



LOAN AGREEMENT WITH CONVERSION RIGHT CO-FINANCER

Version 1.3

500K-2M Ticket

(Corona Bridging Loan; "COL")

THIS AGREEMENT was entered into between the following parties prior to 31 December 2020, more particularly at the time that the Co-financer and the Borrower have signed the signature page:¹

- (1) **[CO-FINANCER]**, a [] <- reference legal entity or company form], established in [], with address [], and e-mail address [] listed in the Commercial Register of the Chamber of Commerce under number [] (the "**Co-financer**"); and
- (2) **[BORROWER]**, a [] <- reference legal entity], established in [], with address [], and e-mail address [] listed in the Commercial Register of the Chamber of Commerce under number [] ("**Borrower**");

and to acknowledge the rights granted in this Agreement and in particular to evidence consent to the conversion right under Article 6 of the Agreement:

- (3) **SHAREHOLDER[S]**, as set out in Schedule (3) ("**Shareholder**");

The Borrower, the Co-financer and Shareholder[s] hereinafter together also to be referred to as "**Parties**" and each a "**Party**".

CONSIDERING THE FOLLOWING:

- (A) The Borrower conducts a business in the field of [].
- (B) Borrower is short on liquidity as a result of the COVID-19 outbreak and is therefore in need of credit to bridge the COVID-19 pandemic.
- (C) [ROM X] (the "**ROM**") is willing to provide 75% of a bridging credit, provided that – among other conditions - the Co-financer [together with Party X, Y, and Z (hereinafter jointly also referred to as the "**Co-financers**") provide[s] the remaining 25% (in the following proportions: Party X: [] of 25%, Party Y [] of 25% etc ← dit laatste alleen toevoegen ter verduidelijking, iedere co-financier krijgt vervolgens een eigen overeenkomst].
- (D) The part of the bridging credit that will be provided by the ROM (the "**COL**") is evidenced by the agreement as attached in Schedule (D) (the "**COL-Agreement**").

¹ Described in this way to provide for the use of DocuSign

- (E) On the basis of the information provided by the Borrower to the Co-financer, the Co-financer is prepared to provide his part of the bridging credit in the form of a loan (the “**Loan**”) to the Borrower under the terms of this agreement (the “**Agreement**”) (the Agreement, [the other co-financing Agreement[s]] and the COL-Agreement hereinafter also referred to as: the “**COL-facility**”).

AND THE PARTIES DECLARE TO HAVE AGREED AS FOLLOWS:

1. LOAN AND PURPOSE

- 1.1 The Co-financer hereby grants to the Borrower the Loan under the terms and conditions stated hereafter, in principal amount of € [] (the “**Principal**”), which Loan is hereby accepted by the Borrower.
- 1.2 The Loan will be transferred to the bank account with number (IBAN) [] in the name of the Borrower at the [] Bank in [] no later than 7 business days after the signing date of this Agreement.
- 1.3 The Loan will only be used by the Borrower to finance its capital expenditures and working capital needs.

2. INTEREST

- 2.1 The Borrower is obliged to pay an interest of 3% per annum on the outstanding part of the Principal (the “**Interest**”).
- 2.2 The interest shall accrue on a daily basis as per the date of this Agreement and shall be calculated on the basis of the actual number of days elapsed and a year of 365 days.
- 2.3 The Interest due at the end of each calendar year will be added, however it will not become a part of the Principal. The accrued Interest is administrated separately.

3. PREMIUM

- 3.1 In the event of:
- (a) repayment, early or otherwise;
 - (b) a repayment ground as referred to in Article 5(e);
 - (c) in the event of realisation of financing by means of issuance of shares in the share capital of the Borrower (a “**Financing Round**”) in which the Co-financer converts the principal they provided and accrued interest in accordance with the Co-financing Agreement;

the Borrower will pay an additional consideration to the Co-financers of 2% per annum on the amount repaid, claimed or converted on the moment of either repayment, payment claim, or conversion by the Co-financer, which consideration is calculated over the period from the signing date of this Agreement up to the moment referred to under (a), (b), or (c) above (the “**Premium**”).

- 3.2 The Premium shall be calculated on the basis of the actual number of days elapsed and a year of 365 days.

4. REPAYMENT, INTEREST AND PREMIUM

- 4.1 After three years have lapsed since after the signing date of the Agreement, the Borrower is obliged to repay the Principal, the accrued Interest and the Premium immediately and at the same time.
- 4.2 The Borrower may twice request an extension of the redemption-free period as set out in Article 4.1 with a year, provided that the total term of the Loan may never exceed five years. The Borrower is required to submit such a request in writing to the Co-financer no later than 8 weeks prior to the date on which the redemption-free period expires, together with a motivation, including documentation in support of the motivation, why the extension is desirable. The Co-financer will decide at its own discretion whether the request is granted
- 4.3 The Borrower is, with due observance of Article 3.1, always authorized to[, partial or full,] early repayment[, provided that such repayment is made in the amount of EUR 50,000 or more] at the end of the quarter [with two weeks prior notice]. Unless Borrower, ROM and the Co-financer agree to different terms, early prepayment to the ROM and Co-financer will be made equally, without preference and at the same time (*pari passu*).
- 4.4 The Borrower is not entitled to borrow again that which has been repaid by the Borrower.

5. IMMEDIATE REPAYMENT

- 5.1 The Co-financer can also claim the outstanding part of the Principal and any accrued and unpaid Interest in its entirety, without any summons, notice of default or judicial intervention being required, in the event that:
- (a) the Borrower does not, including untimely or improperly, observe one or more provisions of this Agreement vis-à-vis the Co-financer and remains in default after being summoned to remedy such breach and being given a period of at least 7 days to provide for such remedy; or
 - (b) the Borrower is declared bankrupt, applies for suspension of payments (in Dutch: "*surséance van betaling*"), institutes for its own bankruptcy, or is subjected to other insolvency proceedings, or that resolution to such effect have been passed and/or such request have been made by third parties; or
 - (c) an attachment has been levied - which has not been lifted within a period of 20 days – on, or a transfer has occurred of, in the opinion of the Co-financer an important part of the Borrower's assets; or
 - (d) the Borrower is dissolved, split-off or merged, without prior written approval by the Co-financer; or
 - (e) if and as soon as control as defined in the SER Resolution concerning the Merger Code 2015 over the Borrower or over legal persons who are direct or indirect shareholders of the Borrower is acquired by one or more persons other than those that exercised such control on the date of the Agreement, regardless of the reason, unless prior written approval has been granted by the Co-financer.
- 5.2 The Borrower will inform the Co-financer immediately if one of the circumstances described in Article 5.1 arises or threatens to occur.

6. CONVERSION

- 6.1 In the event of realisation of financing by means of issuance of shares in the share capital of the Borrower (a "**Financing Round**"), the Co-financer shall, on condition that prior to the moment of conversion the COL is repaid in accordance with the COL Agreement and the interest and premium as set out therein are paid, be entitled, however not obliged, to convert the Loan in a number of shares of the same class and with the same rights and obligations as the shares issued as part of the Financing Round as is calculated by:
- (a) the aggregate amount of the then outstanding Principal, accrued Interest and Premium, divided by:
 - (b) the price paid per share in the Financing Round.
- 6.2 The Parties will ensure that the shares to be issued in the event of the exercise of the conversion right as set out in the previous article, will be issued within ten (10) calendar days after the Co-financer informed the Borrower of its intention to exercise the aforementioned conversion right, unless Parties agree to a different time schedule.
- 6.3 The applicable price for the shares that will be issued to the Co-financer in connection with the conversion as set out in this article 6, shall be paid by the Co-financer by means of set-off with the Principal due, the Interest and Premium at the time of conversion. The number of shares in which the aforementioned amount is converted, is rounded downwards to the nearest whole number. The portion of the amount that is not converted into shares as a result of such rounding, shall be paid in cash by the Borrower to the Co-financer on, or immediately after, the moment of issuance of the shares to the Co-financer. The amount that is paid in excess of the total nominal value of the shares to be issued is considered share premium (*agio*) and shall as such be credited to the share premium reserves of those shares, unless the Parties agree otherwise.
- 6.4 De Shareholder[s] (i) hereby irrevocably agree to the issuance of shares in accordance with this article 6 and will provide their cooperation to any action or resolution necessary in relation to the aforementioned issuance of shares, and (ii) hereby waive all pre-emption rights that the shareholder[s] have in relation to the shares to be issued.²

7. WARRANTIES

- 7.1 In connection with the transactions provided for in this Agreement, the Borrower declares and warrants that the statements as set out in Schedule 7 are true, accurate and not misleading.

8. PAYMENTS

All payments by the Borrower will first be deducted from any costs to be incurred by the Co-financer as set out in Article 11, then on accrued Interest and Premium, and then on the Principal. Unless Borrower, the ROM and the Co-Financer agree to different terms, payments of cost, Interest, Premium and Principal to the ROM and the Co-Financer will be made equally, without preference and at the same time, provided that in the event that the ROM has incurred cost and the Co-Financer has not, compensation of these cost will have preference prior to any other payments

² Let op: als het incidenteel niet lukt alle aandeelhouders te laten tekenen voor het aangaan van deze Overeenkomst zorg dan in ieder geval dat voldoende aandeelhouders hebben getekend om een besluit tot verlening van het conversierecht te kunnen nemen.

which will be made equally and without preference.

9. COVENANTS

9.1 As long as the Borrower has any outstanding obligations to the Co-financer under the Agreement, the Borrower shall;

- (a) without the prior written consent of the ROM and the Co-Financer[s], to be determined on the basis of approval by 51% of the aggregate outstanding amount at that time under the COL-facility ("**Lenders' Majority**"), not acquire a company; not legally merge with another company not enter into a legal division, joint venture or other substantive collaboration with any legal entity or other type of enterprise; and
- (b) without the prior written consent of the Lenders' Majority, not dispose of any tangible assets (including intellectual property) during the term of this Agreement, other than in the ordinary course of its business; and
- (c) without the prior written consent of the Lenders' Majority, not pass any resolution to make any distribution on or repurchase of shares; or to cooperate in any action required for the aforementioned distribution on or repurchase of shares; and
- (d) without the prior written consent of the Lenders' Majority, not permit any private withdrawals from the Company's capital; and
- (e) without the prior written consent of the Lenders' Majority, not take out or grant any loans or issue (or resolving to do so) any shares or any equivalent thereof, such as options or warrants; and
- (f) without the prior written consent of the Lenders' Majority, not enter into, amend or terminate any agreement or any transaction with one or more of the shareholders, directors, members of the Borrower's management, affiliated companies or relatives; and
- (g) without the prior written consent of the Lenders' Majority, not make any extraordinary payments to the management and
- (h) without the prior written consent of the Lenders' Majority, not create any security or other limited right on its assets or otherwise encumber its assets or assume liability for the debts of others, except as by operation of law or in the ordinary course of its business or as usually stipulated by a banking institution in the context of financing previously provided by such institution.

9.2 The Borrower undertakes, as long as it has any outstanding obligations to the Co-financer under the Agreement:

- (a) as soon as possible after it becomes available, but in any case within 6 months after the end of each financial year, to provide the Co-financer with a copy of its financial statements, including a balance sheet, a profit and loss account and the explanatory notes thereto;
- (b) annually at least one month before the start of a new financial year, to provide the Co-financer with a budget comprising of a monthly profit and loss forecast, cash flow forecast

and a balance forecast, and overviews of expected turnover, investment expenditure (capex) and operational expenditure for the following financial year;

- (c) within 30 days after the end of each quarter, to provide the Co-financer with (unaudited) quarterly figures, including a profit and loss account, balance sheet and cash flow statement;
- (d) to provide Co-financer at its first request with any information that Co-financer may reasonably need from time to time in connection with the determination or exercise of its rights under this Agreement.

10. SUBORDINATION AND SECURITY OBLIGATIONS

10.1 The Co-financer will subordinate its claims under this Agreement, as defined in article 3:277 paragraph 2 of the Dutch Civil Code, against all current and future claims of banking institutions on the Borrower.

10.2 In addition, the Co-financer is prepared to further subordinate its claims under this Agreement with those of a banking institution, if the following conditions are met:

- (a) the Co-financer is, in principle, entitled to receive interest and to accept (early) repayment, whereby a reasonable mechanism can be agreed that takes into account both the interests of the banking institution and the Co-financer, on the basis of which the bank has the authority to revoke such entitlement on financial grounds and with due observance of the principles of the Loan.
- (b) repayment and payment of interest in the form of conversion of debt into share capital is always possible;
- (c) the Co-financer is not required to pledge the subordinated claim, nor any other security;
- (d) the general banking terms and conditions will not apply to the Co-financer in its capacity of subordinate;
- (e) no joint and several liability with the ROM is requested for their part of the subordinated Loan;
- (f) the Co-financer may claim payment, it being understood that it cannot effectuate the claim without approval from the relevant banking institution;

10.3 Without prejudice to the provisions of the previous paragraph, the Borrower will endeavour to establish, as soon as possible after the signing date of this Agreement, security in favour of the Co-financer, as high as possible in rank, albeit in rank after the security issued to the ROM under the COL-Agreement, and in the form to the satisfaction of the Co-financer in order to provide security for the fulfilment of the obligations of the Borrower under this Agreement vis-à-vis the Co-financer. The costs associated with the establishment of the aforementioned securities shall be borne by the Borrower.

11. COSTS

11.1 All reasonable costs that the Co-financer must in its opinion incur in the exercise or enforcement of its rights and other reasonable costs that this Agreement may give rise to will be borne by the

Borrower. In the event of default of payment, the Co-financer is authorized to proceed to collection through a bailiff or lawyer in the event of default and to charge the usual extrajudicial collection costs.

12. MISCELLANEOUS

- 12.1 This Agreement together with the documents contained therein and resulting agreements constitutes the entire agreement between the Parties relating to the Loan and supersedes all previous concepts, prior agreements, arrangements and understandings, whether written or oral, between the Parties related to these matters.
- 12.2 In the event that a competent court finds one or more provisions of this Agreement in whole or in part to be illegal, void, invalid, or unenforceable, all other provisions will remain in effect. Parties undertake to replace the invalid or unenforceable provisions of this Agreement with provisions that are effective and that - taking into account the aim and purpose of this Agreement - deviate as little as possible from the invalid provisions.
- 12.3 An extract from the Co-financer's records shall constitute conclusive evidence vis-à-vis the Borrower, subject to evidence to the contrary provided by the Borrower.
- 12.4 The Co-financer is entitled to transfer its legal position, as it results from this Agreement, by means of a contract takeover as defined in article 6:159 Dutch Civil Code, to one or more subsidiaries or group companies or other companies or funds managed by the Co-financer, and the other Parties hereby already cooperate for any such contract takeover.
- 12.5 This Agreement cannot be terminated (in Dutch: *ontbonden*) or reversed (in Dutch: *vernietigd*) by neither the Borrower nor the Co-financer for as long as the COL Agreement has not been terminated.
- 12.6 Any notice or other notification to be made under or in connection with this Agreement must be in writing (including by e-mail) and sent to the above addresses of each Party, or, if applicable, to any other address or location that such Party may subsequently communicate in writing to the other Parties to this Agreement for the purposes of this Agreement.

13. APPLICABLE LAW/COMPETENT COURT

- 13.1 This Agreement shall be governed by the laws of the Netherlands. All disputes arising from or in connection with this Agreement will in the first instance only be submitted to the competent court in the same judicial district as the court that was designated in the COL Agreement.

-signatures page-

This Agreement is signed:

<p>by: [_]</p> <hr/> <p>[***] Place: Date:</p>	<p>by: [_]</p> <hr/> <p>[***] Place: Date:</p>
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SCHEDULE (3)
Shareholders
[OVERVIEW AND SIGNATURE OF SHAREHOLDERS]

[Name Shareholder 1]	[private company with limited liability], , established in [__], with address [__], and e-mail address [__] listed in the Commercial Register of the Chamber of Commerce under number [__]/a natural person, born in [__], residing at [__] and with e-mail address [__].	Signed by _____ [***]
[Name Shareholder 2]	Et cetera	

SCHEDULE Fout! Verwijzingsbron niet gevonden.
COL AGREEMENT

SCHEDULE 7 WARRANTIES

- (a) Borrower is a company duly incorporated and existing under Dutch law that is authorized to conduct its business as it does.
- (b) All corporate decision-making by the Borrower necessary for the authorized conclusion and performance of this Loan has been provided for, as well as that of its directors and shareholders.
- (c) The Loan comprises of legally valid and binding obligations of the Borrower, exercisable in the manner provided for in this Agreement.
- (d) Borrower and its business have not previously applied for and been granted the present Corona bridging loan and neither have they made multiple applications at the same time.
- (e) Borrower has not applied for or received any other aid as referred to in paragraphs 3.2 and 3.3 of the Temporary Framework for State Aid to the Economy due to the current COVID-19 outbreak (e.g. a GO-Corona facility or BMKB-C facility).
- (f) The Borrower has provided the Co-financer with all information that is materially relevant to a lender who provides a loan to the Borrower, and this information is accurate, complete and not misleading and exactly, honestly and faithfully reflects the condition (financially and otherwise), the income, properties, assets, liabilities, activities, contractual relationships, operating results and prospects of the (group of the) Borrower and its company.
- (g) There is no ground as referred to in Article 5 of this Agreement, nor does it continue or arise as a result of entering into or receiving funds under this Agreement.
- (h) The Borrower is not involved in disputes and/or proceedings (including arbitration and binding advisory proceedings) of a civil, fiscal, administrative, criminal or disciplinary nature, including investigations on the part of any government, supervisory or executive agency. Such disputes, procedures and/or investigations are also not impending, and there are no circumstances known that could give rise to such disputes, procedures and/or investigations.
- (i) All taxes that are or may be owed by the Borrower in respect of any period prior to the signing date of the Agreement have always been, in accordance with the statutory regulations, timely and duly withheld and/or paid or adequately provided for.
- (j) In the twelve-month period preceding the signing date of this Agreement, no more resources have been withdrawn from the business of the Co-financer for the benefit of third parties than is necessary for business operations that are considered reasonable, and no obligation has been entered into for such a withdrawal.
- (k) Since 11 March 2020 (date of recognition of COVID-19 as a pandemic):

- neither a dividend distribution or other distribution has been made, nor has a resolution been passed make a dividend distribution or other distribution and no loans or other debts have been repaid; and
- neither have amendments been made (or agreed to) regarding the emoluments or other terms of employment of one or more of the employees of the Borrower who receive compensation of more than € 10,000 (in words: ten thousand euros) per month or of one of the directors of the Borrower nor has the Borrower granted a bonus or special compensation to such an employee or one of its directors; and
- no agreements or transactions have been entered into with any persons who are direct or indirect shareholders of the Borrower, directors, members of the Borrower's management and relatives of the aforementioned persons.