under the taxation laws in effect at such time in Switzerland without subjecting interest payments due under the Notes (or any payments under the Guarantee in respect thereof) to Swiss federal withholding tax.

On 3 April 2020, the Swiss federal council published draft legislation to reform the Swiss withholding tax system for interest payments on bonds. This draft legislation provided for, among other things, the replacement of the current debtor-based regime applicable to interest payments on bonds with a paying agent-based regime for Swiss withholding tax. Under such proposed paying agent-based regime, subject to certain exceptions, all interest payments on bonds made by paying agents acting out of Switzerland to individuals resident in Switzerland would have been subject to Swiss withholding tax, including any such interest payments made on bonds issued by entities organised in a jurisdiction outside Switzerland (such as interest payments on the Notes). Due to the controversial outcome of the consultation on the draft legislation, the Swiss federal council submitted new draft legislation to the Swiss federal parliament, which provided for the abolition of Swiss withholding tax on interest payments on bonds. This legislation was accepted by the Swiss parliament, but was subsequently rejected in a popular referendum on 25 September 2022. In view of the rejection of this legislation, the Swiss federal council could again propose a paying agent-based regime, as contemplated by the draft legislation published on 3 April 2020. If such legislation were to result in the deduction or withholding of Swiss withholding tax by a paying agent in Switzerland on any interest payments under a Note (or any payments under the Guarantee in respect thereof), neither the respective Issuer, nor the Guarantor nor a paying agent nor any other person would pursuant to the Terms and Conditions of the Notes be obliged to pay additional amounts with respect to any Note as a result of the deduction or imposition of such withholding tax.

### **Swiss Stamp Duty on the Dealing in Securities**

The issue of the Notes (primary market) by the Issuer on the relevant issue date, the issue of the Guarantee by the Guarantor and the redemption of the Notes by the Issuer will not be subject to Swiss stamp duty on the dealing in securities.

Secondary market dealings in Notes with a maturity in excess of 12 months where a Swiss domestic bank or other Swiss domestic securities dealer (as defined in the Swiss federal stamp duty act) is a party, or acts as an intermediary, to the transaction, may be subject to Swiss stamp duty on dealing in securities at a rate of up to 0.3 per cent. of the purchase price of Notes. Where both the seller and the purchaser of the Notes are non-residents of Switzerland or the Principality of Liechtenstein, no Swiss stamp duty on the dealing in securities will be payable.

### **Income Taxation on Principal or Interest**

#### *Non-Swiss resident Holders*

Payments of interest and repayment of principal by the Issuer or, as the case may be, payments by the Guarantor under the Guarantee in respect thereof, to a holder of a Note who is a non-resident of Switzerland and who, during the current taxation year, has not engaged in trade or business through a permanent establishment within Switzerland to which the Note is attributable will not be subject to any federal, cantonal or communal income tax. For a discussion of potential new Swiss withholding tax legislation replacing the current issuer-based withholding tax system for a paying-agent based system, see above under “—*Swiss Withholding Tax*”, for a discussion of the automatic exchange of information in tax matters, see below under “—*International Automatic Exchange of Information in Tax Matters*” and for a discussion of the Swiss facilitation of the implementation of the Foreign Account Tax Compliance Act, see below under “—*Swiss Facilitation of the Implementation of FATCA*”.

#### *Notes held as Private Assets by a Swiss resident Holder*

Notes without a “predominant one-time interest payment”: Holders of Notes without a predominant one-time interest payment (the yield-to-maturity of a Note predominantly derives from periodic interest payments and not from a one-time interest payment, based e.g. on the discount at issuance or premium on repayment) who are individuals resident in Switzerland holding the Notes as private assets and who receive payments of interest on Notes by the Issuer or, as the case may be, payments by the Guarantor under the Guarantee in respect thereof, are required to include such payments, converted into Swiss francs at the exchange rate prevailing at the time of payment, as the case may be, in their personal income tax return for the relevant tax period and will be taxable on any net taxable income (including the payments of interest on the Notes) for the relevant tax period. A gain (which may include interest accrued) realised on the sale of such a Note is a tax-free private capital gain, and a loss realised on the sale of such a Note is a non-tax deductible private capital loss.

Notes with a “predominant one-time interest payment”: Holders of Notes with a predominant one-time interest payment (the yield-to-maturity of a Note predominantly derives from a one time-interest payment such as an original issue discount or a repayment premium and not from periodic interest payments), who are individuals resident in Switzerland holding the Notes as private assets and who receive such payments of interest on the Notes by the Issuer or, as the case may be, the Guarantor under the Guarantee in respect thereof, are required to include such interest payments and, in addition, on the sale or redemption of the Note, any amount equal to the difference between the value of the Note at redemption or sale, as applicable, and its value at issuance or secondary market purchase, as applicable, converted, in each case, into Swiss francs at the exchange rate prevailing at the time of payment, redemption or sale, issuance or purchase, respectively (pure differential taxation method) constitutes taxable income for the relevant tax period in the hands of a holder of Notes who is an individual resident in Switzerland

and who holds the Notes as private assets. Such a holder of Notes may offset a value decrease on the Notes realised on the sale or redemption of the Notes against any gains (including periodic interest payments) realised within the same taxation period from all instruments with a predominant one-time interest payment, and vice versa.

See “—Notes held as Assets of a Swiss Trade or Business” below for a summary of the tax treatment of individuals classified as “professional securities dealers”.

#### *Notes held as Assets of a Swiss Trade or Business*

Swiss-resident individual taxpayers who hold Notes as part of Swiss business assets and Swiss-resident corporate taxpayers and corporate taxpayers resident abroad holding Notes as part of a Swiss permanent establishment or a fixed place of business within Switzerland, are required to recognise the payments of interest on the Notes and any capital gain or loss realised on the sale or other disposition of the Notes in their income statement for the respective tax period and will be taxable on any net taxable earnings for such period. The same taxation treatment also applies to Swiss-resident individuals who, for income tax purposes, are classified as “professional securities dealers” for reasons of, inter alia, frequent dealings and leveraged transactions in securities.

#### **International Automatic Exchange of Information in Tax Matters**

Switzerland has concluded a multilateral agreement with the EU on the international automatic exchange of information (**AEOI**) in tax matters, which applies to all EU Member States. Further, Switzerland has concluded the multilateral competent authority agreement on the automatic exchange of financial account information (**MCAA**), and a number of bilateral AEOI agreements with other countries, most of them on the basis of the MCAA. Based on these agreements and the implementing laws of Switzerland, Switzerland collects and exchanges data in respect of financial assets held in, and income derived thereon and credited to, accounts or deposits (including Notes held in, and income derived thereon credited to, such accounts or deposits) with a paying agent in Switzerland for the benefit of individuals resident in an EU Member State or in another treaty state. An up-to-date list of the AEOI agreements to which Switzerland is party that are in effect, or have been entered into but are not yet in effect, can be found on the website of the State Secretariat for International Financial Matters SIF.

#### **Swiss Facilitation of the Implementation of FATCA**

Switzerland has concluded an intergovernmental agreement with the U.S. to facilitate the implementation of FATCA. The agreement ensures that the accounts held by U.S. persons with Swiss financial institutions (including accounts in which Notes are held) are disclosed to the U.S. tax authorities either with the consent of the account holder or by means of group requests within the scope of administrative assistance. Information will not be transferred automatically in the absence of consent, and instead will be exchanged only within the scope of administrative assistance on the basis of the double taxation agreement between the U.S. and Switzerland (the **Treaty**). Since it was amended in 2019, the Treaty includes a mechanism for the exchange of information in tax matters upon request between Switzerland and the United States, which is in line with international standards and allows the United States to make group requests under FATCA concerning non-consenting U.S. accounts and non-consenting non-participating non-foreign financial institutions for periods from 30 June 2014. Furthermore, on 8 October 2014, the Swiss Federal Council approved a mandate for negotiations with the United States regarding a change from the current direct notification-based regime to a regime where the relevant information is sent to the Swiss Federal Tax Administration, which in turn provides the information to the U.S. tax authorities. It is not yet known when negotiations will continue or when any new regime would come into force.

### 3 United States Taxes

The following is a summary based on present law of certain United States federal income tax considerations for a prospective purchaser of Notes issued by the Issuer. This summary addresses only the tax considerations for an initial beneficial owner of the Notes that acquires Notes on their original issue at their original offering price and that is not a U.S. Person or a disregarded entity owned by a U.S. Person (a **Non-U.S. Holder**). For this purpose, a "U.S. Person" is (i) a citizen or individual resident of the United States, (ii) a corporation, partnership or other entity created or organised in or under the laws of the United States or its political subdivisions, (iii) an estate the income of which is subject to United States federal income taxation regardless of its source or (iv) a trust subject to the control of a U.S. person and the primary supervision of a U.S. court. This summary also assumes that the Notes will be treated as debt for United States federal tax purposes and that the Notes will be offered, sold and delivered in compliance with and payments on the Notes will be made in accordance with certain required procedures set forth in the Conditions and other relevant documents. This summary does not address the U.S. federal income tax consequences of every type of Note which may be issued under the Programme, and the applicable Pricing Supplement or other supplement may contain additional or modified disclosure concerning certain U.S. federal income tax consequences relevant to such type of Note as appropriate. Finally, it does not describe any other U.S. federal tax consequences (such as estate and gift tax consequences) or tax consequences arising out of the tax laws of any state, local or non-U.S. jurisdiction.

This summary does not address all tax considerations for a beneficial owner of the Notes and does not address the tax consequences to a Non-U.S. Holder in special circumstances, such as certain former citizens or residents of the United States, foreign governments and their integral parts and controlled entities and foreign central banks. It addresses only purchasers that hold Notes as capital assets. It does not include a discussion of Floating Rate Notes other than Floating Rate Notes whose rate is based on a conventional interest rate or composite of interest rates. The discussion is a general summary. It is not a substitute for tax advice.

#### **U.S. Taxation of Notes**

Subject to the discussion below under the headings "FATCA" and "U.S. Information Reporting and Backup Withholding", interest paid to a Non-U.S. Holder will generally not be subject to U.S. withholding tax, provided that:

- (a) interest paid on the Note is not effectively connected with the Non-U.S. Holder's conduct of a trade or business within the United States;
- (b) the Non-U.S. Holder does not actually or constructively own 10 per cent. or more of the combined voting power of all classes of the Issuer's stock entitled to vote;
- (c) the Non-U.S. Holder is not a controlled foreign corporation as defined in section 957 of the United States Internal Revenue Code of 1986, as amended (the "Code") that is related to the Issuer through stock ownership;
- (d) the Non-U.S. Holder is not a bank described in section 881(c)(3)(A) of the Code; and
- (e) on or before the first payment of interest or principal, the Non-U.S. Holder has provided the applicable withholding agent a valid and properly executed U.S. IRS Form W-8 (or successor or substitute therefor) or other appropriate form of certification of non-U.S. status sufficient to establish a basis for exemption under sections 871(h)(2)(B) and 881(c)(2)(B) of the Code (and any required certification has been provided by any intermediary through which such non-U.S. Holder holds the Notes).



If the Non-U.S. Holder is a partnership or trust for United States federal income tax purposes, interest paid to it may be subject to U.S. withholding tax unless all of its partners or beneficiaries can satisfy the conditions for exemption above.

If a Non-U.S. Holder cannot satisfy the requirements described above, payments of interest made to such Non-U.S. Holder generally will be subject to a 30 per cent. U.S. federal withholding tax, unless such Non-U.S. Holder provides the applicable withholding agent with a properly executed (1) IRS Form W-8BEN or W-8BEN E (or suitable successor or substitute form) claiming an exemption from or reduction in withholding under the benefit of an applicable income tax treaty or (2) IRS Form W-8ECI (or suitable successor or substitute form) stating that interest paid on the Note is not subject to withholding tax because it is effectively connected with such Non-U.S. Holder's conduct of a trade or business in the United States.

Interest paid to a Non-U.S. Holder will not be subject to U.S. federal net income tax unless the interest is effectively connected with the Non-U.S. Holder's conduct of a U.S. trade or business and, if required by an applicable income tax treaty, is attributable to a permanent establishment of the Non-U.S. Holder within the United States. Effectively connected interest received by a corporate Non-U.S. Holder may also, under certain circumstances, be subject to an additional "branch profits tax" at a 30% rate (or, if applicable, a lower tax treaty rate). To claim the benefit of a treaty, a Non-U.S. Holder must properly submit an IRS Form W-8BEN or W-8BEN-E (or suitable successor or substitute form). Non-U.S. Holders whose income is effectively connected with a U.S. trade or business should consult their own tax advisers regarding the U.S. federal income tax consequences to them of an investment in the Notes.

A gain realised by a Non-U.S. Holder on the disposition of a Note will not be subject to U.S. tax unless (i) the gain is effectively connected with such Non-U.S. Holder's conduct of a U.S. trade or business and, if required by an applicable income tax treaty, is attributable to a permanent establishment of the Non-U.S. Holder within the United States, or (ii) the Holder is an individual present in the United States for at least 183 days during the taxable year of disposition and certain other conditions are met. A Non-U.S. Holder described in (ii) of the preceding sentence generally will be subject to a flat 30 per cent. U.S. federal income tax on the gain derived from the sale, which may be offset by U.S. source capital losses, even though the Non-U.S. Holder is not considered a resident of the United States.

#### **FATCA**

Notwithstanding the foregoing, payments of interest (including any original issue discount) on the Notes generally will be subject to U.S. withholding tax at a rate of 30 per cent. under FATCA unless (i) the Non-U.S. Holder provides the intermediary through which it holds the Notes or receives payments on or with respect to such Notes with information necessary to determine whether the investor is a U.S. person or a nonfinancial, non-U.S. entity with material direct or indirect U.S. ownership or is a foreign financial institution that itself satisfies clause (ii) and (ii) each non-U.S. financial institution through which such Non-U.S. Holder holds such Notes or receives payments on or with respect to such Notes either (x) has entered into an agreement with the IRS pursuant to 175 which it agrees, among other responsibilities, to collect and provide to the IRS information about its direct and indirect U.S. accountholders and investors or (y) is subject to and in full compliance with the requirements of any applicable intergovernmental agreement between the jurisdiction of its place of organization or operation and the United States implementing an alternative to FATCA.

#### **U.S. Information Reporting and Backup Withholding**

Information returns are generally required to be filed with the IRS in connection with interest payments on the Notes to Non-U.S. Holders. Unless a Non-U.S. Holder complies with certification

procedures to establish that it is not a U.S. person, information returns may also be filed with the IRS in connection with the proceeds from a sale or other disposition of a Note. A Non-U.S. Holder may be subject to backup withholding on payments on the Notes or on the proceeds from a sale or other disposition of the Notes unless the Non-U.S. Holder complies with certification procedures to establish that it is not a U.S. person or otherwise establishes an exemption from backup withholding. The certification procedures required to claim the exemption from withholding tax on interest, described above, will also avoid backup withholding. Backup withholding is not an additional tax, and may be refunded or credited against a Non-U.S. Holder's U.S. federal income tax liability, provided the required information is timely furnished to the IRS.

**THE DISCUSSION ABOVE IS A GENERAL SUMMARY. IT DOES NOT COVER ALL TAX MATTERS THAT MAY BE IMPORTANT TO A PARTICULAR INVESTOR. EACH PROSPECTIVE INVESTOR SHOULD CONSULT ITS OWN TAX ADVISER ABOUT THE TAX CONSEQUENCES OF AN INVESTMENT IN THE NOTES UNDER THE INVESTOR'S OWN CIRCUMSTANCES.**

# Form of Pricing Supplement

The Pricing Supplement in respect of each Tranche of Notes will be substantially in the following form, duly supplemented (if necessary), amended (if necessary) and completed to reflect the particular terms of the relevant Notes and their issue.

Series No.: [\*]

Tranche No.: [\*]

**Nestlé Capital Corporation**  
**Guaranteed by Nestlé S.A.**  
**A\$ Debt Issuance Programme**

Issue of

**[Aggregate Principal Amount of Tranche]**

**[Title of Notes]**

The date of this Pricing Supplement is [\*].

This Pricing Supplement (as referred to in the Information Memorandum dated [ ] 2024 (the **Information Memorandum**) in relation to the above Programme) relates to the Tranche of Notes referred to above. This document constitutes the Pricing Supplement relating to the issue of Notes described below. Terms used in it are deemed to be defined as such for the purposes of the Conditions set forth in the Information Memorandum. This Pricing Supplement is supplemental to and must be read in conjunction with such Information Memorandum.

This Pricing Supplement does not constitute, and may not be used for the purposes of, an offer or solicitation by anyone in any jurisdiction in which such offer or solicitation is not authorised or to any person to whom it is unlawful to make such offer or solicitation, and no action is being taken to permit an offering of the Notes or the distribution of this Pricing Supplement in any jurisdiction where such action is required.

**PROHIBITION OF SALES TO EEA RETAIL INVESTORS** – The Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the European Economic Area (**EEA**). For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4(1) of Directive 2014/65/EU (as amended, **MiFID II**); (ii) a customer within the meaning of Directive (EU) 2016/97 (the 'Insurance Distribution Directive'), where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II; or (iii) not a qualified investor as defined in the Regulation (EU) 2017/1129 (as amended, the **Prospectus Regulation**). Consequently, no key information document required by Regulation (EU) No 1286/2014 (the **PRIIPs Regulation**) for offering or selling the Notes or otherwise making them available to retail investors in the EEA has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the EEA may be unlawful under the PRIIPs Regulation.

**PROHIBITION OF SALES TO UK RETAIL INVESTORS** – The Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the United Kingdom (**UK**). For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client, as defined in point (8) of Article 2 of Regulation (EU) No 2017/565 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018, as amended (the **EUWA**); (ii) a customer within the meaning of the provisions of the FSMA and any rules or regulations made under the Financial Services and Markets Act 2000 (the **FSMA**) to implement Directive (EU) 2016/97, where that customer would not qualify as a professional client, as defined in point (8) of Article 2(1) of Regulation (EU) No 600/2014 as it forms part of domestic law by virtue of the EUWA; or (iii) not a qualified investor as defined in Article 2 of Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA. Consequently, no key information document required by Regulation (EU) No 1286/2014 as it forms part of

domestic law by virtue of the EUWA (the **UK PRIIPs Regulation**) for offering or selling the Notes or otherwise making them available to retail investors in the UK has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the UK may be unlawful under the UK PRIIPs Regulation.

**[EU MiFID II PRODUCT GOVERNANCE/TARGET MARKET –** Solely for the purposes of [the/each] manufacturer's product approval process, the target market assessment in respect of the Notes has led to the conclusion that: (i) the target market for the Notes is eligible counterparties and professional clients only, each as defined in MiFID II); and (ii) all channels for distribution of the Notes to eligible counterparties and professional clients are appropriate. Any person subsequently offering, selling or recommending the Notes (a **distributor**) should take into consideration the manufacturer['s/s'] target market assessment; however, a distributor subject to MiFID II is responsible for undertaking its own target market assessment in respect of the Notes (by either adopting or refining the manufacturer['s/s'] target market assessment) and determining appropriate distribution channels.]

**[UK MiFIR PRODUCT GOVERNANCE/TARGET MARKET –** Solely for the purposes of [the/each] manufacturer's product approval process, the target market assessment in respect of the Notes has led to the conclusion that: (i) the target market for the Notes is only eligible counterparties, as defined in the FCA Handbook Conduct of Business Sourcebook (**'COBS'**), and professional clients, as defined in Regulation (EU) No 600/2014 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018 (**UK MiFIR**); and (ii) all channels for distribution of the Notes to eligible counterparties and professional clients are appropriate. Any person subsequently offering, selling or recommending the Notes (a **distributor**) should take into consideration the manufacturer['s/s'] target market assessment; however, a distributor subject to the FCA Handbook Product Intervention and Product Governance Sourcebook (the **UK MiFIR Product Governance Rules**) is responsible for undertaking its own target market assessment in respect of the Notes (by either adopting or refining the manufacturer['s/s'] target market assessment) and determining appropriate distribution channels.]

Notes that are offered for issue or sale or transferred in, or into, Australia are offered only in circumstances that would not require disclosure to investors under Parts 6D.2 or 7.9 of the Corporations Act. Such Notes are issued or transferred in, or into, Australia in parcels of not less than A\$500,000 in aggregate principal amount.

[Include whichever of the following apply or specify as 'Not Applicable' (N/A). Note that the numbering should remain as set out below, even if 'Not Applicable' is indicated for individual paragraphs or sub-paragraphs.]

The particulars to be specified in relation to such Tranche are as follows:

1. Issuer: Nestlé Capital Corporation, a company incorporated in the [state of Delaware of the United States of America] with company number [886483]
2. Guarantor: Nestlé S.A., a company with unlimited duration and organised under the Swiss Code of Obligations
4. Dealer(s): [\*] [(ABN \*)]  
[\*] [(ABN \*)]
5. Type of Issue: [Private Placement/Non-Private Placement]
6. Registrar: [Specify]
7. Issuing Agent: [Specify]
8. Calculation Agent: [Specify, if a person other than the Issuing Agent is to make calculations]

7. Currency: [Australian Dollars]
8. Aggregate Principal Amount of Tranche: [Specify]
9. If interchangeable with existing Series and Aggregate Principal Amount of Series: [Specify if Tranche is to form a single Series with an existing Tranche or Series][Not Applicable]
10. Issue Date: [Specify]
11. Issue Price: [Specify]
12. Denomination: [Specify]
13. Fixed Rate Notes [Applicable/Not Applicable]
- Interest:
- (i) Interest Rate: [Specify rate]
- (ii) Interest Accrual Date: [Specify]
- (iii) Interest Payment Dates: [Specify]
- (iv) Applicable Business Day Convention: [Specify. If nothing is specified, the Following Business Day Convention will apply.]
- for Interest Payment Dates: [Specify]
- any other date: [Specify]
- (v) Definition of Business Day: [Specify any additional places or days]
- (vi) Day Count Basis: [Specify]
14. Floating Rate Notes [Applicable/Not Applicable]
- Interest:
- (i) Interest Rate: [Margin + Benchmark Rate (Condition 4.8)][Specify full determination provisions or formula]
- (ii) Margin: [Specify]
- (iii) Benchmark Rate [BBSW Rate/AONIA Rate/specify such other rate as applicable]
- (iv) Manner in which Interest Rate is to be determined: [Specify]
- (v) Interest Accrual Date: [Specify]
- (vi) Interest Payment Dates: [Specify]
- (vii) Applicable Business Day Convention: [Specify. If nothing is specified, the Following Business Day Convention will apply.]
- for Interest Payment Dates: [Specify]
- any other date: [Specify]
- (viii) Definition of Business Day: [Specify any additional places or days]

- (ix) Day Count Basis: [Specify]
15. Other Notes: [Applicable/ Not Applicable]  
[If Applicable, specify terms]
16. Default Rate: [Specify]
17. Record Date: [Specify, if not as per the Conditions]
18. Maturity Date: [Fixed rate – specify date/Floating Rate – Interest Payment Date falling in or nearest to [Specify month]]
19. Redemption Amounts: [Specify, if not the Outstanding Principal Amount. If not the Outstanding Principal Amount, include any applicable minimum or maximum amounts]
21. Optional Early Redemption (Call): [Applicable/Not Applicable]
- (a) Relevant conditions to exercise of Call Option: [Specify]
- (b) Optional Redemption Amount (Call): [Specify call early redemption amount]
- (c) Early Redemption Date (Call): [Specify]
22. Optional Early Redemption (Put): [Applicable/Not Applicable]
- (a) Optional Redemption Amount (Put): [Specify put early redemption amount]
- (b) Optional Put Date: [Specify]
23. Clean Up Early Redemption (Call) [Applicable/Not Applicable]
- (a) Optional Redemption Amount (Call): [Specify call early redemption amount]
- (b) Clean Up Condition Percentage: [Specify, if not 25 per cent]
24. Events of Default:
- (a) Early Termination Amount: [Specify, if not the Outstanding Principal Amount]
- (b) Any additional (or modifications to) Events of Default: [Specify]
25. Selling Restrictions: [Specify any modifications of or additions to selling restrictions contained in the Information Memorandum.]
26. Singapore Sales to Institutional Investors and Accredited Investors only: [Applicable]/[Not Applicable]  
[The default position for each drawdown should be “Applicable” unless there is any intention for sales to Singapore investors other than Institutional Investors and Accredited Investors.]
27. Clearing System(s): [Austraclear System / specify others]
28. Listing: [Not applicable / Australian Securities Exchange / specify details of other relevant stock or securities exchange]

29. Credit Rating: [Specify]
- A credit rating is not a recommendation to buy, sell or hold Notes and may be subject to revision, suspension or withdrawal at any time by the assigning rating agency.*
- Credit ratings are for distribution only to a person who is (a) not a 'retail client' within the meaning of section 761G of the Corporations Act and is also a sophisticated investor, professional investor or other investor in respect of whom disclosure is not required under Parts 6D.2 or 7.9 of the Corporations Act, and (b) otherwise permitted to receive credit ratings in accordance with applicable law in any jurisdiction in which the person may be located. Anyone who is not such a person is not entitled to receive this Pricing Supplement and anyone who receives this Pricing Supplement must not distribute it to any person who is not entitled to receive it.*
30. Other relevant Conditions: [Specify any variation to the Conditions]
31. ISIN Code: [Specify]
32. Common Code: [Specify]
33. Relevant Business Centre: [Specify, if to be other than [Sydney] and the Agent is operating in that place]
34. Additional or alternate newspaper for notices: [Specify, if not as per the Conditions]
35. Governing Law: [Specify, if not New South Wales]
36. Additional Information: [Specify][Not Applicable]

**CONFIRMED**

**Signed on behalf of the Issuer:**

**By:** \_\_\_\_\_

Duly authorised

**Signed on behalf of the Guarantor:**

**By:** \_\_\_\_\_

Duly authorised



# Selling and Transfer Restrictions

The Dealers have in the Dealer Agreement agreed with the Issuer and the Guarantor a basis upon which they or any of them may from time to time agree to purchase Notes.

The selling restrictions agreed between the Issuer and the Dealers are set out below. The restrictions may be amended from time to time by the Issuer, in accordance with the Dealer Agreement. In addition, the applicable Pricing Supplement may specify further selling restrictions agreed between the Issuer and the relevant Dealer in relation to any Tranche of Notes.

The selling restrictions are as follows.

## 1 General

No action has been taken or will be taken in any jurisdiction that would permit a public offering of any of the Notes, or possession or distribution of this Information Memorandum or any other offering material relating to any Notes, in any country or jurisdiction where action for that purpose is required. Each Dealer has agreed and each further Dealer appointed under the Dealer Agreement will be required to agree that it will, to the best of its knowledge, having made all reasonable enquiries, comply with all relevant laws, regulations and directives in each jurisdiction in which it purchases, offers, sells, or delivers Notes or has in its possession or distributes this Information Memorandum or any other offering material relating to any Notes or any Pricing Supplement, in all cases at its own expense.

None of the Issuer, the Guarantor nor any of the Dealers represents that Notes may at any time lawfully be sold in compliance with any applicable registration or other requirements in any jurisdiction, or pursuant to any exemption available thereunder, or assumes any responsibility for facilitating any such sale.

With regard to each Tranche, the relevant Dealer will be required to comply with any additional restrictions agreed between the Issuer and the relevant Dealer and set out in the applicable Pricing Supplement.

This Information Memorandum does not constitute and may not be used as an offer or invitation in any place where, or to any person to whom, it would not be lawful to make the offer or invitation.

This Information Memorandum has been prepared by the Issuer for use in connection with the offer and sale of the Notes outside the United States. The Issuer and the Dealers reserve the right to reject any offer to purchase the Notes, in whole or in part, for any reason.

The Notes are being offered and sold outside the United States to non-U.S. persons in reliance on Regulation S.

This Information Memorandum does not constitute an offer to any person in the United States. Distribution of this Information Memorandum by any non-U.S. person outside the United States to any U.S. person or to any other person within the United States, is unauthorised and any disclosure without the prior written consent of the Issuer of any of its contents to any such U.S. person or other person within the United States, is prohibited.

## 2 Australia

This Information Memorandum has not been, and no prospectus or other disclosure document (as defined in the Corporations Act) in relation to the Programme or any Notes has been, or will be, lodged with or registered by the Australian Securities and Investments Commission (**ASIC**). Each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree with the Issuer, that, in connection with the distribution of the

Notes in Australia, unless the relevant Pricing Supplement (or another supplement to this Information Memorandum) otherwise provides, it:

- (a) has not made or invited, and will not make or invite, an offer of the Notes for issue or sale in Australia (including an offer or invitation which is received by a person in Australia); and
- (b) has not distributed or published, and will not distribute or publish, any Information Memorandum or any other offering material or advertisement relating to any Notes in Australia,

unless:

- (i) the aggregate consideration payable by each offeree is at least A\$500,000 (or its equivalent in an alternate currency, in either case, disregarding moneys lent by the offeror or its associates) or the offer or invitation does not otherwise require disclosure to investors under Parts 6D.2 or 7.9 of the Corporations Act;
- (ii) the offer or invitation does not constitute an offer to a 'retail client' as defined for the purposes of section 761G of the Corporations Act;
- (iii) such action complies with any applicable laws and directives in Australia (including any applicable licensing requirements); and
- (iv) such action does not require any document to be lodged with ASIC.

### **3 United States of America**

The Notes and the Guarantees have not been and will not be registered under the Securities Act and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons, except in certain transactions exempt from the registration requirements of the Securities Act.

Terms used in this paragraph have the meanings given to them by Regulation S.

Each Dealer has agreed, and each further Dealer appointed under the Programme will be required to agree, that, except as permitted by the Dealer Agreement, it, its affiliates and any person acting on its or their behalf will not offer or sell the Notes constituting part of its allotment within the United States, or to, or for the account or benefit of, U.S. persons, or engage in "directed selling efforts" (as such term is defined in Regulation S):

- (a) as part of their distribution at any time; or
- (b) otherwise until 40 days after the completion of the distribution of an identifiable tranche of which such Notes are a part, as determined and certified to the Issuing Agent by such Dealer (or, in the case of an identifiable tranche of Notes sold to or through more than one Dealer, by each of such Dealers with respect to Notes of an identifiable tranche purchased by or through it, in which case the Issuing Agent shall notify such Dealer when all such Dealers have so certified), within the United States or to, or for the account or benefit of, U.S. persons, and it will have sent to each Dealer to which it sells Notes during the distribution compliance period a confirmation or other notice setting out the restrictions on offers and sales of the Notes within the United States or to, or for the account or benefit of, U.S. persons,

except in an offshore transaction in accordance with Rule 903 of Regulation S.

Each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it will have sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration that purchases Notes from it during the distribution compliance period a confirmation or other notice substantially to the following effect:

*“The Notes covered hereby have not been and will not be registered under the U.S. Securities Act of 1933, as amended (the “Securities Act”), and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons (i) as part of such Dealer’s distribution at any time or (ii) otherwise until 40 days after the completion of the distribution of the Tranche of Notes of which such Notes are a part, except in either case in accordance with Rule 903 of Regulation S under the Securities Act. Terms used above have the meanings given to them by Regulation S.”*

In addition, until 40 days after the commencement of the offering of any identifiable tranche of Notes, an offer or sale of Notes within the United States by any dealer that is not participating in the offering of such tranche of Notes may violate the registration requirements of the Securities Act.

#### **4 The United Kingdom**

##### *Prohibition of Sales to UK Retail Investors*

Each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it has not offered, sold or otherwise made available and will not offer, sell or otherwise make available any Notes which are the subject of the offering contemplated by this Information Memorandum as completed by the Pricing Supplement in relation thereto to any retail investor in the United Kingdom.

For the purposes of this provision:

- (a) the expression "**retail investor**" means a person who is one (or more) of the following:
  - (i) a retail client, as defined in point (8) of Article 2 of Regulation (EU) No 2017/565 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018, as amended (**EUWA**);
  - (ii) a customer within the meaning of the provisions of the FSMA and any rules or regulations made under the FSMA to implement Directive (EU) 2016/97, where that customer would not qualify as a professional client, as defined in point (8) of Article 2(1) of Regulation (EU) No 600/2014 as it forms part of domestic law by virtue of the EUWA; or
  - (iii) not a qualified investor as defined in Article 2 of Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA; and
- (b) the expression an "**offer**" includes the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe for the Notes.

##### *Other United Kingdom regulatory restrictions*

Each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree that:

- (a) **No deposit-taking:** in relation to any Notes having a maturity of less than one year:
  - (i) it is a person whose ordinary activities involve it in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of its business; and:
  - (ii) it has not offered or sold and will not offer or sell any Notes other than to persons:
    - (A) whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their businesses; or
    - (B) who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of their businesses,

where the issue of the Notes would otherwise constitute a contravention of Section 19 of the FSMA by the Issuer;

- (b) **Financial promotion:** it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of section 21 of the FSMA) received by it in connection with the issue or sale of any Notes in circumstances in which section 21(1) of the FSMA does not apply to the Issuer or the Guarantor, and
- (c) **General compliance:** it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to any Notes in, from or otherwise involving the United Kingdom.

## 5 European Economic Area

### *Prohibition of Sales to EEA Retail Investors*

Each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it has not offered, sold or otherwise made available and will not offer, sell or otherwise make available any Notes which are the subject of the offering contemplated by this Information Memorandum as completed by the Pricing Supplement in relation thereto to any retail investor in the EEA. For the purposes of this provision:

- (a) the expression “**retail investor**” means a person who is one (or more) of the following:
  - (i) a retail client as defined in point (11) of Article 4(1) of MiFID II; or
  - (ii) a customer within the meaning of the Insurance Distribution Directive, where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II; or
  - (iii) not a qualified investor as defined in the Regulation (EU) 2017/1129 (the **Prospectus Regulation**).
- (b) the expression an “**offer**” includes the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe for the Notes.

## 6 Switzerland

Each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it (i) will only offer or sell, directly or indirectly, Notes in, into or from Switzerland in compliance with all applicable laws and regulations in force in Switzerland and (ii) will to the extent necessary, obtain any consent, approval or permission required, if any, for the offer or sale by it of Notes under the laws and regulations in force in Switzerland.

Only the relevant Pricing Supplement for the offering of Notes in, into or from Switzerland together with the Information Memorandum duly filed, deemed approved and published according to the Swiss Financial Services Act (including any supplement thereto at the relevant time), if required, and any information required to ensure compliance with the applicable laws and regulations in force in Switzerland may be used in the context of a public offer in, into or from Switzerland. Each Dealer has therefore represented and agreed that the relevant Pricing Supplement, the Information Memorandum (including any supplement thereto at the relevant time) and any further information shall be furnished to any potential purchaser in Switzerland upon request in such manner and at such times as shall be required by, and is in compliance with all applicable laws and regulations in Switzerland.

## 7 Japan

The Notes have not been and will not be registered under the Financial Instruments and Exchange Act of Japan (Act No. 25 of 1948, as amended, the **FIEA**). Each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it has not, directly or indirectly, offered or sold and will not, directly or indirectly, offer or sell any Notes in Japan or to, or for the benefit of, any resident of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organised under the laws of Japan), or to others for re-offering or re-sale, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the FIEA and any other applicable laws, directives and ministerial guidelines of Japan.

## 8 Hong Kong

Each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that:

- (a) it has not offered or sold and will not offer or sell in Hong Kong Special Administrative Region of the People's Republic of China (**Hong Kong**), by means of any document, any Notes (except for Notes which are a "structured product" as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong (the **SFO**)) other than: (i) to "professional investors" as defined in the SFO and any rules made under the SFO; or (ii) in other circumstances which do not result in the document being a "prospectus" as defined in the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) of Hong Kong (the **C(WUMPO)**) or which do not constitute an offer to the public within the meaning of the C(WUMPO); and
- (b) it has not issued or had in its possession for the purposes of issue, and will not issue or have in its possession for the purposes of issue, whether in Hong Kong or elsewhere, any advertisement, invitation or document relating to the Notes, which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to Notes which are or are intended to be disposed of only to persons outside Hong Kong or only to "professional investors" as defined in the SFO and any rules made under the SFO.

## 9 Singapore

Unless the Pricing Supplement in respect of any Notes specifies "Singapore Sales to Institutional Investors and Accredited Investors only" as "Not Applicable", each Dealer has acknowledged and each further Dealer appointed under the Programme will be required to acknowledge, that this Information Memorandum has not been registered as a prospectus with the Monetary Authority of Singapore (the **MAS**).

Accordingly, each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it has not offered or sold any Notes or caused the Notes to be made the subject of an invitation for subscription or purchase and will not offer or sell any Notes or cause the Notes to be made the subject of an invitation for subscription or purchase, and has not circulated or distributed, nor will it circulate or distribute, this Information Memorandum or any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the Notes, whether directly or indirectly, to any person in Singapore other than:

- (i) to an institutional investor (as defined in Section 4A of the SFA pursuant to Section 274 of the SFA); or

- (ii) to an accredited investor (as defined in Section 4A of the SFA) pursuant to and in accordance with the conditions specified in Section 275 of the SFA.

If the Pricing Supplement in respect of any Notes specifies “Singapore Sales to Institutional Investors and Accredited Investors only” as “Not Applicable”, each Dealer has acknowledged, and each further Dealer appointed under the Programme will be required to acknowledge, that this Information Memorandum has not been registered as a prospectus with the MAS. Accordingly, each Dealer has represented and agreed, and each Dealer has acknowledged, and each further Dealer appointed under the Programme will be required to represent and agree, that it has not offered or sold any Notes, or caused the Notes to be made the subject of an invitation for subscription or purchase and will not offer or sell any Notes or cause the Notes to be made the subject of an invitation for subscription or purchase, and has not circulated or distributed, nor will it circulate or distribute, this Information Memorandum or any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the Notes, whether directly or indirectly, to any person in Singapore other than:

- (i) to an institutional investor (as defined in Section 4A of the SFA) pursuant to Section 274 of the SFA;
- (ii) to a relevant person (as defined in Section 275(2) of the SFA) pursuant to Section 275(1) of the SFA, or any person pursuant to Section 275(1A) of the SFA, and in accordance with the conditions specified in Section 275 of the SFA;
- (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

## **10 Variation**

These selling restrictions may be amended, varied, replaced or otherwise updated from time to time in accordance with the Dealer Agreement. Any change may be set out in a Pricing Supplement or in another supplement to this Information Memorandum.

## Directory

### Issuer

Nestlé Capital Corporation  
The Corporation Trust Company  
Corporation Trust Center  
1209 Orange Street  
Wilmington, Delaware 19801  
United States

### Guarantor

Nestlé S.A.  
Avenue Nestlé 55  
1800 Vevey  
Switzerland

### Arranger

**Royal Bank of Canada**  
(ABN 86 076 940 880; AFSL  
246521)  
Level 59  
25 Martin Place  
Sydney NSW 2000  
Australia

### Legal Advisers

To the Issuer as to Australian law  
**Allens**  
Level 33, 101 Collins Street  
Melbourne VIC 3000  
Australia

To the Guarantor as to Swiss law  
**Wenger Vieli Ltd.**  
Dufourstrasse 56,  
CH-8008 Zürich  
Switzerland

To the Arranger and Dealer as to  
Australian law  
**King & Wood Mallesons**  
Level 61,  
Governor Phillip Tower,  
1 Farrer Place,  
Sydney NSW 2000  
Australia

### Issuing Agent and Registrar

BTA Institutional Services  
Australia Limited (ABN 48 002  
916 396)  
Level 2, 1 Bligh Street, Sydney  
NSW 2000  
Australia