



**Komatsu Ltd.**

*(incorporated with limited liability in Japan)*

**Komatsu Finance America Inc.**

*(incorporated with limited liability in the State of Delaware)*

**Komatsu Europe Coordination Center NV**

*(incorporated with limited liability in Belgium)*

**U.S.\$2,000,000,000**

**Euro Medium Term Note Programme**

Under this Euro Medium Term Note Programme (the "**Programme**"), each of Komatsu Ltd. ("**KL**"), Komatsu Finance America Inc. ("**KFAI**") and Komatsu Europe Coordination Center NV, a limited liability company (*naamloze vennootschap / société anonyme*) organised and existing under the laws of Belgium, with its registered office at Mechelsesteenweg 586, B1800 Vilvoorde, Belgium and registered with the Crossroads Bank for Enterprises under number 0439.082.376 ("**KECC**", and together with KL and KFAI, the "**Issuers**" and each an "**Issuer**") may from time to time issue notes (the "**Notes**") denominated in any currency agreed by the Issuer of such Notes (the "**relevant Issuer**") and the relevant Dealer (as defined below). This Offering Circular supersedes the offering circular dated 30th August, 2019 relating to the Programme. Any Notes issued under the Programme on or after the date of this Offering Circular are issued subject to the provisions herein. This does not affect any Notes issued prior to the date of this Offering Circular.

**The Notes issued by KFAI and KECC will not be guaranteed by KL, but KFAI and KECC each have the benefit of keep well agreements between KL and each of KFAI and KECC as more fully described herein under "Relationship of Other Issuers with Komatsu Ltd."**

Notes issued by KL and KFAI may be issued in bearer or registered form (respectively "**Bearer Notes**" and "**Registered Notes**"). Notes issued by KECC will be issued in dematerialised form ("**Dematerialised Notes**").

The maximum aggregate nominal amount of all Notes from time to time outstanding will not exceed U.S.\$2,000,000,000 (or its equivalent in other currencies calculated as described herein) subject to increase as described herein. A description of the restrictions applicable at the date of this Offering Circular relating to the maturities of certain Notes is set out on pages 13 to 14.

The Notes may be issued on a continuing basis to one or more of the Dealers specified on page 12 and any additional Dealer appointed under the Programme from time to time, which appointment may be for a specific issue or on an ongoing basis (each a "**Dealer**" and collectively the "**Dealers**"). References in this Offering Circular to the "relevant Dealer" shall, in the case of an issue of Notes being (or intended to be) subscribed by more than one Dealer, be to all Dealers agreeing to purchase such Notes.

**An investment in Notes issued under the Programme involves certain risks. For a discussion of these risks, see "Risk Factors".**

Application has been made to the Financial Conduct Authority ("**FCA**") in its capacity as competent authority for Notes issued by the Issuers under the Programme during the period of 12 months from the date of this Offering Circular to be admitted to the official list of the FCA (the "**Official List**"), and to the London Stock Exchange plc (the "**London Stock Exchange**"), in the case where Notes are to be admitted to trading on the London Stock Exchange's Professional Securities Market (the "**PSM**").

References in this Offering Circular to Notes being "listed" (and all related references) shall mean that such Notes have been admitted to trading on the PSM and have been admitted to the Official List. The PSM is not a regulated market for the purposes of the Markets in Financial Instruments Directive (Directive 2014/65/EU).

Notice of the aggregate nominal amount of Notes, interest (if any) payable in respect of Notes, the issue price of Notes and certain other information which is applicable to each Tranche (as defined under "Terms and Conditions of the Notes") of Notes will be set forth in a final terms document (the "**Final Terms**"). With respect to Notes to be listed on the PSM, the Final Terms in respect thereof will be delivered to the FCA and the London Stock Exchange. Copies of the Final Terms in relation to Notes to be listed on the PSM will also be published on the website of the London Stock Exchange through a regulatory information service.

This Offering Circular does not constitute a base prospectus for the purposes of a listing or an admission to trading on any market in the European Economic Area which has been designated as a regulated market for the purposes of the Markets in Financial Instruments Directive. Each of the Issuers may also issue unlisted Notes and/or Notes not admitted to trading on any market.

The Notes of each Tranche to be issued in bearer form by KL or KFAI will initially be represented by a temporary bearer global Note (a "**Temporary Bearer Global Note**") which will be deposited on the issue date thereof with a common depositary (the "**Common Depositary**") on behalf of Euroclear Bank SA/NV ("**Euroclear**"), and Clearstream Banking S.A., a public limited liability company (*société anonyme*) organised and existing under the laws of the Grand Duchy of Luxembourg, with its registered office at 42, Avenue J.F. Kennedy, L-1855 Luxembourg and registered with the Luxembourg Register of Commerce and Companies under number B 9248 ("**Clearstream, Luxembourg**") and/or any other agreed clearing system (each, including the NBB-SSS (as defined below), a "**Clearing System**"). Each Temporary Bearer Global Note will be exchanged, as specified in the applicable Final Terms, for either a permanent bearer global Note (a "**Permanent Bearer Global Note**") or Bearer Notes in definitive form, in each case upon certification as to non-U.S. beneficial ownership as required by U.S. Treasury regulations and applicable U.S. securities laws. A Permanent Bearer Global Note will be exchangeable for definitive Bearer Notes, as specified in the applicable Final Terms, all as further described in "Form of the Notes" herein. In the case of KL, the Notes of each Tranche to be issued in registered form will initially be represented by a permanent registered global Note (a "**Permanent Registered Global Note**") which will be deposited on the issue date thereof with the Common Depositary and registered in the name of a nominee of such Common Depositary. In the case of KFAI, the Notes of each Tranche to be issued in registered form will initially be represented by a temporary registered global Note (a "**Temporary Registered Global Note**") which will be deposited on the issue date thereof with the Common Depositary and registered in the name of a nominee of such Common Depositary. Each Temporary Registered Global Note of KFAI will be exchanged, as specified in the applicable Final Terms, for either a Permanent Registered Global Note or Registered Notes in definitive form, in each case upon certification as to non-U.S. beneficial ownership as required by U.S. Treasury regulations and applicable U.S. securities laws. A Permanent Registered Global Note of KL and KFAI will be exchangeable for Registered Notes in definitive form, as specified in the applicable Final Terms, all as further described in "Form of the Notes" herein. In the case of KECC, the Notes will be issued in dematerialised form in accordance with the Belgian Code of Companies and Associations, and will be represented by a book-entry in the records of the securities settlement system (the "**NBB-SSS**") operated by the National Bank of Belgium (the "**NBB**") or any successor thereto, all as further described in "Form of the Notes" herein.

KL has been rated "A2" by Moody's Japan K.K. ("**Moody's**"), "AA-" by Rating and Investment Information, Inc. ("**R&I**") and "A" by S&P Global Ratings Japan Inc. ("**S&P**"). The Programme has been rated "AA-" by R&I. Tranches of Notes issued under the Programme may be rated or unrated. Where a Tranche of Notes is rated, such rating will not necessarily be the same as the rating assigned to the Programme. A security rating is not a recommendation to buy, sell or hold securities and may be subject to suspension, reduction or withdrawal at any time by the assigning rating agency.

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**Arranger**  
**Nomura**  
**Dealers**

**BNP PARIBAS**  
**Daiwa Capital Markets**  
**Mizuho Securities**  
**MUFG**  
**Shinkin International Ltd.**

**Citigroup**  
**Goldman Sachs International**  
**Morgan Stanley**  
**Nomura**  
**SMBC Nikko**

The date of this Offering Circular is 28th August, 2020.

## IMPORTANT INFORMATION

This Offering Circular comprises listing particulars ("**Listing Particulars**") given in compliance with the requirements of the Financial Services and Markets Act 2000 ("**FSMA**") and the listing rules (the "**Listing Rules**") of the FCA made for the purposes of section 73A of the FSMA, for the purpose of giving information with regard to each Issuer and the Notes.

The requirement to publish Listing Particulars only applies to Notes which are to be admitted to trading on the PSM. References in this Offering Circular to "unlisted Notes" are to Notes which are neither admitted to trading on the PSM nor on a regulated market in the EEA (as defined below) or in the UK (as defined below), nor offered in the EEA or in the UK in circumstances where a prospectus is required to be published under Regulation (EU) 2017/1129 (the "**Prospectus Regulation**"). Unless specified otherwise, references to Notes herein are deemed to include references to listed Notes and unlisted Notes. The unlisted Notes do not comprise part of this Offering Circular for the purposes of the requirements regarding Listing Particulars under the FSMA. The FCA has neither approved nor reviewed information contained in this Offering Circular in connection with the unlisted Notes.

This Offering Circular, to the extent that it concerns listed Notes admitted to trading on the PSM, has been approved by the FCA, as competent authority under the FSMA. The FCA only approves this Offering Circular as meeting the standards of completeness, comprehensibility and consistency imposed by the Prospectus Regulation, as required by Listing Rule 4.2.3. Such approval should not be considered as an endorsement of the Issuers that are the subject of this Offering Circular nor an endorsement of the quality of the Notes that are the subject of this Offering Circular. Investors should make their own assessment as to the suitability of investing in the Notes.

Each Issuer and KL, in its capacity as a keep well provider, accepts responsibility for the information contained in this Offering Circular and the applicable Final Terms for each Tranche of Notes issued under the Programme. To the best of the knowledge of each Issuer and KL, in its capacity as a keep well provider, the information contained in this document is in accordance with the facts and this Offering Circular does not omit anything likely to affect its import.

This Offering Circular is to be read in conjunction with KL's, KFAI's and KECC's financial statements, which form a part of this Offering Circular and are incorporated herein by reference (see "Information Incorporated by Reference").

The Dealers have not independently verified the information contained herein. Accordingly, no representation, warranty or undertaking, express or implied, is made and no responsibility is accepted by the Dealers as to the accuracy or completeness of the information contained in this Offering Circular, or any other information provided by any of the Issuers in connection with the Programme or any act or omission of the Issuers or any other person (other than the relevant Dealer) in connection with the issue and offering of the Notes. To the fullest extent permitted by law, none of the Dealers accepts any liability in relation to the information contained in this Offering Circular or any other information provided by any of the Issuers in connection with the Programme. The Arranger and each Dealer accordingly disclaims all and any liability whether arising in tort or contract or otherwise which it might otherwise have in respect of this Offering Circular or any such information.

No person is or has been authorised to give any information or to make any representation not contained in or not consistent with this Offering Circular or any other information supplied in connection with the Programme or the Notes and, if given or made, such information or representation must not be relied upon as having been authorised by any of the Issuers or any of the Dealers.

Neither this Offering Circular nor any other information supplied in connection with the Programme or the Notes (i) is intended to provide the basis of any credit or other evaluation or (ii) should be considered as a recommendation by any of the Issuers or any of the Dealers that any recipient of this Offering Circular or any other information supplied in connection with the Programme or the Notes should purchase any Notes. Each investor contemplating purchasing any Notes should make its own independent investigation of the financial condition and affairs, and its own appraisal of the creditworthiness, of the relevant Issuer. Neither this Offering Circular nor any other information supplied in connection with the Programme or the issue of any Notes constitutes an offer or invitation by or on behalf of any of the Issuers or any of the Dealers to any person to subscribe for or to purchase any Notes.

The delivery of this Offering Circular or the offering, sale or delivery of any Notes does not at any time imply that the information contained herein concerning any of the Issuers is correct at any time subsequent to the date hereof or that any other information supplied in connection with the Programme is correct as of any time subsequent to the date indicated in the document containing the same. The Dealers expressly do not undertake to review the financial condition or affairs of any of the Issuers during the life of the Programme or to advise any investor in the Notes of any information coming to their attention.

### **IMPORTANT INFORMATION RELATING TO THE USE OF THIS OFFERING CIRCULAR AND OFFERS OF NOTES GENERALLY**

This Offering Circular does not constitute an offer to sell or the solicitation of an offer to buy any Notes in any jurisdiction to any person to whom it is unlawful to make the offer or solicitation in such jurisdiction. The distribution of this Offering Circular and the offer or sale of Notes may be restricted by law in certain jurisdictions. The Issuers and the Dealers do not represent that this Offering Circular may be lawfully distributed, or that any 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 the Issuers or the Dealers which is intended to permit a public offering of any Notes or distribution of this document in any jurisdiction where action for that purpose is required. Accordingly, no Notes may be offered or sold, directly or indirectly, and neither this Offering Circular nor any advertisement or other offering material may be distributed or published in any jurisdiction, except under circumstances that will result in compliance with any applicable laws and regulations and the Dealers have represented that all offers and sales by them will be made on the same terms. Persons into whose possession this Offering Circular or any Notes may come must inform themselves about, and observe, any such restrictions on the distribution of this Offering Circular and the offering and sale of Notes. In particular, there are restrictions on the distribution of this Offering Circular and the offer, sale and transfer of Notes in the United States, the European Economic Area (including Belgium and The Netherlands), the United Kingdom, Japan, Hong Kong, the PRC (as defined herein) and Singapore, and such other restrictions as may be required in connection with the offer, sale and transfer of a particular Tranche of Notes (see "Subscription and Sale").

The Notes have not been and will not be registered under the U.S. Securities Act of 1933, as amended (the "**Securities Act**"), and are subject to U.S. tax law requirements. Subject to certain exceptions, the Notes may not be offered, sold or delivered within the United States or to, or for the account or benefit of, U.S. persons (as defined in Regulation S under the Securities Act ("**Regulation S**") and Section 7701(a)(30) of the Internal Revenue Code of 1986 as amended (the "**Code**")) (see "Subscription and Sale").

**IMPORTANT – PROHIBITION OF SALES TO EEA AND 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 European Economic Area ("**EEA**") or in the United Kingdom (the "**UK**"). 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**"); or (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. Consequently no key information document required by Regulation (EU) No 1286/2014 (as amended, the "**PRIIPs Regulation**") for offering or selling the Notes or otherwise making them available to retail investors in the EEA or in the UK has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the EEA or in the UK may be unlawful under the PRIIPs Regulation.

**IMPORTANT – MIFID II PRODUCT GOVERNANCE / TARGET MARKET:** The Final Terms in respect of any Notes will include a legend entitled "MiFID II Product Governance" 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 manufacturers' 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 manufacturers' target market assessment) and determining appropriate distribution channels.

A determination will be made in relation to each issue 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.

**IMPORTANT – NOTICE TO INVESTORS IN BELGIUM:** 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 consumer (*consument/consommateur*) located and/or resident in Belgium within the meaning of Book VI of the Belgian Code of Economic Law (*Wetboek van economisch recht/Code de droit économique*).

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 "**Financial Instruments and Exchange Act**") and the Notes issued by KL are subject to the Act on Special Measures Concerning Taxation of Japan (Act No. 26 of 1957, as amended, the "**Special Taxation Act**") (see "Subscription and Sale"). **BY PURCHASING ANY NOTES ISSUED BY KL, AN INVESTOR WILL BE DEEMED TO HAVE REPRESENTED THAT IT IS (A) A BENEFICIAL OWNER THAT IS, FOR JAPANESE TAX PURPOSES, NEITHER (X) AN INDIVIDUAL RESIDENT OF JAPAN OR A JAPANESE CORPORATION, NOR (Y) AN INDIVIDUAL NON-RESIDENT OF JAPAN OR A NON-JAPANESE CORPORATION THAT IN EITHER CASE IS A PERSON HAVING A SPECIAL RELATIONSHIP WITH KL AS DESCRIBED IN ARTICLE 6, PARAGRAPH (4) OF THE SPECIAL TAXATION ACT, (B) A DESIGNATED FINANCIAL INSTITUTION (AS DEFINED BELOW), OR (C) ANY OTHER EXCLUDED CATEGORY OF PERSONS, CORPORATIONS OR OTHER ENTITIES UNDER THE SPECIAL TAXATION ACT; "DESIGNATED FINANCIAL INSTITUTION" FOR THIS PURPOSE MEANS A JAPANESE FINANCIAL INSTITUTION DESIGNATED IN ARTICLE 6, PARAGRAPH (9) OF THE SPECIAL TAXATION ACT.**

**IMPORTANT – PRODUCT CLASSIFICATION PURSUANT TO SECTION 309B OF THE SECURITIES AND FUTURES ACT (CHAPTER 289) OF SINGAPORE:**

The Final Terms in respect of any Notes may include a legend entitled "Singapore Securities and Futures Act Product Classification" which will state the product classification of the Notes pursuant to section 309B(1) of the Securities and Futures Act (Chapter 289) of Singapore (as modified or amended from time to time, the "**SFA**"). The Issuer will make a determination and provide the appropriate written notification to "relevant persons" in relation to each issue about the classification of the Notes being offered for the purposes of Section 309B(1)(a) and Section 309B(1)(c) of the SFA.

**KL will not issue "Taxable Linked Securities" under the Programme.** "**Taxable Linked Securities**" means Notes on which interest is calculated based on the amount of profits or assets of KL or a specially-related person of KL or on any of certain other indices relating to KL or a specially-related person of KL as described in Article 6, paragraph (4) of the Special Taxation Act and the Cabinet Order; "**Cabinet Order**" means the cabinet order under the Special Taxation Act (Cabinet Order No. 43 of 1957), as amended.

The Notes may not be a suitable investment for all investors. Each potential investor in the Notes must determine the suitability of that investment in light of its own circumstances. In particular, each potential investor may wish to consider, either on its own or with the help of its financial and other professional advisers, whether it:

- (i) has sufficient knowledge and experience to make a meaningful evaluation of the Notes, the merits and risks of investing in the Notes and the information contained in this Offering Circular or any applicable supplement;
- (ii) has access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation, an investment in the Notes and the impact the Notes will have on its overall investment portfolio;
- (iii) has sufficient financial resources and liquidity to bear all of the risks of an investment in the Notes, including Notes where the currency for principal or interest payments is different from the potential investor's currency;
- (iv) understands thoroughly the terms of the Notes and is familiar with the behaviour of any relevant indices and financial markets; and
- (v) is able to evaluate possible scenarios for economic, interest rate and other factors that may affect its investment and its ability to bear the applicable risks.

Legal investment considerations may restrict certain investments. The investment activities of certain investors are subject to legal investment laws and regulations, or review or regulation by certain authorities. Each

potential investor should consult its legal advisers to determine whether and to what extent (1) the Notes are legal investments for it, (2) the Notes can be used as collateral for various types of borrowing and (3) other restrictions apply to its purchase or pledge of any Notes. Financial institutions should consult their legal advisors or the appropriate regulators to determine the appropriate treatment of the Notes under any applicable risk-based capital or similar rules.

**In connection with the issue of any Tranche of Notes, one or more relevant Dealers (the "Stabilising Manager(s)") may over-allot Notes or effect transactions with a view to supporting the market price of the Notes at a level higher than that which might otherwise prevail. However, stabilisation may not necessarily occur. Any stabilisation action may begin on or after the date on which adequate public disclosure of the terms of the offer of the relevant Tranche of Notes is made and, if begun, may cease at any time, but it must end no later than the earlier of 30 days after the issue date of the relevant Tranche of Notes and 60 days after the date of the allotment of the relevant Tranche of Notes. Any stabilisation action or over-allotment must be conducted by the relevant Stabilising Manager(s) (or any person acting on behalf of any Stabilising Manager(s)) in accordance with all applicable laws and rules. Any loss resulting from over-allotment and stabilisation shall be borne, and any net profit arising therefrom shall be retained, by any Stabilising Manager for its own account.**

## **PRESENTATION OF INFORMATION**

All references in this document to "**U.S. dollars**", "**U.S.\$**" and "**U.S. cent**" refer to United States dollars or cents, those to "**Japanese Yen**", "**Yen**", "**JPY**" and "¥" refer to Japanese yen, those to "**Sterling**", "**GBP**" and "**£**" refer to pounds sterling, those to "**euro**", "**EUR**" and "€" refer to the currency introduced at the start of the third stage of the European economic and monetary union, and as defined in Article 2 of Council Regulation (EC) No. 974/98 of 3rd May, 1998 on the introduction of the euro, as amended, and those to "**Renminbi**", "**CNY**" and "**RMB**" are to the lawful currency of the People's Republic of China (excluding the Hong Kong Special Administrative Region, the Macau Special Administrative Region and Taiwan, the "**PRC**").

No representation is made that the Japanese Yen or U.S. dollar amounts referred to herein could have been or could be converted into U.S. dollars or Japanese Yen, as the case may be, at any particular rate or at all. Any discrepancies in any table between totals and the sums of the amounts listed are due to rounding.

## **FORWARD-LOOKING STATEMENTS**

This Offering Circular and the documents incorporated by reference herein include "forward-looking statements". The words "anticipate", "believe", "expect", "plan", "intend", "targets", "aims", "estimate", "project", "will", "would", "may", "could", "continue" and similar expressions are intended to identify forward-looking statements. All statements other than statements of historical facts included in this Offering Circular and the information incorporated herein, including, without limitation, those regarding an Issuer's financial position, business strategy, plans and objectives of management for future operations, are forward-looking statements. Such forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause the actual results, performance or achievements of the relevant Issuer, or industry results, to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. Such forward-looking statements are based on numerous assumptions regarding the relevant Issuer's present and future business strategies and the environment in which such Issuer will operate in the future. The important factors that could cause an Issuer's actual results, performance or achievements to differ materially from those in the forward-looking statements include, but are not limited to, those discussed under "Risk Factors". These forward-looking statements speak only as of the respective dates of this Offering Circular and the information incorporated herein. Each of the Issuers expressly disclaims any obligation or undertaking to release publicly any updates or revisions to any forward-looking statement contained herein or in any documents incorporated by reference herein to reflect any change in such Issuer's expectations with regard thereto or any change in events, conditions or circumstances on which any such statement is based.

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## INFORMATION INCORPORATED BY REFERENCE

The following information shall be deemed to be incorporated in, and to form a part of, this Offering Circular:

1. the audited consolidated financial statements (including the auditors' report thereon and notes thereto) of KL in respect of the fiscal years ended 31st March, 2019 and 2020;
2. the audited non-consolidated financial statements (including the auditors' report thereon and notes thereto) of KFAI in respect of the fiscal years ended 31st March, 2019 and 2020;
3. the audited non-consolidated financial statements (including the auditors' report thereon and notes thereto) of KECC in respect of the fiscal years ended 31st March, 2019 and 2020; and
4. the terms and conditions set out on pages 41 to 74 of the offering circular dated 30th August, 2019 relating to the Programme under the heading "Terms and Conditions of the Notes",

each of which have been previously published or are published simultaneously with this Offering Circular and which have been approved by the FCA or filed with it.

Any information contained in any of the documents specified above which is not specifically incorporated in this Offering Circular is either not relevant for investors or is covered elsewhere in this Offering Circular. The offering circular dated 30th August, 2019 (other than the terms and conditions set out therein), is not incorporated by reference into, and do not form a part of, this Offering Circular.

The documents listed above shall be incorporated in and form a part of this Offering Circular, save that any statement contained in a document which is incorporated by reference herein shall be modified or superseded for the purpose of this Offering Circular to the extent that a statement contained herein modifies or supersedes such earlier statement (whether expressly, by implication or otherwise). Any statement so modified or superseded shall not, except as so modified or superseded, constitute a part of this Offering Circular. Any documents themselves incorporated by reference in the documents incorporated by reference in this Offering Circular shall not form a part of this Offering Circular.

Copies of documents incorporated by reference in this Offering Circular may be inspected, free of charge, at the website of the Regulatory News Service operated by the London Stock Exchange at [www.londonstockexchange.com/exchange/news/market-news/market-news-home.html](http://www.londonstockexchange.com/exchange/news/market-news/market-news-home.html), and may be obtained, free of charge, at the registered office of the Issuers and the offices of the Fiscal Agent and the Domiciliary Agent. Information contained in or accessible from the website in this paragraph that is not incorporated by reference in this Offering Circular as set out above does not form a part of and is not incorporated by reference into this Offering Circular.

## **SUPPLEMENTARY LISTING PARTICULARS**

If at any time the Issuers shall be required to prepare supplementary listing particulars pursuant to Section 81 of the FSMA, the Issuers will prepare and make available an appropriate amendment or supplement to this Offering Circular or a further Offering Circular which, in respect of any subsequent issue of Notes to be listed on the Official List and admitted to trading on the PSM, shall constitute supplementary listing particulars as required by the FCA and Section 81 of the FSMA.

Each of the Issuers has given an undertaking to the Dealers that in the event of (i) a significant new factor, material mistake or inaccuracy relating to the information included in this Offering Circular which is capable of affecting the assessment of any Notes arising or being noted, (ii) a change in the condition of any Issuer (and/or KL as the parent of the relevant Issuer) which is material in the context of the Programme or the issue of any Notes or (iii) this Offering Circular otherwise coming to contain an untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein not misleading or if it is necessary at any time to amend the Offering Circular to comply with, or reflect changes in, the laws or regulations of Japan, the United States of America or Belgium or any other relevant jurisdiction, the relevant Issuer shall update or amend the Offering Circular by the publication of a supplement hereto or a new Offering Circular.

## GENERAL DESCRIPTION OF THE PROGRAMME

Under the Programme, any Issuer may from time to time issue Notes denominated in any currency and having a minimum maturity of one month, subject as set out herein, and subject to such minimum denomination as is set out in "Description of the Programme and the Notes—Denomination of Notes". A description of the Programme and the Notes appears on pages 12 to 16. The applicable terms of any Notes will be agreed between the relevant Issuer and the relevant Dealer(s) prior to the issue of the Notes and will be set out in the Terms and Conditions of the Notes attached to, or endorsed on, the Notes, as supplemented by the applicable Final Terms with respect to a specific Tranche of Notes attached to, or endorsed on, such Notes, as more fully described under "Form of the Notes".

This Offering Circular and any supplement will only be valid for listing Notes issued by the Issuers on the Official List during the period of 12 months from the date of this Offering Circular in an aggregate nominal amount which, when added to the aggregate nominal amount then outstanding of all Notes previously or simultaneously issued under the Programme does not exceed U.S.\$2,000,000,000 or its equivalent in other currencies. For the purpose of calculating the U.S. dollar equivalent of the aggregate amount of Notes issued under the Programme from time to time:

- (a) the U.S. dollar equivalent of Notes denominated in another Specified Currency (as specified in the applicable Final Terms in relation to the relevant Notes, and as described under "Form of the Notes") shall be determined, at the discretion of the relevant Issuer, either as of the date on which agreement is reached for the issue of Notes or on the preceding day on which commercial banks and foreign exchange markets are open for business in London, in each case on the basis of the spot rate for the sale of the U.S. dollar against the purchase of such Specified Currency in the London foreign exchange market quoted by any leading international bank selected by the relevant Issuer on the relevant day of calculation; and
- (b) the U.S. dollar equivalent of Zero Coupon Notes (as specified in the applicable Final Terms in relation to the relevant Notes, and as described under "Form of the Notes") and other Notes issued at a discount or premium shall be calculated in the manner specified above by reference to the net proceeds received by the relevant Issuer for the relevant issue.

## DESCRIPTION OF THE PROGRAMME AND THE NOTES

*The following description does not purport to be complete and is taken from, and is qualified in its entirety by, the remainder of this Offering Circular and, in relation to the terms and conditions of any particular Tranche of Notes, the applicable Final Terms. Words and expressions defined in "Form of the Notes" and "Terms and Conditions of the Notes" below shall have the same meanings in this description.*

<b>Issuers:</b>	Komatsu Ltd. Komatsu Finance America Inc. Komatsu Europe Coordination Center NV
<b>Description:</b>	Euro Medium Term Note Programme
<b>Arranger:</b>	Nomura International plc
<b>Dealers:</b>	BNP Paribas Citigroup Global Markets Europe AG Citigroup Global Markets Limited Daiwa Capital Markets America Inc. Goldman Sachs International Mizuho International plc Mizuho Securities Europe GmbH Morgan Stanley & Co. International plc MUFG Securities EMEA plc Nomura International plc Shinkin International Ltd. SMBC Nikko Capital Markets Europe GmbH SMBC Nikko Capital Markets Limited

and any other Dealer(s) which may be appointed from time to time in accordance with the Programme Agreement (as defined under "Terms and Conditions of the Notes" below).

<b>Regulatory Matters:</b>	Each issue of Notes in respect of which particular laws, guidelines, regulations, restrictions or reporting requirements apply will only be issued in circumstances which comply with such laws, guidelines, regulations, restrictions or reporting requirements from time to time (see "Subscription and Sale" below) including the following restriction applicable at the date of this Offering Circular.
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Notes having a maturity of less than one year from the date of issue will, if proceeds of the issue of such Notes are accepted in the United Kingdom, constitute deposits for the purposes of the prohibition on accepting deposits contained in Section 19 of the FSMA unless they are issued to a limited class of professional investors and have a denomination of at least £100,000 (or its equivalent in other specified currencies). See "Subscription and Sale" below.

<b>Fiscal Agent:</b>	Citibank, N.A. (the " <b>Fiscal Agent</b> ")
<b>Domiciliary Agent:</b>	Citibank Europe Plc (the " <b>Domiciliary Agent</b> ")
<b>Paying Agent:</b>	Citibank, N.A. (the " <b>Paying Agent</b> ")
<b>Registrar:</b>	Citigroup Global Markets Europe AG (the " <b>Registrar</b> ")
<b>Transfer Agent:</b>	Citibank, N.A., London Branch (the " <b>Transfer Agent</b> ")

<b>Agent:</b>	Each of the Fiscal Agent, the Registrar, the Paying Agents, the Domiciliary Agent, and the Transfer Agents.
<b>Size:</b>	Up to U.S.\$2,000,000,000 (or its equivalent in other currencies calculated as described under "General Description of the Programme" above) outstanding at any time. The Issuers may increase the amount of the Programme in accordance with the terms of the Programme Agreement.
<b>Distribution:</b>	Notes may be distributed by way of private placement or public offering and in each case on a syndicated or non-syndicated basis, subject to the selling restrictions described under "Subscription and Sale" below.
<b>Currencies:</b>	<p>Subject to any applicable legal or regulatory restrictions, any currency or currencies as may be agreed between the relevant Issuer and the relevant Dealer(s), including, without limitation, Australian dollars, euro, Japanese Yen, New Zealand dollars, Renminbi, Sterling and U.S. dollars (as indicated in the applicable Final Terms).</p> <p>To the extent Notes issued by KECC are concerned, the NBB-SSS exclusively clears securities denominated in any currency the euro foreign exchange reference rate of which is published by the European Central Bank.</p>
<b>Maturities:</b>	The Notes will have such maturities as may be agreed between the relevant Issuer and the relevant Dealer(s) and as indicated in the applicable Final Terms, subject to such minimum or maximum maturities as may be allowed or required from time to time by the relevant central bank (or equivalent body) or any laws or regulations applicable to the relevant Issuer or the relevant Specified Currency.
<b>Issue Price:</b>	Notes will be issued on a fully paid basis and at an issue price which is at par or at a discount to, or premium over, par.
<b>Form of Notes:</b>	The Notes will be issued in bearer, registered or dematerialised form as described in "Form of the Notes". KL and KFAI will issue Notes in bearer or registered form only and KECC will issue Notes in dematerialised form only. Registered Notes will not be exchangeable for Bearer Notes and <i>vice versa</i> . Dematerialised Notes will not be exchangeable for Bearer Notes and <i>vice versa</i> . KFAI will only issue Notes in bearer form to the extent such Notes have a maturity of 183 days or less or are considered to be in "registered form" for U.S. federal income tax purposes.
<b>Fixed Rate Notes:</b>	Fixed interest will be payable on such date or dates as may be agreed between the relevant Issuer and the relevant Dealer(s) (as indicated in the applicable Final Terms) and on redemption and will be calculated on the basis of such Day Count Fraction as may be agreed between the relevant Issuer and the relevant Dealer(s).
<b>Floating Rate Notes:</b>	<p>Floating Rate Notes will bear interest at a rate determined:</p> <p>(i) on the same basis as the floating rate under a notional interest-rate swap transaction in the relevant Specified Currency governed by an agreement incorporating the 2006 ISDA Definitions (as published by the International Swaps and Derivatives Association, Inc., and as supplemented, amended and updated as at the Issue Date of the first Tranche of the Notes of the relevant Series); or</p>

- (ii) on the basis of the reference rate set out in the applicable Final Terms.

The Margin (if any) relating to such floating rate will be agreed between the relevant Issuer and the relevant Dealer(s) for each Series of Floating Rate Notes.

**Other provisions relating to Floating Rate Notes:**

Floating Rate Notes may also have a maximum interest rate, a minimum interest rate or both.

Interest on Floating Rate Notes in respect of each Interest Period, as agreed prior to issue by the relevant Issuer and the relevant Dealer(s), will be payable on such Interest Payment Dates specified in, or determined pursuant to, the applicable Final Terms and will be calculated on the basis of such Day Count Fraction as may be agreed between the relevant Issuer and the relevant Dealer(s).

**Zero Coupon Notes:**

Zero Coupon Notes will be offered and sold at a discount to their nominal amount and will not bear interest other than in the case of late payment.

**Redemption:**

The Final Terms relating to each Tranche of Notes will indicate either that the Notes cannot be redeemed prior to their stated maturity (other than in specified instalments where relevant, if applicable, or for taxation reasons or following an Event of Default) or that such Notes will be redeemable at the option of the relevant Issuer and/or the Noteholders upon giving not less than 15 nor more than 30 days' irrevocable notice to the Noteholders or the relevant 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 terms as are indicated in the applicable Final Terms.

Notes having a maturity of less than one year from the date of issue may be subject to restrictions on their denomination and distribution, see "—Regulatory Matters" above.

**Denomination of Notes:**

Notes will be issued in such denominations as may be agreed between the relevant Issuer and the relevant Dealer(s) and as indicated in the applicable Final Terms. The minimum denomination of any Notes issued by KFAI with a maturity of 183 days or less from the date of the original issue shall not be less than U.S.\$500,000 (or the equivalent amount in the relevant Specified Currency determined by reference to the spot rate on such date). See also "—Regulatory Matters" above.

It is expected that, unless otherwise agreed with the relevant Dealer(s), Notes will have a denomination of at least EUR100,000 (or its equivalent in any other currency as determined by the relevant Dealer(s) as at the date of issue of such Notes). Notes issued by KFAI and KECC must at all times have a minimum denomination of EUR100,000 (or its equivalent in any other currency as determined by relevant Dealer(s) as at the date of issue of such Notes) and be in multiples of EUR100,000.

**Taxation:**

All payments in respect of the Notes will be made without deduction for or on account of withholding taxes imposed within the jurisdiction in which the relevant Issuer is incorporated or the jurisdiction to whose laws the relevant Issuer is subject, each as provided in Condition 8 of the terms and conditions of the relevant Notes, unless otherwise required by law. In the event that any such deduction is made, the relevant Issuer will, save in certain limited circumstances provided in Condition 8, be required to pay additional amounts to cover the amounts so deducted.

Interest payments on the Notes issued by KL will generally be subject to Japanese withholding tax unless the holder establishes that the Notes are held by or for the account of a holder that is (i) for Japanese tax purposes, neither (x) an individual resident of Japan or a Japanese corporation, nor (y) an individual non-resident of Japan or a non-Japanese corporation that in either case is a specially-related person of KL, (ii) a Japanese financial institution designated in Article 6, paragraph (9) of the Special Taxation Act which complies with the requirement for tax exemption under that paragraph, or (iii) a public corporation, a financial institution, a financial instruments business operator or certain other entities which have received such payments through a Japanese payment handling agent as provided in Article 3-3, paragraph (6) of the Special Taxation Act in compliance with the requirement for tax exemption under that paragraph, all as described in "Terms and Conditions of the Notes" and "Taxation—Japan".

**Negative Pledge:**

The terms of the Notes will contain a negative pledge provision as described in Condition 4 of the terms and conditions of the relevant Notes.

**Cross Default:**

The terms of the Notes will contain a cross-default provision relating to indebtedness for money borrowed having an aggregate outstanding amount of at least U.S.\$5,000,000 (or its equivalent in any other currency or currencies) as further described in Condition 10 of the terms and conditions of the relevant Notes.

**Status of the Notes:**

The Notes will constitute direct, unconditional, unsubordinated and (subject to the provisions of Condition 4) unsecured obligations of the relevant Issuer and will rank *pari passu* among themselves and (save for certain obligations required to be preferred by law) equally with all other unsecured obligations (other than subordinated obligations, if any) of the relevant Issuer from time to time outstanding.

**Ratings:**

KL has been rated "A2" by Moody's, "AA–" by R&I and "A" by S&P. The Programme has been rated "AA–" by R&I. Tranches of Notes issued under the Programme may be rated or unrated. Where a Tranche of Notes is rated, such rating will not necessarily be the same as the rating assigned to the Programme. A security rating is not a recommendation to buy, sell or hold securities and may be subject to suspension, reduction or withdrawal at any time by the assigning rating agency.

**Listing and admission to trading:**

Application has been made for Notes issued by the Issuers under the Programme to be listed on the London Stock Exchange's Professional Securities Market.

Notes which are neither listed nor admitted to trading on any market may also be issued by each of the Issuers. The Final Terms relating to each issue will state whether or not the Notes are to be listed and/or admitted to trading and, if so, on which stock exchange(s) and/or market(s).

This Offering Circular does not constitute a base prospectus for the purposes of a listing or an admission to trading on any market in the European Economic Area which has been designated as a regulated market for the purposes of the Markets in Financial Instruments Directive (Directive 2014/65/EU).

**Governing Law:**

The Notes and any non-contractual obligations arising out of or in connection with the Notes will be governed by, and shall be construed in accordance with, English law, save that Condition 1 shall be governed by, and construed in accordance with, Belgian law, in so far as they relate to Notes issued by KECC.

**Selling Restrictions:**

There are restrictions on the offer, sale and transfer of the Notes in the United States, the European Economic Area (including Belgium and The Netherlands), the United Kingdom, Japan, Hong Kong, the PRC and Singapore, and such other restrictions as may be required in connection with the offer, sale and transfer of a particular Tranche of Notes. See "Subscription and Sale" below.

**United States Selling Restrictions:**

The Notes are subject to U.S. tax law requirements and may not be offered, sold or delivered within the United States or its possessions or to a United States person, except in certain transactions permitted by U.S. tax regulations.

The Notes will be issued in compliance with Regulation S and, in respect of the Bearer Notes, TEFRA D as specified in the applicable Final Terms. See "Subscription and Sale" below.



## RISK FACTORS

*Each of the Issuers believes that the following risks are the material risks that may affect its ability to fulfil its obligations under Notes issued under the Programme and (in the case of Notes issued by KFAI and KECC) the ability of KL to fulfil its obligations under the U.S. Keep Well Agreement and the Belgian Keep Well Agreement (each as defined in the section "Relationship of Other Issuers with Komatsu Ltd."). Most of these factors are contingencies which may or may not occur and none of the Issuers is in a position to express a view on the likelihood of any such contingency occurring.*

*In addition, factors which are material for the purpose of assessing the market risks associated with Notes issued under the Programme are also described below.*

*Each of the Issuers believes that the factors described below represent the principal risks inherent in investing in Notes issued by them under the Programme, but the inability of any of the Issuers to pay interest, principal or other amounts on or in connection with any Notes may occur for other reasons and none of the Issuers represents that the statements below regarding the risks of holding any Notes are exhaustive.*

### **1. Factors that may affect the Issuers' ability to fulfil their obligations under Notes issued under the Programme and KL's ability to fulfil its obligations under the U.S. Keep Well Agreement with KFAI and the Belgian Keep Well Agreement with KECC**

The factors described below, either individually or in combination with any other factors, may adversely affect the financial position, and ultimately the solvency, of the Issuers and accordingly their ability to fulfil their respective obligations under Notes issued by them under the Programme and (in the case of Notes issued by KFAI and KECC) the ability of KL to fulfil its obligations, respectively, under the U.S. Keep Well Agreement and the Belgian Keep Well Agreement.

The risks described below may affect the principal businesses conducted by KL and its consolidated subsidiaries (hereinafter referred to as "**Komatsu**" or the "**Komatsu Group**"). Since the primary businesses of KFAI and KECC are dependent on the financing needs of Komatsu, the risks described below may also affect the financial position of KFAI and/or KECC, as the case may be.

#### **A. Risks related to external factors which may affect the Issuers**

##### *Economic and Market Conditions*

The business environment in which Komatsu operates and the market demand for its products may change substantially as a result of economic and market conditions, political and social circumstances, competitive conditions and other factors, which differ from region to region.

In economically developed countries in which Komatsu operates (such as the United States (with net sales to customers in such location comprising 20.9 per cent. of total consolidated net sales for the fiscal year ended 31st March, 2020) and Japan (with net sales to customers in such location comprising 16.2 per cent. of total consolidated net sales for the fiscal year ended 31st March, 2020)), Komatsu's business is generally affected by cyclical changes in the economies of such regions. Therefore, factors which are beyond Komatsu's control, such as levels of housing starts, industrial production, public investments in infrastructure development and private-sector capital outlays, may affect demand for Komatsu's products.

In the developing countries in which Komatsu operates (such as countries in the Middle East and Africa (with net sales to customers in such locations comprising 5.3 per cent. of total consolidated net sales for the fiscal year ended 31st March, 2020)), Komatsu pays attention to the changes in demand for its products. However, these economies are impacted by a number of variable factors, such as commodity demand levels, commodity price fluctuations and sudden movements in currency values, and changes in any or all of these factors could adversely affect Komatsu's business results.

Furthermore, when economic and/or market conditions change more drastically than expected, Komatsu may also experience, among other things, fewer orders of its products, an increase in cancellation of orders by customers and a delay in the collection of receivables.

These changes in the business environment in which Komatsu operates may lead to a decline in sales, and inefficient inventory levels and/or production capacities utilisation, thereby causing Komatsu to record lower

profitability and incur additional expenses and losses. As a result, Komatsu's results of operations may be adversely affected.

#### *Foreign Currency Exchange Rate Fluctuations*

A substantial portion of Komatsu's overseas sales is affected by foreign currency exchange rate fluctuations. In general, an appreciation of the Japanese Yen against another currency would adversely affect Komatsu's results of operations, while a depreciation of the Japanese Yen against another currency would have a favourable impact thereon. In addition, foreign currency exchange rate fluctuations may also affect the comparative prices between products sold by Komatsu and products sold by its foreign competitors in the same market, as well as the cost of materials used in the production of such products. Komatsu strives to alleviate the effect of such foreign currency exchange rate fluctuations by locating its production bases globally and engaging in production locally. Komatsu also engages in hedging activities to reduce the effects of short-term foreign currency exchange rate fluctuations. Despite Komatsu's efforts, if the foreign currency exchange rates fluctuate beyond Komatsu's expectations, Komatsu's results of operations may be adversely affected.

#### *Fluctuations in Financial Markets*

While Komatsu is currently improving the efficiency of its asset liability management, its aggregate short- and long-term interest-bearing debt on a consolidated basis was ¥1,012.3 billion (27.7 per cent. of consolidated total assets) as of 31st March, 2020. Although Komatsu has strived to reduce the effect of interest rate fluctuations using various measures, including procuring funds at fixed interest rates, an increase in interest rates may increase Komatsu's interest expenses and thereby adversely affect Komatsu's results of operations. In addition, with respect to Komatsu's pension assets, although Komatsu has been evaluating its operational status and reviewing its portfolio on a regular basis, fluctuations in the financial markets, such as fluctuations in the fair value of marketable securities and interest rates, may also increase the unfunded obligation portion of Komatsu's pension plans or pension liabilities, which may result in an increase in pension expenses. Such an increase in interest expenses and pension expenses may adversely affect Komatsu's results of operations and financial condition.

#### *Laws and Regulations of Different Countries, and Taxation Issues*

Komatsu has operations around the world, and is subject to relevant laws, regulations and approval procedures in the countries in which it operates. If any new laws and regulations or amendments to existing laws and regulations relating to customs duties, tariffs, currency restrictions, and other legal requirements (such as labour laws, safety regulations or laws relating to foreign investment or repatriation of income) are implemented in the countries where Komatsu operates, Komatsu may incur expenses in order to comply with such laws and regulations or its development, production, sales and service operations may be affected adversely by them. With respect to transfer pricing between Komatsu and its affiliated companies, Komatsu is careful to comply with applicable taxation laws of Japan and the concerned foreign governments. Nevertheless, it is possible that Komatsu may be viewed by the concerned taxation authorities as having used inappropriate pricing. Furthermore, if intergovernmental negotiations were to fail, Komatsu may be charged with double or additional taxation. When facing such an unexpected situation, Komatsu may experience an unfavourable impact on its business results.

#### *Environmental Laws and Regulations, and Approaches Related to Climate Change*

Komatsu's products and business operations are required to meet increasingly stringent environmental laws and regulations in the numerous countries in which Komatsu operates. In addition, measures for reducing greenhouse gas emissions have been put in place around the world. Therefore, Komatsu is investing a significant proportion of its management resources, such as research and development expenditures, to comply with environmental and other related regulations and to respond to climate change issues. If Komatsu is required to incur additional expenses and make additional capital investments due to future revisions to environmental regulations or future impacts of climate change, or if its development, production, sales and service operations are adversely affected by such revised regulations, Komatsu may experience an unfavourable impact on its business results.

#### *Natural Calamities, Wars, Terrorism, Accidents, Epidemics and Other Matters*

As of 31st March, 2020, 48.1 per cent. of Komatsu's consolidated properties, plants and equipment were located in Japan, parts of which have historically experienced major earthquakes and other natural disasters, including tsunamis, floods, typhoons and extreme weather conditions. If natural disasters, or other calamities such

as epidemics, radioactive contamination, wars, terrorist acts, riots, accidents (such as fires and explosions), unforeseeable criticism or interference by third parties were to occur in the regions in which Komatsu operates, Komatsu may incur extensive damage to one or more of its facilities that then could not become fully operational within a short period of time. Even if Komatsu's operations were not directly harmed by such events, confusion in logistic and supply networks, shortages in the supply of electric power, gas and other utilities, telecommunication problems and/or problems of supplier's production may continue for a long period of time. In preparation for the actualisation of these risks, Komatsu has taken measures such as the establishment of a business continuity plan or the implementation of training sessions, and, if material risks were to be actualised, Komatsu will set up an emergency headquarters and take appropriate steps to minimise damage.

#### *Coronavirus ("COVID-19") Effects*

The COVID-19 pandemic is a crisis broadly impacting the economy and corporate activities on a worldwide basis, and it could impact Komatsu's financial position and results of operations. How COVID-19 will continue to spread, or when it will be contained, is still uncertain. Nevertheless, based on the assumption that the COVID-19-related effects will continue for some time during the fiscal year ending 31st March, 2021, Komatsu has assessed the likelihood of recovery of deferred tax assets and the impairment losses that it may need to record on long-lived assets and goodwill given that these items are relatively material among its accounting estimates. Komatsu is making its best estimates based on the information available. However, if actual future trends deviate from its assumptions, Komatsu's financial position and results of operations may be adversely affected.

### **B. Risks related to the business of the Issuers**

#### *Procurement, Production and Other Matters*

Komatsu's procurement of parts and materials for its products is exposed to fluctuations in commodity and energy prices. Price increases in commodities, such as steel materials, as well as energies, such as crude oil and electricity, may increase the production cost of Komatsu's products. In addition, a shortage of product parts and materials, bankruptcies of suppliers, production discontinuation by suppliers of products used by Komatsu, multilateral export/import controls or other issues may make it difficult for Komatsu to engage in the timely procurement of parts and materials and manufacture of its products, thereby lowering Komatsu's production efficiency. With respect to an increase in the cost of production as mainly affected by an increase in the cost of materials, Komatsu mainly strives to reduce costs and make price adjustments of its products. Komatsu also strives to reduce the effects of possible procurement or manufacturing issues by such means as using multiple suppliers, maintaining safety stock, and enhancing production management through collaboration among its relevant business divisions. However, if the increase in commodity and energy prices were to exceed Komatsu's expectations or a prolonged shortage of materials or parts were to occur, Komatsu's results of operations may be adversely affected.

#### *Product and Quality Liability*

Komatsu endeavours to sustain and improve the quality and reliability of the products that it offers, based on stringent standards established internally. While, upon the occurrence of an accident or any similar incident due to unexpected defects arising out of its product design or manufacturing, Komatsu takes improvement measures, such as recalling the product, Komatsu's business results may be adversely affected, among others, by claims for damages or because of loss of reputation or trust.

#### *Alliances, Collaborations, Mergers and Acquisitions*

Komatsu has entered into and implemented alliances, collaborations, mergers and acquisitions, and other relationships with various business partners to reinforce its international competitiveness. Through such arrangements, Komatsu is working to improve and expand its product development, production, sales and service capabilities as well as its solutions business. However, Komatsu's failure to attain expected results or the termination of such alliances or collaborative relationships may adversely affect Komatsu's results of operations. For example, in 2017 Komatsu acquired Komatsu Mining Corp. (formerly known as Joy Global Inc.), which engages in the manufacture, sales and service of mining equipment in the United States and other countries, with a view to enhance Komatsu's presence in the mining equipment industry. Decisions relating to mergers and acquisitions are entered into by Komatsu after careful consideration of facts available in order to reduce the various associated risks; however, there can be no assurance that contingent liabilities or other unforeseen risks associated with such activities will not materialise, that there will be no impairment in the future, or that Komatsu will be able to realise the expected results from any such mergers or acquisitions, or to fully integrate the

operations of acquired companies into the Komatsu Group. Any of such factors may have a material adverse effect on Komatsu's business and its results of operations.

#### *Information Security, Intellectual Property and Other Matters*

Komatsu may obtain confidential information concerning its customers and individuals in the normal course of its business. Komatsu also holds confidential business and technological information. To forestall being infected with a computer virus or suffering cyber-attacks that could result in unauthorised access, tampering, destruction, leakage and losses, Komatsu employs various safety measures, including implementing technological safety measures and strengthening its information management capabilities. However, when a leak or loss of confidential information concerning customers and individuals occurs, Komatsu may become liable for damages, or its reputation or its customers' confidence in Komatsu may be adversely affected. In addition, if Komatsu's confidential business and technological information were leaked or lost, or misused by a third party, or Komatsu's intellectual properties were infringed upon by a third party, or Komatsu were held liable for infringing on a third party's intellectual property rights, Komatsu's business results may be adversely affected. Furthermore, sophisticated cyber-attacks using methods that are beyond what are currently commonly known may impose increased costs on Komatsu to enhance its information security measures, and if such cost increases were significant, it may have a material adverse effect on Komatsu's business and its results of operations.

## **2. Factors which are material for the purpose of assessing the market risks associated with Notes issued under the Programme**

### ***A. Risks related to the structure of a particular issue of Notes***

A range of Notes may be issued under the Programme. A number of these Notes may have features which contain particular risks for potential investors. Set out below is a description of the most common of such features:

#### *Notes may be redeemed prior to maturity in certain circumstances*

Unless in the case of any particular Tranche of Notes the relevant Final Terms specifies otherwise, in the event that the relevant Issuer would be obliged to increase the amounts payable in respect of any Notes of any Series due to any withholding or deduction for or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of such Issuer's jurisdiction of incorporation or any political subdivision thereof or any authority therein or thereof having power to tax, such Issuer may redeem all outstanding Notes of any Series prior to maturity in accordance with the Terms and Conditions of the Notes. In such circumstances, an investor of such Notes may not be able to reinvest the redemption proceeds at an effective yield as high as the yield on the Notes being redeemed and may only be able to do so at a significantly lower rate. Potential investors should consider reinvestment risk in light of other investments available at that time.

*If the relevant Issuer has the right to redeem any Notes at its option, this may limit the market value of the Notes concerned and an investor may not be able to reinvest the redemption proceeds in a manner which achieves a similar effective return*

An optional redemption feature of Notes is likely to limit their market value. During any period when the relevant Issuer may elect to redeem Notes, the market value of those Notes generally will not rise substantially above the price at which they can be redeemed. This also may be true prior to any redemption period.

The relevant Issuer may be expected to redeem Notes when its cost of borrowing is lower than the interest rate on the Notes. At those times, an investor generally would not be able to reinvest the redemption proceeds at an effective yield as high as the yield on the Notes being redeemed and may only be able to do so at a significantly lower rate. Potential investors should consider reinvestment risk in light of other investments available at that time.

#### *There are risks in relation to the reform of "benchmarks"*

Interest rates (such as the London Interbank Offered Rate ("**LIBOR**")) or other types of rates and indices which are deemed to be "benchmarks" are and have been the subject of national and international regulatory review and reform, with further changes anticipated. These reforms may cause such benchmarks to perform differently than in the past, or be eliminated entirely. There could be other consequences of such reviews and

reforms which cannot be predicted. Any such consequence could have a material adverse effect on any Notes linked to such a "benchmark", including possible adverse U.S. tax consequences.

For example, Regulation (EU) 2016/1011 (the "**Benchmark Regulation**") was published in the Official Journal of the European Union (the "EU") on 29th June, 2016 and has been in effect since 1st January, 2018. The Benchmark Regulation applies to the provision of benchmarks, the contribution of input data to benchmarks and the use of benchmarks within the EU. The Benchmark Regulation could have a material impact on any Notes linked to or referencing a benchmark, in particular, if the methodology or other terms of the benchmark are changed in order to comply with the requirements of the Benchmark Regulation. Such changes could, among other things, have the effect of reducing or increasing the rate or level, or affect the volatility of, the published rate or level of the benchmark.

More broadly, any of the international or national reforms, or the general increase in regulatory scrutiny of benchmarks, could increase the costs and risks of administering or participating in the setting of a benchmark and complying with any such regulations or requirements. Such factors may have the effect of discouraging market participants from continuing to administer or contribute to certain "benchmarks", trigger changes in the rules or methodologies used in certain "benchmarks" or lead to the discontinuation or unavailability of quotes of certain "benchmarks".

As an example of such benchmark reforms, on 27th July, 2017, the Chief Executive of the FCA, which regulates LIBOR, announced that it intends to stop persuading or compelling banks to submit rates for the calculation of LIBOR to the administrator of LIBOR after 2021. This announcement indicates that the continuation of LIBOR on the current basis (or at all) cannot and will not be guaranteed after 2021. It is impossible to predict whether and to what extent banks will continue to provide LIBOR submissions to the administrator of LIBOR or whether any additional reforms to LIBOR may be enacted in the United Kingdom, the United States or elsewhere. At this time, no consensus exists as to what rate or rates may become accepted alternatives to LIBOR and it is impossible to predict the effect of any such alternatives on the value of LIBOR-based securities.

The reform of benchmarks could affect the use or calculation of certain benchmarks which could affect the ability of the relevant Issuer to meet its obligations under the Notes linked to such benchmark or could have a material adverse effect on the value or liquidity of, and the amount payable under such Notes. Investors should consider these matters when making their investment decision with respect to such Notes.

*There are risks in relation to the Notes which are linked to benchmarks upon the occurrence of "benchmark events"*

For Notes which reference any affected benchmark, uncertainty as to the nature of alternative reference rates and as to potential changes or other reforms to such benchmark may adversely affect such benchmark rates during the term of such Notes and the return, liquidity, market value of and the trading markets for such Notes.

In accordance with the Terms and Conditions of the Notes, Notes which reference any affected benchmark may be subject to the adjustment of the interest provisions in certain circumstances, such as the potential elimination of the relevant benchmark, inability to obtain authorisation or registration by the administrator of a benchmark, changes in the manner of administration of such benchmark or the availability of a successor or replacement benchmark. The circumstances which could trigger such adjustments are beyond the relevant Issuer's control and the subsequent use of a replacement benchmark may result in changes to the Terms and Conditions of the Notes (which could be extensive) and/or interest payments that are lower than or that do not otherwise correlate over time with the payments that could have been made on such Notes if the relevant benchmark remained available in its current form. Although pursuant to the Terms and Conditions of the Notes, spread adjustments may be applied to such replacement benchmark in order to reduce or eliminate, to the extent reasonably practicable in the circumstances, any economic prejudice or benefit (as applicable) to investors arising out of the replacement of the relevant benchmark, the application of such adjustments to the Notes may not achieve this objective. Any such changes may result in the Notes performing differently (which may include payment of a lower interest rate) than if the original benchmark continued to apply. There is no assurance that the characteristics of any replacement benchmark would be similar to the affected benchmark, that any replacement benchmark would produce the economic equivalent of the affected benchmark or would be a suitable replacement for the affected benchmark. The choice of replacement benchmark is uncertain and could result in the use of risk-free rates (for which the market continues to develop) and/or in the replacement benchmark being unavailable or indeterminable.

In certain circumstances the ultimate fallback of interest for a particular Interest Period may result in the rate of interest for the immediately preceding Interest Period or for the first Interest Period, as the case may be, being used. This may result in the effective application of a fixed rate for Floating Rate Notes based on the rate which was last observed on the Relevant Screen Page or the Initial Rate of Interest. Furthermore, if the relevant Issuer determines it is not able to follow the prescribed steps set out in the Terms and Conditions of the Notes, the relevant fallback provisions may not operate as intended at the relevant time. Any such consequence could have a material adverse effect on the trading markets for such Notes, the liquidity of such Notes and/or the market value of and return on any such Notes.

The Terms and Conditions of the Notes may require the exercise of discretion by the relevant Issuer, its designee or an independent adviser, as the case may be, and the making of potentially subjective judgments (including as to the occurrence or non-occurrence of any events which may trigger amendments to the Terms and Conditions of the Notes) and/or the amendment of the Terms and Conditions of the Notes without the consent of Noteholders. The interests of the relevant Issuer or those of its designee or the independent adviser, as applicable, in making such determinations or amendments may be adverse to the interests of the Noteholders.

Moreover, any of the above matters or any other significant change to the setting or existence of any relevant reference rate could affect the ability of the relevant Issuer to meet its obligations under Notes linked to a benchmark or could have a material adverse effect on the trading markets for, the market value, return or liquidity of, and the amount payable under such Notes.

Investors should consider these matters when making their investment decision with respect to such Notes. Investors should also consult their own independent advisers and make their own assessment about the potential risks imposed by the Benchmark Regulation or other reforms and/or possible cessation or reform of certain reference rates.

#### ***B. Risks related to Notes generally***

Set out below is a brief description of certain risks relating to the Notes generally:

*The conditions of the Notes contain provisions which may permit their modification without the consent of all investors*

The conditions of the Notes contain provisions for calling meetings of Noteholders to consider matters affecting their interests generally. These provisions permit defined majorities to bind all Noteholders including Noteholders who did not attend and vote at the relevant meeting and Noteholders who voted in a manner contrary to the majority. As a result, a Noteholder may be adversely impacted by actions of the Noteholders generally.

*The value of the Notes could be adversely affected by a change in English law or administrative practice*

The conditions of the Notes are based on English law in effect as at the date of this Offering Circular. No assurance can be given as to the impact of any possible judicial decision or change to English law or administrative practice after the date of this Offering Circular and any such change could materially adversely impact the value of any Notes affected by it.

*Investors who purchase Notes in denominations that are not an integral multiple of the Specified Denomination may be adversely affected if definitive Notes are subsequently required to be issued*

In relation to any issue of Notes in bearer form which have denominations consisting of a minimum Specified Denomination plus one or more higher integral multiples of another smaller amount, it is possible that such Notes may be traded in amounts that are not integral multiples of such minimum Specified Denomination. In such a case a holder who, as a result of trading such amounts, holds an amount which is less than the minimum Specified Denomination in his account with the relevant Clearing System at the relevant time may not receive a definitive Note in bearer form in respect of such holding (should definitive Notes be issued) and would need to purchase a principal amount of Notes such that its holding amounts to a Specified Denomination.

If such Notes in definitive form are issued, holders should be aware that definitive Notes which have a denomination that is not an integral multiple of the minimum Specified Denomination may be illiquid and difficult to trade.

## *Foreign Account Tax Compliance Withholding*

Whilst the Notes are in global form and held within the Clearing Systems, in all but the most remote circumstances, it is not expected that FATCA (as defined below) will affect the amount of any payment received by the Clearing Systems (see "Taxation—United States—Foreign Account Tax Compliance Act"). However, FATCA may affect payments made to custodians or intermediaries in the subsequent payment chain leading to the ultimate investor if any such custodian or intermediary generally is unable to receive payments free of FATCA withholding. It also may affect payment to any ultimate investor that is a financial institution that is not entitled to receive payments free of withholding under FATCA, or an ultimate investor that fails to provide its broker (or other custodian or intermediary from which it receives payment) with any information, forms, other documentation or consents that may be necessary for the payments to be made free of FATCA withholding. Investors should choose the custodians or intermediaries with care (to ensure each is compliant with FATCA or other laws or agreements related to FATCA), provide each custodian or intermediary with any information, forms, other documentation or consents that may be necessary for such custodian or intermediary to make a payment free of FATCA withholding. Investors should consult their own tax adviser to obtain a more detailed explanation of FATCA and how FATCA may affect them. The relevant Issuer's obligations under the Notes are discharged once it has paid the Common Depositary for the Clearing Systems (as bearer or registered holder of the Notes) and the relevant Issuer has therefore no responsibility for any amount thereafter transmitted through hands of the Clearing Systems and custodians or intermediaries.

*Reliance on the procedures of Euroclear and Clearstream, Luxembourg for transfer of and payment made in respect of the Notes held in global form, and communication with KL or KFAI in respect thereof*

The Notes issued by KL and KFAI may be represented by one or more Global Notes (as defined under the "Terms and Conditions of the Notes"). Such Global Notes will be deposited with (and, in the case of Registered Notes, registered in the name of, or a nominee for) a Common Depositary for Euroclear and Clearstream, Luxembourg. Investors will only be entitled to receive definitive Notes in the circumstances described in the relevant Global Note and as discussed in the "Form of the Notes" below. Euroclear and Clearstream, Luxembourg, as applicable, will maintain records of the beneficial interests in the Global Notes. While the Notes are represented by one or more Global Notes, investors will be able to trade their beneficial interests only through Euroclear and Clearstream, Luxembourg, as applicable.

While the Notes issued by KL and KFAI are represented by one or more Global Notes, the relevant Issuer will discharge its payment obligations under the Notes by making payments through Euroclear and Clearstream, Luxembourg, as applicable, for distribution to their account holders. A holder of a beneficial interest in a Global Note must rely on the procedures of Euroclear and Clearstream, Luxembourg, as applicable, to receive payments under the relevant Notes. Neither KL nor KFAI has any responsibility or liability for the records relating to, or payments made in respect of, beneficial interests in the Global Notes.

Holders of beneficial interests in such Global Notes will not have a direct right to vote in respect of the relevant Notes. Instead, such holders will be permitted to act only to the extent that they are enabled by Euroclear and Clearstream, Luxembourg, as applicable, to appoint appropriate proxies. Similarly, holders of beneficial interests in the Global Notes will not have a direct right under the Global Notes to take enforcement action against the relevant Issuer in the event of a default under the relevant Notes but will have to rely upon their rights under the Deed of Covenant.

*Reliance on the procedures of the NBB-SSS, Euroclear, Clearstream, Luxembourg, SIX SIS, Interbolsa and Monte Titoli or the other NBB-SSS participants for transfer of the Dematerialised Notes, payment made in respect of the Dematerialised Notes and communication with KECC*

The Notes issued by KECC will be issued in dematerialised form in accordance with the Belgian Code of Companies and Associations and cannot be physically delivered. Such Notes will be represented exclusively by book entries in the records of the NBB-SSS. Access to the NBB-SSS is available through the NBB-SSS participants whose membership extends to securities such as the Dematerialised Notes. The NBB-SSS participants include certain banks, stockbrokers ("*beursvennootschappen*" / "*sociétés de bourse*"), Euroclear, Clearstream, Luxembourg, SIX SIS AG ("**SIX SIS**"), Interbolsa and Monte Titoli S.p.A. ("**Monte Titoli**").

Transfers of title to the Dematerialised Notes will be effected between the NBB-SSS participants in accordance with the rules and operating procedures of the NBB-SSS. Transfers between investors will be effected in accordance with the respective rules and operating procedures of the NBB-SSS participants through which they hold their Notes.

Neither KECC, the Arranger, any Dealer nor any Agent will have any responsibility for the proper performance by the NBB-SSS or the NBB-SSS participants of their obligations under their respective rules and operating procedures.

A Noteholder must rely on the procedures of the NBB-SSS, Euroclear, Clearstream, Luxembourg, SIX SIS, Interbolsa, Monte Titoli and the other participants in the NBB-SSS to receive payments under the Dematerialised Notes. KECC will have no responsibility or liability for the records relating to, or payments made in respect of, the Dematerialised Notes within the NBB-SSS, Euroclear, Clearstream, Luxembourg, SIX SIS, Interbolsa, Monte Titoli and the other participants in the NBB-SSS.

*The Domiciliary Agent is not required to segregate amounts received by it in respect of the Notes*

The Agency Agreement (as defined under the "Terms and Conditions of the Notes") provides that the Domiciliary Agent will debit the relevant account of KECC and use such funds to make payment to the Noteholders.

The Agency Agreement also provides that the Domiciliary Agent will, upon receipt by it of the relevant amounts, pay to the Noteholder, directly or through the NBB-SSS, any amounts due and payable in respect of the relevant Notes. However, the Domiciliary Agent is not required to segregate any such amounts received by it in respect of the Notes from its other assets, and in the event that such Domiciliary Agent were subject to insolvency proceedings at any time when it held any such amounts, Noteholders would be required to claim such amounts from such Domiciliary Agent and it is uncertain whether Noteholders can still claim such amounts directly to KECC. This may as a consequence expose investors to a risk of insolvency affecting the Domiciliary Agent as investors would not have a preference on the relevant amounts held by the Domiciliary Agent in respect of the Notes.

### **C. Risks related to the market generally**

Set out below is a brief description of the principal market risks, including liquidity risk, exchange rate risk, interest rate risk and credit risk:

*An active secondary market in respect of the Notes may never be established or the Notes may be illiquid, and this would adversely affect the value at which an investor could sell his Notes*

Notes may have no established trading market when issued, and one may never develop. If a market does develop, the Notes may not be very liquid. Therefore, investors may not be able to sell their Notes easily or at prices that will provide them with a yield comparable to similar investments that have a developed secondary market.

*If an investor holds Notes which are not denominated in the investor's home currency, he will be exposed to movements in exchange rates adversely affecting the value of his holding. In addition, the imposition of exchange controls in relation to any Notes could result in an investor not receiving payments on those Notes*

The relevant Issuer will pay principal and interest on the Notes in the Specified Currency. This presents certain risks relating to currency conversions if an investor's financial activities are denominated principally in a currency or currency unit (the "**Investor's Currency**") other than the Specified Currency. These include the risk that exchange rates may significantly change (including changes due to devaluation of the Specified Currency or revaluation of the Investor's Currency) and the risk that authorities with jurisdiction over the Investor's Currency may impose or modify exchange controls. An appreciation in the value of the Investor's Currency relative to the Specified Currency would decrease (1) the Investor's Currency-equivalent yield on the Notes, (2) the Investor's Currency-equivalent value of the principal payable on the Notes and (3) the Investor's Currency-equivalent market value of the Notes.

Government and monetary authorities may impose (as some have done in the past) exchange controls that could adversely affect an applicable exchange rate or the ability of the relevant Issuer to make payments in respect of the Notes. As a result, investors may receive less interest or principal than expected, or no interest or principal.



*Credit ratings assigned to the Issuers or any Notes may not reflect all the risks associated with an investment in those Notes*

One or more independent credit rating agencies may assign credit ratings to the Notes. A credit rating is based on information furnished by Komatsu or obtained by the credit rating agency from its own sources and is subject to revisions, suspension or withdrawal by the credit rating agency at any time. The credit ratings may not reflect the potential impact of all risks related to structure, market or additional factors discussed above, and other factors that may affect the value of the Notes. The credit ratings may be impacted by a number of factors which can change over time, including the credit rating agency's assessment of Komatsu or the economic, political or regulatory environment in which it operates. The credit rating agencies may also revise the credit ratings methodologies applicable to issuers within a particular industry, or political or economic region. A credit rating on any particular date may therefore not reflect all the risks associated with an investment in such rated Notes at that time. A credit rating is not a recommendation to buy, sell or hold securities and may be suspended, revised or withdrawn by the credit rating agency at any time.

#### **D. Risks relating to Notes denominated in Renminbi**

Set out below is a description of risks which may be relevant to an investor in Notes denominated in Renminbi ("**Renminbi Notes**"):

*Renminbi is not freely convertible and there are significant restrictions on the remittance of Renminbi into and out of the PRC which may adversely affect the liquidity of Renminbi Notes*

Renminbi is not freely convertible at present. The government of the PRC (the "**PRC Government**") continues to regulate conversion between Renminbi and foreign currencies, including the Hong Kong dollar.

However, there has been significant reduction in control by the PRC Government in recent years, particularly over trade transactions involving import and export of goods and services as well as other frequent routine foreign exchange transactions. These transactions are known as current account items.

On the other hand, remittance of Renminbi into and out of the PRC for the settlement of capital account items, such as capital contributions, debt financing and securities investment, is generally only permitted upon obtaining specific approvals from, or completing specific registrations or filings with, the relevant authorities on a case-by-case basis and is subject to a strict monitoring system. Regulations in the PRC on the remittance of Renminbi into and out of the PRC for settlement of capital account items are being adjusted from time to time to match the policies of the PRC Government.

Although the People's Bank of China ("**PBoC**") has implemented policies improving accessibility to Renminbi to settle cross-border transactions in the past, there is no assurance that the PRC Government will liberalise control over cross-border remittance of Renminbi in the future, that the schemes for Renminbi cross-border utilisation will not be discontinued or that new regulations in the PRC will not be promulgated in the future which have the effect of restricting or eliminating the remittance of Renminbi into or out of the PRC. Despite the Renminbi internationalisation pilot programme and efforts in recent years to internationalise the currency, there can be no assurance that the PRC Government will not impose interim or long-term restrictions on the cross-border remittance of Renminbi. In the event that funds cannot be repatriated out of the PRC in Renminbi, this may affect the overall availability of Renminbi outside the PRC and the ability of the relevant Issuer to source Renminbi to finance its obligations under Notes denominated in Renminbi.

*There is only limited availability of Renminbi outside the PRC, which may affect the liquidity of the Renminbi Notes and the relevant Issuer's ability to source Renminbi outside the PRC to service Renminbi Notes*

As a result of the restrictions by the PRC Government on cross-border Renminbi fund flows, the availability of Renminbi outside the PRC is limited. While the PBoC has entered into agreements (the "**Settlement Arrangements**") on the clearing of Renminbi business with financial institutions (the "**Renminbi Clearing Banks**") in a number of financial centres and cities, including but not limited to Hong Kong, has established the Cross-Border Inter-Bank Payments System ("**CIPS**") to facilitate cross-border Renminbi settlement and is further in the process of establishing Renminbi clearing and settlement mechanisms in several other jurisdictions, the current size of Renminbi denominated financial assets outside the PRC is limited.

There are restrictions imposed by PBoC on Renminbi business participating banks in respect of cross-border Renminbi settlement, such as those relating to direct transactions with PRC enterprises. Furthermore, Renminbi business participating banks do not have direct Renminbi liquidity support from PBoC, although PBoC

has gradually allowed participating banks to access the PRC's onshore inter-bank market for the purchase and sale of Renminbi. The Renminbi Clearing Banks only have limited access to onshore liquidity support from PBoC for the purpose of squaring open positions of participating banks for limited types of transactions and are not obliged to square for participating banks any open positions resulting from other foreign exchange transactions or conversion services. In cases where the participating banks cannot source sufficient Renminbi through the above channels, they will need to source Renminbi from outside the PRC to square such open positions.

Although it is expected that the offshore Renminbi market will continue to grow in depth and size, its growth is subject to many constraints as a result of PRC laws and regulations on foreign exchange. There is no assurance that new PRC regulations will not be promulgated or the Settlement Arrangements will not be terminated or amended in the future which will have the effect of restricting availability of Renminbi outside the PRC. The limited availability of Renminbi outside the PRC may affect the liquidity of the Renminbi Notes. To the extent the relevant Issuer is required to source Renminbi in the offshore market to service its Renminbi Notes, there is no assurance that the relevant Issuer will be able to source such Renminbi on satisfactory terms, if at all.

*Investment in the Renminbi Notes is subject to exchange rate risks*

The value of Renminbi against other foreign currencies fluctuates from time to time and is affected by changes in the PRC and international political and economic conditions as well as many other factors. The PBoC has in recent years implemented changes to the way it calculates the Renminbi's daily mid-point against the U.S. dollar to take into account market-maker quotes before announcing such daily mid-point. This change, and others that may be implemented, may increase the volatility in the value of the Renminbi against foreign currencies. All payments of interest and principal will be made in Renminbi with respect to Renminbi Notes unless otherwise specified. As a result, the value of these Renminbi payments may vary with the changes in the prevailing exchange rates in the marketplace. If the value of Renminbi depreciates against another foreign currency, the value of the investment made by a holder of the Renminbi Notes in that foreign currency will decline.

*Investment in the Renminbi Notes is subject to currency risks*

If the relevant Issuer is not able, or it is impracticable for it, to satisfy its obligation to pay interest and principal on the Renminbi Notes as a result of Renminbi Inconvertibility, Renminbi Non-transferability or Renminbi Illiquidity (each, as defined under "Terms and Conditions of the Notes"), the relevant Issuer shall be entitled, on giving not less than five or more than 30 calendar days' irrevocable notice to the investors prior to the due date for payment, to settle any such payment in U.S. dollars on the due date at the U.S. Dollar Equivalent (as defined under "Terms and Conditions of the Notes") of any such interest or principal, as the case may be.

*Investment in the Renminbi Notes is subject to interest rate risks*

The PRC Government has gradually liberalised its regulation of interest rates in recent years. Further liberalisation may increase interest rate volatility. In addition, the interest rate for Renminbi in markets outside the PRC may significantly deviate from the interest rate for Renminbi in the PRC as a result of foreign exchange controls imposed by PRC law and regulations and prevailing market conditions.

As Renminbi Notes may carry a fixed interest rate, the trading price of the Renminbi Notes will consequently vary with the fluctuations in the Renminbi interest rates. If holders of the Renminbi Notes propose to sell their Renminbi Notes before their maturity, they may receive an offer lower than the amount they have invested.

*Payments with respect to the Renminbi Notes may be made only in the manner designated in the Renminbi Notes*

All payments to investors in respect of the Renminbi Notes will be made solely (i) for so long as the Renminbi Notes are represented by Global Notes held with the Common Depositary for Euroclear and Clearstream, Luxembourg or any alternative Clearing System, by transfer to a Renminbi bank account maintained in Hong Kong or a financial centre in which a Renminbi Clearing Bank clears and settles Renminbi, if so specified in the Final Terms, (ii) for so long as the Renminbi Notes are in definitive form, by transfer to a Renminbi bank account maintained in Hong Kong or a financial centre in which a Renminbi Clearing Bank clears and settles Renminbi, if so specified in the Final Terms, in accordance with prevailing rules and regulations, or (iii) by transfer through the CIPS in accordance with relevant rules and regulations, if so specified in the Final Terms. The relevant Issuer cannot be required to make payment by any other means (including in any other currency or by transfer to a bank account in the PRC).

*Gains on the transfer of the Renminbi Notes may become subject to income taxes under PRC tax laws*

Under the Enterprise Income Tax Law of the PRC (the "**PRC Enterprise Income Tax Law**"), the Individual Income Tax Law of the PRC (the "**PRC Individual Income Tax Law**") and the relevant implementing rules, as amended from time to time, any gain realised on the transfer of Renminbi Notes by non-PRC resident enterprise or individual holders may be subject to PRC enterprise income tax ("**EIT**") or PRC individual income tax ("**IIT**") if such gain is regarded as income derived from sources within the PRC. The PRC Enterprise Income Tax Law levies EIT at the rate of 20 per cent. of the PRC-sourced gains derived by such non-PRC resident enterprise from the transfer of Renminbi Notes but its implementation rules have reduced the EIT rate to 10 per cent. The PRC Individual Income Tax Law levies IIT at a rate of 20 per cent. of the PRC-sourced gains derived by such non-PRC resident individual holder from the transfer of Renminbi Notes.

However, uncertainty remains as to whether the gain realised from the transfer of Renminbi Notes by non-PRC resident enterprise or individual holders would be treated as income derived from sources within the PRC and thus become subject to EIT or IIT. This will depend on how the PRC tax authorities interpret, apply or enforce the PRC Enterprise Income Tax Law, the PRC Individual Income Tax Law and the relevant implementing rules. According to the arrangement between the PRC and Hong Kong, for avoidance of double taxation, Noteholders who are residents of Hong Kong, including enterprise holders and individual holders, will not be subject to EIT or IIT on capital gains derived from a sale or exchange of the Notes.

Therefore, if enterprise or individual resident holders which are non-PRC residents are required to pay PRC income tax on gains derived from the transfer of Renminbi Notes, unless there is an applicable tax treaty between PRC and the jurisdiction in which such non-PRC enterprise or individual holders of Renminbi Notes reside that reduces or exempts the relevant EIT or IIT, the value of their investment in Renminbi Notes may be materially and adversely affected. Investors should consult their own tax advisors regarding the tax risks that may entail as a result of investing in Renminbi Notes.

*Remittance of proceeds in Renminbi into or out of the PRC in Renminbi may be restricted*

In the event that an Issuer decides to remit some or all of the proceeds into the PRC in Renminbi, its ability to do so will be subject to obtaining all necessary approvals from, and/or registration or filing with, the relevant PRC Government authorities. However, there is no assurance that the necessary approvals from, and/or registration or filing with, the relevant PRC Government authorities will be obtained at all or, if obtained, they will not be revoked or amended in the future.

There is no assurance that the PRC Government will continue to gradually liberalise the control over cross-border Renminbi remittances in the future, that the PRC Government will not impose any interim or long-term restrictions on capital inflow or outflow which may restrict cross-border Renminbi remittances, that the pilot schemes introduced will not be discontinued or that new PRC regulations will not be promulgated in the future which have the effect of restricting or eliminating the remittance of Renminbi into or out of the PRC. In the event that an Issuer does remit some or all of the proceeds into the PRC in Renminbi and such Issuer subsequently is not able to repatriate funds out of the PRC in Renminbi, it will need to source Renminbi outside the PRC to finance its obligations under the Renminbi Notes, and its ability to do so will be subject to the overall availability of Renminbi outside the PRC.

## FORM OF THE NOTES

The Notes of each Series will either be issued in bearer form, with or without interest coupons and talons attached, or in registered form, without interest coupons and talons attached, or in dematerialised form, without interest coupons and talons attached.

### **Bearer Notes issued by KL and KFAI**

Each Tranche of Bearer Notes will initially be represented by a Temporary Bearer Global Note, which will be delivered on or prior to the original issue date of the Tranche to a Common Depositary outside the United States for Euroclear, Clearstream, Luxembourg and/or any other Clearing System. Whilst any Bearer Note is represented by a Temporary Bearer Global Note, payments of principal, interest (if any) and any other amount payable in respect of the Notes due prior to the Exchange Date (as defined below) will be made outside the United States and its possessions against presentation of the Temporary Bearer Global Note only to the extent that certification (in a form to be provided) to the effect that the beneficial owners of interests in such Temporary Bearer Global Note are not U.S. persons or persons who have purchased for resale, directly or indirectly, to any U.S. person or any person within the United States or its possessions, as required by U.S. Treasury regulations and applicable U.S. securities laws, has been received by Euroclear and/or Clearstream, Luxembourg, and Euroclear and/or Clearstream, Luxembourg, as applicable, has given a like certificate (based on the certifications it has received) to the Fiscal Agent (as defined under "Terms and Conditions of the Notes" below).

On and after the date (the "**Exchange Date**") which is the later of (i) 40 days after the date on which any Temporary Bearer Global Note is issued and (ii) 40 days after the completion of the distribution of the relevant Tranche, as certified by the relevant Dealer(s) (in the case of a non-syndicated issue) or the relevant lead manager (in the case of a syndicated issue), interests in such Temporary Bearer Global Note will be exchangeable (free of charge), in whole or in part, upon a request as described therein either for interests in a Permanent Bearer Global Note without interest coupons or talons or for definitive Bearer Notes of the same series with, where applicable, interest coupons and talons attached (as indicated in the applicable Final Terms and subject, in the case of definitive Bearer Notes, to such notice period as is specified in the applicable Final Terms (if any)), in each case against certification of beneficial ownership as described above and as required by U.S. Treasury regulations and applicable U.S. securities laws in accordance with the terms of the Temporary Bearer Global Note, unless such certification has already been given. The holder of a Temporary Bearer Global Note will not be entitled to collect any payment of interest (if any), principal or other amount due on or after the Exchange Date unless, upon due certification, exchange of the Temporary Bearer Global Note for an interest in a Permanent Bearer Global Note or for definitive Bearer Notes is improperly withheld or refused. Pursuant to the Agency Agreement (as defined under "Terms and Conditions of the Notes" below), the Fiscal Agent shall arrange that, where a further Tranche of Bearer Notes is issued which is intended to form a single series with an existing Tranche of Bearer Notes, the Notes of such Tranche shall be assigned a common code and ISIN by Euroclear and/or Clearstream, Luxembourg which are different from the common code and ISIN assigned to Notes of any other Tranche of the same Series until at least the expiry of the distribution compliance period (as defined in Regulation S under the Securities Act) applicable to the Notes of such Tranche. KFAI will only issue Notes in bearer form to the extent such Notes have a maturity of 183 days or less or are considered to be in "registered form" for U.S. federal income tax purposes.

Payments of principal, interest (if any) or any other amounts on a Permanent Bearer Global Note will be made through the relevant Clearing System against presentation or surrender (as the case may be) outside the United States and its possessions (except as provided in the Terms and Conditions of the Notes) of the Permanent Bearer Global Note without any requirement for certification. The applicable Final Terms will specify that a Permanent Bearer Global Note will be exchangeable (free of charge), in whole but not in part, for definitive Bearer Notes with, where applicable, interest coupons and talons attached either (i) (for a Permanent Bearer Global Note issued by KL or KFAI) upon not less than 60 days' written notice given at any time by any holder of an interest in such Permanent Bearer Global Note (such notice to be given through the relevant Clearing Systems) to the Fiscal Agent as described therein or (ii) (for a Permanent Bearer Global Note issued by KL only) only upon the occurrence of an Exchange Event. For these purposes, "**Exchange Event**" means that (i) an Event of Default (as defined in Condition 10) has occurred and is continuing, (ii) the relevant Issuer has been notified that both Euroclear and Clearstream, Luxembourg have been closed for business for a continuous period of 14 days (other than by reason of holiday, statutory or otherwise) or have announced an intention permanently to cease business or have in fact done so and no successor clearing system is available or (iii) the relevant Issuer has or will become subject to adverse tax consequences which would not be suffered were the Notes represented by the Permanent Bearer Global Note issued in definitive form. If the Permanent Bearer Global Note of KL is exchangeable only upon the occurrence of an Exchange Event, (i) KL will promptly give notice to Noteholders in accordance with Condition 14 if an Exchange Event occurs, and (ii) in the event of the occurrence of an Exchange Event, then any

holder of an interest in such Permanent Bearer Global Note may give notice to the Fiscal Agent (such notice to be given through the relevant Clearing Systems) requesting exchange and, in the event of the occurrence of an Exchange Event as described in (iii) above, KL may also give notice to the Fiscal Agent requesting exchange. Any exchange of a Permanent Bearer Global Note shall occur not later than 45 days after the date of receipt of the first relevant notice by the Fiscal Agent. Global Notes in bearer form ("**Bearer Global Notes**") and Bearer Notes in definitive form ("**Definitive Bearer Notes**") will be issued pursuant to the Agency Agreement.

Where the applicable Final Terms specify that a Permanent Bearer Global Note will be exchangeable on 60 days' notice given at any time or that the Bearer Notes on issue will be represented by a Temporary Bearer Global Note exchangeable for Definitive Bearer Notes, the relevant issue of Bearer Notes must not have a Specified Denomination which includes the concept of higher integral multiples above the minimum denomination.

Bearer Notes which are represented by a Bearer Global Note will only be transferable in accordance with the rules and procedures for the time being of the relevant Clearing System.

No Definitive Bearer Note delivered in exchange for a Temporary Bearer Global Note or a Permanent Bearer Global Note will be mailed or otherwise delivered to any location in the United States or its possessions in connection with any such exchange.

The exchange of a Permanent Bearer Global Note for definitive Notes upon notice from Euroclear and/or Clearstream, Luxembourg (acting on the instructions of any holder) should not be expressed to be applicable in the applicable Final Terms if the Notes are issued with a minimum Specified Denomination such as EUR100,000 (or its equivalent in another currency) plus one or more higher integral multiples of another smaller amount such as EUR1,000 (or its equivalent in another currency). Furthermore, such Specified Denomination construction is not permitted in relation to any issue of Notes which is to be represented on issue by a Temporary Bearer Global Note exchangeable for definitive Notes.

The following legend will appear on all Bearer Notes which have an original maturity of more than 1 year and on all, interest coupons and talons relating to such Notes:

"ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE."

The sections referred to provide that United States holders, with certain exceptions, will not be entitled to deduct any loss on Bearer Notes or interest coupons and will not be entitled to capital gains treatment of any gain on any sale, disposition, redemption or payment of principal in respect of such Notes or interest coupons.

The following legend will appear on all Bearer Notes issued by KFAI that have an original maturity of 183 days or less and interest coupons and talons relating to such Notes:

"BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER)."

## **Registered Notes**

### ***Registered Notes issued by KL***

Each Tranche of Registered Notes will initially be represented by a Permanent Registered Global Note. Prior to expiry of the distribution compliance period (as defined in Regulation S) applicable to each Tranche of Notes, beneficial interests in a Permanent Registered Global Note may not be offered or sold to, or for the account or benefit of, a U.S. person (as defined in Regulation S) and may not be held otherwise than through Euroclear or Clearstream, Luxembourg, and such Permanent Registered Global Note will bear a legend regarding such restrictions.

Permanent Registered Global Notes will be deposited with a Common Depositary for, and registered in the name of a Common Depositary, as specified in the applicable Final Terms. Persons holding beneficial interests in a Permanent Registered Global Note will be entitled or required, as the case may be, under the circumstances described below, to receive physical delivery of Registered Notes in the definitive form (the "**Definitive Registered Notes**").

Payments of principal, interest (if any) or any other amount in respect of a Permanent Registered Global Note will, in the absence of a provision to the contrary, be made to the person shown on the Register (as defined in Condition 6(d)) as the registered holder of the Permanent Registered Global Note. None of the Issuer, the Fiscal Agent, any Paying Agent or the Registrar will have any responsibility or liability for any aspect of the records relating to or payments or deliveries made on account of beneficial ownership interests in the Permanent Registered Global Note or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

The applicable Final Terms will specify that a Permanent Registered Global Note will be exchangeable (free of charge), in whole but not in part, for Definitive Registered Notes without interest coupons or talons attached either (i) upon not less than 60 days' written notice given at any time by any holder of an interest in such Permanent Registered Global Note (such notice to be given through the relevant Clearing Systems) to the Registrar as described therein or (ii) only upon the occurrence of an Exchange Event. For these purposes, "**Exchange Event**" means that (i) an Event of Default (as defined in Condition 10) has occurred and is continuing, (ii) the relevant Issuer has been notified that both Euroclear and Clearstream, Luxembourg have been closed for business for a continuous period of 14 days (other than by reason of holiday, statutory or otherwise) or have announced an intention permanently to cease business or have in fact done so and no successor clearing system is available or (iii) the relevant Issuer has or will become subject to adverse tax consequences which would not be suffered were the Notes represented by the Permanent Registered Global Note issued in definitive form. If the Permanent Registered Global Note is exchangeable only upon the occurrence of an Exchange Event, (i) KL will promptly give notice to Noteholders in accordance with Condition 14 if an Exchange Event occurs, and (ii) in the event of the occurrence of an Exchange Event, then any holder of an interest in such Permanent Registered Global Note may give notice to the Registrar (such notice to be given through the relevant Clearing Systems) requesting exchange and, in the event of the occurrence of an Exchange Event as described in (iii) above, KL may also give notice to the Registrar requesting exchange. Any exchange of a Permanent Registered Global Note shall occur not later than 45 days after the date of receipt of the first relevant notice by the Registrar. Global Notes in registered form (the "**Registered Global Notes**") and Definitive Registered Notes will be issued pursuant to the Agency Agreement.

Payments of principal, interest (if any) or any other amount in respect of the Definitive Registered Notes will, in the absence of a provision to the contrary, be made to the persons shown on the Register on the relevant Record Date (as defined in Condition 6(d)) immediately preceding the due date for payment in the manner provided in that Condition.

#### ***Registered Notes issued by KFAI***

Each Tranche of Registered Notes will initially be represented by a Temporary Registered Global Note, which will be delivered on or prior to the original issue date of the Tranche to a Common Depositary outside the United States for Euroclear, Clearstream, Luxembourg and/or any other Clearing System. Whilst any Registered Note is represented by a Temporary Registered Global Note, payments of principal, interest (if any) and any other amount payable in respect of the Notes due prior to the Exchange Date (as defined below) will be made outside the United States and its possessions against presentation of the Temporary Registered Global Note only to the extent that certification (in a form to be provided) to the effect that the beneficial owners of interests in such Temporary Registered Global Note are not U.S. persons or persons who have purchased for resale, directly or indirectly, to any U.S. person or any person within the United States or its possessions, as required by U.S. Treasury regulations and applicable U.S. securities laws, has been received by Euroclear and/or Clearstream, Luxembourg, and Euroclear and/or Clearstream, Luxembourg, as applicable, has given a like certificate (based on the certifications it has received) to the Fiscal Agent.

On and after the date (the "**Exchange Date**") which is the later of (i) 40 days after the date on which any Temporary Registered Global Note is issued and (ii) 40 days after the completion of the distribution of the relevant Tranche, as certified by the relevant Dealer(s) (in the case of a non-syndicated issue) or the relevant lead manager (in the case of a syndicated issue), interests in such Temporary Registered Global Note will be exchangeable (free of charge), in whole or in part, upon a request as described therein either for interests in a Permanent Registered Global Note without interest coupons or talons or for Definitive Registered Notes of the same series (as indicated

in the applicable Final Terms and subject, in the case of Definitive Registered Notes, to such notice period as is specified in the applicable Final Terms (if any)), in each case against certification of beneficial ownership as described above and as required by U.S. Treasury regulations and applicable U.S. securities laws in accordance with the terms of the Temporary Registered Global Note, unless such certification has already been given. The holder of a Temporary Registered Global Note will not be entitled to collect any payment of interest (if any), principal or other amount due on or after the Exchange Date unless, upon due certification, exchange of the Temporary Registered Global Note for an interest in a Permanent Registered Global Note or for Definitive Registered Notes is improperly withheld or refused. Pursuant to the Agency Agreement, the Fiscal Agent or the Registrar shall arrange that, where a further Tranche of Registered Notes is issued which is intended to form a single series with an existing Tranche of Registered Notes, the Notes of such Tranche shall be assigned a common code and ISIN by Euroclear and/or Clearstream, Luxembourg which are different from the common code and ISIN assigned to Notes of any other Tranche of the same Series until at least the expiry of the distribution compliance period (as defined in Regulation S under the Securities Act) applicable to the Notes of such Tranche.

Permanent Registered Global Notes will be deposited with a Common Depositary for, and registered in the name of a Common Depositary, as specified in the applicable Final Terms. Persons holding beneficial interests in a Permanent Registered Global Note will be entitled or required, as the case may be, under the circumstances described below, to receive physical delivery of Definitive Registered Notes.

Payments of principal, interest (if any) or any other amount in respect of a Permanent Registered Global Note will, in the absence of a provision to the contrary, be made to the person shown on the Register (as defined in Condition 6(d)) as the registered holder of the Permanent Registered Global Note. None of the Issuer, the Fiscal Agent, any Paying Agent or the Registrar will have any responsibility or liability for any aspect of the records relating to or payments or deliveries made on account of beneficial ownership interests in the Permanent Registered Global Note or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

The applicable Final Terms will specify that a Permanent Registered Global Note will be exchangeable (free of charge), in whole but not in part, for Definitive Registered Notes without interest coupons or talons attached either (i) upon not less than 60 days' written notice given at any time by any holder of an interest in such Permanent Registered Global Note (such notice to be given through the relevant Clearing Systems) to the Registrar, as described therein or (ii) only upon the occurrence of an Exchange Event. For these purposes, "**Exchange Event**" means that (i) an Event of Default (as defined in Condition 10) has occurred and is continuing, (ii) the relevant Issuer has been notified that both Euroclear and Clearstream, Luxembourg have been closed for business for a continuous period of 14 days (other than by reason of holiday, statutory or otherwise) or have announced an intention permanently to cease business or have in fact done so and no successor clearing system is available or (iii) the relevant Issuer has or will become subject to adverse tax consequences which would not be suffered were the Notes represented by the Permanent Registered Global Note issued in definitive form. If the Permanent Registered Global Note is exchangeable only upon the occurrence of an Exchange Event, (i) KFAI will promptly give notice to Noteholders in accordance with Condition 14 if an Exchange Event occurs, and (ii) in the event of the occurrence of an Exchange Event, then any holder of an interest in such Permanent Registered Global Note may give notice to the Registrar (such notice to be given through the relevant Clearing Systems) requesting exchange and, in the event of the occurrence of an Exchange Event as described in (iii) above, KFAI may also give notice to the Registrar requesting exchange. Any exchange of a Permanent Registered Global Note shall occur not later than 45 days after the date of receipt of the first relevant notice by the Registrar. Registered Global Notes and Definitive Registered Notes will be issued pursuant to the Agency Agreement.

Payments of principal, interest (if any) or any other amount in respect of the Definitive Registered Notes will, in the absence of a provision to the contrary, be made to the persons shown on the Register on the relevant Record Date (as defined in Condition 6(d)) immediately preceding the due date for payment in the manner provided in that Condition.

### **Transfer of Interests**

Interests in a Registered Global Note may, subject to compliance with all applicable restrictions, be transferred to a person who wishes to hold such interest in another Registered Global Note. No beneficial owner of an interest in a Registered Global Note will be able to transfer such interest, except in accordance with the applicable procedures of Euroclear and Clearstream, Luxembourg, in each case to the extent applicable.

## Dematerialised Notes issued by KECC

The Notes issued by KECC are in dematerialised form in accordance with the Belgian Code of Companies and Associations. Prior to the expiry of the distribution compliance period (as defined in Regulation S) applicable to each Tranche of Notes, beneficial interest in a Dematerialised Note may not be offered or sold to, or for the account or benefit of, a U.S. person (as defined in Regulation S). The Dematerialised Notes will be represented exclusively by a book entry in the records of the NBB-SSS. The Dematerialised Notes can be held by their holders through the participants in the NBB-SSS, including Euroclear, Clearstream, Luxembourg, SIX SIS, Interbolsa, Monte Titoli or other participants in the NBB-SSS, and through other financial intermediaries which in turn hold the Dematerialised Notes through Euroclear, Clearstream, Luxembourg, SIX SIS, Interbolsa, Monte Titoli or other participants in the NBB-SSS. The Dematerialised Notes are accepted for clearance through the NBB-SSS, and are accordingly subject to the applicable Belgian clearing regulations, including the Belgian law of 6th August, 1993 on transactions in certain securities, its implementing Belgian royal decrees of 26th May, 1994 and 14th June, 1994 (each as amended or re-enacted or as their application is modified by other provisions from time to time) and the rules of the NBB-SSS and the annexes thereto, as issued or modified by the NBB from time to time. Title to the Dematerialised Notes will pass by account transfer.

If at any time the Dematerialised Notes are transferred to another clearing system, not operated or not exclusively operated by the NBB, these provisions shall apply *mutatis mutandis* to such successor clearing system and successor clearing system operator or any additional clearing system and additional clearing system operator.

The persons shown in the records of the NBB-SSS or the records of a participant or sub-participant of the NBB-SSS as the holder of a particular nominal amount of Dematerialised Notes shall (except as otherwise required by law) be treated by KECC and the Domiciliary Agent as the holder of such nominal amount of Dematerialised Notes.

Payment of principal and interest in respect of Dematerialised Notes will be made in accordance with the applicable rules and procedures of the NBB-SSS, Euroclear, Clearstream, Luxembourg, SIX SIS, Interbolsa, Monte Titoli and any other NBB-SSS participant holding interest in the relevant Notes, and any payment made by the Issuer to the NBB-SSS or, in the case of payments in any currency other than euro, to Euroclear, Clearstream, Luxembourg, SIX SIS, Interbolsa, Monte Titoli or other participants in the NBB-SSS will constitute good discharge for KECC. Upon receipt of any payment in respect of Dematerialised Notes, the NBB-SSS, Euroclear, Clearstream, Luxembourg, SIX SIS, Interbolsa, Monte Titoli and any other NBB-SSS participant, shall immediately credit the accounts of the relevant account holders with the payment. Noteholders are entitled to exercise their voting rights and other associative rights (as defined for the purposes of the Belgian Code of Companies and Associations) against KECC upon submission of an affidavit drawn up by the NBB-SSS, Euroclear, Clearstream, Luxembourg, SIX SIS, Interbolsa, Monte Titoli or another NBB-SSS participant duly licensed in Belgium to keep dematerialised securities accounts showing their position in the Dematerialised Notes (or the position held by the financial institution through which their Notes are held with the NBB-SSS, Euroclear, Clearstream, Luxembourg, SIX SIS, Interbolsa, Monte Titoli or such other NBB-SSS participant, in which case an affidavit drawn up by that financial institution will also be required).

## General

Any reference in this section "Form of the Notes" to the "relevant Clearing System" shall mean Euroclear and/or Clearstream, Luxembourg and/or NBB-SSS and/or any additional or alternative clearing system approved by the relevant Issuer and the Fiscal Agent and as specified in the applicable Final Terms, and any reference herein to Euroclear and/or Clearstream, Luxembourg and/or NBB-SSS shall, whenever the context so permits, be deemed to include a reference to any additional or alternative clearing system specified in the applicable Final Terms.

Notes issued by KFAI with maturity of 183 days or less are required to be issued in minimum denominations of U.S.\$500,000 (or the equivalent amount in the relevant Specified Currency determined by reference to the spot rate on the date of issuance).

The following legend will appear on all Notes and (if applicable) coupons and talons:

"THE NOTES HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**") AND MAY NOT BE OFFERED, SOLD OR DELIVERED WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS UNLESS AN



EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT IS AVAILABLE."

Where the Issuer is KL, so long as the exemptions referenced below continue to be applicable, the following legend will appear on all Bearer Notes:

"INTEREST PAYMENTS ON THE NOTES WILL GENERALLY BE SUBJECT TO JAPANESE WITHHOLDING TAX UNLESS THE HOLDER ESTABLISHES THAT THE NOTES ARE HELD BY OR FOR THE ACCOUNT OF A HOLDER THAT IS (I) FOR JAPANESE TAX PURPOSES, NEITHER (A) AN INDIVIDUAL RESIDENT OF JAPAN OR A JAPANESE CORPORATION, NOR (B) AN INDIVIDUAL NON-RESIDENT OF JAPAN OR A NON-JAPANESE CORPORATION THAT IN EITHER CASE IS A PERSON HAVING A SPECIAL RELATIONSHIP WITH THE ISSUER OF THE NOTES AS DESCRIBED IN ARTICLE 6, PARAGRAPH (4) OF THE ACT ON SPECIAL MEASURES CONCERNING TAXATION OF JAPAN (THE "**SPECIAL TAXATION ACT**") (SUCH PERSON BEING HEREINAFTER REFERRED TO AS A "SPECIALLY-RELATED PERSON OF KL"), (II) A JAPANESE FINANCIAL INSTITUTION DESIGNATED IN ARTICLE 6, PARAGRAPH (9) OF THE SPECIAL TAXATION ACT WHICH COMPLIES WITH THE REQUIREMENT FOR TAX EXEMPTION UNDER THAT PARAGRAPH, OR (III) A PUBLIC CORPORATION, A FINANCIAL INSTITUTION, A FINANCIAL INSTRUMENTS BUSINESS OPERATOR OR CERTAIN OTHER ENTITIES WHICH HAVE RECEIVED SUCH PAYMENTS THROUGH A JAPANESE PAYMENT HANDLING AGENT AS PROVIDED IN ARTICLE 3-3, PARAGRAPH (6) OF THE SPECIAL TAXATION ACT IN COMPLIANCE WITH THE REQUIREMENT FOR TAX EXEMPTION UNDER THAT PARAGRAPH.

WITH RESPECT TO INTEREST PAYMENTS ON SECURITIES, PARAGRAPHS (A) AND (B) BELOW ARE APPLICABLE:

- (A) IF INTEREST IS PAID TO AN INDIVIDUAL RESIDENT OF JAPAN, TO A JAPANESE CORPORATION NOT DESCRIBED IN ITEM (II) ABOVE, OR TO AN INDIVIDUAL NON-RESIDENT OF JAPAN OR A NON-JAPANESE CORPORATION THAT IN EITHER CASE IS A SPECIALLY-RELATED PERSON OF KL (EXCEPT AS PROVIDED IN PARAGRAPH (B) BELOW), THE AMOUNT OF SUCH INTEREST WILL BE SUBJECT TO DEDUCTION IN RESPECT OF JAPANESE INCOME TAX AT A RATE OF 15 PER CENT. (FOR THE PERIOD TO AND INCLUDING 31ST DECEMBER, 2037, AN ADDITIONAL 0.315 PER CENT. IS ADDED THERETO AS SPECIAL INCOME TAX FOR RECONSTRUCTION), PROVIDED THAT AN INDIVIDUAL RESIDENT OF JAPAN OR AN INDIVIDUAL NON-RESIDENT OF JAPAN HAVING A PERMANENT ESTABLISHMENT IN JAPAN THAT IS A SPECIALLY-RELATED PERSON OF KL (EXCEPT AS PROVIDED IN PARAGRAPH (B) BELOW), EITHER OF WHOM MEETS CERTAIN REQUIREMENTS, ALTHOUGH INITIALLY SUBJECT TO SUCH DEDUCTION, WILL ULTIMATELY BE SUBJECT TO JAPANESE INCOME TAX ON INCOME CALCULATED BY OFFSETTING CERTAIN CAPITAL LOSSES AGAINST CERTAIN INCOMES, INCLUDING SUCH INTEREST, AT A RATE OF 15 PER CENT. (FOR THE PERIOD TO AND INCLUDING 31ST DECEMBER, 2037, AN ADDITIONAL 0.315 PER CENT. IS ADDED THERETO AS SPECIAL INCOME TAX FOR RECONSTRUCTION); AND
- (B) IF INTEREST IS PAID TO A PUBLIC CORPORATION, A FINANCIAL INSTITUTION, A FINANCIAL INSTRUMENTS BUSINESS OPERATOR OR CERTAIN OTHER ENTITIES THROUGH A JAPANESE PAYMENT HANDLING AGENT AS PROVIDED IN ARTICLE 3-3, PARAGRAPH (6) OF THE SPECIAL TAXATION ACT IN COMPLIANCE WITH THE REQUIREMENT FOR TAX EXEMPTION UNDER THAT PARAGRAPH, THE AMOUNT OF SUCH INTEREST WILL NOT BE SUBJECT TO DEDUCTION IN RESPECT OF JAPANESE INCOME TAX."

The Issuers and the Fiscal Agent may agree to amend the form of the above legend as necessary to reflect any changes in Japanese tax laws or practice.

A Note may be accelerated by the holder thereof in certain circumstances described in Condition 10. In such circumstances, where any Note is still represented by a Global Note and the Global Note (or any part thereof) has become due and repayable in accordance with the Terms and Conditions of such Notes and payment in full

of the amount due has not been made in accordance with the provisions of the Global Note, then the Global Note will become void at 8.00 p.m. (London time) on such day. At the same time, holders of interests in such Global Note credited to their accounts with the relevant Clearing System will become entitled to proceed directly against the relevant Issuer on the basis of statements of account provided by the relevant Clearing System on and subject to the terms of an amended and restated deed of covenant dated 28th August, 2020 (as the same may be further amended, supplemented or restated from time to time, the "**Deed of Covenant**"), executed by the Issuers.

## FORM OF FINAL TERMS

*Set out below is the form of Final Terms which will be completed for each Tranche of Notes issued under the Programme.*

**PROHIBITION OF SALES TO EEA AND UK RETAIL INVESTORS:** The Notes are not intended to be offered, sold or otherwise made available to and, with effect from such date, should not be offered, sold or otherwise made available to any retail investor in the European Economic Area ("EEA") or in the United Kingdom (the "UK"). 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"); or (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. Consequently no key information document required by Regulation (EU) No 1286/2014 (as amended, the "PRIIPs Regulation") for offering or selling the Notes or otherwise making them available to retail investors in the EEA or in the UK has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the EEA or in the UK may be unlawful under the PRIIPs Regulation.

**[MIFID II PRODUCT GOVERNANCE / PROFESSIONAL INVESTORS AND ELIGIBLE COUNTERPARTIES (ECPS) ONLY TARGET MARKET:** Solely for the purposes of 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 manufacturers' 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 manufacturers' target market assessment) and determining appropriate distribution channels.]

**[SINGAPORE SECURITIES AND FUTURES ACT PRODUCT CLASSIFICATION:** Solely for the purposes of its obligations pursuant to sections 309B(1)(a) and 309B(1)(c) of the Securities and Futures Act (Chapter 289) of Singapore (as modified or amended from time to time, the "SFA"), the Issuer has determined, and hereby notifies all relevant persons (as defined in Section 309A(1) of the SFA) that the Notes are "prescribed capital markets products" (as defined in the Securities and Futures (Capital Markets Products) Regulations 2018).]

Final Terms dated [ ]

[Komatsu Ltd./  
Komatsu Finance America Inc./  
Komatsu Europe Coordination Center NV]  
Issue of [Aggregate Nominal Amount of Tranche] [Title of Notes] under the  
U.S.\$2,000,000,000 Euro Medium Term Note Programme

*[This Final Terms has been prepared by [Komatsu Ltd./Komatsu Finance America Inc./Komatsu Europe Coordination Center NV] in connection with the issuance of Notes other than Notes to be admitted to the Official List of the United Kingdom Financial Conduct Authority (the "FCA") and admitted to trading on the Professional Securities Market of the London Stock Exchange. This Final Terms has not been reviewed or approved by the FCA.]<sup>1</sup>*

## PART A — CONTRACTUAL TERMS

Terms used herein shall be deemed to be defined as such for the purposes of the Conditions set forth in the Offering Circular dated [ ] [and the supplements to it dated [ ] and [ ]] which [together] constitute[s] listing particulars ("Listing Particulars") for the purposes of Chapter 4 of the Financial Conduct Authority's Listing Rules (the "Listing Rules"). These Final Terms contain the final terms of the Notes and must be read in conjunction with such Offering Circular [as so supplemented]. Full information on the Issuer [, KL (as a keep well provider)] and the offer of the Notes is only available on the basis of the combination of these Final Terms and the Offering Circular [as supplemented]. The Offering Circular has been published on <http://www.londonstockexchange.com/exchange/news/market-news/market-news-home.html>.

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<sup>1</sup> Include for unlisted Notes (delete for Notes to be listed on the PSM).

1. Issuer: [ ]
2. (i) Series Number: [ ]  
(ii) Tranche Number: [ ]  
(iii) Date on which the Notes will be consolidated and form a single Series: [The Notes will be consolidated and form a single Series with [ ] on [the Issue Date/exchange of the Temporary Bearer Global Note for interests in the Permanent Bearer Global Note/exchange of the Temporary Registered Global Note for interests in the Permanent Registered Global Note, as referred to in paragraph 19 below, which is expected to occur on or about [ ]]] [Not applicable]
3. Specified Currency or Currencies: [ ]
4. Aggregate Nominal Amount:  
(i) Series: [ ]  
(ii) Tranche: [ ]
5. Issue Price: [ ] per cent. of the Aggregate Nominal Amount [plus accrued interest from [ ]]
6. (i) Specified Denomination(s): [ ]  
(ii) Calculation Amount: [ ]
7. (i) Issue Date: [ ]  
(ii) Interest Commencement Date: [ /Issue Date/Not Applicable]
8. Maturity Date: [ /Interest Payment Date falling in or nearest to [ ]]
9. Interest Basis: [[ ] per cent. Fixed Rate]  
[[ ] month [LIBOR/LIBID/LIMEAN/EURIBOR/BBSW/TIBOR] +/- [ ] per cent. Floating Rate]  
[Zero Coupon]  
(see paragraph [12/13/14])
10. Redemption/Payment Basis: Subject to any purchase or cancellation or early redemption, the Notes will be redeemed on the Maturity Date at 100 per cent. of their nominal amount
11. Put/Call Options: [Investor Put]  
[Issuer Call]  
[(see paragraph [15/16])]

#### **PROVISIONS RELATING TO INTEREST (IF ANY) PAYABLE**

12. Fixed Rate Note Provisions: [Applicable/Not Applicable]  
(i) Rate(s) of Interest: [ ] per cent. per annum payable in arrear on each Interest Payment Date  
(ii) Interest Payment Dates(s): [ ] in each year, up to and including the Maturity Date  
(iii) Fixed Coupon Amount(s): [Not Applicable/[ ] per Calculation Amount]<sup>2</sup>

<sup>2</sup> For Renminbi-denominated Fixed Rate Notes where the Interest Payment Dates are subject to modification, the following alternative wording is appropriate: Each Fixed Coupon Amount shall be calculated by multiplying the product of the Rate of Interest and the Calculation Amount by the Day Count Fraction and rounding the resultant figure to the nearest RMB0.01, RMB0.005 being rounded upwards.

- (iv) Broken Amount(s): [Not Applicable/[ ] per Calculation Amount, payable on the Interest Payment Date falling [in/on] [ ]]
- (v) Day Count Fraction: [30/360] [Actual/Actual (ICMA)]<sup>3</sup>
- (vi) Determination Dates: [[ ] in each year] [Not Applicable]
13. Floating Rate Note Provisions: [Applicable/Not Applicable]
- (i) Specified Period(s)/Specified Interest Payment Dates: [ ]
- (ii) Initial Rate of Interest: [ ]
- (iii) Business Day Convention: [Floating Rate Convention<sup>4</sup>/ Following Business Day Convention/ Modified Following Business Day Convention<sup>5</sup>/ Preceding Business Day Convention]
- (iv) Additional Business Centre(s): [ ]
- (v) Manner in which the Rate of Interest and Interest Amount is to be determined: [Screen Rate Determination/ ISDA Determination]
- (vi) Party responsible for calculating the Rate of Interest and Interest Amount (if not the Fiscal Agent): [ ]
- (vii) Screen Rate Determination:
- Reference Rate and Relevant Financial Centre: Reference Rate: [ ] month [LIBOR/LIBID/ LIMEAN/EURIBOR/BBSW/TIBOR] Relevant Financial Centre: [London/Brussels/Sydney/ Tokyo]
  - Interest Determination Date(s): [ ]
  - Relevant Screen Page: [ ]
  - Alternative U.S. Dollar LIBOR fallback: [Applicable/Not Applicable]
- (viii) ISDA Determination:
- Floating Rate Option: [ ]
  - Designated Maturity: [ ]
  - Reset Date: [ ]
  - Applicable supplements to ISDA Definitions: [ISDA Benchmarks Supplement] [ ]
- (ix) Linear Interpolation: [Not Applicable/Applicable — the Rate of Interest for the [long/short] [first/last] Interest Period shall be calculated using Linear Interpolation]
- (x) Margin(s): [+/-] [ ] per cent. per annum
- (xi) Minimum Rate of Interest: [ ] per cent. per annum
- (xii) Maximum Rate of Interest: [ ] per cent. per annum
- (xiii) Day Count Fraction: [Actual/Actual (ISDA)] [Actual/365 (Fixed)]

<sup>3</sup> Applicable to Renminbi-denominated Fixed Rate Notes.

<sup>4</sup> Not for use in respect of Notes issued by KECC.

<sup>5</sup> Not for use in respect of Notes issued by KECC.

- [Actual/365 (Sterling)]  
[Actual/360]  
[30/360] [360/360] [Bond Basis]  
[30E/360] [Eurobond Basis]  
[30E/360 (ISDA)]
- (xiv) Issue Date Reference Rate: [ ] per cent. per annum
14. Zero Coupon Note Provisions: [Applicable/Not Applicable]
- (i) Accrual Yield: [ ] per cent. per annum
- (ii) Reference Price: [ ]
- (iii) Any other formula/basis of determining amount payable: [ ]
- (iv) Day Count Fraction in relation to Early Redemption Amounts: [30/360]  
[Actual/360]  
[Actual/365]

#### PROVISIONS RELATING TO REDEMPTION

15. Issuer Call: [Applicable/Not Applicable]
- (i) Optional Redemption Date(s): [ ]
- (ii) Optional Redemption Amount: [[ ] per Calculation Amount]
- (iii) If redeemable in part:
- (a) Minimum Redemption Amount: [ ] per Calculation Amount
- (b) Maximum Redemption Amount: [ ] per Calculation Amount
16. Investor Put: [Applicable/Not Applicable]
- (i) Optional Redemption Date(s): [ ]
- (ii) Optional Redemption Amount: [ ] per Calculation Amount
17. Final Redemption Amount: [ ] per Calculation Amount
18. Early Redemption Amount payable on redemption for taxation reasons or on Event of Default: [ ] per Calculation Amount

#### GENERAL PROVISIONS APPLICABLE TO THE NOTES

19. Form of Notes:
- [Bearer Notes: Temporary Bearer Global Note exchangeable for a Permanent Bearer Global Note which is exchangeable for Definitive Bearer Notes [upon not less than 60 days' notice given at any time<sup>6</sup>/only upon an Exchange Event<sup>7</sup>.]
- [Bearer Notes: Temporary Bearer Global Note exchangeable for Definitive Bearer Notes on and after the Exchange Date.]
- [Registered Notes: Temporary Registered Global Note exchangeable for a Permanent Registered Global Note which is exchangeable for Definitive Registered Notes [upon not less than 60 days' notice given at any time/only upon an Exchange Event].]

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<sup>6</sup> For use in respect of Notes issued by KL or KFAI.

<sup>7</sup> Not for use in respect of Notes issued by KFAI (for use in respect of Notes issued by KL only).

[Registered Notes: Temporary Registered Global Note exchangeable for Definitive Registered Notes on and after the Exchange Date.]

[Registered Notes: Permanent Registered Global Note exchangeable for Definitive Registered Notes [upon not less than 60 days' notice given at any time/only upon an Exchange Event].]

[Dematerialised Book-Entry.]

20. Additional Financial Centre(s):

[Not Applicable/[ ]]

21. Talons for future Coupons to be attached to Definitive Bearer Notes:

[Yes, as the Notes have more than 27 coupon payments, Talons may be required if, on exchange into definitive form, more than 27 coupon payments are still to be made/No]

## RESPONSIBILITY

[ ] has been extracted from [ ]. The Issuer confirms that such information has been accurately reproduced and that, so far as it is aware and is able to ascertain from information published by [ ], no facts have been omitted which would render the reproduced information inaccurate or misleading.]

Signed on behalf of the Issuer:

By:

.....  
*Duly authorised*

## PART B — OTHER INFORMATION

### 1. LISTING

- |                                                                                                                       |                                                          |
|-----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|
| [Listing and Admission to trading:                                                                                    | [Not Applicable]]                                        |
| (i) Application for admission to the Official List and for admission to trading [has been/is expected to be] made to: | [London Stock Exchange's Professional Securities Market] |
| (ii) Date from which admission is effective:                                                                          | [ ] [Not Applicable.]                                    |
| (iii) Estimate of total expenses related to admission to trading:                                                     | [ ]]                                                     |

### 2. RATINGS

- |          |                                                                                                                |
|----------|----------------------------------------------------------------------------------------------------------------|
| Ratings: | The Notes to be issued [[have been]/[are expected to be]] rated:<br>[S&P: [ ]]<br>[Moody's: [ ]]<br>[R&I: [ ]] |
|----------|----------------------------------------------------------------------------------------------------------------|

### 3. INTERESTS OF NATURAL AND LEGAL PERSONS INVOLVED IN THE ISSUE

[Save for any fees payable to the [Dealers], so far as the Issuer is aware, no person involved in the issue of the Notes has an interest material to the offer. The [Dealers] and their affiliates have engaged, and may in the future engage, in investment banking and/or commercial banking transactions with, and may perform other services for, the Issuer and its affiliates in the ordinary course of business.]

### 4. REASONS FOR THE OFFER AND ESTIMATED NET PROCEEDS

- |                              |                                           |
|------------------------------|-------------------------------------------|
| (i) Reasons for the offer:   | [[ ]/As set out in the Offering Circular] |
| (ii) Estimated net proceeds: | [ ]                                       |

### 5. YIELD

- |                      |                                                                                                                                              |
|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| Indication of yield: | [[ ]]. The yield is calculated at the Issue Date on the basis of the Issue Price. It is not an indication of future yield.] [Not Applicable] |
|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------|

### 6. OPERATIONAL INFORMATION

- |                                                                                                                                                 |                                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|
| (i) ISIN:                                                                                                                                       | [ ]                                |
| (ii) Common Code:                                                                                                                               | [ ]                                |
| (iii) [FISN:                                                                                                                                    | [ ]]                               |
| (iv) [CFI Code:                                                                                                                                 | [ ]]                               |
| (v) Any clearing system(s) other than the NBB-SSS, Euroclear Bank SA/NV and Clearstream Banking S.A. and the relevant identification number(s): | [Not Applicable/[ ]]               |
| (vi) Legal Entity Identifier:                                                                                                                   | [ ]                                |
| (vii) Delivery:                                                                                                                                 | Delivery [against/free of] payment |
| (viii) Names and addresses of additional Paying Agent(s)/Calculation Agent (if any):                                                            | [ ]                                |



**7. DISTRIBUTION**

- |      |                            |                                                                           |
|------|----------------------------|---------------------------------------------------------------------------|
| (i)  | U.S. Selling Restrictions: | [Regulation S Compliance Category [2/3];<br>TEFRA D/TEFRA not applicable] |
| (ii) | Stabilising Manager(s):    | [Not Applicable/[ ]]                                                      |

## TERMS AND CONDITIONS OF THE NOTES

*The following are the Terms and Conditions of the Notes which will be incorporated by reference into each Global Note (as defined below) and will be incorporated by reference into each definitive Note, in the latter case only if permitted by the relevant stock exchange or other relevant authority (if any) and agreed by the relevant Issuer and the relevant Dealer at the time of issue but, if not so permitted and agreed, such definitive Note will have endorsed thereon or attached thereto such Terms and Conditions. The applicable Final Terms (or the relevant provisions thereof) will be endorsed upon, or attached to, each Global Note and definitive Note. Reference should be made to the "applicable Final Terms" above for a description of the content of Final Terms which will include the definitions of certain terms used in the following Terms and Conditions or specify which of such terms are to apply in relation to the relevant Notes.*

This Note is one of a Series (as defined below) of Notes issued pursuant to the Agency Agreement (as defined below).

References herein to the "**Issuer**" shall be references to the party specified as such in the applicable Final Terms (as defined below).

References herein to the "**Notes**" shall be references to the Notes of the Series, of which this Note constitutes a part, and shall mean:

- (i) in relation to any Notes represented by a global Note (a "**Global Note**"), units of each Specified Denomination in the Specified Currency;
- (ii) any Global Notes in bearer form (each a "**Bearer Global Note**");
- (iii) any Global Notes in registered form (each a "**Registered Global Note**");
- (iv) any definitive Notes in bearer form ("**Definitive Bearer Notes**" and, together with the Bearer Global Notes, the "**Bearer Notes**") issued in exchange for a Bearer Global Note;
- (v) any definitive Notes in registered form ("**Definitive Registered Notes**" and, together with the Registered Global Notes, the "**Registered Notes**") (whether or not issued in exchange for a Registered Global Note); and
- (vi) any Notes in dematerialised form ("**Dematerialised Notes**").

The Notes and the Coupons (as defined below) have the benefit of an amended and restated agency agreement dated 28th August, 2020 (the "**Agency Agreement**", which such expression shall mean the same as may from time to time be amended, supplemented or restated) and made among the Issuer, the other issuers named therein and Citibank, N.A. as issuing agent and agent bank for Notes issued by KL (as defined below) or KFAI (as defined below) (the "**Fiscal Agent**", which expression shall include any successor fiscal agent) and as paying agent (the "**Paying Agent**", which expression shall include any additional or successor paying agents), Citibank Europe Plc as domiciliary agent for Notes issued by KECC (as defined below) (the "**Domiciliary Agent**", which expression shall include any additional or successor domiciliary agent), Citigroup Global Markets Europe AG as registrar (the "**Registrar**", which expression shall include any additional or successor registrar) and Citibank, N.A., London Branch as transfer agent (the "**Transfer Agent**", which expression shall include any additional or successor transfer agent) and other agents in each case named in the Agency Agreement (together with the Fiscal Agent, the Domiciliary Agent, the Registrar, the other Paying Agents and the Transfer Agent, the "**Agents**" which expression shall include any additional or successor agents), and (i) where the Issuer is Komatsu Finance America Inc. ("**KFAI**"), an amended and restated keep well agreement (as modified and/or supplemented and/or restated from time to time, the "**U.S. Keep Well Agreement**") between Komatsu Ltd. ("**KL**") and KFAI dated 28th August, 2020 and (ii) where the issuer is Komatsu Europe Coordination Center NV ("**KECC**"), a keep well agreement dated 28th August, 2020 executed by KL and KECC (as modified and/or supplemented and/or restated from time to time, the "**Belgian Keep Well Agreement**" and together with the U.S. Keep Well Agreement, the "**Keep Well Agreements**") and a Belgian deed poll dated 28th August, 2020 (as modified and/or supplemented and/or restated from time to time, the "**Belgian Deed Poll**") executed by KL and KECC and conferring upon holders of Notes issued by KECC certain rights and benefits in relation to the Belgian Keep Well Agreement, and a clearing services agreement dated 1st September, 2017 (as amended and supplemented from time to time, the "**Clearing Services Agreement**") between KECC, the National Bank of Belgium (the "**NBB**") and Citibank Europe Plc as the Domiciliary Agent.

Interest bearing Definitive Bearer Notes (unless otherwise indicated in the applicable Final Terms) have interest coupons ("**Coupons**") and, in the case of Notes which, when issued in definitive form, have more than 27 interest payments remaining, if indicated in the applicable Final Terms, talons for further Coupons ("**Talons**") attached on issue. Any reference herein to Coupons or coupons shall, unless the context otherwise requires, be deemed to include a reference to Talons or talons. Definitive Registered Notes and Global Notes do not have Coupons or Talons attached on issue.

The final terms for this Note (or the relevant provisions thereof) are set out in Part A of the Final Terms attached to or endorsed on this Note which supplement these Terms and Conditions (the "**Conditions**"). References herein to the "**applicable Final Terms**" are to Part A of the Final Terms (or the relevant provisions thereof) attached to or endorsed on this Note.

Any reference herein to "**Noteholders**" or "**holders**" in relation to any Notes shall mean (in the case of Definitive Bearer Notes) the holders of the Notes and (in the case of Definitive Registered Notes) the persons in whose name the Notes are registered and (in the case of Dematerialised Notes) the persons evidenced as holding the Notes by the book-entries in the records of the NBB-SSS (as defined below) or a participant or sub-participant of the NBB-SSS and shall, in relation to any Notes represented by a Global Note, be construed as provided below. Any reference herein to "**Couponholders**" shall mean the holders of the Coupons, and shall, unless the context otherwise requires, include the holders of the Talons.

As used herein, "**Tranche**" means Notes which are identical in all respects (including as to listing and admission to trading) and "**Series**" means a Tranche of Notes together with any further Tranche or Tranches of Notes which are (i) expressed to be consolidated and form a single series and (ii) identical in all respects (including as to listing and admission to trading) except for their respective Issue Dates, Interest Commencement Dates and/or Issue Prices.

The Noteholders and the Couponholders are entitled to the benefit of the amended and restated deed of covenant (as modified and/or supplemented and/or restated from time to time, the "**Deed of Covenant**") dated 28th August, 2020 and made by KL, KFAI and KECC. The original of the Deed of Covenant is held by a common depositary on behalf of Euroclear and Clearstream, Luxembourg (each as defined below).

Copies of the Agency Agreement, the U.S. Keep Well Agreement, the Belgian Keep Well Agreement, the Belgian Deed Poll and the Deed of Covenant are available for inspection during normal business hours at the specified offices of each of the Fiscal Agent and the other Paying Agents or the Domiciliary Agent. Copies of the applicable Final Terms are available for viewing at the registered office of the relevant Issuer and copies are obtainable during normal business hours at the specified office of each of the Fiscal Agent and the other Paying Agents or the Domiciliary Agent save that, if this Note is an unlisted Note, the applicable Final Terms will only be available for inspection by a Noteholder holding one or more unlisted Notes of that Series and such Noteholder must produce evidence satisfactory to the relevant Issuer and Paying Agent or Domiciliary Agent as to its holding of such Notes and identity. The Noteholders and the Couponholders are deemed to have notice of, and are entitled to the benefit of, all the provisions of the Agency Agreement, the U.S. Keep Well Agreement, the Belgian Keep Well Agreement, the applicable Final Terms, the Deed of Covenant and the Belgian Deed Poll which are applicable to them.

Words and expressions defined in the Agency Agreement or used in the applicable Final Terms shall have the same meanings where used in the Conditions unless the context otherwise requires or unless otherwise stated and provided that, in the event of inconsistency between the Agency Agreement and the applicable Final Terms, the applicable Final Terms will prevail.

## **1. Form, Denomination and Title**

In the case of the Notes issued by KL or KFAI, such Notes are issued in bearer form or in registered form as specified in the applicable Final Terms and, in the case of definitive Notes, serially numbered, in the currency (the "**Specified Currency**") and the denominations (the "**Specified Denomination(s)**") specified in the applicable Final Terms. In the case of the Notes issued by KECC, such Notes are issued in dematerialised form in the Specified Currency and Specified Denomination(s) set out in the applicable Final Terms. To the extent Notes issued by KECC are concerned, the NBB-SSS exclusively clears securities denominated in any currency the euro foreign exchange reference rate of which is published by the European Central Bank. Notes issued by KFAI and KECC must at all times have a minimum denomination of EUR100,000 (or its equivalent in any other currency as determined by relevant Dealer(s) as at the date of issue of such Notes) and be in multiples of EUR100,000.

Notes of one Specified Denomination may not be exchanged for Notes of another Specified Denomination. Notes in bearer form may not be exchanged for Notes in registered form and *vice versa*. Notes in dematerialised form may not be exchanged for Notes in bearer form and *vice versa*.

This Note may be a Fixed Rate Note, a Floating Rate Note, a Zero Coupon Note or a combination of any of the foregoing, depending upon the Interest Basis shown in the applicable Final Terms.

Definitive Bearer Notes are issued with Coupons attached, unless they are Zero Coupon Notes in which case references to Coupons and Couponholders in the Conditions are not applicable. Subject as set out below, title to Definitive Bearer Notes and Coupons will pass by delivery and title to Definitive Registered Notes will pass upon registration of transfers in the Register (as defined in Condition 6(d)) which is kept by the Registrar in accordance with the provisions of the Agency Agreement. Any holder of a Coupon, whether or not such Coupon is attached to this Note, in their capacity as such, shall be subject to and bound by all the provisions contained in this Note. The Issuer, the Replacement Agent (as defined in the Agency Agreement) and any Paying Agent will (except as otherwise required by law) deem and treat the bearer of any Definitive Bearer Note or Coupon and the registered holder of any Definitive Registered Note as the absolute owner thereof (whether or not overdue and notwithstanding any notice of ownership or writing thereon or notice of any previous loss or theft thereof) for all purposes but, in the case of any Global Note, without prejudice to the provisions set out in the next succeeding paragraph.

For so long as any of the Notes issued by KL and/or KFAI is represented by a Global Note held on behalf of Euroclear Bank SA/NV ("**Euroclear**") and/or Clearstream Banking S.A., a public limited liability company (*société anonyme*) organised and existing under the laws of the Grand Duchy of Luxembourg, with its registered office at 42, Avenue J.F. Kennedy, L-1855 Luxembourg and registered with the Luxembourg Register of Commerce and Companies under number B 9248 ("**Clearstream, Luxembourg**"), each person (other than (i) in the case of Euroclear, where such person is Clearstream, Luxembourg and (ii) in the case of Clearstream, Luxembourg, where such person is Euroclear) who is for the time being shown in the records of Euroclear or Clearstream, Luxembourg as the holder of a particular nominal amount of such Notes (in which regard any certificate or other document issued by Euroclear or Clearstream, Luxembourg as to the nominal amount of such Notes standing to the account of any person shall be conclusive and binding for all purposes save in the case of manifest error) shall be treated by the Issuer, the Fiscal Agent, the Registrar, the Transfer Agents and any other Paying Agent as the holder of such nominal amount of such Notes for all purposes other than with respect to the payment of principal or interest on such nominal amount of such Notes, for which purpose the bearer of the relevant Bearer Global Note or the registered holder of the relevant Registered Global Note shall be treated by the Issuer, the Fiscal Agent, the Registrar, any Transfer Agent and any other Agent as the holder of such nominal amount of such Notes in accordance with and subject to the terms of the relevant Global Note (and the expressions "**Noteholder**" and "**holder of Notes**" and related expressions shall be construed accordingly). Notes which are represented by a Global Note will be transferable only in accordance with the rules and procedures for the time being of Euroclear and Clearstream, Luxembourg, as the case may be.

The Notes issued by KECC are in dematerialised form. Dematerialised Notes are issued via a book-entry system maintained in the records of the NBB as operator of the securities settlement system operated by the NBB or any successor thereto (the "**NBB-SSS**") in accordance with the Belgian Code of Companies and Associations. The Dematerialised Notes can be held by their holders through the participants in the NBB-SSS, including Euroclear, Clearstream, Luxembourg, SIX SIS AG ("**SIX SIS**"), Interbolsa, Monte Titoli S.p.A. ("**Monte Titoli**") or other participants of the NBB-SSS, and through other financial intermediaries which in turn hold the Dematerialised Notes through Euroclear, Clearstream, Luxembourg or other participants in the NBB-SSS. The Dematerialised Notes are accepted for clearance through the NBB-SSS, and are accordingly subject to the applicable Belgian clearing regulations, including the Belgian law of 6th August, 1993 on transactions in certain securities, its implementing Belgian royal decrees of 26th May, 1994 and 14th June, 1994 (each as amended or re-enacted or as their application is modified by other provisions from time to time) and the rules of the NBB-SSS and the annexes thereto, as issued or modified by the NBB from time to time. Title to the Dematerialised Notes will pass by account transfer.

Except as ordered by a court of competent jurisdiction or as required by law, each person evidenced as holding the Note by the book-entry system maintained in the records of the NBB-SSS shall be deemed to be and may be treated as its absolute owner for all purposes, whether or not it is overdue and regardless of any notice of ownership, trust or an interest in it and no person shall be liable for so treating the holder.

Any reference herein to Euroclear and/or Clearstream, Luxembourg and/or NBB-SSS shall, whenever the context so permits, be deemed to include a reference to any additional or alternative clearing system specified in the applicable Final Terms.

## **2. Transfers of Registered Notes**

### **2.1 Transfers of interests in Registered Global Notes**

Transfers of beneficial interests in Registered Global Notes will be effected by Euroclear or Clearstream, Luxembourg, as the case may be, and, in turn, by other participants and, if appropriate, indirect participants in such clearing system acting on behalf of beneficial transferors and transferees of such interests. A beneficial interest in a Registered Global Note will, subject to compliance with all applicable legal and regulatory restrictions, be transferable for Definitive Registered Notes or for a beneficial interest in another Registered Global Note only in the authorised denominations set out in the applicable Final Terms and only in accordance with the rules and operating procedures for the time being of Euroclear and/or Clearstream, Luxembourg and in accordance with the terms and conditions specified in the Agency Agreement. Transfers of a Registered Global Note registered in the name of a nominee for Euroclear or Clearstream, Luxembourg shall be limited to transfers of such Registered Global Note, in whole but not in part, to another nominee of Euroclear or Clearstream, Luxembourg, or to a successor of Euroclear or Clearstream, Luxembourg or such successor's nominee.

### **2.2 Transfers of Definitive Registered Notes**

Subject as provided in Condition 2.5 below, upon the terms and subject to the conditions set forth in the Agency Agreement, a Definitive Registered Note may be transferred in whole or in part (in the authorised denominations set out in the applicable Final Terms). In order to effect any such transfer (i) the holder or holders must (A) surrender the Definitive Registered Note for registration of the transfer of the Definitive Registered Note (or the relevant part of the Definitive Registered Note) at the specified office of the Registrar or any Transfer Agent, with the form of transfer thereon duly executed by the holder or holders thereof or his or their attorney or attorneys duly authorised in writing and (B) complete and deposit such other certifications as may be required by the Registrar or, as the case may be, the relevant Transfer Agent and (ii) the Registrar or, as the case may be, the relevant Transfer Agent must, after due and careful enquiry, be satisfied with the documents of title and the identity of the person making the request. Any such transfer will be subject to such reasonable regulations as the Issuer and the Registrar may from time to time prescribe (the initial such regulations being set out in Schedule 8 to the Agency Agreement). Subject as provided above, the Registrar or, as the case may be, the relevant Transfer Agent will, within three business days (being for this purpose a day on which banks are open for business in the city where the specified office of the Registrar or, as the case may be, the relevant Transfer Agent is located) of the request (or such longer period as may be required to comply with any applicable fiscal or other laws or regulations), authenticate and deliver, or procure the authentication and delivery of, at its specified office to the transferee or (at the risk of the transferee) send by uninsured mail, to such address as the transferee may request, a new Definitive Registered Note of a like aggregate nominal amount to the Definitive Registered Note (or the relevant part of the Definitive Registered Note) transferred. In the case of the transfer of part only of a Definitive Registered Note, a new Definitive Registered Note in respect of the balance of the Definitive Registered Note not transferred will be authenticated and delivered at the specified office to the transferor or (at the risk of the transferor) sent by uninsured mail to the transferor.

### **2.3 Registration of transfer upon partial redemption**

In the event of a partial redemption of Notes under Condition 7, the relevant Issuer shall not be required to register the transfer of any Definitive Registered Note, or part of a Definitive Registered Note, called for partial redemption.

### **2.4 Costs of registration**

Noteholders will not be required to bear the costs and expenses of effecting any registration of transfer as provided above, except for any costs or expenses of delivery other than by regular uninsured mail and except that the relevant Issuer may require the payment of a sum sufficient to cover any stamp duty, tax or other governmental charge that may be imposed in relation to the registration.

## 2.5 Closed Periods

No Noteholder may require the transfer of a Registered Note to be registered during the period of (i) 15 days ending on (and including) the due date for redemption of that Note and (ii) during the period of seven days ending on (and including) any Record Date.

## 2.6 Exchanges and Transfers of Definitive Registered Notes generally

Holders of Definitive Registered Notes may exchange such Notes for interests in a Registered Global Note of the same type at any time.

## 3. Status of the Notes

The Notes and the relative Coupons are direct, unconditional, unsubordinated and (subject to the provisions of Condition 4) unsecured obligations of the Issuer and rank *pari passu* among themselves and (save for certain obligations required to be preferred by law) equally with all other unsecured obligations (other than subordinated obligations, if any) of the Issuer from time to time outstanding.

## 4. Negative Pledge

The Issuer will not, so long as any of the Notes remain outstanding (as defined in the Agency Agreement), create or permit to be outstanding, any mortgage, charge, pledge or other security interest upon the whole or any part of its property, assets or revenues, present or future, to secure (i) payment of any sum due in respect of any Relevant Securities (as defined below) or (ii) payment under any guarantee of any Relevant Securities or (iii) any payment under any indemnity or other like obligations relating to any Relevant Securities, unless in each case at the same time the Notes are secured equally and rateably so as to rank *pari passu* with such Relevant Securities or such guarantee or indemnity or other like obligations. For the purposes of the foregoing provision, "**Relevant Securities**" means any indebtedness in the form of, or represented by, bonds, notes, debentures or other similar securities (with a stated maturity of more than one year from the creation thereof) which (i) are either by their terms payable, or confer a right to receive payment in any currency other than the currency of the Issuer's jurisdiction or denominated in the currency of the Issuer's jurisdiction and more than 50 per cent. of the aggregate principal amount thereof is initially distributed outside the Issuer's jurisdiction by or with the authorisation of the Issuer or (as the case may be) the other person being the principal debtor in respect thereof and (ii) are for the time being, or are intended to be, quoted, listed or ordinarily dealt in or traded on any stock exchange or on an over-the-counter or other securities market.

## 5. Interest

### (a) Interest on Fixed Rate Notes

Each Fixed Rate Note bears interest from (and including) the Interest Commencement Date at the rate(s) per annum equal to the Rate(s) of Interest. Interest will be payable in arrear on the Interest Payment Date(s) in each year up to (and including) the Maturity Date.

If the Notes are in definitive form, except as provided in the applicable Final Terms, the amount of interest payable on each Interest Payment Date in respect of the Fixed Interest Period ending on (but excluding) such date will amount to the Fixed Coupon Amount. Payments of interest on any Interest Payment Date will, if so specified in the applicable Final Terms, amount to the Broken Amount so specified.

As used in the Conditions, "**Fixed Interest Period**" means the period from (and including) an Interest Payment Date (or the Interest Commencement Date) to (but excluding) the next (or first) Interest Payment Date.

Except in the case of Notes in definitive form where an applicable Fixed Coupon Amount or Broken Amount is specified in the applicable Final Terms, interest shall be calculated in respect of any period by applying the Rate of Interest to:

- (i) in the case of Fixed Rate Notes which are represented by a Global Note, the aggregate outstanding nominal amount of the Fixed Rate Notes represented by such Global Note; or
- (ii) in the case of Fixed Rate Notes in definitive form, the Calculation Amount;

and, in each case, multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the relevant Specified Currency, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention. Where the Specified Denomination of a Fixed Rate Note in definitive form is a multiple of the Calculation Amount, the amount of interest payable in respect of such Fixed Rate Note shall be the product of the amount (determined in the manner provided above) for the Calculation Amount and the amount by which the Calculation Amount is multiplied to reach the Specified Denomination, without any further rounding.

In this Condition 5(a), "**Day Count Fraction**" means:

- (i) if "**Actual/Actual (ICMA)**" is specified in the applicable Final Terms;
  - (a) in the case of Notes where the number of days in the relevant period from (and including) the most recent Interest Payment Date (or, if none, the Interest Commencement Date) to (but excluding) the relevant payment date (the "**Accrual Period**") is equal to or shorter than the Determination Period during which the Accrual Period ends, the number of days in such Accrual Period divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Dates (as specified in the applicable Final Terms) that would occur in one calendar year; or
  - (b) in the case of Notes where the Accrual Period is longer than the Determination Period during which the Accrual Period ends, the sum of:
    - (1) the number of days in such Accrual Period falling in the Determination Period in which the Accrual Period begins divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Dates (as specified in the applicable Final Terms) that would occur in one calendar year; and
    - (2) the number of days in such Accrual Period falling in the next Determination Period divided by the product of (x) the number of days in such Determination Period and (y) the number of Determination Dates that would occur in one calendar year; and
- (ii) if "**30/360**" is specified in the applicable Final Terms, the number of days in the period from and including the most recent Interest Payment Date (or, if none, the Interest Commencement Date) to but excluding the relevant payment date (such number of days being calculated on the basis of a year of 360 days with 12 30-day months) divided by 360.

In the Conditions:

"**Determination Period**" means each period from (and including) a Determination Date to (but excluding) the next Determination Date (including, where either the Interest Commencement Date or the final Interest Payment Date is not a Determination Date, the period commencing on the first Determination Date prior to, and ending on the first Determination Date falling after, such date); and

"**sub-unit**" means, with respect to any currency other than euro, the lowest amount of such currency that is available as legal tender in the country of such currency and, with respect to euro, means one cent.

(b) ***Interest on Floating Rate Notes***

(i) ***Interest Payment Dates***

Each Floating Rate Note bears interest from (and including) the Interest Commencement Date and such interest will be payable in arrear on either:

- (A) the Specified Interest Payment Date(s) in each year specified in the applicable Final Terms; or
- (B) if no Specified Interest Payment Date(s) is/are specified in the applicable Final Terms, each date (each such date, together with each Specified Interest Payment Date, an

**"Interest Payment Date")** which falls the number of months or other period specified as the Specified Period in the applicable Final Terms after the preceding Interest Payment Date or, in the case of the first Interest Payment Date, after the Interest Commencement Date.

Such interest will be payable in respect of each Interest Period.

If a Business Day Convention is specified in the applicable Final Terms and (x) if there is no numerically corresponding day in the calendar month in which an Interest Payment Date should occur or (y) if any Interest Payment Date would otherwise fall on a day which is not a Business Day, then, if the Business Day Convention specified is:

- (1) in any case where Specified Periods are specified in accordance with Condition 5(b)(i)(B) above, the Floating Rate Convention, such Interest Payment Date (i) in the case of (x) above, shall be the last day that is a Business Day in the relevant month and the provisions of (B) below shall apply *mutatis mutandis* or (ii) in the case of (y) above, shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event (A) such Interest Payment Date shall be brought forward to the immediately preceding Business Day and (B) each subsequent Interest Payment Date shall be the last Business Day in the month which falls the Specified Period after the preceding applicable Interest Payment Date occurred; provided that the Floating Rate Convention may not be used for any Notes issued by KECC;
- (2) the Following Business Day Convention, such Interest Payment Date shall be postponed to the next day which is a Business Day;
- (3) the Modified Following Business Day Convention, such Interest Payment Date shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event such Interest Payment Date shall be brought forward to the immediately preceding Business Day; provided that the Modified Following Business Day Convention may not be used for any Notes issued by KECC; or
- (4) the Preceding Business Day Convention, such Interest Payment Date shall be brought forward to the immediately preceding Business Day.

In the Conditions:

**"Business Day"** means a day which is:

- (x) in the case of Notes issued by KL or KFAI, both:
  - (A) a day on which commercial banks and foreign exchange markets settle payments, and are open for general business (including dealing in foreign exchange and foreign currency deposits) in London and each Additional Business Centre specified in the applicable Final Terms; and
  - (B) (1) in relation to any sum payable in a Specified Currency other than euro and Renminbi, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the principal financial centre of the country of the relevant Specified Currency (which, if the Specified Currency is Australian dollars or New Zealand dollars, shall be Sydney and Auckland, respectively), (2) in relation to any sum payable in euro, a day on which the TARGET2 System is open, or (3) in relation to any sum payable in Renminbi, a day on which commercial banks and foreign exchange markets are generally open for business and settle Renminbi payments in Hong Kong and are not authorised or obligated by law or executive order to be closed; or



- (y) in the case of Notes issued by KECC, (1) a day other than a Saturday or Sunday on which the NBB-SSS is operating, (2) a day on which banks and foreign exchange markets are open for general business in Belgium, and (3) (if a payment in euro is to be made on that day), a day on which the TARGET2 System is open;

"**Interest Period**" means the period from (and including) an Interest Payment Date (or the Interest Commencement Date) to (but excluding) the next (or first) Interest Payment Date;

"**Initial Rate of Interest**" has the meaning specified in the relevant Final Terms;

"**Interest Determination Date**" has the meaning given in the relevant Final Terms;

"**Margin**" has the meaning given in the relevant Final Terms;

"**Maximum Rate of Interest**" has the meaning given in the relevant Final Terms;

"**Minimum Rate of Interest**" has the meaning given in the relevant Final Terms;

"**Rate of Interest**" means the rate or rates (expressed as a percentage per annum) of interest payable in respect of the Notes specified in the relevant Final Terms or calculated or determined in accordance with the provisions of these Conditions and/or the relevant Final Terms;

"**Relevant Time**" has the meaning given in the relevant Final Terms; and

"**TARGET2 System**" means the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET2) System.

(ii) *Rate of Interest*

The Rate of Interest payable from time to time in respect of Floating Rate Notes will be determined in the manner specified in the applicable Final Terms.

(A) *ISDA Determination for Floating Rate Notes*

Where ISDA Determination is specified in the applicable Final Terms as the manner in which the Rate of Interest is to be determined, the Rate of Interest for each Interest Period will be the relevant ISDA Rate plus or minus (as indicated in the applicable Final Terms) the Margin (if any). For the purposes of this sub-paragraph (A), "**ISDA Rate**" for an Interest Period means a rate equal to the Floating Rate that would be determined by the Fiscal Agent under an interest rate swap transaction if the Fiscal Agent were acting as Calculation Agent for that swap transaction under the terms of an agreement incorporating the ISDA Definitions (as defined below) and under which:

- (1) the Floating Rate Option is as specified in the applicable Final Terms;
- (2) the Designated Maturity is a period specified in the applicable Final Terms; and
- (3) the relevant Reset Date is the day as specified in the applicable Final Terms.

For the purposes of this sub-paragraph (A):

"**Floating Rate**", "**Calculation Agent**", "**Floating Rate Option**", "**Designated Maturity**" and "**Reset Date**" have the meanings given to those terms in the ISDA Definitions;

"**ISDA Benchmarks Supplement**" means the Benchmarks Supplement (as amended and updated as at the date of issue of the first Tranche of the Notes of the relevant Series (as specified in the relevant Final Terms)) published by the International Swaps and Derivatives Association, Inc.; and

"**ISDA Definitions**" means the 2006 ISDA Definitions (as amended and updated as at the date of issue of the first Tranche of the Notes of the relevant Series (as specified

in the relevant Final Terms) and, if specified in the relevant Final Terms, as supplemented by any applicable supplement to the ISDA Definitions including, without limitation, the ISDA Benchmarks Supplement) as published by the International Swaps and Derivatives Association, Inc.

(B) *Screen Rate Determination for Floating Rate Notes*

Where Screen Rate Determination is specified in the applicable Final Terms as the manner in which the Rate of Interest is to be determined, the Rate of Interest for each Interest Period will, subject as provided below, be either:

- (1) the offered quotation; or
- (2) the arithmetic mean (rounded if necessary to the fifth decimal place, with 0.000005 being rounded upwards) of the offered quotations,

(expressed as a percentage rate per annum) for the Reference Rate (being either LIBOR, LIBID, LIMEAN, EURIBOR, TIBOR or BBSW, as specified in the applicable Final Terms) which appears or appear, as the case may be, on the Relevant Screen Page (or such replacement page on that service which displays the information), as specified in the applicable Final Terms, as at, in the case of LIBOR, LIBID, LIMEAN, EURIBOR and TIBOR, 11.00 a.m. (Relevant Financial Centre time), in the case of BBSW, 10.30 a.m. (Relevant Financial Centre time) and on the Interest Determination Date in question plus or minus (as indicated in the applicable Final Terms) the Margin (if any), all as determined by the Fiscal Agent. If five or more of such offered quotations are available on the Relevant Screen Page, as specified in the applicable Final Terms, the highest (or, if there is more than one such highest quotation, one only of such quotations) and the lowest (or, if there is more than one such lowest quotation, one only of such quotations) shall be disregarded by the Fiscal Agent for the purpose of determining the arithmetic mean (rounded as provided above) of such offered quotations.

If the Relevant Screen Page is not available or if, in the case of Condition 5(b)(ii)(B)(1), no offered quotation appears or, in the case of Condition 5(b)(ii)(B)(2), fewer than three offered quotations appear, in the case of LIBOR, LIBID, LIMEAN, EURIBOR and TIBOR, as at 11.00 a.m. (Relevant Financial Centre time), and in the case of BBSW, 10.30 a.m. (Relevant Financial Centre time), the Fiscal Agent shall request each of the Reference Banks to provide the Fiscal Agent with its offered quotation (expressed as a percentage rate per annum) for the Reference Rate, in the case of LIBOR, LIBID, LIMEAN, EURIBOR and TIBOR, at approximately 11.00 a.m. (Relevant Financial Centre time), and in the case of BBSW, 10.30 a.m. (Relevant Financial Centre time) on the Interest Determination Date in question. If two or more of the Reference Banks provide the Fiscal Agent with offered quotations, the Rate of Interest for the Interest Period shall be the arithmetic mean (rounded if necessary to the fifth decimal place with 0.000005 being rounded upwards) of the offered quotations plus or minus (as appropriate) the Margin (if any), all as determined by the Fiscal Agent.

If on any Interest Determination Date one only or none of the Reference Banks provides the Fiscal Agent with an offered quotation as provided in the preceding paragraph, the Rate of Interest for the relevant Interest Period shall be the rate per annum which the Fiscal Agent determines as being the arithmetic mean (rounded if necessary to the fifth decimal place, with 0.000005 being rounded upwards) of the rates, as communicated to (and at the request of) the Fiscal Agent by the Reference Banks or any two or more of them, at which such banks were offered, in the case of determination of LIBOR, LIBID, LIMEAN, EURIBOR and TIBOR, at approximately 11.00 a.m. (Relevant Financial Centre time), and in the case of determination of BBSW, at approximately 10.30 a.m. (Relevant Financial Centre time) on the relevant Interest Determination Date, deposits in the Specified Currency for a period equal to that which would have been used for the Reference Rate by leading banks in the London inter-bank market (if the Reference Rate is LIBOR, LIBID and LIMEAN); or

the Euro-zone inter-bank market (if the Reference Rate is EURIBOR); or the Tokyo inter-bank market (if the Reference Rate is TIBOR); or the financial institutions authorised to quote on the Reuters Screen BBSW page (if the Reference Rate is BBSW), in each case, plus or minus (as appropriate) the Margin (if any) or, if fewer than two of the Reference Banks provide the Fiscal Agent with offered rates, the offered rate for deposits in the Specified Currency for a period equal to that which would have been used for the Reference Rate, or the arithmetic mean (rounded as provided above) of the offered rates for deposits in the Specified Currency for a period equal to that which would have been used for the Reference Rate, at which, in the case of determination of LIBOR, LIBID, LIMEAN, EURIBOR and TIBOR, at approximately 11.00 a.m. (Relevant Financial Centre time), and in the case of determination of BBSW, at approximately 10.30 a.m. (Relevant Financial Centre time) on the relevant Interest Determination Date, any one or more banks (which bank or banks is or are in the opinion of the relevant Issuer suitable for the purpose) informs the Fiscal Agent it is quoting to leading banks in the London inter-bank market (if the Reference Rate is LIBOR, LIBID and LIMEAN) or the Euro-zone inter-bank market (if the Reference Rate is EURIBOR) or the Tokyo inter-bank market (if the Reference Rate is TIBOR); or the financial institutions authorised to quote on the Reuters Screen BBSW page (if the Reference Rate is BBSW), in each case, plus or minus (as appropriate) the Margin (if any), provided that, if the Rate of Interest cannot be determined in accordance with the foregoing provisions of this paragraph, the Rate of Interest shall be determined as at the last preceding Interest Determination Date (though substituting, where a different Margin is to be applied to the relevant Interest Period from that which applied to the last preceding Interest Period, the Margin relating to the relevant Interest Period in place of the Margin relating to that last preceding Interest Period).

In the Conditions:

**"Reference Banks"** means, in the case of a determination of LIBOR, LIBID and LIMEAN, the principal London office of four major banks in the London inter-bank market, in the case of a determination of EURIBOR, the principal Euro-zone office of four major banks in the Euro-zone interbank market, in the case of a determination of TIBOR, the principal Tokyo office of ten major banks in the Tokyo inter-bank market and, in the case of determination of BBSW, the financial institutions authorised to quote on the Reuters Screen BBSW page, in each case as specified in the applicable Final Terms.

(C) *Benchmark Replacement*

In the case of Notes where the Final Terms specifies that Alternative U.S. Dollar LIBOR fallback is not applicable, in addition to and notwithstanding the provisions above in Condition 5(b)(ii)(B), if the relevant Issuer determines that a Benchmark Event (as defined below) has occurred when any Rate of Interest (or the relevant component part thereof) remains to be determined by the relevant Reference Rate, then the following provisions shall apply:

- (i) the relevant Issuer shall use reasonable endeavours to appoint, as soon as reasonably practicable, an Independent Adviser (as defined below) to determine (acting in good faith and in a commercially reasonable manner), no later than five Business Days prior to the relevant Interest Determination Date relating to the next succeeding Interest Period (the **"Interest Determination Cut-off Date"**), a Successor Rate (as defined below) or, alternatively, if the Independent Adviser determines that there is no Successor Rate, an Alternative Reference Rate (as defined below) for purposes of determining the Rate of Interest (or the relevant component part thereof) applicable to the Notes;
- (ii) if the relevant Issuer is unable to appoint an Independent Adviser, or the Independent Adviser appointed by it fails to determine a Successor Rate or an Alternative Reference Rate prior to the Interest Determination Cut-off

Date, such Issuer (acting in good faith and in a manner that is commercially reasonable taking into consideration the interests of the Noteholders) may determine a Successor Rate or, if the relevant Issuer determines that there is no Successor Rate, an Alternative Reference Rate;

- (iii) if a Successor Rate or, failing which, an Alternative Reference Rate (as applicable) is determined in accordance with the preceding provisions, such Successor Rate or, failing which, an Alternative Reference Rate (as applicable) shall be the Reference Rate for each of the future Interest Periods (subject to the subsequent operation of, and to adjustment as provided in, this Condition 5(b)(ii)(C)); provided, however, that if sub-paragraph (ii) applies and the relevant Issuer is unable to or does not determine a Successor Rate or an Alternative Reference Rate prior to the relevant Interest Determination Date, the Rate of Interest applicable to the next succeeding Interest Period shall be equal to the Rate of Interest last determined in relation to the Notes in respect of the preceding Interest Period (or alternatively, if there has not been a first Interest Payment Date, the rate of interest shall be the Initial Rate of Interest) (subject, where applicable, to substituting the Margin that applied to such preceding Interest Period for the Margin that is to be applied to the relevant Interest Period); for the avoidance of doubt, the proviso in this sub-paragraph (iii) shall apply to the relevant Interest Period only and any subsequent Interest Periods are subject to the subsequent operation of, and to adjustment as provided in, this Condition 5(b)(ii)(C);
- (iv) if the Independent Adviser (in consultation with the relevant Issuer) or (if the relevant Issuer is unable to appoint an Independent Adviser, or the Independent Adviser appointed by it fails to determine whether an Adjustment Spread (as defined below) should be applied) the relevant Issuer (acting in good faith and in a manner that is commercially reasonable taking into consideration the interests of the Noteholders) determines that an Adjustment Spread should be applied to the relevant Successor Rate or the relevant Alternative Reference Rate (as applicable) and determines the quantum of, or a formula or methodology for determining, such Adjustment Spread, then such Adjustment Spread shall be applied to such Successor Rate or Alternative Reference Rate (as applicable). If the Independent Adviser or the relevant Issuer (as applicable) is unable to determine, prior to the Interest Determination Date relating to the next succeeding Interest Period, the quantum of, or a formula or methodology for determining, such Adjustment Spread, then such Successor Rate or Alternative Reference Rate (as applicable) will apply without an Adjustment Spread;
- (v) if the Independent Adviser or the relevant Issuer determines a Successor Rate or, failing which, an Alternative Reference Rate (as applicable) and, in each case, any Adjustment Spread, in accordance with the above provisions, the Independent Adviser or the relevant Issuer (as applicable), may also specify changes to the Conditions, including but not limited to the Day Count Fraction, Relevant Screen Page, Business Day Convention, Business Days, Interest Determination Date, and/or the definition of Reference Rate applicable to the Notes, and the method for determining the fall-back rate in relation to the Notes, in order to follow market practice in relation to the Successor Rate, the Alternative Reference Rate (as applicable) and/or the Adjustment Spread. For the avoidance of doubt, the Fiscal Agent shall, at the direction and expense of the relevant Issuer, effect such consequential amendments to the Agency Agreement and the Conditions as may be required in order to give effect to this Condition 5(b)(ii)(C). Noteholder consent shall not be required in connection with implementing the Successor Rate or Alternative Reference Rate (as applicable) and/or any Adjustment Spread or such other changes, including for the execution of any documents, amendments or other steps by the Fiscal Agent (if required); and

- (vi) the relevant Issuer shall promptly, following the determination of any Successor Rate or Alternative Reference Rate (as applicable) and/or any Adjustment Spread, give notice thereof to the Noteholders and the Fiscal Agent, which shall specify the effective date(s) for such Successor Rate or Alternative Reference Rate (as applicable) and/or any Adjustment Spread and any consequential changes made to the Conditions.

For the purposes of this Condition 5(b)(ii)(C):

**"Adjustment Spread"** means a spread (which may be positive or negative) or formula or methodology for calculating a spread, which the Independent Adviser (in consultation with the relevant Issuer) or the relevant Issuer (as applicable), determines is required to be applied to the Successor Rate or the Alternative Reference Rate (as applicable) in order to reduce or eliminate, to the extent reasonably practicable in the circumstances, any economic prejudice or benefit (as applicable) to Noteholders and Couponholders as a result of the replacement of the Reference Rate with the Successor Rate or the Alternative Reference Rate (as applicable) and is the spread, formula or methodology which:

- (i) in the case of a Successor Rate, is recommended in relation to the replacement of the Reference Rate with the Successor Rate by any Relevant Nominating Body (as defined below);
- (ii) in the case of a Successor Rate for which no such recommendation has been made or in the case of an Alternative Reference Rate, the Independent Adviser (in consultation with the relevant Issuer) or the relevant Issuer (as applicable) determines is recognised or acknowledged as being in customary market usage in international debt capital markets transactions which reference the Reference Rate, where such rate has been replaced by the Successor Rate or the Alternative Reference Rate (as applicable); or
- (iii) if no such customary market usage is recognised or acknowledged, the Independent Adviser (in consultation with the relevant Issuer) or the relevant Issuer in its discretion (as applicable), determines (acting in good faith and in a commercially reasonable manner) to be appropriate;

**"Alternative Reference Rate"** means the rate that the Independent Adviser or the relevant Issuer (as applicable) determines has replaced the relevant Reference Rate in customary market usage in the international debt capital markets for the purposes of determining rates of interest in respect of bonds denominated in the Specified Currency and of a comparable duration to the relevant Interest Period, or, if the Independent Adviser or the relevant Issuer (as applicable) determines that there is no such rate, such other rate as the Independent Adviser or the relevant Issuer (as applicable) determines in its discretion (acting in good faith and in a commercially reasonable manner) is most comparable to the relevant Reference Rate;

**"Benchmark Event"** means any of:

- (i) the relevant Reference Rate has ceased to be published on the Relevant Screen Page as a result of such benchmark ceasing to be calculated or administered; or
- (ii) a public statement by the administrator of the relevant Reference Rate that it has ceased, or will cease, publishing such Reference Rate permanently or indefinitely (in circumstances where no successor administrator has been appointed that will continue publication of such Reference Rate); or
- (iii) a public statement by the supervisor of the administrator of the relevant Reference Rate that such Reference Rate has been or will be permanently or indefinitely discontinued; or

- (iv) a public statement by the supervisor of the administrator of the relevant Reference Rate as a consequence of which such Reference Rate will be prohibited from being used or that its use will be subject to restrictions or adverse consequences either generally, or in respect of the Notes; or
- (v) a public statement by the supervisor of the administrator of the relevant Reference Rate that, in the view of such supervisor, such Reference Rate is no longer representative of an underlying market or the methodology to calculate such Reference Rate has materially changed; or
- (vi) a public statement by a Relevant Nominating Body formally recommending a successor or replacement for the relevant Reference Rate; or
- (vii) a public statement by the administrator of the relevant Reference Rate that, as a result of it not having received sufficient submissions in order to be able to publish the Reference Rate on the Relevant Screen Page, it has re-published the Reference Rate published on the previous day (including, if applicable, to the extent adjusted as deemed necessary by the administrator); or
- (viii) it has or will become unlawful for the Calculation Agent to calculate any payments due to be made to any Noteholder using the relevant Reference Rate (including, without limitation, under the Benchmark Regulation (EU) 2016/1011, if applicable),

provided that, in the case of paragraphs (ii), (iii) and (iv) above, the Benchmark Event shall occur on the date of the cessation of the publication of the Reference Rate, the discontinuation of the Reference Rate or the prohibition of use of the Reference Rate, as the case may be, and not the date of the relevant public statement;

**"Independent Adviser"** means an independent financial institution of international repute or other independent financial adviser experienced in the international debt capital markets, in each case appointed by the relevant Issuer at its own expense;

**"Relevant Nominating Body"** means, in respect of a reference rate:

- (i) the central bank, reserve bank, monetary authority or any similar institution for the currency to which the reference rate relates, or any other central bank or other supervisory authority which is responsible for supervising the administrator of the reference rate; or
- (ii) any working group or committee sponsored by, chaired or co-chaired by or constituted at the request of (a) the central bank, reserve bank, monetary authority or any similar institution for the currency to which the reference rate relates, (b) any other central bank or other supervisory authority which is responsible for supervising the administrator of the reference rate, (c) a group of the aforementioned central banks or other supervisory authorities, (d) the International Swaps and Derivatives Association, Inc. or any part thereof, or (e) the Financial Stability Board or any part thereof; and

**"Successor Rate"** means a reference rate (and related alternative screen page or source, if available) that (a) the Independent Adviser or the relevant Issuer (as applicable) determines is a successor to or replacement of the relevant Reference Rate (for the avoidance of doubt, whether or not such Reference Rate has ceased to be available), and (b) which has been formally recommended by any Relevant Nominating Body.

(D) *Alternative U.S. Dollar LIBOR fallback*

If Alternative U.S. Dollar LIBOR fallback is specified as being applicable in the relevant Final Terms, the relevant Reference Rate applicable to the Notes is LIBOR and the Specified Currency applicable to the Notes is U.S. dollars, this Condition 5(b)(ii)(D) shall apply.

- (i) **Benchmark Replacement:** If the relevant Issuer or its designee determines that a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any determination of the Benchmark on any date, the Benchmark Replacement will replace the then-current Benchmark for all purposes relating to the Notes in respect of such determination on such date and all determinations on all subsequent dates.
- (ii) **Benchmark Replacement Conforming Changes:** In connection with the implementation of a Benchmark Replacement, the relevant Issuer or its designee will have the right to make Benchmark Replacement Conforming Changes from time to time.
- (iii) **Decisions and Determinations:** Any determination, decision or election that may be made by the relevant Issuer or its designee pursuant to this Condition 5(b)(ii)(D), including any determination with respect to tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error, may be made in the relevant Issuer's or its designee's sole discretion, and, notwithstanding anything to the contrary in the documentation relating to the Notes, shall become effective without consent from the Noteholders or any other party.

In the event that the Rate of Interest for the relevant Interest Period cannot be determined in accordance with the foregoing provisions by the relevant Issuer or its designee, the Rate of Interest for such Interest Period shall be (i) the Rate of Interest determined as at the immediately preceding Interest Determination Date (though substituting, where a different Margin or Maximum Rate of Interest or Minimum Rate of Interest (as specified in the relevant Final Terms) is to be applied to the relevant Interest Period from that which applied to the immediately preceding Interest Period, the Margin or Maximum Rate of Interest or Minimum Rate of Interest relating to the relevant Interest Period, in place of the Margin relating to that immediately preceding Interest Period) or (ii) if there is no such preceding Interest Determination Date, the Initial Rate of Interest which would have been applicable to such Series of Notes for the first Interest Period had the Notes been in issue for a period equal in duration to the scheduled first Interest Period but ending on (and excluding) the Interest Commencement Date (but applying the Margin and any Maximum Rate of Interest or Minimum Rate of Interest applicable to the first Interest Period).

For the purposes of this Condition 5(b)(ii)(D):

**"Benchmark"** means, initially, LIBOR; provided that if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to LIBOR or the then-current Benchmark, then **"Benchmark"** means the applicable Benchmark Replacement;

**"Benchmark Replacement"** means the Interpolated Benchmark with respect to the then-current Benchmark, plus the Benchmark Replacement Adjustment for such Benchmark; provided that if the relevant Issuer or its designee cannot determine the Interpolated Benchmark as of the Benchmark Replacement Date, then **"Benchmark Replacement"** means the first alternative set forth in the order below that can be determined by the relevant Issuer or its designee as of the Benchmark Replacement Date:

- (A) the sum of: (a) Term SOFR and (b) the Benchmark Replacement Adjustment;
- (B) the sum of: (a) Compounded SOFR and (b) the Benchmark Replacement Adjustment;

- (C) the sum of: (a) the alternate rate of interest that has been selected or recommended by the Relevant Governmental Body as the replacement for the then-current Benchmark for the applicable Corresponding Tenor and (b) the Benchmark Replacement Adjustment;
- (D) the sum of: (a) the ISDA Fallback Rate and (b) the Benchmark Replacement Adjustment; or
- (E) the sum of: (a) the alternate rate of interest that has been selected by the relevant Issuer or its designee as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to any industry-accepted rate of interest as a replacement for the then-current Benchmark for U.S. dollar-denominated floating rate notes at such time and (b) the Benchmark Replacement Adjustment;

**"Benchmark Replacement Adjustment"** means the first alternative set forth in the order below that can be determined by the relevant Issuer or its designee as of the Benchmark Replacement Date:

- (A) the spread adjustment, or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero) that has been selected, or recommended by the Relevant Governmental Body for the applicable Unadjusted Benchmark Replacement;
- (B) if the applicable Unadjusted Benchmark Replacement is equivalent to the ISDA Fallback Rate, then the ISDA Fallback Adjustment; or
- (C) the spread adjustment (which may be a positive or negative value or zero) that has been selected by the relevant Issuer or its designee giving due consideration to any industry-accepted spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of the then-current Benchmark with the applicable Unadjusted Benchmark Replacement for U.S. dollar-denominated floating rate notes at such time;

**"Benchmark Replacement Conforming Changes"** means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of Interest Period, timing and frequency of determining rates and making payments of interest, rounding of amounts or tenors, and other administrative matters) that the relevant Issuer or its designee decides may be appropriate to reflect the adoption of such Benchmark Replacement in a manner substantially consistent with market practice (or, if the relevant Issuer or its designee decides that adoption of any portion of such market practice is not administratively feasible or if the relevant Issuer or its designee determines that no market practice for use of the Benchmark Replacement exists, in such other manner as the relevant Issuer or its designee determines is reasonably necessary);

**"Benchmark Replacement Date"** means the earliest to occur of the following events with respect to the then-current Benchmark:

- (A) in the case of sub-paragraph (A) or (B) of the definition of "Benchmark Transition Event", the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of the Benchmark permanently or indefinitely ceases to provide the Benchmark; or
- (B) in the case of sub-paragraph (C) of the definition of "Benchmark Transition Event", the date of the public statement or publication of information referenced therein.



For the avoidance of doubt, if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination;

**"Benchmark Transition Event"** means the occurrence of one or more of the following events with respect to the then-current Benchmark:

- (A) a public statement or publication of information by or on behalf of the administrator of the Benchmark announcing that such administrator has ceased or will cease to provide the Benchmark permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the Benchmark;
- (B) a public statement or publication of information by the regulatory supervisor for the administrator of the Benchmark, the central bank for the currency of the Benchmark, an insolvency official with jurisdiction over the administrator for the Benchmark, a resolution authority with jurisdiction over the administrator for the Benchmark or a court or an entity with similar insolvency or resolution authority over the administrator for the Benchmark, which states that the administrator of the Benchmark has ceased or will cease to provide the Benchmark permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the Benchmark; or
- (C) a public statement or publication of information by the regulatory supervisor for the administrator of the Benchmark announcing that the Benchmark is no longer representative;

**"Compounded SOFR"** means the compounded average of daily SOFR rates for the applicable Corresponding Tenor, with the rate, or methodology for this rate, and conventions for this rate being established by the relevant Issuer or its designee in accordance with:

- (A) the rate, or methodology for this rate, and conventions for this rate selected or recommended by the Relevant Governmental Body for determining Compounded SOFR; provided that:
- (B) if, and to the extent that, the relevant Issuer or its designee determine that Compounded SOFR cannot be determined in accordance with subparagraph (A) above, then the rate, or methodology for this rate, and conventions for this rate that have been selected by the relevant Issuer or its designee giving due consideration to any industry-accepted market practice for U.S. dollar-denominated floating rate notes at such time;

**"Corresponding Tenor"** with respect to a Benchmark Replacement means a tenor (including overnight) having approximately the same length (disregarding business day adjustment) as the applicable tenor for the then-current Benchmark;

**"designee"** means a designee as selected and separately appointed by the relevant Issuer as designee for the Notes in writing;

**"Federal Reserve Bank of New York's Website"** means the website of the Federal Reserve Bank of New York currently at <http://www.newyorkfed.org>, or any successor website of the Federal Reserve Bank of New York;

**"Interpolated Benchmark"** with respect to the Benchmark means the rate determined for the Corresponding Tenor by interpolating on a linear basis

between: (A) the Benchmark for the longest period (for which the Benchmark is available) that is shorter than the Corresponding Tenor and (B) the Benchmark for the shortest period (for which the Benchmark is available) that is longer than the Corresponding Tenor;

**"ISDA Fallback Adjustment"** means the spread adjustment (which may be a positive or negative value or zero) that would apply for derivatives transactions referencing the ISDA Definitions to be determined upon the occurrence of an index cessation event with respect to the Benchmark for the applicable tenor;

**"ISDA Fallback Rate"** means the rate that would apply for derivatives transactions referencing the ISDA Definitions to be effective upon the occurrence of an index cessation date with respect to the Benchmark for the applicable tenor excluding the applicable ISDA Fallback Adjustment;

**"Reference Time"** with respect to any determination of the Benchmark means (1) if the Benchmark is LIBOR, the Relevant Time, and (2) if the Benchmark is not LIBOR, the time determined by the relevant Issuer or its designee in accordance with the Benchmark Replacement Conforming Changes;

**"Relevant Governmental Body"** means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto;

**"SOFR"** with respect to any day means the secured overnight financing rate published for such day by the Federal Reserve Bank of New York, as the administrator of the benchmark (or a successor administrator), on the Federal Reserve Bank of New York's Website (or any successor source);

**"Term SOFR"** means the forward-looking term rate for the applicable Corresponding Tenor based on SOFR that has been selected or recommended by the Relevant Governmental Body; and

**"Unadjusted Benchmark Replacement"** means the Benchmark Replacement excluding the Benchmark Replacement Adjustment.

(iii) *Minimum and/or Maximum Rate of Interest*

If the applicable Final Terms specifies a Minimum Rate of Interest for any Interest Period, then, in the event that the Rate of Interest in respect of such Interest Period determined in accordance with the above provisions is less than such Minimum Rate of Interest, the Rate of Interest for such Interest Period shall be such Minimum Interest Rate.

If the applicable Final Terms specifies a Maximum Rate of Interest for any Interest Period, then, in the event that the Rate of Interest in respect of such Interest Period determined in accordance with the above provisions is greater than such Maximum Rate of Interest, the Rate of Interest for such Interest Period shall be such Maximum Rate of Interest.

(iv) *Determination of Rate of Interest and Calculation of Interest Amounts*

The Fiscal Agent will at or as soon as practicable after each time at which the Rate of Interest is to be determined, determine the Rate of Interest for the relevant Interest Period.

The Fiscal Agent will calculate the amount of interest (the **"Interest Amount"**) payable on the Floating Rate Notes for the relevant Interest Period by applying the Rate of Interest to:

- (A) in the case of Floating Rate Notes which are represented by a Global Note, the aggregate outstanding nominal amount of the Notes represented by such Global Note; or
- (B) in the case of Floating Rate Notes in definitive form, the Calculation Amount;

and, in each case, multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the relevant Specified Currency, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention. Where the Specified Denomination of a Floating Rate Note in definitive form is a multiple of the Calculation Amount, the Interest Amount payable in respect of such Note shall be the product of the amount (determined in the manner provided above) for the Calculation Amount and the amount by which the Calculation Amount is multiplied to reach the Specified Denomination, without any further rounding.

**"Day Count Fraction"** means, in respect of the calculation of an amount of interest in accordance with this Condition 5(b):

- (i) if **"Actual/Actual (ISDA)"** or **"Actual/Actual"** is specified in the relevant Final Terms, the actual number of days in the Interest Period divided by 365 (or, if any portion of that Interest Period falls in a leap year, the sum of (A) the actual number of days in that portion of the Interest Period falling in a leap year divided by 366 and (B) the actual number of days in that portion of the Interest Period falling in a non-leap year divided by 365);
- (ii) if **"Actual/365 (Fixed)"** is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 365;
- (iii) if **"Actual/365 (Sterling)"** is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 365 or, in the case of an Interest Payment Date falling in a leap year, 366;
- (iv) if **"Actual/360"** is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 360;
- (v) if **"30/360"**, **"360/360"** or **"Bond Basis"** is specified in the applicable Final Terms, the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

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

where:

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

**"Y<sub>2</sub>"** is the year, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

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

**"M<sub>2</sub>"** is the calendar month, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

**"D<sub>1</sub>"** is the first calendar day, expressed as a number, of the Interest Period, unless such number is 31, in which case D<sub>2</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 Interest 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;

- (vi) if "**30E/360**" or "**Eurobond Basis**" is specified in the applicable Final Terms, the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

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

where:

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

"**Y<sub>2</sub>**" is the year, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

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

"**M<sub>2</sub>**" is the calendar month, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

"**D<sub>1</sub>**" is the first calendar day, expressed as a number, of the Interest Period, unless such number would be 31, in which case D1 will be 30; and

"**D<sub>2</sub>**" is the calendar day, expressed as a number, immediately following the last day included in the Interest Period, unless such number would be 31, in which case D2 will be 30; and

- (vii) if "**30E/360 (ISDA)**" is specified in the applicable Final Terms, the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

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

where:

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

"**Y<sub>2</sub>**" is the year, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

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

"**M<sub>2</sub>**" is the calendar month, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

"**D<sub>1</sub>**" is the first calendar day, expressed as a number, of the Interest Period, unless (i) that day is the last day of February or (ii) such number would be 31, in which case D1 will be 30; and

"**D<sub>2</sub>**" is the calendar day, expressed as a number, immediately following the last day included in the Interest Period, unless (i) that day is the last day of February but not the Maturity Date or (ii) such number would be 31, in which case D2 will be 30.

- (v) *Linear Interpolation*

Where Linear Interpolation is specified as applicable in respect of an Interest Period in the applicable Final Terms, the Rate of Interest for such Interest Period shall be calculated by the Fiscal Agent by straight line linear interpolation by reference to two rates based on the relevant Reference Rate (where Screen Rate Determination is specified as applicable in the applicable

Final Terms) or the relevant Floating Rate Option (where ISDA Determination is specified as applicable in the applicable Final Terms), one of which shall be determined as if the Designated Maturity were the period of time for which rates are available next shorter than the length of the relevant Interest Period and the other of which shall be determined as if the Designated Maturity were the period of time for which rates are available next longer than the length of the relevant Interest Period provided however that if there is no rate available for a period of time next shorter or, as the case may be, next longer, then the Fiscal Agent shall determine such rate at such time and by reference to such sources as it determines appropriate.

**"Designated Maturity"** means, in relation to Screen Rate Determination, the period of time designated in the Reference Rate.

(vi) *Notification of Rate of Interest and Interest Amounts*

The Fiscal Agent will cause the Rate of Interest and each Interest Amount for each Interest Period and the relevant Interest Payment Date to be notified to the Issuer and any stock exchange on which the relevant Floating Rate Notes are for the time being listed and notice thereof to be published in accordance with Condition 14 as soon as possible after their determination but in no event later than the fourth London Business Day thereafter. Each Interest Amount and Interest Payment Date so notified may subsequently be amended (or appropriate alternative arrangements made by way of adjustment) without prior notice in the event of an extension or shortening of the Interest Period. Any such amendment will be promptly notified to each stock exchange on which the relevant Floating Rate Notes are for the time being listed and to the Noteholders in accordance with Condition 14. For the purposes of this paragraph, the expression **"London Business Day"** means a day (other than a Saturday or a Sunday) on which banks and foreign exchange markets are open for general business in London.

(vii) *Certificates to be Final*

All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of this Condition 5(b), whether, by the Fiscal Agent shall (in the absence of wilful default, bad faith or manifest error) be binding on the Issuer, the Fiscal Agent, the other Paying Agents and all Noteholders and Couponholders and (in the absence as aforesaid) no liability to the Issuer, the Noteholders or the Couponholders shall attach to the Fiscal Agent in connection with the exercise or non-exercise by it of its powers, duties and discretions pursuant to such provisions.

(c) *Accrual of Interest*

Each Note (or in the case of the redemption of part only of a Note, that part only of such Note) will cease to bear interest (if any) from the date for its redemption unless, upon due presentation thereof, payment of principal is improperly withheld or refused. In such event, interest will continue to accrue until whichever is the earlier of:

- (i) the date on which all amounts due in respect of such Note have been paid; and
- (ii) five days after the date on which the full amount of the moneys payable in respect of such Note has been received by the Fiscal Agent and notice to that effect has been given to the Noteholders in accordance with Condition 14 or individually.

**6. Payments**

(a) *Method of Payment*

Subject as provided below:

- (i) payments in a Specified Currency other than euro and Renminbi will be made by credit or transfer to an account in the relevant Specified Currency maintained by the payee with, or, at the option of the payee, by a cheque in such Specified Currency drawn on, a bank in the principal financial centre of the country of such Specified Currency (which, if the Specified Currency is Australian dollars or New Zealand dollars, shall be Sydney and Auckland, respectively);

- (ii) payments in euro will be made by credit or transfer to a euro account (or any other account to which euro may be credited or transferred) specified by the payee or, at the option of the payee, by a euro cheque; and
- (iii) payments in Renminbi will be made by credit or transfer to a Renminbi account specified by the payee with a bank in Hong Kong in accordance with applicable laws, rules, regulations and guidelines issued from time to time (including all applicable laws and regulations with respect to the settlement of Renminbi in Hong Kong).

Payments will be subject in all cases to (i) any fiscal or other laws and regulations applicable thereto in the place of payment, but without prejudice to the provisions of Condition 8, and (ii) any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the U.S. Internal Revenue Code of 1986, as amended (the "**Code**") or otherwise imposed pursuant to Sections 1471 through 1474 of the Code, any regulations or agreements thereunder, any official interpretations thereof, or any laws, rules or regulations implementing an intergovernmental approach thereto.

(b) ***Payments in Respect of Definitive Bearer Notes and Coupons***

Payments of principal in respect of Definitive Bearer Notes will (subject as provided below) be made in the manner provided in Condition 6(a) above only against presentation and surrender (or, in the case of part payment of any sum due, endorsement) of Definitive Bearer Notes, and payments of interest in respect of Definitive Bearer Notes will (subject as provided below) be made as aforesaid only against presentation and surrender (or, in the case of part payment of any sum due, endorsement) of Coupons, in each case at the specified office of any Paying Agent outside the United States (which expression, as used herein, means the United States of America (including the States and the District of Columbia, its territories and its possessions)).

Fixed Rate Notes in definitive bearer form (other than Long Maturity Notes (as defined below)) should be presented for payment together with all unmatured Coupons appertaining thereto (which expression shall for this purpose include Coupons falling to be issued on exchange of matured Talons), failing which the amount of any missing unmatured Coupon (or, in the case of payment not being made in full, the same proportion of the amount of such missing unmatured Coupon as the sum so paid bears to the sum due) will be deducted from the sum due for payment. Each amount of principal so deducted will be paid in the manner mentioned above against surrender of the relative missing Coupon at any time before the expiry of 10 years after the Relevant Date (as defined in Condition 8) in respect of such principal (whether or not such Coupon would otherwise have become void under Condition 9) or, if later, five years from the date on which such Coupon would otherwise have become due, but in no event thereafter. Upon any Fixed Rate Note in definitive bearer form becoming due and repayable prior to its Maturity Date, all unmatured Talons (if any) appertaining thereto will become void and no further Coupons will be issued in respect thereof.

Upon the date on which any Floating Rate Note or Long Maturity Note in definitive bearer form becomes due and repayable, unmatured Coupons and Talons (if any) relating thereto (whether or not attached) shall become void and no payment or, as the case may be, exchange for further Coupons shall be made in respect thereof. A "**Long Maturity Note**" is a Fixed Rate Note (other than a Fixed Rate Note which on issue had a Talon attached) whose nominal amount on issue is less than the aggregate interest payable thereon provided that such Note shall cease to be a Long Maturity Note on the Interest Payment Date on which the aggregate amount of interest remaining to be paid after that date is less than the nominal amount of such Note.

If the due date for redemption of any Definitive Bearer Note is not an Interest Payment Date, interest (if any) accrued in respect of such Note from (and including) the preceding Interest Payment Date or, as the case may be, the Interest Commencement Date shall be payable only against surrender of the relevant Definitive Bearer Note in accordance with the first paragraph of this Condition 6(b).

(c) ***Payments in Respect of Bearer Global Notes***

Payments of principal and interest (if any) in respect of Notes represented by any Bearer Global Note will (subject as provided below) be made in the manner specified above in relation to Definitive Bearer Notes or otherwise in the manner specified in the relevant Bearer Global Note in the case of a Bearer Global Note, against presentation or surrender, as the case may be, of such Bearer Global Note at the

specified office of any Paying Agent outside the United States. A record of each payment made against presentation or surrender of any Bearer Global Note, distinguishing between any payment of principal and any payment of interest, will be made on such Bearer Global Note by such Paying Agent to which it was presented.

(d) ***Payments in Respect of Definitive Registered Notes and Registered Global Notes***

Payments of principal in respect of each Definitive Registered Note and each Registered Global Note will be made against presentation and surrender (or, in the case of part payment of any sum due, notation in the Register (as defined below)) of the Definitive Registered Note or Registered Global Note at the specified office of the Registrar or any of the Paying Agents. Such payments will be made by transfer to the Designated Account (as defined below) of the holder (or the first named of joint holders) of the Note appearing in the register of holders of the Notes in registered form maintained by the Registrar (the "**Register**") (i) where in global form, at the close of the business day (being for this purpose a day on which Euroclear and Clearstream, Luxembourg are open for business) before the relevant due date, and (ii) where in definitive form, at the close of business on (in the case of payments other than in Renminbi) the third or (in the case of payments in Renminbi) fifth business day (being for this purpose a day on which banks are open for business in the city where the specified office of the Registrar is located) before the relevant due date. Notwithstanding the previous sentence, except in the case of payments in Renminbi, if (a) a holder does not have a Designated Account or (b) the principal amount of the Notes held by a holder is less than U.S.\$250,000 (or its approximate equivalent in any other Specified Currency), payment will instead be made by a cheque in the Specified Currency drawn on a Designated Bank (as defined below). For these purposes, "**Designated Account**" means the account (which, in the case of a payment in Japanese Yen to a non-resident of Japan, shall be a non-resident account) maintained by a holder with a Designated Bank and identified as such in the Register and "**Designated Bank**" means (in the case of payment in a Specified Currency other than euro or Renminbi) a bank in the principal financial centre of the country of such Specified Currency (which, if the Specified Currency is Australian dollars or New Zealand dollars, shall be Melbourne or Wellington, respectively), (in the case of a payment in euro) any bank which processes payments in euro, and (in the case of a payment in Renminbi) a bank in Hong Kong.

Payments of interest other than in Renminbi in respect of each Definitive Registered Note and each Registered Global Note will be made by a cheque in the Specified Currency drawn on a Designated Bank and mailed by uninsured mail on the business day in the city where the specified office of the Registrar is located immediately preceding the relevant due date to the holder (or the first named of joint holders) of the Note in registered form appearing in the Register (i) where in global form, at the close of the business day (being for this purpose a day on which Euroclear and Clearstream, Luxembourg are open for business) before the relevant due date, and (ii) where in definitive form, at the close of business on the fifteenth day (whether or not such fifteenth day is a business day) before the relevant due date (the "**Record Date**") at his address shown in the Register on the Record Date and at his risk. In cases of payments other than in Renminbi, upon application of the holder to the specified office of the Registrar not less than three business days in the city where the specified office of the Registrar is located before the due date for any payment of interest in respect of a Note in registered form, the payment may be, and in the case of payments in Renminbi, payments will be, made by transfer on the due date in the manner provided in the preceding paragraph. Any such application for transfer shall be deemed to relate to all future payments of interest (other than interest due on redemption) in respect of the Notes in registered form which become payable to the holder who has made the initial application until such time as the Registrar is notified in writing to the contrary by such holder. Payment of the interest due in respect of each Note in registered form on redemption will be made in the same manner as payment of the principal amount of such Registered Note.

Holders of Notes in registered form will not be entitled to any interest or other payment for any delay in receiving any amount due in respect of any Note in registered form as a result of a cheque posted in accordance with this Condition arriving after the due date for payment or being lost in the post. No commissions or expenses shall be charged to such holder by the Registrar in respect of any payments of principal or interest in respect of Notes in registered form.

Neither the Issuer nor any of the Agents will have any responsibility or liability for any aspect of the records relating to, or payments made on account of, beneficial ownership interests in the Registered Global Notes or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

(e) ***Payments in Respect of Notes Issued by KECC***

Payments of principal and interest (if any) in respect of any Note issued by KECC of which the Specified Currency is euro shall be made in accordance with the rules of the NBB-SSS through the NBB. The payment obligations of KECC will be discharged to the extent of any payment made by it to the NBB. Payments of principal and interest (if any) in respect of any Note issued by KECC of which the Specified Currency is a currency other than euro shall be made in accordance with the rules of the NBB-SSS through Euroclear, Clearstream, Luxembourg, SIX SIS, Interbolsa, Monte Titoli and the other participants in the NBB-SSS recorded in the NBB-SSS as holding interests in the Notes, and any payment so made will constitute good discharge for KECC. No commissions or expenses shall be charged to the Noteholders by KECC or the Agent in respect of such payments.

(f) ***General Provisions Applicable to Payments***

(i) ***General Provisions***

The holder of a Global Note shall be the only person entitled to receive payments in respect of Notes represented by such Global Note and the Issuer will be discharged by payment to, or to the order of, the holder of such Global Note in respect of each amount so paid. Each of the persons shown in the records of Euroclear and/or Clearstream, Luxembourg as the beneficial holder of a particular nominal amount of Notes represented by such Global Note must look solely to Euroclear and/or Clearstream, Luxembourg for his share of each payment so made by the Issuer to, or to the order of, the holder of such Global Note.

Notwithstanding the foregoing provisions of this Condition, if any amount of principal and/or interest in respect of Definitive Bearer Notes or Bearer Global Notes is payable in U.S. dollars, such U.S. dollar payments of principal and/or interest in respect of such Notes will be made at the specified office of a Paying Agent in the United States if:

- (A) the Issuer has appointed Paying Agents with specified offices outside the United States with the reasonable expectation that such Paying Agents would be able to make payment in U.S. dollars at such specified offices outside the United States of the full amount of principal and interest on the Bearer Notes in the manner provided above when due;
- (B) payment of the full amount of such principal and interest at all such specified offices outside the United States is illegal or effectively precluded by exchange controls or other similar restrictions on the full payment or receipt of principal and interest in U.S. dollars; and
- (C) such payment is then permitted under United States law without involving, in the opinion of the Issuer, adverse tax consequences to the Issuer.

(ii) ***Payment of U.S. Dollar Equivalent***

Notwithstanding the foregoing provisions of the Conditions, with respect to Renminbi Notes (as defined below), if by reason of Renminbi Inconvertibility, Renminbi Non-transferability or Renminbi Illiquidity (each as defined below), the Issuer is not able to satisfy payments of principal or interest in respect of the Notes when due in Renminbi in Hong Kong, the Issuer may, on giving not less than five or more than 30 calendar days' irrevocable notice to the Noteholders prior to the due date for payment, settle any such payment in U.S. dollars on the due date at the U.S. Dollar Equivalent (as defined below) of any such Renminbi-denominated amount.

All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of this Condition 6(f)(ii) by the Calculation Agent, will (in the absence of wilful default, bad faith or manifest error) be binding on the Issuer, the Paying Agents and all Noteholders.



In the Conditions:

**"Governmental Authority"** means any *de facto* or *de jure* government (or any agency or instrumentality thereof), court, tribunal, administrative or other governmental authority or any other entity (private or public) charged with the regulation of the financial markets (including the central bank) of Hong Kong;

**"Hong Kong"** means the Hong Kong Special Administrative Region of the PRC;

**"PRC"** means the People's Republic of China which, for the purpose of the Conditions, shall exclude Hong Kong, the Macau Special Administrative Region of the People's Republic of China and Taiwan;

**"Renminbi"** means the lawful currency of the PRC;

**"Renminbi Dealer"** means an independent foreign exchange dealer of international repute active in the Renminbi exchange market in Hong Kong;

**"Renminbi Illiquidity"** means where the general Renminbi exchange market in Hong Kong becomes illiquid and, as a result of which, the Issuer cannot obtain sufficient Renminbi in order to satisfy its obligation to pay interest and principal (in whole or in part) in respect of the Notes as determined by the Issuer in good faith and in a commercially reasonable manner following consultation (if practicable) with two Renminbi Dealers;

**"Renminbi Inconvertibility"** means the occurrence of any event that makes it impossible for the Issuer to convert any amount due in respect of the Notes into Renminbi on any payment date at the general Renminbi exchange market in Hong Kong, other than where such impossibility is due solely to the failure of the Issuer to comply with any law, rule or regulation enacted by any Governmental Authority (unless such law, rule or regulation is enacted after the date of the relevant Final Terms and it is impossible for the Issuer, due to an event beyond its control, to comply with such law, rule or regulation);

**"Renminbi Non-transferability"** means the occurrence of any event that makes it impossible for the Issuer to transfer Renminbi between accounts inside Hong Kong or from an account inside Hong Kong to an account outside Hong Kong or from an account outside Hong Kong to an account inside Hong Kong, other than where such impossibility is due solely to the failure of the Issuer to comply with any law, rule or regulation enacted by any Governmental Authority (unless such law, rule or regulation is enacted after the date of the relevant Final Terms and it is impossible for the Issuer, due to an event beyond its control, to comply with such law, rule or regulation);

**"Renminbi Notes"** means Notes denominated in Renminbi;

**"Spot Rate"** means, for a Rate Calculation Date, the spot RMB/U.S. dollar exchange rate for the purchase of U.S. dollars with Renminbi in the over the counter Renminbi exchange market in Hong Kong as determined by the Calculation Agent at or around 11 a.m. (Hong Kong time) on a deliverable basis by reference to Reuters Screen Page TRADCNY3, or if no such rate is available, on a non-deliverable basis by reference to Reuters Screen Page TRADNDF. If neither rate is available, the Calculation Agent will determine the spot rate at or around 11 a.m. (Hong Kong time) on the Rate Calculation Date as the most recently available RMB/U.S. dollar official fixing rate for settlement on the due date for payment reported by The State Administration of Foreign Exchange of the PRC, which is reported on the Reuters Screen Page CNY=SAEC. Reference to a page on the Reuters Screen means the display page so designated on the Reuters Monitor Money Rates Service (or any successor service) or such other page as may replace that page for the purpose of displaying a comparable currency exchange rate; and

**"U.S. Dollar Equivalent"** means the Renminbi amount converted into U.S. dollars using the Spot Rate for the relevant Rate Calculation Date.

(g) ***Payment Day***

If the date for payment of any amount in respect of any Note or Coupon is not a Payment Day, the holder thereof shall not be entitled to payment until the next following Payment Day in the relevant place and shall not be entitled to further interest or other payment in respect of such delay. For these purposes, "Payment Day" means any day which, subject to Condition 9, is:

- (x) in respect of Notes issued by KL or KFAI:
  - (i) a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in:
    - (A) in the case of Notes in definitive form only, the relevant place of presentation; and
    - (B) each Additional Financial Centre specified in the applicable Final Terms; and
  - (ii) (1) in relation to any sum payable in a Specified Currency other than euro and Renminbi, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the principal financial centre of the country of the relevant Specified Currency which, if the Specified Currency is Australian dollars, shall be Sydney, and if the Specified Currency is New Zealand dollars, shall be Auckland, (2) in relation to any sum payable in euro, a day on which the TARGET2 System is open, or (3) in relation to any sum payable in Renminbi, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) and settle Renminbi payments in Hong Kong; or
- (y) in respect of Notes issued by KECC, (1) a day other than a Saturday or Sunday on which the NBB-SSS is operating, (2) a day on which banks and foreign exchange markets are open for general business in Belgium, and (3) in relation to any sum payable in euro, a day on which the TARGET2 System is open.

(h) ***Interpretation of Principal and Interest***

Any reference in the Conditions to principal in respect of the Notes shall be deemed to include, as applicable:

- (i) any additional amounts which may be payable with respect to principal under Condition 8;
- (ii) the Final Redemption Amount of the Notes;
- (iii) the Early Redemption Amount of the Notes;
- (iv) the Optional Redemption Amount(s) (if any) of the Notes;
- (v) in relation to Zero Coupon Notes, the Amortised Face Amount as defined in Condition 7(f); and
- (vi) any premium and any other amounts (other than interest) which may be payable by the Issuer under or in respect of the Notes.

Any reference in the Conditions to interest in respect of the Notes shall be deemed to include, as applicable, any additional amounts which may be payable with respect to interest under Condition 8.

**7. Redemption and Purchase**

(a) ***At Maturity***

Unless previously redeemed or purchased, and cancelled as specified below, each Note will be redeemed by the Issuer at its Final Redemption Amount specified in the applicable Final Terms in the relevant Specified Currency on the Maturity Date specified in the applicable Final Terms.

(b) ***Redemption for Tax Reasons***

Subject to Condition 7(f), the Notes may be redeemed at the option of the Issuer in whole, but not in part, at any time (if the Note is not a Floating Rate Note) or on any Interest Payment Date (if the Note is a Floating Rate Note), on giving not less than 30 nor more than 60 days' notice to the Fiscal Agent and, in the case of Notes issued by KECC, the Domiciliary Agent and, in accordance with Condition 14, the Noteholders (which notice shall be irrevocable), if:

- (i) on the occasion of the next payment due under the Notes, the Issuer has or will become obliged to pay additional amounts as provided or referred to in Condition 8 as a result of any change in, or amendment to, the laws or regulations of the jurisdiction in which the Issuer is incorporated or any political subdivision or any authority thereof or therein having power to tax, 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 the Notes; and
- (ii) such obligation cannot be avoided by the Issuer taking reasonable measures available to it,

provided that no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Issuer would be obliged to pay such additional amounts were a payment in respect of the Notes then due.

Prior to the publication of any notice of redemption pursuant to this Condition 7(b), the Issuer shall deliver to the Fiscal Agent and, in the case of Notes issued by KECC, the Domiciliary Agent (i) a certificate signed by two Directors of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred, and (ii) an opinion of independent legal advisers of recognised standing to the effect that the Issuer has or will become obliged to pay such additional amounts as a result of such change or amendment.

Notes redeemed pursuant to this Condition 7(b) will be redeemed at their Early Redemption Amount referred to in Condition 7(f) below together (if appropriate) with interest accrued to (but excluding) the date of redemption.

(c) ***Special Tax Redemption in Relation to the Notes Issued by KFAI***

Where the Issuer is KFAI, if the Issuer shall determine that any payment made outside the United States by the Issuer or any of its paying agents in respect of any Note or Coupon would, under any present or future laws or regulations of the United States, be subject to any certification, documentation, information or other reporting requirement of any kind the effect of which requirement is the disclosure to the Issuer, any paying agent or any governmental authority of the nationality, residence or identity of a beneficial owner of such Note or Coupon who is a United States Alien (other than a requirement (i) that would not be applicable to a payment by the Issuer or any one of its paying agents (A) directly to the beneficial owner or (B) to a custodian, nominee or other agent of the beneficial owner, (ii) that can be satisfied by such custodian, nominee or other agent certifying to the effect that the beneficial owner is a United States Alien, (iii) imposed pursuant to Sections 1471 through 1474 of the Code, or any regulations or agreements thereunder, official interpretations thereof, or any laws, rules or regulations implementing an intergovernmental approach thereto provided that, in any case referred to in clauses (i)(B) or (ii), payment by the custodian, nominee or agent to the beneficial owner is not otherwise subject to any such requirement or (iv) that would not be applicable to a payment by at least one paying agent of the Issuer), the Issuer shall at its option either (X) redeem the Notes in whole, but not in part, at any time (in the case of Notes other than Floating Rate Notes) or on any Interest Payment Date (in the case of Floating Rate Notes), at a price equal to the Early Redemption Amount, together, if appropriate, with interest accrued to (but excluding) the date of redemption or (Y) if the conditions of the next succeeding paragraph are satisfied, pay the additional amounts specified in such paragraph. The Issuer shall make such determination as soon as practicable and publish prompt notice thereof (the "**Determination Notice**") stating the effective date of such certification, documentation, information or other reporting requirement, whether the Issuer will redeem the Notes or pay the additional amounts specified in the next succeeding paragraph, and (if applicable) the last date by which the redemption of the Notes must take place, as provided in the next succeeding sentence. If the Notes are to be redeemed pursuant to this paragraph, such redemption shall take place on such date, not later than one year after the publication of the Determination Notice, as the Issuer shall elect by notice to the Fiscal Agent at least 45 days before the

date fixed for redemption. Notice of such redemption of the Notes will be given to the holders of the Notes not more than 60 nor less than 30 days prior to the date fixed for redemption by publication in accordance with Condition 14. Notwithstanding the foregoing, the Issuer shall not so redeem the Notes if the Issuer shall subsequently determine, not less than 30 days prior to the date fixed for redemption, that subsequent payments on the Notes and Coupons would not be subject to any such certification, documentation, information or other reporting requirement, in which case the Issuer shall give prompt notice of such subsequent determination by publication in accordance with Condition 14 and any earlier redemption notice shall be revoked and of no further effect.

Notwithstanding the foregoing, if and so long as the certification, documentation, information or other reporting requirement referred to in the preceding paragraph would be fully satisfied by payment of a backup withholding tax or similar charge, the Issuer may elect to pay as additional interest such additional amounts as may be necessary so that every net payment made outside the United States following the effective date of such requirement by the Issuer or any of its paying agents in respect of any Note or any Coupon of which the beneficial owner is a United States Alien (but without any requirement that the nationality, residence or identity, other than status as a United States Alien, of such beneficial owner be disclosed to the Issuer, any paying agent or any governmental authority), after deduction or withholding for or on account of such backup withholding tax or similar charge (other than a backup withholding tax or similar charge that (i) would not be applicable in the circumstances referred to in the first parenthetical clause of the first sentence of the preceding paragraph, or (ii) is imposed as a result of the presentation of such Note or Coupon for payment more than 15 days after the date on which such payment became due and payable or on which payment thereof was duly provided for, whichever occurred later), will not be less than the amount provided for in such Note or Coupon to be then due and payable. If the Issuer elects to pay additional amounts pursuant to this paragraph, the Issuer shall have the right to redeem the Notes in whole, but not in part, at any time (in the case of Notes other than Floating Rate Notes), or on any Interest Payment Date (in the case of Floating Rate Notes), subject to the provisions of the last two sentences of the immediately preceding paragraph. If the Issuer elects to pay additional amounts pursuant to this paragraph and the condition specified in the first sentence of this paragraph should no longer be satisfied, then the Issuer shall redeem the Notes pursuant to the provisions of the immediately preceding paragraph.

For the purposes of this Condition 7(c), the terms "**United States**" and "**United States Alien**" have the meanings as defined in Condition 8(b).

(d) ***Redemption at the Option of the Issuer (Issuer Call)***

If Issuer Call is specified as being applicable in the applicable Final Terms, the Issuer may, having given:

- (i) not less than 15 nor more than 30 days' notice to the Noteholders in accordance with Condition 14; and
- (ii) not less than 15 days before the giving of the notice referred to in (i), notice to the Fiscal Agent and, in the case of a redemption of Dematerialised Notes, the Domiciliary Agent, and, in the case of a redemption of Registered Notes, the Registrar;

(which notices shall be irrevocable and shall specify the date fixed for redemption), redeem all or some only of the Notes then outstanding on any Optional Redemption Date and at the Optional Redemption Amount(s) specified in, or determined in the manner specified in, the applicable Final Terms together, if appropriate, with interest accrued to (but excluding) the relevant Optional Redemption Date. Any such redemption must be of a nominal amount not less than the Minimum Redemption Amount or not more than a Maximum Redemption Amount, in each case as may be specified in the applicable Final Terms. In the case of a partial redemption of Notes, the Notes to be redeemed ("**Redeemed Notes**") (i) in the case of Dematerialised Notes, will be selected in accordance with the rules of the NBB-SSS, in each case not more than 30 days prior to the date fixed for redemption, and (ii) in the case of Notes other than Dematerialised Notes, will be selected individually by lot, in the case of Redeemed Notes represented by definitive Notes, and in accordance with the rules of Euroclear and/or Clearstream, Luxembourg, in the case of Redeemed Notes represented by a Global Note, not more than 30 days prior to the date fixed for redemption (such date of selection being hereinafter called the "**Selection Date**"). In the case of Redeemed Notes represented by definitive Notes, a list of the serial numbers of such Redeemed Notes will be published in accordance with Condition 14 not less than 15 days prior to the date fixed for redemption. No exchange of the relevant Global Note will be permitted during the period from and

including the Selection Date to (and including) the date fixed for redemption pursuant to this paragraph (d) and notice to that effect shall be given by the Issuer to the Noteholders in accordance with Condition 14 at least five days prior to the Selection Date.

(e) ***Redemption at the Option of the Noteholders (Investor Put)***

If Investor Put is specified as being applicable in the applicable Final Terms, upon the holder of any Note giving to the Issuer in accordance with Condition 14 not less than 15 nor more than 30 days' notice, the Issuer will, upon the expiry of such notice, redeem, subject to, and in accordance with, the terms specified in the applicable Final Terms, such Note on the Optional Redemption Date and at the Optional Redemption Amount specified in, or determined in the manner specified in, the applicable Final Terms together, if appropriate, with interest accrued to (but excluding) the Optional Redemption Date.

To exercise the right to require redemption of such Note, the holder of such Note must, if such Note is in definitive form and held outside Euroclear and Clearstream, Luxembourg, deliver, at the specified office of any Paying Agent (in the case of Bearer Notes) or the Registrar (in the case of Registered Notes), at any time during normal business hours of such Paying Agent falling within the notice period, a duly completed and signed notice of exercise in the form (for the time being current) obtainable from any specified office of any Paying Agent or, as the case may be, the Registrar (a "**Put Notice**") and in which the holder must specify a bank account (or, if payment is required to be made by cheque, an address) to which payment is to be made under this Condition 7 accompanied by such Note or evidence satisfactory to the Paying Agent concerned that such Note will, following delivery of the Put Notice, be held to its order or under its control and, in the case of Registered Notes, the nominal amount thereof to be redeemed and, if less than the full nominal amount of the Registered Notes so surrendered is to be redeemed, an address to which a new Registered Note in respect of the balance of such Registered Notes is to be sent subject to and in accordance with the provisions of Condition 2.2. If such Note is represented by a Global Note or is in definitive form and held through Euroclear or Clearstream, Luxembourg, to exercise the right to require redemption of such Note the holder of such Note must, within the notice period, give notice to the Fiscal Agent (in the case of Bearer Notes) or the Registrar (in the case of Registered Notes) of such exercise in accordance with the standard procedures of Euroclear and Clearstream, Luxembourg (which may include notice being given on his instruction by Euroclear or Clearstream, Luxembourg or any common depositary for them to the Fiscal Agent (in the case of Bearer Notes) or the Registrar (in the case of Registered Notes) by electronic means) in a form acceptable to Euroclear and Clearstream, Luxembourg from time to time. In the case of Dematerialised Notes, to exercise the right to require redemption of such Note the holder of such Note must, within the notice period, give notice to the Domiciliary Agent of such exercise in accordance with the standard procedures of NBB-SSS (which may include notice being given on his instruction by NBB-SSS by electronic means) in a form acceptable to NBB-SSS from time to time.

Any Put Notice given by a holder of any Note pursuant to this paragraph shall be irrevocable except where prior to the due date of redemption an Event of Default shall have occurred and be continuing in which event such holder, at its option, may elect by notice to the Issuer to withdraw the notice given pursuant to this paragraph and instead to declare such Note forthwith due and payable pursuant to Condition 10.

(f) ***Early Redemption Amounts***

For the purpose of Condition 7(b) above and Condition 10, the Notes will be redeemed at the Early Redemption Amount calculated as follows:

- (i) in the case of Notes with a Final Redemption Amount equal to the Issue Price, at the Final Redemption Amount thereof;
- (ii) in the case of Notes (other than Zero Coupon Notes) with a Final Redemption Amount which is or may be less or greater than the Issue Price or which is payable in a Specified Currency other than that in which the Notes are denominated, at the amount specified in the applicable Final Terms or, if no such amount or manner is so specified in the applicable Final Terms, at their nominal amount; or
- (iii) in the case of Zero Coupon Notes, at an amount (the "**Amortised Face Amount**") calculated in accordance with the following formula:

$$\text{Early Redemption Amount} = \text{RP} \times (1 + \text{AY})^y$$

where:

"RP" means the Reference Price;

"AY" means the Accrual Yield expressed as a decimal; and

"y" is the Day Count Fraction specified in the applicable Final Terms which will be either (i) 30/360 (in which case the numerator will be equal to the number of days (calculated on the basis of a 360-day year consisting of 12 months of 30 days each) from (and including) the Issue Date of the first Tranche of the Notes to (but excluding) the date fixed for redemption or (as the case may be) the date upon which such Note becomes due and repayable and the denominator will be 360) or (ii) Actual/360 (in which case the numerator will be equal to the actual number of days from (and including) the Issue Date of the first Tranche of the Notes to (but excluding) the date fixed for redemption or (as the case may be) the date upon which such Note becomes due and repayable and the denominator will be 360) or (iii) Actual/365 (in which case the numerator will be equal to the actual number of days from (and including) the Issue Date of the first Tranche of the Notes to (but excluding) the date fixed for redemption or (as the case may be) the date upon which such Note becomes due and repayable and the denominator will be 365).

(g) ***Purchases***

The Issuer may at any time purchase Notes (provided that, in the case of Definitive Bearer Notes, all unmatured Coupons and Talons appertaining thereto are purchased therewith) at any price in the open market or otherwise. Such Notes may be held, reissued, resold or, at the option of the Issuer, surrendered to any Paying Agent, the Domiciliary Agent (in case of Dematerialised Notes) and/or the Registrar for cancellation.

(h) ***Cancellation***

All Notes which are redeemed will forthwith be cancelled (together with all unmatured Coupons and Talons attached thereto or surrendered therewith at the time of redemption). All Notes so cancelled and the Notes purchased and cancelled pursuant to Condition 7(g) above (together with all unmatured Coupons and Talons cancelled therewith) shall (unless they are Dematerialised Notes) be forwarded to the Fiscal Agent and (in call cases) cannot be reissued or resold.

(i) ***Late Payment on Zero Coupon Notes***

If the amount payable in respect of any Zero Coupon Note upon redemption of such Zero Coupon Note pursuant to Conditions 7(a), (b), (c), (d) or (e) above or upon it becoming due and repayable as provided in Condition 10 is improperly withheld or refused, the amount due and repayable in respect of such Zero Coupon Note shall be the amount calculated as provided in Condition 7(f)(iii) above as though the references therein to the date fixed for the redemption or the date upon which such Zero Coupon Note becomes due and payable were replaced by references to the date which is the earlier of:

- (i) the date on which all amounts due in respect of such Zero Coupon Note have been paid; and
- (ii) five days after the date on which the full amount of the moneys payable in respect of such Zero Coupon Notes has been received by the Fiscal Agent (in the case of Bearer Notes), the Domiciliary Agent (in the case of Dematerialised Notes) or the Registrar (in the case of Registered Notes), and notice to that effect has been given to the Noteholders in accordance with Condition 14.

**8. Taxation**

(a) ***Where the Issuer is KL***

Where the Issuer is KL, all payments of principal and interest by the Issuer in respect of the Notes will be made without withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of Japan, or any authority therein or thereof having power to tax, unless the withholding or deduction of such taxes,

duties, assessments or governmental charges is required by law. If such deduction or withholding is so required, the Issuer will pay such additional amounts as will result in the receipt by the holders of the Notes or Coupons of the amount which would otherwise have been payable in respect of the Notes or Coupons; provided that no such additional amount shall be payable with respect to any Note or Coupon presented for payment:

- (i) by or on behalf of a Noteholder or Couponholder that is (A) for Japanese tax purposes, an individual resident of Japan or a Japanese corporation (except for (x) a Japanese financial institution designated in Article 6, paragraph (9) of the Act on Special Measures Concerning Taxation of Japan, (Act No. 26 of 1957, as amended, the "**Special Taxation Act**") (a "**Designated Financial Institution**") who complies with the requirement to provide certain information prescribed by the Special Taxation Act and the cabinet order (Cabinet Order No. 43 of 1957, as amended, the "**Cabinet Order**") thereunder, as amended, or to submit a written application for tax exemption (*Hikazei Tekiyo Shinkokusho*) or (y) an individual resident of Japan or a Japanese corporation who duly notifies (directly or through the participant or otherwise) the relevant payment handling agent in Japan as defined in Article 2-2, paragraph (2) of the Cabinet Order relating to Article 3-3 of the Special Taxation Act of its status as exempt from such taxes to be withheld or deducted by the Issuer by reason of such resident of Japan or Japanese corporation receiving interest on the relevant Notes through a payment handling agent in Japan appointed by it), (B) an individual non-resident of Japan or a non-Japanese corporation and is subject to such taxes, duties, assessments or governmental charges by reason of its (a) being connected with Japan otherwise than merely by holding or ownership of the Note or Coupon or by the receipt of principal or interest in respect of such Note or Coupon or (b) being a person having a special relationship with the issuer of the Notes as described in Article 6, paragraph (4) of the Special Taxation Act (a "**specially-related person of KL**"), or (C) an individual non-resident of Japan or a non-Japanese corporation who has failed to comply with applicable certification, documentation, information or other reporting requirements concerning the nationality, residence, identity or connection with Japan of the holder or beneficial owner of the Note;
- (ii) where the amount of interest on such note or coupon is to be calculated by reference to certain indices (as prescribed by the Cabinet Order relating to Article 6, paragraph (4) of the Special Taxation Act) relating to KL or a specially-related person of KL, except where the recipient of interest is a Designated Financial Institution as described in preceding Item (i)(A); or
- (iii) more than 30 days after the Relevant Date (as defined below) except to the extent that the holder thereof would have been entitled to such additional amount on presenting the same for payment on the last day of such 30-day period assuming that day to have been a Payment Day (as defined in Condition 6(g)).

(b) ***Where the Issuer is KFAI***

Where the Issuer is KFAI, the Issuer will, subject to the exceptions and limitations set forth below, pay as additional interest on a Note such additional amounts as are necessary in order that the net payment by the Issuer or any Paying Agent of the principal of and interest on a Note or Coupon to a holder who is a United States Alien (as such term is defined below), after deduction for any present or future tax, duty, assessment or governmental charge of the United States (as such term is defined below), 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 or such Coupon to be then due and payable; provided, however, that the foregoing obligation to pay additional amounts shall not apply to:

- (i) 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 holder (or between a fiduciary, settlor, beneficiary, member or shareholder of, or holder of power over, such holder, if such holder is an estate, trust, partnership or corporation) and the United States, including, without limitation, such holder (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, a passive foreign investment company, 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 per cent. shareholder**" of the Issuer as defined in Section 871(h)(3) of the Code or a bank that is described in Section 881(c)(3)(A) of the Code;
- (ii) any holder who is a fiduciary or partnership or other than the sole beneficial owner of the Note or Coupon, 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 or Coupon would not have been entitled to the payment of an additional amount had such beneficiary, settlor, member or beneficial owner been the holder of such Note or Coupon;
  - (iii) any tax, duty, assessment or governmental charge that would not have been imposed or withheld but for the failure of the holder, if required, to comply with certification, identification or information reporting requirements under United States income tax laws, without regard to any tax treaty, with respect to the payment, concerning the nationality, residence, identity or connection with the United States of the holder or a beneficial owner of such Note or Coupon, if such compliance is required by United States income tax laws, without regard to any tax treaty, as a precondition to relief or exemption from such tax, assessment or governmental charge;
  - (iv) any tax, assessment or other governmental charge that would not have been imposed but for a failure by the holder or beneficial owner of the Notes (or any financial institution through which the holder or beneficial owner holds the Notes or through which payment on the Notes is made) to enter into or comply with any applicable certification, documentation, information or other reporting requirement or agreement concerning United States accounts maintained by the holder or beneficial owner (or any such financial institution), including by reason of holding the Notes, or concerning United States ownership of the holder or beneficial owner (or any such financial institution), or any substantially similar requirement or agreement, if entering into or complying with such requirement or agreement is required by statute or regulation of the United States as a precondition to relief or exemption from such tax, assessment or other governmental charge;
  - (v) any tax, duty, assessment or governmental charge that would not have been so imposed or withheld but for the presentation by the holder of such Note or Coupon 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, duty, assessment or governmental charge;
  - (vii) any tax, duty, assessment or governmental charge that is payable otherwise than by withholding by the Issuer or a Paying Agent from the payment of the principal of or interest on such Note or Coupon;
  - (viii) any tax, duty, assessment or governmental charge required to be withheld by any Paying Agent from such payment of principal of or interest on any Note, if such payment can be made without such withholding by any other Paying Agent; or
  - (ix) any combination of items (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii);

provided, further, that no such additional amount shall be payable with respect to any Note or Coupon presented for payment more than 30 days after the Relevant Date (as defined below) except to the extent that the holder thereof would have been entitled to such additional amount on presenting the same for payment on the last day of such 30-day period assuming that day to have been a Payment Day (as defined in Condition 6(g)).

As used in this Condition, "**United States**" means the United States of America (including the States and the District of Columbia), Puerto Rico and each possession of the United States of America and place



subject to its jurisdiction. The term "**U.S. Person**" means a citizen or resident of the United States, a corporation, partnership or other entity created or organised in or under the laws of the United States, any state of the United States or the District of Columbia, other than a partnership that is not treated as a United States person under any applicable Treasury regulation, or an estate the income of which is subject to U.S. federal income tax regardless of its source of income, or a trust if a court within the United States is able to exercise primary supervision of the administration of the trust and one or more United States persons have the authority to control all substantial decisions of the trust. Notwithstanding the preceding sentence, certain trusts in existence on 20th August, 1996 and treated as U.S. Persons prior to such date that elect to continue to be treated as U.S. Persons shall be considered U.S. Persons as well. The term "**United States Alien**" means a person other than a U.S. Person.

(c) ***Where the Issuer is KECC***

Where the Issuer is KECC, all payments of principal and interest by the Issuer in respect of such Notes by or 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 whatever nature imposed, levied, collected, withheld or assessed by or on behalf of Belgium or any political subdivision therein or any authority therein or thereof having power to tax, unless the withholding or deduction of such taxes, duties, assessments, or governmental charges is required by law. In that event, the Issuer shall pay such additional amounts as will result in receipt by the Noteholders after such withholding or deduction of such amounts as would have been received by them had no such withholding or deduction been required, except that no such additional amounts shall be payable in respect of any Note:

- (i) *Other connection:* to, or to a third party on behalf of, a Noteholder who is liable to such taxes, duties, assessments or governmental charges in respect of such Note by reason of its having some connection with the jurisdiction by which such taxes, duties, assessments or charges have been imposed, levied, collected, withheld or assessed other than the mere holding of the Note;
- (ii) *Payment to individuals:* where such withholding or deduction is imposed on a payment to an individual and is required to be made;
- (iii) *Non-Eligible Investor:* to, or to a third party on behalf of, a Noteholder, who at the time of issue of the Notes, was not an eligible investor within the meaning of Article 4 of the Belgian Royal Decree of 26th May, 1994 on the deduction of withholding tax or to a Noteholder who was such an eligible investor at the time of issue of the Notes but, for reasons within the Noteholder's control, either ceased to be an eligible investor or, at any relevant time on or after the issue of the Notes, otherwise failed to meet any other condition for the exemption of Belgian withholding tax pursuant to the law of 6th August, 1993 relating to transactions in certain securities;
- (iv) *Conversion into registered securities:* to a Noteholder who is liable to such taxes, duties or assessments or governmental charges because the Notes were upon its request converted into Notes in registered form and could no longer be cleared through the NBB-SSS; or
- (v) *Lawful avoidance of withholding:* to, or to a third party on behalf of, a Noteholder who could lawfully avoid (but has not so avoided) such deduction or withholding by complying or procuring that any third party complies with any statutory requirements or by making or procuring that any third party makes a declaration of non-residence or other similar claim for exemption to any tax authority in the place where the relevant Note is presented for payment.

(d) ***Relevant Date***

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 Fiscal Agent (in the case of Bearer Notes or Dematerialised Notes) or the Registrar (in the case of Registered Notes) 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 14.

(e) ***FATCA***

For the avoidance of doubt, and the purposes of paragraphs (a), (b) and (c) above, no additional amounts will be paid by KL, KFAI or KECC on account of any deduction or withholding from a payment on, or

in respect of, the Notes, Coupons or Talons where such deduction or withholding is imposed pursuant to Sections 1471 through 1474 of the Code, or any regulations or agreements thereunder, official interpretations thereof, or any laws, rules or regulations implementing an intergovernmental approach thereto, as provided in Condition 6(a).

## 9. Prescription

The Notes and Coupons will become void unless claims in respect of principal and/or interest are made within a period of ten years (in the case of principal) and five years (in the case of interest) after the Relevant Date (as defined in Condition 8) therefor.

There shall not be included in any Coupon sheet issued on exchange of a Talon any Coupon the claim for payment in respect of which would be void pursuant to this Condition or Condition 6(b) or any Talon which would be void pursuant to Condition 6(b).

## 10. Events of Default

If any one or more of the following events (each an "**Event of Default**") shall occur and be continuing:

- (i) default is made for more than seven days in the payment of principal due in respect of any of the Notes when and as the same ought to be paid in accordance with the Conditions;
- (ii) default is made for more than 14 days in the payment of interest due in respect of any of the Notes when and as the same ought to be paid in accordance with the Conditions;
- (iii) default is made in the performance or observance by the Issuer of any other obligation under the Notes and such default continues for a period of 30 days after written notification requiring such default to be remedied has been given to the Issuer by any Noteholder;
- (iv) any bonds, debentures, notes or other instruments of indebtedness or any other indebtedness by way of loan, other than the Notes, (hereinafter individually and collectively called "**Indebtedness**") of the Issuer or (where KL is not the Issuer) KL having a total outstanding principal amount of at least U.S.\$5,000,000 (or its equivalent in any other currency or currencies) shall be accelerated as a result of a default in respect of the terms thereof or the Issuer or (where KL is not the Issuer) KL defaults in the repayment of any such Indebtedness at the maturity thereof or at the expiration of any applicable grace period therefor as originally provided (or, in the case of Indebtedness due on demand, defaults in the payment of such Indebtedness on demand or at the expiration of any applicable grace period therefor as originally provided) or any guarantee or indemnity in respect of any Indebtedness of others having a total outstanding principal amount of at least U.S.\$5,000,000 (or its equivalent in any other currency or currencies) given by the Issuer or (where KL is not the Issuer) KL shall not be honoured when due and called upon or at the expiration of any applicable grace period therefor as originally provided;
- (v) a resolution is passed or an order of a court of competent jurisdiction is made that the Issuer or (where KL is not the Issuer) KL be wound up or dissolved except, in any case, for the purposes of or pursuant to a consolidation, amalgamation, merger or reconstruction the terms whereof have previously been approved by an Extraordinary Resolution of the Noteholders and except (where KL is not the Issuer) for the purposes of or pursuant to a consolidation, amalgamation, merger or reconstruction under which the continuing entity effectively assumes the entire obligations of the Issuer under the Notes, Coupons, the amended and restated programme agreement dated 28th August, 2020 (the "**Programme Agreement**", which such expression shall mean the same as it may from time to time be amended, supplemented or restated) and made among the Issuer, the other issuers named therein and the dealers named therein, the Agency Agreement and the related Keep Well Agreements;
- (vi) possession is taken on behalf of an incumbrancer, or a receiver is appointed, of the whole or a material part of the assets or undertaking of the Issuer or (where KL is not the Issuer) of KL;
- (vii) a distress, execution or seizure before judgment is levied or enforced upon or sued out against a part of the property of the Issuer or (where KL is not the Issuer) KL which is material in its

effect upon the operations of the Issuer or (where KL is not the Issuer) KL or which is not discharged within 30 days thereof;

- (viii) the Issuer or (where KL is not the Issuer) KL stops payment (within the meaning of Japanese or other applicable bankruptcy law) or (otherwise than for the purposes of such consolidation, amalgamation, merger or reconstruction as is referred to in sub-paragraph (v)) ceases or through an official action of the Board of Directors or other governing entity of the Issuer or (where KL is not the Issuer) KL threatens to cease to carry on business;
- (ix) proceedings shall have been initiated against the Issuer or (where KL is not the Issuer) KL under any applicable bankruptcy, reorganisation, composition or insolvency law and such proceedings shall not have been discharged or stayed within a period of 45 days;
- (x) the Issuer or (where KL is not the Issuer) KL shall initiate or consent to proceedings relating to itself under any applicable bankruptcy, reorganisation, composition or insolvency law or make a conveyance or assignment for the benefit of, or enter into any composition with, its creditors in general; or
- (xi) (where the Issuer is KFAI) the U.S. Keep Well Agreement, or (where the Issuer is KECC either) the Belgian Keep Well Agreement or the Belgian Deed Poll is terminated or any provision thereof is amended or waived in circumstances where such amendment or waiver would have an adverse effect on the interests of the Noteholders or, in the case of the U.S. Keep Well Agreement or the Belgian Keep Well Agreement, is not enforced in a timely manner by the Issuer or, in either case, is breached by KL provided in the case of such non-enforcement or breach that it has an adverse effect on the interests of the Noteholders,

then any Noteholder may, by written notice to the Issuer at the specified office of the Fiscal Agent, effective 14 days after the date of receipt thereof by the Fiscal Agent, declare the nominal amount of, and all interest then accrued on, the Note held by the holder thereof to be forthwith due and payable, whereupon the same shall become forthwith due and payable, without presentment, demand, protest or other notice of any kind unless such Event of Default shall be cured within 14 days after such written notice is received by the Issuer.

For the purpose of Condition 10(iv) above, any Indebtedness which is in a currency other than U.S. dollars may be translated into U.S. dollars at the spot rate for the sale of the U.S. dollars against the purchase of the relevant currency as quoted by the Fiscal Agent on the calendar day in London corresponding to the calendar day on which such premature repayment becomes due or, as the case may be, such default occurs (or, if for any reason such a rate is not available on that day, on the earliest possible date thereafter).

If any Note shall become so repayable, it shall be repaid at its Early Redemption Amount (as defined in Condition 7(f)) together, if appropriate, with accrued interest thereon.

## **11. Replacement of Notes, Coupons and Talons**

Should any Note, Coupon or Talon be lost, stolen, mutilated, defaced or destroyed, it may be replaced at the specified office of the Replacement Agent upon payment by the claimant of such costs and expenses as may be incurred in connection therewith and on such terms as to evidence and indemnity as the Issuer may reasonably require. Mutilated or defaced Notes, Coupons or Talons must be surrendered before replacements will be issued.

## **12. Fiscal Agent, Paying Agents, Domiciliary Agent, Registrar, Transfer Agents and Calculation Agents**

The names of the initial Fiscal Agent, the other initial Paying Agents, the initial Domiciliary Agent, the initial Registrar and the initial Transfer Agent and their initial specified offices are set out below. If any additional Paying Agents and Domiciliary Agent are appointed in connection with any Series, the names of such Paying Agents and Domiciliary Agent will be specified in Part B of the applicable Final Terms.

The Issuer is entitled to vary or terminate the appointment of the Fiscal Agent, any Paying Agent, Domiciliary Agent, Registrar or Transfer Agent and/or appoint additional or other Fiscal Agent, Paying Agents, Domiciliary Agent, Registrars or Transfer Agents and/or approve any change in the specified office through any of the same acts, provided that:

- (i) so long as the Notes are listed on any stock exchange or admitted to listing by any other relevant authority, there will at all times be a Paying Agent (in the case of Notes in bearer form), a Domiciliary Agent which is a NBB-SSS participant (in the case of Dematerialised Notes) and a Transfer Agent (in the case of Notes in registered form) with a specified office in such place as may be required by the rules and regulations of the relevant stock exchange (or other relevant authority); and
- (ii) there will at all times be a Fiscal Agent, a Domiciliary Agent which is a NBB-SSS participant and a Registrar.

In addition, the Issuer shall forthwith appoint a Paying Agent having a specified office in New York City in the circumstances described in Condition 6(f)(i). Notice of any variation, termination, appointment or change of an Agent will be given to the Noteholders promptly by the Issuer in accordance with Condition 14.

Further, the Issuer shall procure that there shall at all times be one or more Calculation Agents if provision is made for them hereon and for so long as any Note is outstanding (as defined in the Agency Agreement). Where more than one Calculation Agent is appointed in respect of the Notes, references in the Conditions to the Calculation Agent shall be construed as each Calculation Agent performing its respective duties under the Conditions. If the Calculation Agent is unable or unwilling to act as such or if the Calculation Agent fails duly to comply with any requirement, the Issuer shall appoint a leading bank or investment banking firm engaged in the interbank market (or, if appropriate, money, swap or over-the-counter index options market) that is most closely connected with the calculation or determination to be made by the Calculation Agent (acting through its principal London office or any other office actively involved in such market) to act as such in its place. The Calculation Agent may not resign its duties without a successor having been appointed as aforesaid.

In acting under the Agency Agreement, the Fiscal Agent, the Paying Agents, the Domiciliary Agent, the Registrar or the Transfer Agent act solely as agents of the Issuer and do not assume any obligation to, or relationship of agency or trust with, any Noteholders or Couponholders. The Agency Agreement contains provisions permitting any entity into which any Agent is merged or converted or with which it is consolidated or to which it transfers all or substantially all of its assets to become the successor agent.

### **13. Exchange of Talons**

On and after the Interest Payment Date, as appropriate, on which the final Coupon comprised in any Coupon sheet matures, the Talon (if any) forming part of such Coupon sheet may be surrendered at the specified office of the Fiscal Agent or any other Paying Agent in exchange for a further Coupon sheet including (if such further Coupon sheet does not include Coupons to (and including) the final date for the payment of interest due in respect of the Note to which it appertains) a further Talon, subject to the provisions of Condition 9.

### **14. Notices**

All notices regarding Notes in bearer form will be deemed to be validly given if published in a leading English language daily newspaper of general circulation in London. It is expected that such publication will be made in the *Financial Times* in London. The Issuer shall also ensure that notices are duly published in a manner which complies with the rules and regulations of any stock exchange (or any other relevant authority) on which the Bearer Notes issued by KL and KFAI are for the time being listed or by which they have been admitted to trading. Any such notice will be deemed to have been given on the date of the first publication or, where required to be published in more than one newspaper, on the date of the first publication in all required newspapers.

All notices regarding Notes in registered form will be deemed to be validly given if (a) sent by first class mail or (if posted to an address overseas) by airmail to the holders (or the first named of joint holders) at their respective addresses recorded in the Register and will be deemed to have been given on the third day after mailing and (b) if and for so long as the Registered Notes are listed on a stock exchange or are admitted to trading by another relevant authority and the rules of that stock exchange or relevant authority so require, such notice will be published in a daily newspaper of general circulation in the place or places required by those rules.

All notices regarding Notes in dematerialised form will be deemed to be validly given if delivered by or on behalf of KECC to the NBB for communication by it to the participants of the NBB-SSS, without prejudice to the rules related to the convocation of a meeting of Noteholders.

Until such time as any definitive Notes are issued, there may, so long as any Global Notes representing the Notes are held in their entirety on behalf of Euroclear and/or Clearstream, Luxembourg, be substituted for

such publication in such newspaper(s) the delivery of the relevant notice to Euroclear and/or Clearstream, Luxembourg for communication by them to the holders of the Notes and, in addition, for so long as any Notes issued by KL, KFAI and KECC are listed on a stock exchange or are admitted to trading by another relevant authority and the rules of that stock exchange (or any other relevant authority) so require, such notice will be published in a daily newspaper of general circulation in the place or places required by that stock exchange (or any other relevant authority). Any such notice shall be deemed to have been given to the holders of the Notes on the second day after the day on which the said notice was given to Euroclear and/or Clearstream, Luxembourg and/or NBB-SSS, as the case may be. Any such notice shall be deemed to have been given on the date of such publication or, if published more than once or on different dates, on the date of the first publication as provided above.

Notices to be given by any holder of the Notes (other than Dematerialised Notes) shall be in writing and given by lodging the same, together (in the case of any Note in definitive form) with the relative Note or Notes with the Fiscal Agent (in the case of Notes in bearer form) or the Registrar (in the case of Notes in registered form). Whilst any of the Notes are represented by a Global Note, such notice may be given by any holder of a Note to the Fiscal Agent or the Registrar through Euroclear and/or Clearstream, Luxembourg, as the case may be, in such manner as the Fiscal Agent, the Registrar and Euroclear and/or Clearstream, Luxembourg, as the case may be, may approve for this purpose. In the case of Dematerialised Notes, notices to be given by any holder of Notes may be given by any holder of a Note to the Domiciliary Agent through the NBB-SSS in such manner as the Domiciliary Agent and the NBB-SSS may approve for this purpose.

## **15. Meetings of Noteholders, Modification and Waiver**

The Agency Agreement contains provisions for convening meetings of the Noteholders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of the Notes, the Coupons or any of the provisions of the Agency Agreement. Such a meeting may be convened by the Issuer or Noteholders holding not less than five per cent. in nominal amount of the Notes for the time being remaining outstanding. The quorum at any such meeting for passing an Extraordinary Resolution is one or more persons holding or representing not less than 50 per cent. in nominal amount of the Notes for the time being outstanding, or at any adjourned meeting one or more persons being or representing Noteholders whatever the nominal amount of the Notes so held or represented, except that at any meeting the business of which includes the modification of certain provisions of the Notes or Coupons (including modifying the date of maturity of the Notes or any date for payment of interest thereon, reducing or cancelling the amount of principal, modifying the rate of interest payable in respect of the Notes or altering the currency of payment of the Notes or Coupons), the quorum shall be one or more persons holding or representing not less than two-thirds in nominal amount of the Notes for the time being outstanding or at any adjourned such meeting one or more persons holding or representing not less than one-third in nominal amount of the Notes for the time being outstanding. An Extraordinary Resolution passed at any meeting of the Noteholders shall be binding on all of the Noteholders, whether or not they are present at the meeting, and on all Couponholders.

The Fiscal Agent and the Issuer may agree, without the consent of the Noteholders or Couponholders, to:

- (i) any modification (except as mentioned above) of the Notes, the Coupons or the Agency Agreement which is not prejudicial to the interests of the Noteholders; or
- (ii) any modification (except as mentioned above) of the Notes, the Coupons or the Agency Agreement which is of a formal, minor or technical nature or is made to correct a manifest or proven error or to comply with mandatory provisions of the law of the jurisdiction in which the Issuer is incorporated.

Any such modification shall be binding on the Noteholders and the Couponholders and any such modification shall be notified to the Noteholders in accordance with Condition 14 as soon as practicable thereafter.

In addition, pursuant to Conditions 5(b)(ii)(C) or 5(b)(ii)(D), certain changes may be made to the interest calculation provisions of the Floating Rate Notes in the circumstances and as otherwise set out in such Conditions, without the requirement for consent of the Noteholders.

The provisions of the Belgian Code of Companies and Associations shall not apply to meetings of Noteholders held by KECC.

## **16. Further Issues**

The Issuer shall be at liberty from time to time without the consent of the Noteholders or Couponholders to create and issue further notes having terms and conditions the same as the Notes or the same in all respects save for the amount and date of the first payment of interest thereon and so that the same shall be consolidated and form a single Series with the outstanding Notes; provided that if any such additional notes are not fungible with the Notes initially offered hereby for U.S. federal income tax purposes, such additional notes will have one or more separate CUSIP or ISIN numbers.

## **17. Contracts (Rights of Third Parties) Act 1999**

No rights are conferred on any person under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Note, but this does not affect any right or remedy of any person which exists or is available apart from that Act.

## **18. Governing Law and Submission to Jurisdiction**

### **(a) Governing Law**

The Agency Agreement, the Deed of Covenant, the Notes and the Coupons and any non-contractual obligations arising out of or in connection with these documents are governed by, and shall be construed in accordance with, English law save that Condition 1 shall be governed by, and construed in accordance with, Belgian law, in so far as they relate to Notes issued by KECC.

### **(b) Submission to Jurisdiction**

- (i) Subject to Condition 18(b)(iii) below, the English courts have exclusive jurisdiction to settle any dispute arising out of or in connection with the Notes and/or the Coupons, including any dispute as to their existence, validity, interpretation, performance, breach or termination or the consequences of their nullity and any dispute relating to any non-contractual obligations arising out of or in connection with the Notes and/or the Coupons (a "**Dispute**"), and accordingly each of the Issuer and any Noteholders or Couponholders in relation to any Dispute submits to the exclusive jurisdiction of the English courts.
- (ii) For the purposes of this Condition 18(b), the Issuer waives any objection to the English courts on the grounds that they are an inconvenient or inappropriate forum to settle any Dispute.
- (iii) To the extent allowed by law, the Noteholders and the Couponholders may, in respect of any Dispute or Disputes, take (X) proceedings in any other court with jurisdiction; and (Y) concurrent proceedings in any number of jurisdictions.

### **(c) Appointment of Process Agent**

The Issuer appoints Komatsu UK Ltd. at its registered office at Durham Road, Birtley, Chester-le-Street, Co. Durham DH3 2QX, United Kingdom as its agent for service of process, and undertakes that, in the event of Komatsu UK Ltd. ceasing so to act or ceasing to be registered in England, it will appoint another person in England as its agent for service of process in respect of any Disputes.

### **(d) Governing Law and Submission to Jurisdiction of U.S. Keep Well Agreement**

The U.S. Keep Well Agreement is governed by, and shall be construed in accordance with, the laws of the State of New York and the parties thereto have submitted therein to the non-exclusive jurisdiction of any New York State or Federal court sitting in The City of New York, County of New York, over any action or proceedings arising in connection with the U.S. Keep Well Agreement to the full extent permitted by applicable laws.

### **(e) Governing Law and Submission to Jurisdiction of Belgian Keep Well Agreement and Belgian Deed Poll**

- (i) The Belgian Keep Well Agreement and the Belgian Deed Poll and any non-contractual obligations arising out of or in connection with the Belgian Keep Well Agreement and the Belgian Deed Poll are governed by, and shall be construed in accordance with, English law.

- (ii) Subject to Condition 18(e)(iv) below, the English courts have exclusive jurisdiction to settle any dispute arising out of or in connection with the Belgian Keep Well Agreement and/or the Belgian Deed Poll, including any dispute as to their existence, validity, interpretation, performance, breach or termination or the consequences of their nullity and any dispute relating to any non-contractual obligations arising out of or in connection with the Belgian Keep Well Agreement and/or the Belgian Deed Poll (a "**Dispute**"), and accordingly each of KL and KECC in relation to any Dispute submits to the exclusive jurisdiction of the English courts.
- (iii) For the purposes of Condition 18(e)(ii) and Condition 18(e)(iv), each of KL and KECC waives any objection to the English courts on the grounds that they are an inconvenient or inappropriate forum to settle any Dispute.
- (iv) To the extent allowed by law, the Noteholders and the Couponholders may, in respect of any Dispute or Disputes, take (X) proceedings in any other court with jurisdiction; and (Y) concurrent proceedings in any number of jurisdictions.

(f) ***Waiver of Trial by Jury***

Without prejudice to Conditions 18(b), 18(d) and 18(e), the Issuer waives any right it may have to a jury trial of any claim or cause of action in connection with the Notes and the Coupons. The Conditions may be filed as a written consent to a bench trial.

(g) ***Right to Serve Proceedings***

Nothing in this Condition 18 shall affect the right to serve proceedings in any other manner permitted by law.

## **USE OF PROCEEDS**

The net proceeds from each issue of Notes will be used for the general corporate purposes of the relevant Issuers, including to fund and finance their subsidiaries and affiliates.



## KOMATSU LTD.

### General

KL (the "**Company**" and, together with its consolidated subsidiaries, "**Komatsu**" or the "**Komatsu Group**") was incorporated on 13th May, 1921 under the laws of Japan with registered number 0104-01-010455 to assume certain of the operations of a Japanese company founded in 1894. The Company's registered head office is at 3-6, Akasaka 2-chome, Minato-ku, Tokyo 107-8414, Japan (telephone number: +81-3-5561-2628). As of 31st March, 2020, the Company had 219 consolidated subsidiaries and 42 affiliated companies accounted for by the equity method. As of 31st March, 2020, Komatsu employed approximately 63,000 people. The Legal Entity Identifier (LEI) of KL is 5493004LQ0B4T7QPQV17.

The website of the Company is at <https://home.komatsu/en/>. Information contained in or accessible from the website in this paragraph that is not incorporated by reference in this Offering Circular does not form a part of and is not incorporated by reference into this Offering Circular.

Komatsu engages in the business activities of R&D, production, sales, marketing, services and retail financing for customers in Japan and outside of Japan, under three business segments: the "Construction, Mining and Utility Equipment" operating segment, the "Retail Finance" operating segment and the "Industrial Machinery and Others" operating segment. The consolidated net sales of Komatsu for the fiscal year ended 31st March, 2020, consisted of the following: Construction, Mining and Utility Equipment: 90.2 per cent.; Retail Finance: 2.6 per cent.; Industrial Machinery and Others: 7.2 per cent. Of consolidated net sales for the fiscal year ended 31st March, 2020, 83.8 per cent. were generated outside of Japan, with 38.9 per cent. in the Americas, 14.7 per cent. in Europe and the Commonwealth of Independent States ("**CIS**"), 6.4 per cent. in China, 18.5 per cent. in Asia (excluding Japan and China) and Oceania, and 5.3 per cent. in the Middle East and Africa.

Komatsu's principal products and businesses in the Construction, Mining and Utility Equipment operating segment are hydraulic excavators, rope shovels, mini excavators, backhoe loaders, wheel loaders, mini wheel loaders, skid-steer loaders, bulldozers, motor graders, vibratory rollers, off-highway dump trucks, articulated dump trucks, crawler carriers, harvesters, forwarders, feller bunchers, shield machines, tunnel-boring machines, continuous miners, longwall shearers, mobile crushers, mobile soil recyclers, mobile tub grinders, forklift trucks, railroad maintenance equipment, diesel engines, diesel generator sets, hydraulic equipment, steel castings, iron castings, transportation, warehousing and packing. In the Retail Finance operating segment, Komatsu's principal product and business is the leasing and instalment of construction and mining equipment. In the Industrial Machinery and Others operating segment, Komatsu's principal products and businesses are servo presses, mechanical presses, laser cutting machines, fine-plasma cutting machines, press brakes, shears, transfer machines, machining centers, crankshaft millers, grinding machines, wire saws, ammunition, armoured personnel carriers, thermoelectric modules, temperature-control equipment for semiconductor manufacturing and excimer lasers used for lithography tools in semiconductor manufacturing.

The cornerstone of the management of Komatsu lies in its commitment to Quality and Reliability and the maximisation of its corporate value. Komatsu defines its corporate value as the total sum of trust from society and all its stakeholders. With its three-year mid-term management plan named "DANTOTSU Value - *FORWARD* Together for Sustainable Growth" which sets the fiscal year ending 31st March, 2022 as the goal year, Komatsu aims for growth toward its 100<sup>th</sup> anniversary (2021) and beyond, and is pursuing three management strategies (the "**growth strategies**"): (1) value creation by means of innovation, (2) growth strategies based on business reforms, and (3) structural reforms for growth. In the current market environment, due in part to the US-China trade friction and the UK leaving the EU, as well as the impact of the COVID-19 pandemic, the outlook is opaque and uncertain in the Construction, Mining and Utility Equipment operating segment and the Industrial Machinery and Others operating segment. In this environment, Komatsu will strive for sustainable growth through a positive circle of improving earnings and solving environmental, social, and corporate governance ("**ESG**") issues without being affected by changes in market demand by making priority investment in growth areas through the assessment of cost effectiveness and strategic value based on these three pillars of growth strategies.

To promote the three pillars of the growth strategies, Komatsu aims to advance and enhance the level of DANTOTSU products, DANTOTSU services, and DANTOTSU solutions, for which Komatsu has continued to make efforts, at a faster speed, and create DANTOTSU value (a virtuous cycle generated by ESG solutions through the creation of customer value and improvement of earnings). Komatsu will work to realise a safe, highly productive, smart and clean workplace of the future for its customers in both its physical aspects (increased sophistication and automation of construction equipment) and non-physical aspects (optimisation of customers' construction operations). To attain such goal, Komatsu plans to help solve ESG issues through its core business

by offering high-quality, high-performance products, services and solutions that ensure the safety of its users and reduces the environmental impact in response to climate change. Komatsu will strive for sustainable growth through linking every workplace and generate value through DANTOTSU with its global teams, customers, distributors, partners and communities.

The manufacturing operations of Komatsu are conducted primarily at plants in Japan, the United States, Brazil, the United Kingdom, Germany, Italy, Sweden, Russia, China, Indonesia, Thailand, India and South Africa.

Komatsu's products are primarily sold under the "Komatsu" brand name, and sales are almost entirely executed through the Company's sales subsidiaries and sales distributors. These subsidiaries and distributors are responsible for marketing and distribution and primarily sell to retail dealers in their geographical area.

### **Operating Results for the Fiscal Year ended 31st March, 2020**

Consolidated net sales for the fiscal year ended 31st March, 2020 decreased by 10.3 per cent. to ¥2,444,870 million from ¥2,725,243 million for the fiscal year ended 31st March, 2019. Net sales to external customers in Japan for the fiscal year ended 31st March, 2020 decreased by 1.9 per cent. to ¥396,584 million from ¥404,160 million for the fiscal year ended 31st March, 2019. Net sales to external customers outside of Japan for the fiscal year ended 31st March, 2020 decreased by 11.8 per cent. to ¥2,048,286 million from ¥2,321,083 million for the fiscal year ended 31st March, 2019.

For the fiscal year ended 31st March, 2020, net sales of the Construction, Mining and Utility Equipment operating segment decreased by 10.8 per cent. from the fiscal year ended 31st March, 2019 to ¥2,211,263 million.

With respect to "SMARTCONSTRUCTION", a solutions business for construction jobsites that Komatsu launched in Japan in February 2015, Komatsu has made steady progress, introducing this new business model to over 10,000 construction sites to date (cumulative) in Japan. In April 2020, Komatsu began the steady introduction of new devices and applications, such as retrofit kits, designed to accelerate the speed of achieving digital transformation of construction sites in Japan. Komatsu also announced a plan to make full-scale launches of SMARTCONSTRUCTION in the United States, the United Kingdom, Germany, France, and Denmark. With respect to its Autonomous Haulage System, Komatsu achieved a steady increase in the number of dump trucks in operation.

In response to effects of actual or potential risks on its business, such as the COVID-19 pandemic, Komatsu focused its efforts on developing alternative procurement sources and implementing inventory re-allocations that are designed to further strengthen its global cross-sourcing of finished products and parts through its production and procurement operations. In its sales and service operations, Komatsu reassessed its supply routes and promoted working in shifts, thereby working to ensure that a continuous supply of products, parts and service is available.

In Japan, sales remained flat from the fiscal year ended 31st March, 2019 at ¥310,856 million. This was mainly due to the recovery from reduced sales, as affected by the reactionary drop in pre-buy demand in anticipation of the new emission control regulations enforced in September 2017, and the steady demand in infrastructure development projects.

In North America, while demand remained steady, centering on construction equipment in the rental industry, sales decreased by 6.3 per cent. from the fiscal year ended 31st March 2019 to ¥573,587 million as Komatsu promoted the inventory adjustment of its distributors and weathered adverse effects of the COVID-19 pandemic. In Latin America, sales decreased by 5.0 per cent. from the fiscal year ended 31st March, 2019 to ¥309,255 million. While demand for construction and mining equipment was strong in Chile, demand fell in Argentina and Mexico, where economic conditions continued to deteriorate.

In Europe, sales increased by 5.9 per cent. from the fiscal year ended 31st March, 2019 to ¥219,728 million. While demand declined in the United Kingdom, a major market of the region, and against the spread of COVID-19 infections in the fourth quarter, sales advanced from the previous fiscal year, supported by steady demand, until the third quarter, in other major markets in Europe, and in particular in France and Germany. In CIS, sales decreased by 5.4 per cent. from the fiscal year ended 31st March, 2019 to ¥127,410 million, as adversely affected by the reduced demand for mining equipment in the coal sector.

In China, sales decreased by 22.9 per cent. from the fiscal year ended 31st March, 2019 to ¥127,064 million, as adversely affected by a sharp drop in post-Chinese New Year (February 2020) demand, resulting from the COVID-19 pandemic, and an increase in sales by domestic manufacturers.

In Asia, sales decreased by 39.3 per cent. from the fiscal year ended 31st March, 2019 to ¥205,761 million, due mainly to not only reduced demand in mining equipment in Indonesia, the largest market of the region, as a result of the declining price of thermal coal, but also sluggish demand for construction equipment and adverse effects resulting from the spread of COVID-19 infections in Asia. In Oceania, sales decreased by 5.7 per cent. from the fiscal year ended 31st March, 2019 to ¥203,397 million. While Komatsu steadily captured sales of parts and services revenues for mining equipment in Oceania, sales declined from the previous fiscal year mainly due to the decline in sales of construction equipment.

In the Middle East, sales increased by 1.2 per cent. from the fiscal year ended 31st March, 2019 to ¥30,655 million, supported by firm demand for construction equipment, especially in the UAE. In Africa, while sales of construction equipment remained flat in Southern Africa, demand remained sluggish in other regions. As a result, sales in Africa decreased by 20.8 per cent. from the fiscal year ended 31st March, 2019 to ¥98,263 million.

In the Retail Finance operating segment, revenues increased by 11.5 per cent. from the fiscal year ended 31st March, 2019 to ¥70,910 million, supported by the benefits of increased assets centering on North America and Europe.

In the Industrial Machinery and Others operating segment, sales decreased by 12.6 per cent. from the fiscal year ended 31st March, 2019 to ¥177,586 million, mainly affected by a decline in demand for presses and machine tools in the automobile manufacturing industry, and against the spread of COVID-19 infections, as well as decreased demand for excimer laser-related products in the semiconductor market.

During the fiscal year ended 31st March, 2020, Komatsu Industries Corp. began selling the "BENDING SUPPORT" machine to ensure energy savings for its press brake customers. GIGAPHOTON Inc. began shipping the new KrF laser "G300K" for the micro ablation via the processing routine as part of its GIGANEX series in March 2020, thereby making steady headway towards full-scale market entry in micro ablation via the processing steps.

Operating income for the fiscal year ended 31st March, 2020 decreased by 37.0 per cent. to ¥250,707 million as compared to ¥397,806 million for the fiscal year ended 31st March, 2019.

Income before income taxes and equity in earnings of affiliated companies for the fiscal year ended 31st March, 2020 decreased by 40.9 per cent. to ¥223,114 million as compared to ¥377,471 million for the fiscal year ended 31st March, 2019.

Net income attributable to Komatsu Ltd. for the fiscal year ended 31st March, 2020 decreased by 40.0 per cent. to ¥153,844 million as compared to ¥256,491 million for the fiscal year ended 31st March, 2019. Accordingly, basic net income attributable to Komatsu Ltd. per share decreased to ¥162.93 for the fiscal year ended 31st March, 2020 from ¥271.81 for the fiscal year ended 31st March, 2019. Diluted net income attributable to Komatsu Ltd. per share decreased to ¥162.80 for the fiscal year ended 31st March, 2020 from ¥271.51 for the fiscal year ended 31st March, 2019.

### **Summary of Operating Results for the Three-Month Period ended 30th June, 2020**

For the first three-month period (1st April – 30th June, 2020) of the fiscal year ending 31st March, 2021, which is the second year of the current three-year mid-term management plan, consolidated net sales totalled ¥458,731 million, down 24.8 per cent. from the corresponding period in the previous fiscal year. In the Construction, Mining and Utility Equipment operating segment, demand fell, centering on North America, Europe and Asia, as such areas were particularly affected by the COVID-19 pandemic. As a result, sales in such operating segment declined from the corresponding period in the previous fiscal year. In the Industrial Machinery and Others operating segment, demand for presses, sheet-metal machines, and machine tools fell due to the COVID-19 pandemic. As a result, sales in such operating segment fell from the corresponding period in the previous fiscal year.

With respect to profits for the first three-month period under review, operating income decreased by 64.0 per cent. from the corresponding period in the previous fiscal year, to ¥26,919 million. This was mainly due to reduced sales volume, a change in the geographic composition of sales, and the effect of the Japanese yen's appreciation on the Construction, Mining and Utility Equipment operating segment. The operating income ratio (the ratio of operating income to net sales) decreased by 6.4 percentage points to 5.9 per cent. from the corresponding period in the previous fiscal year. Income before income taxes and equity in earnings of affiliated companies fell by 57.4 per cent. to ¥28,497 million from the corresponding period in the previous fiscal year. Net

income attributable to Komatsu Ltd. totalled ¥16,251 million, down 65.8 per cent. from the corresponding period in the previous fiscal year.

## **Research and Development**

With consistent commitment to providing "Quality and Reliability", Komatsu is actively promoting research and development activities for new technologies and new products in the Construction, Mining and Utility Equipment operating segment as well as the Industrial Machinery and Others operating segment.

With respect to the structure of Komatsu's research and development, the Office of Chief Technology Officer, research and development departments of the Development Centers of the Development Division of the Company, which focus on research and development activities for new technologies and new products for the Construction, Mining and Utility Equipment operating segment, and the technology departments of the Company's subsidiaries and affiliates, participate in its research and development activities.

## **Recent Events**

No events have occurred since the date of the last audited financial statements of the Company which are material to the evaluation of Company's solvency. Except as disclosed under "Operating Results for the Fiscal Year ended 31st March, 2020" and "Summary of Operating Results for the Three-Month Period ended 30th June, 2020" above, there has been no material adverse change in the prospects of the Komatsu Group since 31st March, 2020 (the date of the Company's most recently published audited consolidated financial statements) and no significant change in the financial position or financial performance of the Komatsu Group since 31st March, 2020 (the date of the Company's most recently published audited consolidated financial information).

## **Material Contracts**

There are no contracts entered into by Komatsu other than those (a) which are entered into in the ordinary course of Komatsu's business or (b) which could not result in any member of Komatsu being under an obligation or entitlement which is material to the Company's ability to meet its obligations under Notes to be issued by it under the Programme or its obligations under the U.S. Keep Well Agreement or the Belgian Keep Well Agreement.

## **Legal and Arbitration Proceedings**

There are no, nor have there been any, governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened of which the Company is aware) in the 12 months preceding the date of this Offering Circular which may have or have in such period had a significant effect on the financial position or profitability of the Company and its subsidiaries taken as a whole.

## **Major Shareholders**

To the best knowledge of the Company, the Company is not, directly or indirectly, controlled by another corporation or another entity, by the Government of Japan or by any foreign government, nor does any person own more than 10 per cent. of the Company's common stock.

As far as is known to the Company, there are no arrangements which may at a future date result in a change of control of the Company.

## **Relationship with Other Members of the Komatsu Group**

The Company is the parent company of the Komatsu Group and conducts its own business activities, in addition to holding shares in its direct subsidiaries. While a part of the Company's business relates to transactions with other members of the Komatsu Group, it is not dependent on the other members of the Komatsu Group.

## **Administrative, Management and Supervisory Bodies**

Set forth below are the names, positions and functions of the Directors and Audit & Supervisory Board Members of the Company as of the date of this Offering Circular.

<b>Name</b>	<b>Position</b>	<b>Function</b>
<b>Board of Directors</b>		
Tetsuji Ohashi	Chairperson of the Board and Representative Director	
Hiroyuki Ogawa*	President and Representative Director and CEO	
Masayuki Moriyama*	Director	President of Mining Business Division
Kiyoshi Mizuhara*	Director	President of Construction Equipment Marketing Division
Kuniko Urano*	Director	Supervising Safety & Health Care, Corporate Communications, and CSR
Makoto Kigawa	Director	
Takeshi Kunibe	Director	
Arthur M. Mitchell	Director	
<b>Audit &amp; Supervisory Board Members</b>		
Hironobu Matsuo	Standing Audit & Supervisory Board Member	
Terumi Sasaki	Standing Audit & Supervisory Board Member	
Hirohide Yamaguchi	Audit & Supervisory Board Member	
Eiko Shinotsuka	Audit & Supervisory Board Member	
Kotaro Ohno	Audit & Supervisory Board Member	

Notes:

- 1 Directors Makoto Kigawa, Takeshi Kunibe and Arthur M. Mitchell are Outside Directors.
- 2 Audit & Supervisory Board Members Hirohide Yamaguchi, Eiko Shinotsuka and Kotaro Ohno are Outside Audit & Supervisory Board Members.
- 3 The Company introduced an executive officer system in June 1999. As of 29th June, 2020, the Company has 48 officers including 4 persons simultaneously holding the position of director. Such persons have been marked with an asterisk above their names in the table.

The business address of each of the above Directors and Audit & Supervisory Board Members is 3-6, Akasaka 2-chome, Minato-ku, Tokyo 107-8414, Japan.

### **Conflicts of Interest**

There are no potential conflicts of interest between the duties to the Company of the persons listed under "—Administrative, Management and Supervisory Bodies" above, and their private interests or other duties.

## **KOMATSU FINANCE AMERICA INC.**

### **General**

KFAI was incorporated under the laws of the State of Delaware on 18th March, 1996 with registered number 2595497 and is a direct, wholly-owned finance subsidiary of Komatsu America Corp. ("KAC"), a Georgia corporation and a wholly-owned subsidiary of KL. KFAI has no subsidiaries. The principal office is located at 8770 W. Bryn Mawr Avenue, Suite 100, Chicago, Illinois 60631, U.S.A. (telephone number: +1-847-437-5800).

The website of KFAI is at <https://home.komatsu/en/>. Information contained in or accessible from the website in this paragraph that is not incorporated by reference in this Offering Circular does not form a part of and is not incorporated by reference into this Offering Circular.

KFAI's primary business is raising funds through the issuance of debt obligations and in turn, lending funds to finance the business operations of KAC. Accordingly, KFAI's business is dependent upon KAC and other members of the Komatsu Group.

The Legal Entity Identifier (LEI) of KFAI is 549300SRAAFEEQ8Z4D68.

### **Summary of Operations for the Fiscal Year ended 31st March, 2020**

The net income of KFAI for the fiscal year ended 31st March, 2020 amounted to U.S.\$5.3 million.

### **Recent Events**

In May 2018, KFAI established a U.S.\$1.0 billion U.S. Commercial Paper Note Program with KL as the guarantor, and began issuing commercial paper notes. To provide the necessary liquidity backstop for such commercial paper program, KFAI established a U.S.\$500 million 364-day revolving credit facility and a U.S.\$500 million 5-year revolving credit facility in May 2018, both which are guaranteed by KL as well. In May 2020, the 364-day revolving credit facility was renewed at U.S.\$462.5 million for an overall U.S. Commercial Paper Note Program size of U.S.\$962.5 million. As of 31st July, 2020, U.S.\$899.8 million of U.S. commercial paper notes of KFAI are issued and outstanding under its U.S. Commercial Paper Note Program.

Other than the U.S. Commercial Paper Note Program mentioned in the preceding paragraph, there has been no material adverse change in the prospects of KFAI since 31st March, 2020 (the date of KFAI's most recently published audited financial statements) and no significant change in the financial position or financial performance of KFAI since 31st March, 2020 (the date of KFAI's most recently published financial information).

### **Material Contracts**

As stated above, KFAI entered into contracts establishing a U.S.\$462.5 million 364-day revolving credit facility in May 2020 and a U.S.\$500 million 5-year revolving credit facility in May 2018 to support its U.S. Commercial Paper Program. Both credit facilities are guaranteed by KL.

Apart from these contracts, there are no contracts entered into by KFAI other than those (a) which are entered into in the ordinary course of KFAI's business or (b) which could not result in KFAI being under an obligation or entitlement which is material to KFAI's ability to meet its obligations under (i) any Notes to be issued by it under the Programme or (ii) the U.S. Keep Well Agreement.

### **Legal and Arbitration Proceedings**

There are no, nor have there been any, governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened of which KFAI is aware) in the 12 months preceding the date of this Offering Circular which may have or have in such period had a significant effect on the financial position or profitability of KFAI.

### **Major Shareholders**

For the fiscal year ended 31st March, 2020, total stockholder's equity amounted to U.S.\$194.4 million divided into 1,000 shares. Transactions between KFAI and other members of the Komatsu Group are made on an arm's length basis and on normal commercial terms. KFAI is not aware of the existence of any arrangements which may at a future date result in a change of control of KFAI.

## Relationship with Other Members of the Komatsu Group

KFAI's primary business is raising funds through issuance of debt obligations, which includes issuances under the Programme. KFAI, in turn, lends funds to KAC at market rates of interest. The earnings on these loans are the primary source of KFAI's income. KFAI is dependent upon KAC and KL for the establishment of KFAI's policies and strategies, and KFAI's sources of funding are supported by KL or other members of the Komatsu Group.

## Board of Directors and Management

KFAI's Board of Directors is currently comprised of three members:

<b>Name</b>	<b>Title</b>	<b>Other functions</b>
Norio Takahashi	Director	General Manager, Komatsu Ltd.
Gary Kasbeer	Director	EVP & CFO, American Operations
Hirotooshi Akita	Director	VP Finance & Control, American Operations

KFAI's principal management members are:

<b>Name</b>	<b>Title</b>	<b>Functions</b>
Gary Kasbeer	President & Treasurer	EVP & CFO, American Operations, Treasury and Finance
Hirotooshi Akita	Vice President	VP Finance & Control, American Operations
Ed Bathelt	Secretary	Legal Department, American Operations

The business address of Norio Takahashi is 3-6, Akasaka 2-chome, Minato-ku, Tokyo 107-8414, Japan and the business address of all other persons listed above is 8770 W. Bryn Mawr Avenue, Suite 100, Chicago, Illinois 60631, U.S.A.

## Independent Auditor

Set forth below are the name and address of the Independent Auditor of KFAI as of the date of this Offering Circular.

KPMG LLP  
200 E. Randolph Street, Suite 5500  
Chicago, Illinois 60601-5212  
U.S.A.

## Conflicts of Interest

There are no potential conflicts of interest between the duties to KFAI of the persons listed under "—Board of Directors and Management" above, and their private interests or other duties.

## **KOMATSU EUROPE COORDINATION CENTER NV**

### **General**

KECC was incorporated as a limited liability company (*Naamloze Vennootschap/Société Anonyme*) with unlimited duration under the laws of Belgium on 23rd November, 1989.

KECC is registered with the Belgian Crossroads Bank for Enterprises under the number 0439.082.376 (former commercial register of Brussels 527.813). KECC has no subsidiaries.

The registered office of the company is in Belgium, B-1800 Vilvoorde, Mechelsesteenweg 586 (telephone number: +32 2255 2411).

The website of KECC is at <https://home.komatsu/en/>. Information contained in or accessible from the website in this paragraph that is not incorporated by reference in this Offering Circular does not form a part of and is not incorporated by reference into this Offering Circular.

KECC, amongst others, acts as in-house bank for the Komatsu Group in Europe providing the following centralised activities:

- Cash management
- Funding
- Banking Activities
- Credit risk management
- Foreign Exchange risk management
- Interest risk management
- Tax and accounting

The Legal Entity Identifier (LEI) of KECC is 549300VOPX8WI6FDRC77.

### **Recent Events**

No events have occurred since the date of the last audited financial statements of KECC which are material to the evaluation of KECC's solvency. There has been no material adverse change in the prospects of KECC since 31st March, 2020 (the date of KECC's most recently published audited financial statements) and no significant change in the financial position or financial performance of KECC since 31st March, 2020 (the date of KECC's most recently published financial information).

### **Material Contracts**

There are no contracts entered into by KECC other than those (a) which are entered into in the ordinary course of KECC's business or (b) which would not result in KECC being under an obligation or entitlement which is material to KECC's ability to meet its obligations under the Notes to be issued by it under the Programme or under the Belgian Keep Well Agreement.

### **Legal and Arbitration Proceedings**

There are no, nor have there been any, governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened of which KECC is aware) in the 12 months preceding the date of this document which may have or have in such period had a significant effect on the financial position or profitability of KECC.

### **Major Shareholders**

The capital of KECC amounts to EUR141,250,000.00 and is represented by 5,650,000 shares as of 31st March, 2019. KECC is a wholly-owned subsidiary of Komatsu Europe International NV (which is a subsidiary of Komatsu Ltd.). KECC is not aware of the existence of any arrangements which may at a future date result in a change of control of KECC.



## Relationship with Other Members of the Komatsu Group

KECC, amongst others, acts as in-house bank for the Komatsu Group in Europe providing the following centralised activities: cash management, funding, banking activities, credit risk management, foreign exchange risk management, interest risk management, and tax and accounting. KECC is dependent upon KL for the establishment of KECC's policies and strategies, and KECC's sources of funding are supported by KL or other members of the Komatsu Group.

## Management

Set forth below are the names, positions and functions of the Directors of KECC as of the date of this Offering Circular.

<u>Name</u>	<u>Position</u>	<u>Functions</u>
<b>Board of Directors</b>		
Masatoshi Morishita	Chairman of the board of Directors	CEO
Michel Martens	Managing Director	CFO
Hiroshi Hosotani	Director	General Manager Corporate Planning

The business address of each of the above members of the Board of Directors is Mechelsesteenweg 586, Vilvoorde, B-1800, Belgium.

## Independent Auditor ("*Commissaris*" / "*Commissaire*")

Set forth below are the name and address of the Independent Auditor of KECC as of the date of this Offering Circular:

KPMG Bedrijfsrevisoren –  
Réviseurs d'Entreprises CVBA/SCRL  
Luchthaven Brussel Nationaal 1K  
1930 Zaventem  
Belgium

## Conflicts of Interest

There are no potential conflicts of interest between the duties to KECC of the persons listed under "Management" above, and their private interests or other duties.

## RELATIONSHIP OF OTHER ISSUERS WITH KOMATSU LTD.

### Keep Well Agreements

KL and KFAI have entered into an amended and restated keep well agreement dated 28th August, 2020 (the "**U.S. Keep Well Agreement**") governed by the laws of the State of New York. KL and KECC have entered into a keep well agreement dated 28th August, 2020 (the "**Belgian Keep Well Agreement**", and together with the U.S. Keep Well Agreement, the "**Keep Well Agreements**") governed by English law. As of the date of this Offering Circular, there have been no changes to the U.S. Keep Well Agreement or the Belgian Keep Well Agreement.

#### The following is the text of the U.S. Keep Well Agreement:

"THIS AMENDED AND RESTATED KEEP WELL AGREEMENT is entered into as of August 28, 2020 by and between Komatsu Ltd., a company organized and existing under the laws of Japan, whose registered head office is at 3-6, Akasaka 2-chome, Minato-ku, Tokyo 107-8414, Japan ("KL") and Komatsu Finance America Inc., a company incorporated under the laws of the State of Delaware, whose principal office is located at 8770 W. Bryn Mawr Avenue, Suite 100, Chicago, Illinois 60631, U.S.A. ("KFAI").

WHEREAS, KL owns, directly or indirectly, all the issued and outstanding common stock of KFAI;

WHEREAS, KFAI intends to raise funds from time to time through the issuance of debt obligations pursuant to the U.S.\$1,000,000,000 Euro Medium Term Note Programme established on March 28, 1996 (the "Programme") (as the terms of the Programme may be modified from time to time and whose aggregate nominal amount of Notes to be issued thereunder is intended to be U.S.\$2,000,000,000 effective from August 28, 2020 and whose aggregate nominal amount to be issued thereunder may be modified from time to time by agreement of KL and KFAI) and to assume obligations under swap agreements and other derivative transactions related to the Programme, whereby KFAI will incur certain obligations owed to the counterparties thereto (such debt obligations, and swap and derivative obligations shall be collectively referred to as "Debt");

WHEREAS, the parties hereto have entered into an amended and restated keep well agreement on August 30, 2019 in relation to the Programme (the "Existing Keep Well Agreement"), to which the parties hereto have agreed to make certain modifications set forth herein;

WHEREAS, this Amended and Restated Keep Well Agreement is an amendment and restatement of the Existing Keep Well Agreement and constitutes legal, valid and binding obligations of KL and KFAI on the terms hereof, and reflects KL's intention to provide support as described herein to KFAI; and

WHEREAS, any Notes (as defined below) issued on or after the date of this Amended and Restated Keep Well Agreement shall be issued with the benefit of this Amended and Restated Keep Well Agreement, and Notes issued prior to the date hereof shall continue to have the benefit of the applicable keep well agreement executed by KL and KFAI and appertaining to the relevant Notes.

NOW THEREFORE, in consideration of the foregoing and subject to the terms and conditions herein contained, KL and KFAI hereby agree as follows:

#### 1. Ownership of Shares

At all times during the term of this Amended and Restated Keep Well Agreement and so long as KFAI has any Debt outstanding, KL shall directly or indirectly own and hold the entire beneficial title to and interest in all the issued and outstanding shares of common stock of KFAI having the right to vote for the election of members of the Board of Directors of KFAI, and will not directly or indirectly pledge or in any way encumber or otherwise dispose of any such shares of common stock or permit its subsidiaries to do so.

#### 2. Maintenance of Net Worth

At all times during the term of this Amended and Restated Keep Well Agreement and so long as KFAI has any Debt outstanding, KL will cause KFAI and KFAI's subsidiaries, if any, to have a tangible net worth or, as the case may be, consolidated tangible net worth, as determined in accordance with generally accepted accounting principles of the United States and as shown on KFAI's most recent balance sheet, of at least U.S.\$1.00 at all times. "Tangible net worth" means the aggregate amount of issued capital, capital surplus and retained

earnings less any intangible assets. A certificate of the independent accountants of KFAI as to the amount of tangible net worth shall, in the absence of manifest error, be final and conclusive.

### **3. Maintenance of Liquidity**

- (A) At all times during the term of this Amended and Restated Keep Well Agreement and so long as KFAI has any Debt outstanding, if KFAI at any time determines that it will have insufficient cash or other liquid assets to meet any of its payment obligations as they fall due and that it shall have insufficient unused commitments available under its credit facilities with lenders other than KL, then KFAI will promptly notify KL of the shortfall and KL will make available to KFAI before the due date of the relevant payment obligations, funds sufficient to meet such payment obligations in full as they fall due. KFAI will use the funds made available to it by KL solely for the payment when due of such payment obligations.
- (B) Any and all funds from time to time provided by KL to KFAI pursuant to sub-clause (A) above shall be either:
  - (i) by way of the subscription for and payment of share capital (other than redeemable share capital) of KFAI, or
  - (ii) by way of subordinated loan, that is to say a loan which, and interest on which, is not permitted to be, and is not capable of being, repaid or paid unless, and then only to the extent that, KFAI is, and immediately thereafter would continue to be, solvent in all respects and is thus subordinated on winding up of KFAI to all of the unsecured and unsubordinated creditors of KFAI other than KL.

### **4. Not a Guarantee**

This Amended and Restated Agreement is not, and nothing herein contained and nothing done by KL pursuant hereto shall be deemed to constitute, a guarantee, direct or indirect, by KL of any obligations of KFAI (or its subsidiaries, if any) or any instrument issued by it (or any of them).

### **5. Liquidated Damages**

If KL shall be in default of its obligations hereunder, KL shall be liable to pay by way of liquidated damages to KFAI for such breach an amount equal to the sum that KL would have paid had it performed in full its obligations hereunder, and KFAI (and any liquidator, administrator or receiver of KFAI if KFAI shall be in liquidation, administration or receivership) shall be entitled to claim accordingly.

### **6. Enforceability by Debt Holders**

The parties agree that this Amended and Restated Keep Well Agreement is being entered into irrevocably for the benefit of the holders of Debt, including the Noteholders (as defined below), and acknowledge that, if KFAI fails to take appropriate action to require KL to perform its obligations to KFAI hereunder, each holder of Debt will be entitled severally to make a direct demand to KL to perform its obligations owed to KFAI hereunder and to enforce the provisions of this Amended and Restated Keep Well Agreement against KL directly. No persons other than KFAI or the holders of Debt shall have the right to enforce the provisions of this Amended and Restated Keep Well Agreement against KL.

"**Noteholders**" means the several persons who are for the time being holders of any of the notes issued by KFAI under the Programme (the "Notes"), save that, in respect of any Notes held in a clearing system, Noteholders means the several persons who have such Notes credited to their securities account with the relevant clearing system.

### **7. Survival**

At all times during the term of this Amended and Restated Keep Well Agreement and so long as KFAI has any Debt outstanding, any obligations of KL under this Amended and Restated Keep Well Agreement will remain legal, valid and binding, notwithstanding any bankruptcy, insolvency, reorganization, appointment of a receiver, liquidator, trustee or assignee in bankruptcy or insolvency, winding up or liquidation of KFAI.

## 8. Modification and Termination

- (A) This Amended and Restated Keep Well Agreement may be modified, amended or terminated only by the written agreement of KL and KFAI; provided, however, that no such modification, amendment or termination shall have any adverse effect upon any holder of Debt (including any Noteholders) issued under the benefit of this Amended and Restated Keep Well Agreement.
- (B) KL and KFAI will give written notice to Rating and Investment Information, Inc., which has issued a rating in respect of the Programme, at least 30 days prior to such proposed modification, amendment or termination.

## 9. Representations, Warranties and Undertakings of KL and KFAI

- (A) Each of KL and KFAI represents and warrants to the other as follows:
  - (i) the execution, delivery and performance by it of this Amended and Restated Keep Well Agreement and the performance of the transactions contemplated hereby are within its corporate powers, have been duly authorized by all necessary corporate action and do not contravene (i) its articles of incorporation or memorandum and articles of association or (ii) any law or contractual restriction binding on or affecting it;
  - (ii) no authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery and performance by it of the transactions contemplated hereby at the date hereof; and
  - (iii) this Amended and Restated Keep Well Agreement is its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally.
- (B) KL represents and warrants that the payment obligations of KL which may arise under this Amended and Restated Keep Well Agreement constitute unsecured and unsubordinated obligations of KL and rank *pari passu* with all other unsecured and unsubordinated obligations of KL, other than those obligations which are preferred by law.
- (C) KL will promptly obtain any consent or approval necessary for it to comply with its obligations under this Amended and Restated Keep Well Agreement.

## 10. Notices

All notices, requests and other communications required or permitted hereunder shall, unless otherwise stated herein, be delivered by hand or sent by registered mail and addressed as follows:

If to KL	:	Komatsu Ltd. 3-6, Akasaka 2-chome Minato-ku Tokyo 107-8414 Japan
Attention	:	General Manager, Finance & Treasury Department
If to KFAI	:	Komatsu Finance America Inc. 8770 W. Bryn Mawr Avenue, Suite 100 Chicago, Illinois 60631 U.S.A.
Attention	:	President & Treasurer

## 11. Governing Law and Jurisdiction

This Amended and Restated Keep Well Agreement shall be governed by, and construed in accordance with, the laws of the State of New York. KL and KFAI hereby irrevocably submit to the non-exclusive jurisdiction of any New York State or Federal Court sitting in The City of New York over any action or proceeding arising in connection with this Amended and Restated Keep Well Agreement. Each of KL and KFAI irrevocably appoints Corporation Service Company with offices at 1180 Avenue of the Americas, Suite 210, New York, NY 10036-8401 as agent in New York to accept service of process on its behalf for any such legal action or proceedings before such courts. Each of KL and KFAI hereby irrevocably and unconditionally waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions, suits or proceedings arising out of or in connection with this Amended and Restated Keep Well Agreement brought in the Federal Courts located in The City of New York or the courts of the State of New York located in The City of New York and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

## 12. No Waiver, Remedies

No failure to exercise nor any delay in exercising any right hereunder shall operate as waiver thereof nor shall any exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies provided herein are cumulative and are not exclusive of any other remedies provided by law.

## 13. Binding Effect, Successors

This Amended and Restated Keep Well Agreement shall be binding upon and inure to the benefit of KL, KFAI and their respective successors or assigns.

## 14. COUNTERPARTS

This Amended and Restated Keep Well Agreement may be signed in any number of counterparts, all of which, taken together, shall constitute one and the same agreement and any party may enter into the Amended and Restated Keep Well Agreement by executing a counterpart. The words "execution", "signed", "signature" and words of like import in this Amended and Restated Keep Well Agreement or in any other certificate, agreement or document related to the Programme, the Notes or any Debt shall include images of manually executed signatures transmitted by facsimile or other electronic format (including, without limitation, "pdf", "tif" or "jpg") and other electronic signatures (including, without limitation, DocuSign and AdobeSign). The use of electronic signatures and electronic records (including, without limitation, any contract or other record created, generated, sent, communicated, received, or stored by electronic means) shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based recordkeeping system to the fullest extent permitted by applicable law, including the U.S. Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act of the United States or the Uniform Commercial Code of the United States.

IN WITNESS WHEREOF, the parties hereto have caused this Amended and Restated Keep Well Agreement to be executed and delivered by their respective duly authorized officers as of the date first above written."

### The following is the text of the Belgian Keep Well Agreement:

"THIS AGREEMENT is entered into as of 28th August, 2020 by and between Komatsu Ltd., a company organised and existing under the laws of Japan, whose registered head office is at 3-6, Akasaka 2-chome, Minato-ku, Tokyo 107-8414, Japan ("**KL**") and Komatsu Europe Coordination Center NV, a limited liability company (*naamloze vennootschap / société anonyme*) organised and existing under the laws of Belgium, whose registered office is at Mechelsesteenweg 586, B1800 Vilvoorde, Belgium and registered with the Crossroads Bank for Enterprises under number 0439.082.376 ("**KECC**").

WHEREAS, KL owns, directly or indirectly, all the issued and outstanding capital stock of KECC;

WHEREAS, KECC intends to raise funds from time to time through the issuance of debt obligations pursuant to the U.S.\$2,000,000,000 Euro Medium Term Note Programme (the "**Programme**") (as the terms of

the Programme may be modified from time to time and whose aggregate nominal amount to be issued thereunder may be modified from time to time by agreement of KL and KECC) and to assume obligations under swap agreements and other derivative transactions related to the Programme, whereby KECC will incur certain obligations owed to the counterparties thereto (such debt obligations, swap and derivative obligations shall be collectively referred to as "**Debt**");

WHEREAS, this Agreement constitutes legal, valid and binding obligations of KL and KECC on the terms hereof, and reflects KL's intention to provide support as described herein to KECC; and

WHEREAS, any Notes (as defined below) issued pursuant to the amended and restated programme agreement dated 28th August, 2020 (as modified and/or supplemented and/or restated from time to time, the "**Programme Agreement**") relating to the Programme on or after the date of this Agreement shall be issued with the benefit of this Agreement.

NOW THEREFORE, in consideration of the foregoing and subject to the terms and conditions herein contained, KL and KECC hereby agree as follows:

**1. Ownership of Shares**

At all times during the term of this Agreement and so long as KECC has any Debt outstanding, KL shall directly or indirectly own and hold the entire beneficial title to and interest in all the issued and outstanding shares of stock of KECC having the right to vote for the election of members of the Board of Directors of KECC, and will not directly or indirectly pledge or in any way encumber or otherwise dispose of any such shares of stock or permit its subsidiaries to do so.

**2. Maintenance of Net Worth**

At all times during the term of this Agreement and so long as KECC has any Debt outstanding, KL will cause KECC and KECC's subsidiaries, if any, to have a tangible net worth or, as the case may be, consolidated tangible net worth, as determined in accordance with generally accepted accounting principles of Belgium and as shown on KECC's most recent balance sheet, of at least U.S.\$1.00 at all times. Tangible net worth means the aggregate amount of issued capital, capital surplus and retained earnings less any intangible assets. A certificate of the auditors of KECC as to the amount of tangible net worth shall, in the absence of manifest error, be final and conclusive.

**3. Maintenance of Liquidity**

(A) At all times during the term of this Agreement and so long as KECC has any Debt outstanding, if KECC at any time determines that it will have insufficient cash or other liquid assets to meet any of its payment obligations as they fall due and that it shall have insufficient unused commitments available under its credit facilities with lenders other than KL, then KECC will promptly notify KL of the shortfall and KL will make available to KECC before the due date of the relevant payment obligations, funds sufficient to meet such payment obligations in full as they fall due. KECC will use the funds made available to it by KL solely for the payment when due of such payment obligations.

(B) Any and all funds from time to time provided by KL to KECC pursuant to sub-clause (A) above shall be either:

- (i) by way of the subscription for and payment of share capital (other than redeemable share capital) of KECC; or
- (ii) by way of subordinated loan, that is to say a loan which, and interest on which, is not permitted to be, and is not capable of being, repaid or paid unless, and then only to the extent that, KECC is, and immediately thereafter would continue to be, solvent in all respects and is thus subordinated on winding up of KECC to all of the unsecured and unsubordinated creditors of KECC other than KL.

4. **Not a Guarantee**

This Agreement is not, and nothing herein contained and nothing done by KL pursuant hereto shall be deemed to constitute, a guarantee, direct or indirect, by KL of any obligations of KECC (or its subsidiaries, if any) or any instrument issued by it (or any of them).

5. **Liquidated Damages**

If KL shall be in default of its obligations hereunder, KL shall be liable to pay by way of liquidated damages to KECC for such breach an amount equal to the sum that KL would have paid had it performed in full its obligations hereunder and KECC (and any liquidator, administrator or receiver of KECC if KECC shall be in liquidation, administration or receivership) shall be entitled to claim accordingly.

6. **Enforceability by Debt Holders**

The parties agree that this Agreement is being entered into irrevocably for the benefit of the holders of Debt, including the Noteholders (as defined below) and agree that the provisions of this Agreement may be enforced by such holders of Debt pursuant to and in accordance with the deed poll of even date herewith executed and delivered by both KL and KECC.

Noteholders means the several persons who are for the time being holders of any of the notes issued by KECC under the Programme (the "**Notes**"), save that, in respect of any Notes held in a clearing system, Noteholders means the several persons who have such Notes credited to their securities account with the relevant clearing system.

7. **Survival**

At all times during the term of this Agreement and so long as KECC has any Debt outstanding, any obligations of KL under this Agreement will remain legal, valid and binding, notwithstanding any bankruptcy, insolvency, reorganisation, appointment of a receiver, liquidator, trustee or assignee in bankruptcy or insolvency, winding up or liquidation of KECC.

8. **Modification and Termination**

- (A) This Agreement may be modified, amended or terminated only by the written agreement of KL and KECC, provided, however, that no such modification, amendment or termination shall have any adverse effect upon any holder of Debt (including the Noteholders) issued under the benefit of this Agreement.
- (B) KL and KECC will give written notice to Rating and Investment Information, Inc. which has issued a rating in respect of KECC, at least 30 days prior to such proposed modification, amendment or termination.

9. **Representations, Warranties and Undertakings of KL and KECC**

- (A) Each of KL and KECC represents and warrants to the other as follows:
  - (i) the execution, delivery and performance by it of this Agreement and the performance of the transactions contemplated hereby are within its corporate powers, have been duly authorised by all necessary corporate action and do not contravene (i) its articles of incorporation or memorandum and articles of association or (ii) any law or contractual restriction binding on or affecting it;
  - (ii) no authorisation or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery and performance by it of the transactions contemplated hereby at the date hereof; and
  - (iii) this Agreement is its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, reorganisation or other similar laws affecting the enforcement of creditors' rights generally.

- (B) KL represents and warrants that the payment obligations of KL which may arise under this Agreement constitute unsecured and unsubordinated obligations of KL and rank *pari passu* with all other unsecured and unsubordinated obligations of KL, other than those obligations which are preferred by law.
- (C) KL will promptly obtain any consent or approval necessary for it to comply with its obligations under this Agreement.

#### 10. Notices

All notices, requests and other communications required or permitted hereunder shall, unless otherwise stated herein, be delivered by hand or sent by registered mail and addressed as follows:

If to KL:	Komatsu Ltd. 3-6, Akasaka 2-chome Minato-ku Tokyo 107-8414 Japan
Attention:	General Manager, Finance & Treasury Department
If to KECC:	Komatsu Europe Coordination Center NV Mechelsesteenweg 586 B1800 Vilvoorde Belgium
Attention:	Michel Martens, Managing Director

#### 11. Governing Law and Submission to Jurisdiction

- (A) This Agreement and any non-contractual obligations arising out of or in connection with this Agreement are governed by, and shall be construed in accordance with, English law.
- (B) Subject to clause 11(D) below, the English courts have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement, including any dispute as to the existence, validity, interpretation, performance, breach or termination or the consequences of its nullity and any dispute relating to any non-contractual obligations arising out of or in connection with this Agreement (a "**Dispute**") and accordingly each of KL and KECC in relation to any Disputes submits to the exclusive jurisdiction of the English courts.
- (C) For the purpose of clause 11(B), this clause 11(C) and clause 11(D), each of KL and KECC waives any objection to the courts of England on the grounds that they are an inconvenient or inappropriate forum to settle any Dispute.
- (D) To the extent allowed by law, any holder of Debt (including the Noteholders) may, in respect of any Dispute or Disputes, take (i) proceedings in any other court with jurisdiction; and (ii) concurrent proceedings in any number of jurisdictions.
- (E) Each of KL and KECC hereby appoints Komatsu UK Ltd. at its registered office at Durham Road, Birtley, Chester-le-Street, Co. Durham DH3 2QX, United Kingdom as its agent for service of process and agrees that, in the event of Komatsu UK Ltd. ceasing so to act, it shall appoint another person as its agent for service of process in England in respect of any Disputes.

#### 12. No Waiver, Remedies

No failure to exercise nor any delay in exercising any right hereunder shall operate as waiver thereof nor shall any exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies provided herein are cumulative and are not exclusive of any other remedies provided by law.



13. **Binding Effect, Successors**

This Agreement shall be binding upon and inure to the benefit of KL, KECC and their respective successors or assigns.

14. **Contracts (Rights of Third Parties) Act 1999**

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered by their respective duly authorised officers as of the date first above written."

**Deed Poll**

KL and KECC have executed a deed poll dated 28th August, 2020 (the "**Belgian Deed Poll**") governed by English Law.

**The following is the text of the Belgian Deed Poll:**

"**THIS DEED POLL** dated as of 28th August, 2020 is made

**BETWEEN**

- (1) **KOMATSU LTD.**, a company organised and existing under the laws of Japan, whose registered head office is at 3-6, Akasaka 2-chome, Minato-ku, Tokyo 107-8414, Japan ("**KL**"); and
- (2) **KOMATSU EUROPE COORDINATION CENTER NV**, a limited liability company (*naamloze vennootschap / société anonyme*) incorporated under the laws of Belgium, whose address is Mechelsesteenweg 586, B1800 Vilvoorde, Belgium and registered with the Crossroads Bank for Enterprises under number 0439.082.376 ("**KECC**").

**WHEREAS:**

- (A) KL and KECC have entered into a Keep Well Agreement (the "**Keep Well Agreement**") dated 28th August, 2020, a copy of which is annexed hereto;
- (B) Any Notes (as defined below) issued pursuant to the amended and restated programme agreement dated 28th August, 2020 (as modified and/or supplemented and/or restated from time to time, the "**Programme Agreement**") relating to U.S.\$2,000,000,000 Euro Medium Term Note Programme (as the terms of such programme may be modified from time to time) (the "**Programme**") on or after the date of this Deed Poll shall be issued with the benefit of this Deed Poll; and
- (C) KL and KECC wish to confer certain rights and benefits upon the holders of Debt (as defined below) (including the Noteholders (as defined below)).

**NOW THIS DEED WITNESSES** as follows:

1. Each of KL and KECC hereby covenants as follows:
  - (a) it will not consent, either orally or in writing, to any modification or amendment to the Keep Well Agreement which may have any adverse effect or be reasonably likely to have an adverse effect upon any Noteholder or holder of Debt and it will not terminate the Keep Well Agreement or in any way modify, amend or terminate this Deed while any of the notes (the "**Notes**") issued by KECC under its Programme or any obligations of KECC under swap agreements and other derivative transactions related to the Programme (the Notes and swap and derivative obligations shall be collectively referred to as "**Debt**"), remain outstanding;

- (b) it will give written notice to Rating and Investment Information, Inc. at least 30 days prior to any proposed modification of, amendment to, or termination of the Keep Well Agreement or this Deed;
  - (c) it will fully and promptly perform its obligations and exercise its right under the Keep Well Agreement and, in the case of KECC (without limitation to the foregoing), exercise its right to enforce performance of the terms of the Keep Well Agreement by KL; and
  - (d) it will consent to the giving of an order for specific performance or similar relief by jurisdiction in the event that any such order or relief is sought in an action brought by a Noteholder in respect of this Deed.
2. (a) This Deed shall take effect as a deed poll for the benefit of the holders of Debt (including the Noteholders).
- (b) Each of KL and KECC hereby acknowledges and covenants that the obligations binding upon it contained herein are owed to, and shall be for the benefit of, each and every holder of Debt (including the Noteholders) and that each such holder shall be entitled severally to enforce the said obligations against KL and KECC.
- (c) This Deed shall be deposited with and held by Citibank, N.A. (or its successor as agent for the Programme from time to time) for so long as any of the Notes remain authorised or outstanding and any holder of Debt (including the Noteholders) shall be entitled to obtain a copy thereof and to have the original presented to the relevant court in any proceedings arising out of or in connection with any Dispute (as defined below).
- Noteholders means the several persons who are for the time being holders of outstanding Notes save that, in respect of any Notes held in a clearing system, Noteholders means the several persons who have such Notes credited to their securities account with the relevant clearing system.
3. (a) This Deed and any non-contractual obligations arising out of or in connection with this Deed are governed by, and shall be construed in accordance with, English law.
- (b) Subject to clause 3(d) below, the English courts have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed, including any dispute as to the existence, validity, interpretation, performance, breach or termination or the consequences of its nullity and any dispute relating to any non-contractual obligations arising out of or in connection with this Deed (a "**Dispute**") and accordingly each of KL and KECC in relation to any Disputes submits to the exclusive jurisdiction of the English courts.
- (c) For the purpose of clause 3(b), this clause 3(c) and clause 3(d), each of KL and KECC waives any objection to the courts of England on the grounds that they are an inconvenient or inappropriate forum to settle any Dispute.
- (d) To the extent allowed by law, any holder of Debt (including the Noteholders) may, in respect of any Dispute or Disputes, take (i) proceedings in any other court with jurisdiction; and (ii) concurrent proceedings in any number of jurisdictions.
- (e) Each of KL and KECC hereby appoints Komatsu UK Ltd. at its registered office at Durham Road, Birtley, Chester-le-Street, Co. Durham DH3 2QX, United Kingdom as its agent for service of process and agrees that, in the event of Komatsu UK. Ltd. ceasing so to act, it shall appoint another person as its agent for service of process in England in respect of any Disputes.

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

**IN WITNESS WHEREOF** this Deed has been executed as a deed and has been delivered on the date first above written."

## PRC CURRENCY CONTROLS

*The statements below are general in nature, and are based on certain aspects of currency controls in the PRC. None of these statements or any other statements in this Offering Circular is to be regarded as advice with regard to PRC currency controls to any Noteholder or any person purchasing, selling or otherwise dealing in the Notes. Prospective Noteholders who may be subject to PRC currency controls should consult their own professional advisers.*

### Current Account Items

Under PRC foreign exchange control regulations, current account items refer to any transaction for international receipts and payments involving goods, services, earnings and other frequent transfers.

Prior to July 2009, all current account items were required to be settled in foreign currencies with limited exceptions. Following progressive reforms, Renminbi settlement of imports and exports of goods and of services and other current account items became permissible nationwide in 2012.

Since July 2013, the procedures for cross-border Renminbi trade settlement under current account items have been simplified and trades through e-commerce can also be settled in Renminbi under the current regulatory regime. A cash pooling arrangement for qualified multinational enterprise group companies was introduced in late 2014, under which a multinational enterprise group can process cross-border Renminbi payments and receipts for current account items on a collective basis for eligible member companies in the group. In addition, the eligibility requirements for multinational enterprise groups have been lowered and the cap for net cash inflow has been increased in September 2015.

The regulations referred to above are subject to interpretation and application by the relevant PRC authorities. Local authorities may adopt different practices in applying these regulations and impose conditions for settlement of current account items.

### Capital Account Items

Under PRC foreign exchange control regulations, capital account items include cross-border transfers of capital, direct investments, securities investments, derivative products and loans. Capital account payments are generally subject to approval of, and/or registration or filing with, the relevant PRC authorities.

Until recently, settlement of capital account items, for example, the capital contribution of foreign investors to foreign invested enterprises in the PRC, were generally required to be made in foreign currencies. Under progressive reforms, foreign enterprises are now permitted to use Renminbi to settle all capital account items that can be settled in foreign currencies. Cross-border Renminbi payment infrastructure and trading facilities are being improved. Approval, registration and filing requirements specifically for capital account payments in Renminbi are being removed gradually.

PRC entities are also permitted to borrow Renminbi-denominated loans from foreign lenders (which are referred to as "foreign debt") and lend Renminbi-denominated loans to foreign borrowers (which are referred to as "outbound loans"), as long as such PRC entities have the necessary quota, approval or registration. PRC entities may also denominate security or guarantee arrangements in Renminbi and make Renminbi payments thereunder to parties in the PRC as well as other jurisdictions (which is referred to as "cross-border security"). Under current rules promulgated by the State Administration of Foreign Exchange of the PRC ("SAFE") and PBoC, foreign debts borrowed, outbound loans extended, and the cross-border security provided by a PRC onshore entity (including a financial institution) in Renminbi shall, in principle, be regulated under the current PRC foreign debt, outbound loan and cross-border security regimes applicable to foreign currencies. After piloting in the free trade zones, PBoC and SAFE launched a nation-wide system of macro-prudential management on cross-border financing in 2016, which provides for a unified regime for financings denominated in both foreign currencies and Renminbi.

Since September 2015, qualified multinational enterprise groups can extend Renminbi-denominated loans to, or borrow Renminbi-denominated loans from, eligible offshore member entities within the same group by leveraging the cash pooling arrangements. The Renminbi funds will be placed in a special deposit account and may not be used to invest in stocks, financial derivatives, or non-self-use real estate assets, or purchase wealth management products or extend loans to enterprises outside the group.

The securities markets, specifically the Renminbi Qualified Foreign Institutional Investor ("**RQFII**") regime and the China Interbank Bond Market ("**CIBM**"), have been further liberalised for foreign investors. PBoC has relaxed the quota control for RQFII, initiated a bond market mutual access scheme between mainland and Hong Kong to allow eligible investors to invest in CIBM and has also expanded the list of foreign investors eligible to directly invest in CIBM, removed quota restriction, and granted more flexibility for the settlement agents to provide the relevant institutions with more trading facilities (for example, in relation to derivatives for hedging foreign exchange risk).

An interbank foreign exchange market is also opening-up. In 2018, China Foreign Exchange Trading System further relaxed qualifications, application materials and the procedures for foreign participating banks (which needs to have a relatively large scale of Renminbi purchase and sale business and international influence) to access the interbank foreign exchange market.

Recent reforms introduced were aimed at controlling the remittance of Renminbi for payment of transactions categorised as capital account items. There is no assurance that the PRC Government will continue to gradually liberalise the control over Renminbi payments of capital account item transactions in the future. The relevant regulations are relatively new and will be subject to interpretation and application by the relevant PRC authorities. Further, if any new PRC regulations are promulgated in the future which have the effect of permitting or restricting (as the case may be) the remittance of Renminbi for payment of transactions categorised as capital account items, then such remittances will need to be made subject to the specific requirements or restrictions set out in such rules.

## TAXATION

*The tax laws of the investor's state and of the respective Issuer's state of incorporation might have an impact on the income received from the securities. Prospective purchasers of Notes should consult their own tax advisers as to which countries' tax laws could be relevant to acquiring, holding and disposing of Notes and receiving payments of interest, principal and/or other amounts under the Notes and the consequences of such actions under the tax laws of those countries.*

*The statements below are general in nature, and are based on certain aspects of current tax laws in Japan, the United States, Belgium and the European Union. None of these statements or any other statements in this Offering Circular is to be regarded as advice on the tax position of any Noteholder or any person purchasing, selling or otherwise dealing in the Notes or any tax implication arising from the purchase, sale or other dealings in respect of the Notes. Potential purchasers and sellers of the Notes should be aware that they may be required to pay taxes or other documentary charges or duties in accordance with the laws and practices of the country where the Notes are transferred or other jurisdictions. Prospective Noteholders who are in doubt about their tax position or any such tax implication or who may be subject to tax in a jurisdiction other than Japan, the United States, Belgium or the European Union should consult their own professional advisers.*

### Japan

The payment of principal and interest in respect of the Notes issued by KFAI and KECC to an individual non-resident of Japan or a non-Japanese corporation will, under Japanese tax laws currently in effect, not be subject to any Japanese income tax or corporation tax (including, where applicable, special taxes for reconstruction), unless the receipt of the relevant payment is the income of such individual non-resident or non-Japanese corporation from sources in Japan.

Interest payments on the Notes issued by KL will generally be subject to Japanese withholding tax unless the holder establishes that the Notes are held by or for the account of a holder that is (i) for Japanese tax purposes, neither (x) an individual resident of Japan or a Japanese corporation, nor (y) an individual non-resident of Japan or a non-Japanese corporation that in either case is a person having a special relationship with the issuer of the Notes as described in Article 6, paragraph (4) of the Special Taxation Act (a "**specially-related person of KL**"), (ii) a Japanese financial institution designated in Article 6, paragraph (9) of the Special Taxation Act which complies with the requirement for tax exemption under that paragraph, or (iii) a public corporation, a financial institution, a financial instruments business operator or certain other entities which have received such payments through a Japanese payment handling agent as provided in Article 3-3, paragraph (6) of the Special Taxation Act in compliance with the requirement for tax exemption under that paragraph.

With respect to interest payments on the Notes, paragraphs (a) and (b) below are applicable:

- (a) if interest is paid to an individual resident of Japan, to a Japanese corporation not described in item (ii) above, or to an individual non-resident of Japan or a non-Japanese corporation that in either case is a specially-related person of KL (except as provided in paragraph (b) below), the amount of such interest will be subject to deduction in respect of Japanese income tax at a rate of 15 per cent. (for the period to and including 31st December, 2037, an additional 0.315 per cent. is added thereto as special income tax for reconstruction), provided that an individual resident of Japan or an individual non-resident of Japan having a permanent establishment in Japan that is a specially-related person of KL (except as provided in paragraph (b) below), either of whom meets certain requirements, although initially subject to such deduction, will ultimately be subject to Japanese income tax on income calculated by offsetting certain capital losses against certain incomes, including such interest, at a rate of 15 per cent. (for the period to and including 31st December, 2037, an additional 0.315 per cent. is added thereto as special income tax for reconstruction); and
- (b) if interest is paid to a public corporation, a financial institution, a financial instruments business operator or certain other entities through a Japanese payment handling agent as provided in Article 3-3, paragraph (6) of the Special Taxation Act in compliance with the requirement for tax exemption under that paragraph, the amount of such interest will not be subject to deduction in respect of Japanese income tax.

If the recipient of interest on the Notes issued by KL is a holder that is an individual non-resident of Japan or a non-Japanese corporation, having no permanent establishment in Japan, that in either case is not a

specially-related person of KL, no Japanese income tax or corporation tax (including, where applicable, special taxes for reconstruction) will be payable with respect to such interest whether by way of withholding or otherwise, if such recipient complies with certain requirements, *inter alia*:

- (c) if the relevant notes or coupons are held through a participant in an international clearing organisation such as Euroclear and Clearstream, Luxembourg or a certain financial intermediary prescribed by the Special Taxation Act and the relevant Cabinet Order thereunder (together with the Special Taxation Act and the ministerial ordinance and other regulations thereunder, the "**Law**") (each, a "**Participant**"), the requirement to submit to the Participant certain information prescribed by the Law to enable the Participant to establish that the recipient is exempt from the requirement for Japanese tax to be withheld or deducted, and to advise the Participant if such individual non-resident of Japan or non-Japanese corporation ceases to be so exempted (including the case where it became a specially-related person of KL); and
- (d) if the relevant notes or coupons are held not through a Participant, the requirement to submit to the relevant paying agent that makes payment of interest on the notes a claim for exemption from withholding tax (*Hikazei Tekiyo Shinkokusho*), together with certain documentary evidence, at or prior to each time of receiving interest.

The above-described exemption from Japanese income tax or corporation tax (including, where applicable, special taxes for reconstruction) with respect to interest on the Notes issued by KL will not be applicable to any notes or coupons on which interest is calculated based on any of certain indices, including the amount of profits or assets of KL or a specially-related person of KL, as described in Article 6, paragraph (4) of the Special Taxation Act and the Cabinet Order relating to the said paragraph (4).

If a recipient of interest on the Notes issued by KL is an individual non-resident of Japan or a non-Japanese corporation, having no permanent establishment in Japan, which is subject to Japanese withholding tax (including, where applicable, special taxes for reconstruction) due to its status as a specially-related person of KL or for any other reason, (i) the rate of withholding tax may be reduced, generally to 10 per cent., under applicable tax treaty, convention or agreement, and (ii) if such recipient is not subject to Japanese tax under applicable tax treaty, convention or agreement due to its status as a registered securities dealer in the relevant country, or for any other reason, no Japanese income tax or corporation tax (including, where applicable, special taxes for reconstruction) will be payable with respect to such interest whether by way of withholding or otherwise; provided that, in either case (i) or (ii) above, such recipient shall submit required documents and information (if any) to the relevant tax authority.

Gains derived from the sale outside Japan of Notes (whether issued by KL, KFAI or KECC), by a holder that is an individual non-resident of Japan or a non-Japanese corporation, having no permanent establishment in Japan will, in general, not be subject to Japanese income or corporation tax (including, where applicable, special taxes for reconstruction). Japanese inheritance and gift taxes at progressive rates may be payable by an individual who has acquired the Notes issued by KL as a legatee, heir or donee, even if the individual is not a Japanese resident. No stamp, issue, registration or similar taxes or duties will, under present Japanese law, be payable by Noteholders in connection with the issue of the Notes.

## **United States**

### ***Discussion***

The following summary is a discussion of certain United States Federal income tax consequences to United States Aliens of the ownership of Notes and Coupons issued by KFAI and is based upon the Code and applicable Treasury Department regulations. It does not include a discussion of Floating Rate Notes (other than Floating Rate Notes the rate of which is based on a conventional interest rate or composite of interest rates). Moreover, it does not include a discussion of any Notes having a Final Redemption Amount of other than 100 per cent. of the nominal value of the Notes.

Under United States Federal income and estate tax law as now in effect and subject to the discussion below under "Backup Withholding Tax" and "Foreign Account Tax Compliance Act", (a) payments of principal of, premium, if any, and interest (including, for purposes of this discussion, original issue discount) on any Note or Coupon paid by KFAI or any of its paying agents to any United States Alien (as defined above in Condition 8(b)) holder will not be subject to United States Federal withholding tax provided that (i) such United States Alien holder does not actually or constructively own 10 per cent. or more of the total combined voting power of all

classes of stock of KFAI entitled to vote, (ii) such United States Alien holder is not a controlled foreign corporation as to the United States that is related to KFAI through stock ownership, (iii) such United States Alien holder is not a bank receiving interest described in Section 881(c)(3)(A) of the Code, and (iv) in the case of Registered Notes, the United States Alien holder provides an IRS Form W-8BEN or IRS Form W-8BEN-E (or other appropriate type of IRS Form W-8 or other documentation as permitted by official IRS guidance), (b) any gain or income realised by any United States Alien holder upon the sale, exchange or redemption of any Note or Coupon will not be subject to United States Federal income or withholding tax unless (i) such United States Alien holder is an individual who is present in the United States for 183 days or more in the taxable year of disposition and certain other conditions are satisfied or (ii) such gain is effectively connected with the conduct of a trade or business of such holder in the United States and (c) a Note or Coupon issued by KFAI and held by an individual who at time of death is not a citizen or resident of the United States (as specifically defined for United States Federal estate tax purposes) will not be subject to United States Federal estate tax as a result of such individual's death, provided such individual is not at the time of death a 10 per cent. shareholder of KFAI as described above and provided further that interest paid to such individual on such Note or Coupon would not have been effectively connected with the conduct by such individual of a trade or business in the United States.

#### *Backup Withholding Tax*

Backup withholding tax at the applicable rate and information reporting requirements apply to certain payments of principal of, and premium, if any, and interest on, an obligation, and payments of the proceeds of the sale of an obligation before maturity, to certain non-corporate United States Aliens. Under current United States Treasury Department regulations, backup withholding and information reporting will not apply to payments of principal, premium, if any, and interest on Notes or Coupons issued by KFAI made outside the United States (other than payments made to an address in the United States or by transfer to an account maintained by the holder with a bank in the United States) by KFAI or any paying agent (acting solely in its capacity as such) to a holder thereof so long as neither KFAI nor such paying agent has actual knowledge or reason to know that the holder or beneficial owner, as the case may be, is a U.S. Person (as defined above in Condition 8(b)). If any such payments of principal, premium, if any, or interest with respect to a Note or Coupon issued by KFAI are made to the beneficial owner thereof by the foreign office of a foreign custodian, foreign nominee or other foreign agent of such beneficial owner, or the foreign office of a foreign "broker" (as defined in applicable Treasury Department regulations) pays the proceeds of the sale of such a Note or Coupon to the seller thereof, backup withholding and information reporting will not apply (provided that such nominee, custodian, agent or broker derives less than 50 per cent. of its gross income for certain periods from the conduct of a trade or business in the United States, is not a "controlled foreign corporation" within the meaning of Section 957(a) of the Code, and is not a foreign partnership (i) one or more of the partners of which, at any time during its tax year, are United States persons who, in the aggregate hold more than 50 per cent. of the income or capital interests in the partnership or (ii) which at any time during its tax year is engaged in the conduct of a trade or business in the United States). Such payments of principal, premium, if any, or interest with respect to a Note or Coupon issued by KFAI so made by the foreign offices of other custodians, nominees or agents, or the payment by the foreign offices of other brokers of the proceeds of the sale of such a Note or Coupon, will not be subject to backup withholding, but may be subject to information reporting unless the custodian, nominee, agent or broker has documentary evidence in its records that the beneficial owner is not a U.S. Person and certain conditions are met, or the beneficial owner otherwise establishes an exemption. Payment of principal, premium, if any, or interest with respect to a Note or Coupon issued by KFAI made by the United States office of a custodian, nominee or agent, or the payment by the United States office of a broker of the proceeds of a sale of such a Note or Coupon, will be subject to both backup withholding and information reporting unless the beneficial owner certifies its non-United States status under penalties of perjury or otherwise establishes an exemption.

#### *Foreign Account Tax Compliance Act*

Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 ("FATCA") impose a reporting regime and potentially a 30 per cent. withholding tax with respect to certain payments to (i) any non-U.S. financial institution (a "**foreign financial institution**", or "**FFI**" (as defined by FATCA)) that does not become a "**Participating FFI**" by entering into an agreement with the U.S. Internal Revenue Service ("**IRS**") to provide the IRS with certain information in respect of its account holders and investors or is not otherwise exempt from or in deemed compliance with FATCA, (ii) any investor receiving payments from or through an FFI (unless otherwise exempt from FATCA) that does not provide information sufficient to determine whether the investor is a U.S. person or should otherwise be treated as holding a "United States Account" of such FFI (a "**Recalcitrant Holder**") and (iii) any non-financial foreign entity unless such non-financial foreign entity provides the withholding agent with certain certifications or information relating to its U.S. ownership. The relevant Issuer may be classified as an FFI.

This withholding regime applies to payments of interest income (including original issue discount) on debt obligations issued by United States persons (as defined for U.S. federal income tax purposes), and will apply to "foreign passthru payments" (a term not yet defined) made by an FFI no earlier than two years following the date of publication of final regulations defining the term "foreign passthru payment". In addition, obligations issued on or prior to the date that is six months after the date on which final regulations defining "foreign passthru payments" are filed (the "**grandfathering date**") generally would be grandfathered and exempt from withholding unless the obligations are materially modified after the grandfathering date. This withholding would potentially apply to payments in respect of (i) any Notes issued by KFAI, and (ii) with respect to foreign passthru payments, any Notes issued by KFAI characterised as debt or which are not otherwise characterised as equity and have a fixed term for U.S. federal income tax purposes that are issued on or after the grandfathering date, or which are materially modified for U.S. Federal tax purposes on or after the grandfathering date. With respect to foreign passthru payments, if Notes are issued before the grandfathering date, and additional Notes of the same series are issued on or after that date, the additional Notes may not be treated as grandfathered, which may have negative consequences for the existing Notes, including a negative impact on market price.

The United States and a number of other jurisdictions have announced their intention to negotiate intergovernmental agreements to facilitate the implementation of FATCA (each, an "**IGA**"). Pursuant to FATCA and the "Model 1" and "Model 2" IGAs released by the United States, an FFI in an IGA signatory country could be treated as a "Reporting FI" not subject to withholding under FATCA on any payments it receives. Further, an FFI in a Model 1 IGA jurisdiction generally would not be required to withhold under FATCA or an IGA (or any law implementing an IGA) (any such withholding being "**FATCA Withholding**") from payments it makes. The Model 2 IGA leaves open the possibility that a Reporting FI might in the future be required to withhold as a Participating FFI on foreign passthru payments and payments that it makes to Recalcitrant Holders. Under each Model IGA, a Reporting FI would still be required to report certain information in respect of its account holders and investors to its home government or to the IRS. The United States has entered into IGAs with the United Kingdom and Japan and other jurisdictions, and is in the process of negotiating IGAs with many other countries. These IGAs and the expected local country implementing legislation will modify withholding and reporting requirements in each such jurisdiction, although, it is not yet certain how the United States and other jurisdictions will address foreign passthru payments.

Accordingly, the relevant Issuer and financial institutions through which payments on the Notes are made may be required to withhold FATCA Withholding if (i) any FFI through or to which payment on such Notes is made is not a Participating FFI, a Reporting FI, or otherwise exempt from or in deemed compliance with FATCA, (ii) an investor is a Recalcitrant Holder or (iii) the investor is a non-financial foreign entity which does not provide certain certifications or information relating to its U.S. ownership.

If an amount in respect of FATCA Withholding were to be deducted or withheld from interest, principal or other payments made in respect of the Notes, neither the Issuer nor any paying agent nor any other person would, pursuant to the conditions of the Notes, be required to pay additional amounts as a result of the deduction or withholding. As a result, investors may receive less interest or principal than expected.

**FATCA is particularly complex and its application is uncertain at this time. The above description is based in part on regulations, official guidance and model IGAs, all of which are subject to change or may be implemented in a materially different form. Prospective investors are encouraged to consult their tax advisors with respect to questions they may have regarding their particular circumstances.**

## **Belgium**

*The following is a general description of the principal Belgian tax consequences for investors receiving interest from KECC in respect of, or disposing of, the Notes and is of a general nature. It does not purport to be a complete analysis of tax considerations relating to the Notes whether in Belgium or elsewhere. Prospective Noteholders are urged to consult their own tax advisors concerning the detailed and overall tax consequences of acquiring, holding, redeeming and/or disposing of the Notes. The summary provided below is based on the information provided in this Offering Circular and on Belgium's tax laws, regulations, resolutions and other public rules with legal effect, and the interpretation thereof under published case law, all as in effect on the date of this Offering Circular and with the exception of subsequent amendments with retroactive effect.*



### **Belgian withholding tax**

Under current Belgian withholding tax legislation, all interest payments in respect of the Notes will be subject to Belgian withholding tax, currently at a rate of 30 per cent. on the gross amount of the interest, subject to such relief as may be available under applicable domestic law or applicable tax treaties.

In this regard, interest includes (i) periodic interest income, (ii) any amount paid by the Issuer in excess of the initial issue price (upon full or partial redemption whether or not at maturity, or upon purchase by the Issuer) and (iii) the pro rata of accrued interest corresponding to the detention period in case of a realisation of the Notes between two interest payment dates to any third party, excluding the Issuer.

According to Article 107(2), 5°, b) of the Royal Decree executing the Belgian Income Tax Code 1992 ("**RD/BITC**"), an exemption of withholding tax applies, subject to certain conditions, for, amongst others, interest paid to non-resident savers provided that KECC qualifies as a "finance company" in the sense of Article 105, 1°, c) RD/BITC.

The holding of the Notes in the NBB-SSS permits investors to collect interest on their Notes free of Belgian withholding tax if and as long as at the moment of payment or attribution of interest the Notes are held by certain investors (the "**Tax Eligible Investors**", see below) in an exempt securities account ("**X-account**") that has been opened with a financial institution that is a direct or indirect participant (a "**Participant**") in the NBB-SSS.

Holding the Notes through the NBB-SSS enables Tax Eligible Investors to receive the gross interest income (i.e., free of withholding tax) on their Notes and to transfer the Notes on a gross basis.

Participants in the NBB-SSS must keep the Notes they hold for the account of Tax Eligible Investors on X-accounts, and those they hold for the account of non-Eligible Investors on N-accounts. Payments of interest made through X-accounts are free of withholding tax; payments of interest made through N-accounts are subject to a withholding tax of 30 per cent., which the NBB deducts from the payment and pays over to the tax authorities.

Tax Eligible Investors are those entities referred to in Article 4 of the Belgian Royal Decree of 26th May, 1994 on the deduction of withholding tax (*koninklijk besluit van 26 mei 1994 over de inhouding en de vergoeding van de roerende voorheffing / arrêté royal du 26 mai 1994 relatif à la perception et à la bonification du précompte mobilier*), which includes inter alia:

- (a) Belgian resident companies referred to in Article 2, §1, 5°, b) of the Belgian Income Tax Code 1992 ("**BITC**");
- (b) Without prejudice to Article 262, 1° and 5° of the BITC, the institutions, associations or companies referred to in Article 2, §3 of the law of 9th July, 1975 with respect to the control of insurance companies other than those referred to in (i) and (iii);
- (c) Semi-governmental institutions (*parastatalen/institutions parastatales*) for social security or institutions equated therewith referred to in Article 105, 2° RD/BITC;
- (d) Non-resident investors referred to in Article 105, 5° of the RD/BITC whose holding of the Notes is not connected to a professional activity in Belgium;
- (e) Investment funds referred to in Article 115 of the RD/BITC;
- (f) Investors referred to in Article 227, 2° of the BITC, subject to non-resident income tax (*belasting van niet inwoners/impôt des non-résidents*) in accordance with Article 233 of the BITC and which have used the income generating capital for the exercise of their professional activities in Belgium;
- (g) The Belgian State, in respect of investments which are exempt from withholding tax in accordance with Article 265 of the BITC;
- (h) Funds for collective investment governed by foreign law that are an undivided estate managed by a management company for the account of the participants, provided the funds units are not publicly issued in Belgium or traded in Belgium; and

- (i) Belgian resident companies not referred to under (a), whose activity exclusively or principally exists of granting credits and loans.

Tax Eligible Investors do not include, inter alia, Belgian resident investors who are individuals or Belgian non-profit organisations, other than those referred to under (b) and (c) above.

Transfers of Notes between an X-Account and an N-Account may give rise to certain adjustment payments on account of withholding tax:

- (i) A transfer from an N-Account (to an X-Account or N-Account) gives rise to the payment by the transferor non-Eligible Investor to the NBB of withholding tax on the accrued fraction of interest calculated from the last interest payment date up to the transfer date.
- (ii) A transfer (from an X-Account or N-Account) to an N-Account gives rise to the refund by the NBB to the transferee non-Eligible Investor of withholding tax on the accrued fraction of interest calculated from the last interest payment date up to the transfer date.
- (iii) Transfers of Notes between two X-Accounts do not give rise to any adjustment on account of withholding tax.

Upon opening an X-Account with the NBB-SSS or a Participant therein, a Tax Eligible Investor is required to provide a statement of its tax eligible status on a form approved by the Belgian Minister of Finance. There are no ongoing declaration requirements for Tax Eligible Investors save that they need to inform the Participants of any changes to the information contained in the statement of their tax eligible status. However, Participants are required to provide the NBB annually with listings of investors who have held an X-Account during the preceding calendar year.

An X-account may be opened with a Participant by an intermediary (an "**Intermediary**") in respect of Notes that the Intermediary holds for the account of its clients (the "**Beneficial Owners**"), provided that each Beneficial Owner is a Tax Eligible Investor. In such case, the Intermediary must deliver to the Participant a statement on a form approved by the Minister of Finance confirming that (i) the Intermediary is itself a Tax Eligible Investor and (ii) the Beneficial Owners holding their Notes through it are also Tax Eligible Investors. A Beneficial Owner is also required to deliver a statement of its eligible status to the Intermediary.

These identification requirements do not apply to central securities depositaries, as defined by Article 2, §1, 1) of Regulation (EU) n° 909/2014 of the European Parliament and of the Council of 23rd July, 2014 on improving securities settlement in the European Union and on central securities depositaries and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012, acting as Participants to the NBB-SSS, provided that (i) they only hold X-accounts, (ii) they are able to identify the holders for whom they hold Notes in such account and (iii) the contractual rules agreed upon by these central securities depositaries acting as Participants include the contractual undertaking that their clients and account owners are all Tax Eligible Investors. Hence, these identification requirements do not apply to Notes held by Tax Eligible Investors through Euroclear, Clearstream, Luxembourg, SIX SIS, Interbolsa or Monte Titoli as Participants to the NBB-SSS, or their sub-participants outside of Belgium, provided that (i) these institutions or sub-participants only hold X-Accounts, (ii) they are able to identify the accountholder and (iii) the contractual rules agreed upon by these central securities depositaries include the contractual undertaking that their clients and account owners are all Tax Eligible Investors.

### ***Belgian tax on income and capital gains***

#### ***Belgian resident individuals***

For natural persons who are Belgian residents for tax purposes, i.e., who are subject to the Belgian personal income tax (*personenbelasting / impôt des personnes physiques*) and who hold the Notes as a private investment, payment of the 30 per cent. withholding tax fully discharges them from their personal income tax liability with respect to these interest payments. This means that they do not have to declare the interest obtained on the Notes in their personal income tax return, provided withholding tax was levied on these interest payments.

Belgian resident individuals may nevertheless elect to declare interest in respect of the Notes in their personal income tax return. Where the beneficiary opts to declare them, interest payments will normally be taxed at a flat rate of 30 per cent. (or at the progressive personal income tax rate taking into account the taxpayer's other

declared income, whichever is more beneficial). If the interest payment is declared, the withholding tax retained may be credited against the taxpayer's personal income tax liability.

Capital gains realised on the disposal of the Notes are in principle tax exempt, except if the capital gains are realised outside the scope of the management of one's private estate or except to the extent they qualify as interest (as defined in the section "Belgian Withholding Tax"). Capital losses realised upon the disposal of the Notes held as a non-professional investment are in principle not tax deductible.

Other tax rules apply to Belgian resident individuals who do not hold the Notes as a private investment.

#### *Belgian resident companies*

Noteholders who are Belgian resident corporations, subject to Belgian corporate income tax (*vennootschapsbelasting / impôt des sociétés*), are liable to corporate income tax on the income of the Notes and capital gains realised upon the disposal of the Notes. As of assessment year 2021, linked to a taxable period starting at the earliest on 1st January, 2020, the standard corporate income tax rate in Belgium is 25 per cent. (20 per cent. on the first bracket of EUR100,000 for small companies within the meaning of the Belgian Code of Companies and Associations). Subject to certain conditions, the Belgian withholding tax paid, if any, may be credited against the corporate income tax and any excess may be refunded. Capital losses realised upon the disposal of the Notes are generally tax deductible.

Other tax rules apply to investment companies within the meaning of Article 185bis of the BITC.

#### *Belgian resident legal entities*

For a Belgian resident legal entity subject to legal entities income tax (*rechtspersonenbelasting / impôt des personnes morales*), the withholding tax on interest will constitute the final tax in respect of such income.

Belgian resident legal entities holding the Notes in an N-Account will be subject to a withholding tax of currently 30 per cent. on interest payments. If the income has been subject to withholding tax, they do not have to declare the interest obtained on the Notes.

Belgian resident legal entities that qualify as Tax Eligible Investors and therefore are eligible to hold their Notes in an X-Account must declare the interest and pay the applicable withholding tax to the Belgian Treasury, as no withholding tax will be levied on the payment of interest due to the fact that the Belgian legal entities hold the Notes through an X-Account with the NBB-SSS.

Belgian legal entities are not liable to income tax on capital gains realised upon the disposal of the Notes (unless the capital gains qualify as interest as defined above in the Section "Belgian Withholding Tax"). Capital losses are in principle not tax deductible.

#### *Organisations for Financing Pensions ("OFP")*

Interest and capital gains derived by OFPs in the meaning of the Law of 27th October, 2006 on the activities and supervision of institutions for occupational retirement provision, are in principle exempt from Belgian corporate income tax. Capital losses are in principle not tax deductible. Subject to certain conditions, any Belgian withholding tax levied on the interest will be fully creditable against any corporate income tax due and any excess amount will in principle be refundable.

#### *Non-residents of Belgium*

Non-residents who use the Notes to exercise a professional activity in Belgium through a permanent establishment are in principle subject to the same tax rules as the Belgian resident companies (see above).

Noteholders who are non-residents of Belgium for Belgian tax purposes and are not holding the Notes through a Belgian establishment and do not invest the Notes in the course of their Belgian professional activity will not incur or become liable for any Belgian tax on income or capital gains by reason only of the acquisition, ownership or disposal of the Notes, provided that they qualify as Tax Eligible Investors and hold their Notes in an X-Account.

If the Notes are not entered into an X-Account by the Tax Eligible Investor, withholding tax on the interest is in principle applicable at the current rate of 30 per cent. on the gross amount of the interest, unless an exemption or reduction can be applied pursuant to a tax treaty.

### ***Tax on stock exchange and repurchase transactions***

The purchase and the sale and any other acquisition or transfer for consideration of the Notes (secondary market transactions) is subject to the tax on stock exchange transactions as mentioned in articles 120 and following the Belgian Code of 2nd March, 1927 on miscellaneous duties and taxes ("*wetboek van 2 maart 1927 diverse rechten en taksen*") ("*Code du 2 mars 1927 des droits et taxes divers*", hereafter referred to as the "**CMDT**") (hereafter referred to as the "**Tax on Stock Exchange Transactions**") if (i) it is executed in Belgium through a professional intermediary, or (ii) deemed to be executed in Belgium, which is the case if the order is directly or indirectly made to a professional intermediary established outside of Belgium, either by private individuals with habitual residence in Belgium, or legal entities for the account of their seat or establishment in Belgium (both, a Belgian Investor). No Tax on Stock Exchange Transactions is due on the issuance of the Notes (i.e., primary market transactions).

The Tax on Stock Exchange Transactions is levied at a rate of 0.12 per cent. of the purchase price. This tax is however limited to a maximum of EUR 1,300 per transaction and per party. The tax is due separately by each party to the transaction, i.e., the seller (transferor) and the purchaser (transferee), and is collected by the professional intermediary.

However, if the intermediary is established outside of Belgium, the tax will in principle be due by the Belgian Investor, unless that Belgian Investor can demonstrate that the tax has already been paid. In such a case, the foreign professional intermediary also has to provide each client (which gives such intermediary an order) with a qualifying order statement (*borderel/bordereau*), at the latest on the business day after the day the transaction concerned was realised. The qualifying order statements must be numbered in series and a duplicate must be retained by the professional intermediary. The duplicate can be replaced by a qualifying day-to-day listing, numbered in series. Alternatively, professional intermediaries established outside of Belgium could, subject to certain conditions and formalities, appoint a stock exchange tax representative in Belgium in accordance with article 126/3 CMDT ("**Stock Exchange Tax Representative**"). Such Stock Exchange Tax Representative will then be liable towards the Belgian Treasury for the Tax on Stock Exchange Transactions on behalf of clients that fall within one of the aforementioned categories (provided that these clients do not qualify as exempt persons for stock exchange tax purposes – see below) and for complying with the reporting obligations and the obligations relating to the order statement (*borderel/bordereau*) in that respect. If such a Stock Exchange Tax Representative would have paid the Tax on Stock Exchange Transactions due, the Belgian Investor will, as per the above, no longer be the debtor of the tax on stock exchange transactions.

Moreover, a tax on repurchase transactions (tax on a sale combined with a forward purchase) is due from each party to any such transaction in which a professional intermediary acts for either party. This tax is applied at the rate of 0.085 per cent. and is subject to a maximum of EUR 1,300 per party and per transaction.

An exemption is available for exempt persons acting for their own account, including investors who are Belgian non-residents provided they deliver an affidavit to the financial intermediary in Belgium confirming their non-resident status and certain Belgian institutional investors, as defined in Article 126<sup>1</sup>, 2° of the Code of miscellaneous duties and taxes (Code des droits et taxes divers/Wetboek diverse rechten en taksen) for the tax on stock exchange transactions and article 139, §2 of the same code for the tax on repurchase transactions.

The EU Commission adopted on 14th February, 2013 the Draft Directive on a Financial Transaction Tax, or FTT (see below). The Draft Directive currently stipulates that once the FTT enters into force, the participating Member States (as defined below) shall not maintain or introduce taxes on financial transactions other than the FTT (or VAT as provided in the Council Directive 2006/112/EC of 28th November, 2006 on the common system of value added tax). For Belgium, the tax on stock exchange transactions should thus be abolished once the FTT enters into force. The Draft Directive regarding the FTT is still subject to negotiation between the participating Member States and therefore may be changed at any time.

### ***Financial Transactions Tax ("FTT")***

The European Commission adopted on 14th February, 2013 a Draft Directive implementing enhanced cooperation in the area of financial transaction tax in Belgium, Germany, Estonia, Greece, Spain, France, Italy,

Austria, Portugal, Slovenia and Slovakia (the "**participating Member States**"). However, on 16th March, 2016 Estonia formally withdrew from the group of states willing to introduce the FTT.

The proposed FTT has very broad scope and could, if introduced in its current form, apply to certain dealings in the Notes in certain circumstances. It is a tax on derivatives transactions (such as hedging activities) as well as on securities transactions, i.e., it applies to trading in instruments such as shares and bonds. The initial issue of instruments is exempt from financial transaction tax in the current Draft Directive. This means that the issuance and subscription of the Notes should not become subject to financial transaction tax. The target date of 30th June, 2016, for expected full agreement on a proposed FTT, mentioned in a statement dated 3rd June, 2016, has not been met and there is no specification available of a new target adoption date.

Under current proposals the FTT could apply in certain circumstances to persons both within and outside of the participating Member States. Generally, it would apply to certain dealings in the Notes where at least one party is a financial institution, and at least one party is established in a participating Member State. A financial institution may be, or be deemed to be, "established" in a participating Member State in a broad range of circumstances, including (a) by transacting with a person established in a participating Member State or (b) where the financial instrument which is subject to the dealings is issued in a participating Member State.

As a result, Noteholders may be faced with additional transaction costs if the FTT is introduced in its current form. The rate for financial instruments is a minimum of 0.1 per cent. of the purchase price (or market value if greater). Nevertheless, the effective rate will be higher as each financial institution party is separately liable for the tax, so transactions between two financial institutions will be taxed twice.

The Draft Directive provides that the participating Member States shall not maintain or introduce taxes on financial transactions other than the FTT (or VAT as provided in the Council Directive 2006/112/EC of 28th November, 2006 on the common system of value added tax). As a consequence, Belgium should abolish the tax on stock exchange transactions and the tax on repurchase transactions once the FTT enters into force.

The FTT proposal remains subject to negotiation between the participating Member States and is the subject of legal challenge. It may therefore be altered prior to any implementation, the timing of which remains unclear. Additional Member States may decide to participate. Prospective holders of the Notes are strongly advised to seek their own professional advice in relation to the FTT.

### ***Common Reporting Standard***

On 29th October, 2014, 51 jurisdictions signed the multilateral competent authority agreement ("**MCAA**"), which is a multilateral framework agreement to automatically exchange financial and personal information, with the subsequent bilateral exchanges coming into effect between those signatories that file the subsequent notifications. On 24th December, 2019, 108 jurisdictions had signed the MCAA.

Under CRS, financial institutions resident in a CRS country are required to report, according to a due diligence standard, financial information with respect to reportable accounts, which includes interest, dividends, account balance or value, income from certain insurance products, sales proceeds from financial assets and other income generated with respect to assets held in the account or payments made with respect to the account. Reportable accounts include accounts held by individuals and entities (which includes trusts and foundations) with fiscal residence in another CRS country. The standard includes a requirement to look through passive entities to report on the relevant controlling persons.

On 9th December, 2014, EU Member States adopted Directive 2014/107/EU on administrative cooperation in direct taxation ("**DAC2**"), which provides for mandatory automatic exchange of financial information as foreseen in CRS. DAC2 amends the previous Directive on administrative cooperation in direct taxation, Directive 2011/16/EU.

Belgium has implemented the DAC2 and respectively the CRS by the law of 16th December, 2015 regulating the exchange of financial account information between Belgian financial institutions and the FPS Finances in the framework of automatic information exchange at the international level and for tax purposes ("**Law of 16th December, 2015**").

The Notes are subject to DAC2 and to the Law of 16th December 2015. Under DAC2 and the Law of 16th December, 2015, Belgian financial institutions holding the Notes for tax residents in another CRS contracting state shall report financial information regarding the Notes (e.g., in relation to income and gross proceeds) to the

Belgian competent authority, who shall communicate the information to the competent authority of the state of the tax residence of the beneficial owner.

As a result of the Law of 16th December, 2015, the mandatory automatic exchange of information applies in Belgium (i) as of income year 2016 (first information exchange in 2017) towards the EU Member States (including Austria, irrespective of the fact that the automatic exchange of information by Austria towards other EU Member States is only foreseen as of income year 2017), (ii) as of income year 2014 (first information exchange in 2016) towards the U.S. and (iii), with respect to any other non-EU States that have signed the MCAA, as of the respective date to be further determined by Royal Decree.

In a Royal Decree of 14th June, 2017, as amended, it was determined that the automatic provision of information has to be provided as from 2017 (for the 2016 financial year) for a first list of eighteen foreign jurisdictions, as from 2018 (for the 2017 financial year) for a second list of 44 jurisdictions and as from 2019 (for the 2018 financial year) for another jurisdiction.

Investors who are in any doubt as to their position should consult their professional advisers.

### ***FATCA***

Belgium implemented FATCA through an IGA of 23rd April, 2014 between Belgium and the United States. By the Law of 16th December, 2015, the Belgian legislator transposed this IGA into Belgian legislation. This act implies that Belgian financial institutions holding notes for "US accountholders" and for "Non US owned passive Non-Financial Foreign entities" shall report financial information regarding the Notes (income, gross proceeds, etc.) to the Belgian competent authority, who shall communicate the information to the US tax authorities.

Under FATCA, financial institutions are required to identify their customers and report, according to a due diligence standard, personal data and financial information with respect to reportable accounts, which includes interest, dividends, account balance or value, income from certain insurance products and other income generated with respect to assets held in the account or payments made with respect to the account. Reportable accounts include accounts held by individuals that are U.S. citizens or residents and U.S. entities (which includes e.g., trusts). FATCA includes a requirement to look through passive non-U.S. entities to report on the relevant U.S. controlling persons.

In all but the most remote circumstances, it is not expected that FATCA will affect the amount of any payment received by the clearing system. Further, non-U.S. financial institutions in a jurisdiction which has entered into an IGA with the United States are generally not expected to be required to withhold under FATCA or an IGA (or any law implementing an IGA) from payments they make on securities such as the Notes. However, if FATCA withholding were relevant with respect to payments on the Notes, FATCA could affect payments made to custodians or intermediaries in the payment chain leading to the ultimate investor if any such custodian or intermediary generally is unable to receive payments free of FATCA withholding. It also could affect payments to any ultimate investor that is a financial institution that is not entitled to receive payments free of withholding under FATCA, or an ultimate investor that fails to provide its broker (or other custodian or intermediary from which it receives a payment) with any information, forms, other documentation or consents that may be necessary for the payments to be made free of FATCA withholding. Investors should choose their custodians and intermediaries with care (to ensure each is compliant with FATCA or other laws or agreements related to FATCA, including any IGA legislation, if applicable) and provide each custodian or intermediary with any information, forms, other documentation or consents that may be necessary for such custodian or intermediary to make a payment free of FATCA withholding. Investors should consult their own tax adviser to obtain a more detailed explanation of FATCA and how FATCA may affect them. If any amount in respect of U.S. withholding tax were to be deducted or withheld from interest, principal or other payments on the Notes as a result of FATCA, none of the Issuer, any paying agent or any other person would, pursuant to the Terms and Conditions of the Notes be required to pay additional amounts as a result of the deduction or withholding. As a result, investors may receive less interest or principal than expected.

## SUBSCRIPTION AND SALE

The Dealers have in an amended and restated programme agreement dated 28th August, 2020 (the "**Programme Agreement**", which expression shall mean the same as may from time to time be amended, supplemented or restated) agreed with the Issuers a basis upon which they or any of them may from time to time agree to purchase Notes. Any such agreement will extend to those matters stated under "Form of the Notes" and "Terms and Conditions of the Notes" above. In the Programme Agreement, the Issuers have agreed to reimburse the Dealers for certain of their expenses in connection with the establishment of the Programme and the issue of Notes under the Programme and to indemnify the Dealers against certain liabilities incurred by them in connection therewith.

### United States

- (1) The Notes have not been and will not be registered under the Securities Act, and may not be offered, sold or delivered 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. Each Dealer represents and agrees that it has not offered, sold or delivered any Notes, and will not offer, sell or deliver any Notes (i) as part of their distribution at any time and (ii) otherwise until 40 days after the completion of the distribution of all Notes of the Tranche of which such Notes are a part, as determined and certified as provided below, except in accordance with Rule 903 of Regulation S under the Securities Act ("**Regulation S**"). Each Dealer who has purchased Notes of a Tranche hereunder (or in the case of a sale of a Tranche of Notes issued to or through more than one Dealer, each of such Dealers as to the Notes of such Tranche purchased by or through it or, in the case of a syndicated issue, the relevant Lead Manager) shall determine and certify to the Fiscal Agent the completion of the distribution of the Notes of such Tranche. On the basis of such certification or certifications, the Fiscal Agent has agreed to determine and notify such Dealer(s)/Lead Manager, the relevant Issuer, the Registrar (as the case may be) and the relevant Clearing System of the end of the distribution compliance period with respect to such Tranche. Each Dealer also agrees that, at or prior to confirmation of sale of Notes, 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 notice to substantially the following effect:

"The Securities covered hereby have not been registered under the U.S. Securities Act of 1933, as amended (the "**Securities Act**"), and may not be offered, sold or delivered within the United States or to, or for the account or benefit of, U.S. persons (i) as part of their distribution at any time or (ii) otherwise until 40 days after the completion of the distribution of the Securities as determined and certified by the relevant Dealer, in the case of a non-syndicated issue, or the Lead Manager, in the case of a syndicated issue. Terms used above have the meanings given to them by Regulation S under the Securities Act."

In addition, until 40 days after the commencement of the offering of any Notes, an offer or sale of Notes within the United States by any dealer (whether or not participating in the offering) may violate the registration requirements of the Securities Act if such offer or sale is made otherwise than in accordance with an available exemption from registration under the Securities Act.

- (2) Each Dealer also represents and agrees that it, its affiliates or any persons acting on its or their behalf have not engaged and will not engage in any directed selling efforts with respect to any Note, and it and they have complied and will comply with the offering restrictions requirement of Regulation S.

Terms used in paragraphs (1) and (2) above have the meanings given to them by Regulation S.

- (3) In addition:
  - (a) except to the extent permitted under U.S. Treas. Reg. Section 1.163-5(c)(2)(i)(D) (the "**D Rules**"), each Dealer (a) represents and covenants that it has not offered or sold, and agrees that during the restricted period it will not offer or sell, Notes in bearer form to a person who is within the United States or its possessions or to a United States person, and (b) represents and covenants that it has not delivered and agrees that it will not deliver within the United States or its possessions definitive Notes in bearer form that are sold during the restricted period;
  - (b) each Dealer represents and covenants that it has and agrees that throughout the restricted period it will have in effect procedures reasonably designed to ensure that its employees or agents who

are directly engaged in selling Notes in bearer form are aware that such Notes may not be offered or sold during the restricted period to a person who is within the United States or its possessions or to a United States person, except as permitted by the D Rules;

- (c) if it is a United States person, each Dealer represents and covenants that it is acquiring Notes in bearer form for purposes of resale in connection with their original issuance and if it retains Notes in bearer form for its own account, it will only do so in accordance with the requirements of U.S. Treas. Reg. Section 1.163-5(c)(2)(i)(D)(6); and
- (d) with respect to each affiliate that acquires Notes in bearer form from a Dealer for the purpose of offering or selling such Notes during the restricted period, such Dealer repeats and confirms the representations, covenants and agreements contained in subparagraphs (a), (b) and (c) on such affiliate's behalf.

Terms used in this paragraph have the meanings given to them by the U.S. Internal Revenue Code and regulations thereunder, including the D Rules.

### **Prohibition of Sales to EEA and 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 Offering Circular as completed by the Final Terms in relation thereto to any retail investor in the European Economic Area or 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 (11) of Article 4(1) of Directive 2014/65/EU (as amended, "**MiFID II**"); or
  - (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; and
- (b) the expression "**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.

### **United Kingdom**

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

- (i) in relation to any Notes which have a maturity of less than one year, (a) 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 (b) it has not offered or sold and will not offer or sell any Notes other than to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or as agent) for the purposes of their businesses or 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 relevant Issuer;
- (ii) 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 relevant Issuer; and
- (iii) 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.



## Japan

### (i) *Notes issued by KL*

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 "**Financial Instruments and Exchange Act**") and are subject to the Act on Special Measures Concerning Taxation of Japan (Act No. 26 of 1957, as amended, the "**Special Taxation Act**"). Each Dealer has represented and agreed (and each further Dealer appointed under the Programme will be required to represent and agree) that (i) it has not, directly or indirectly, offered or sold and will not, directly or indirectly, offer or sell any of the Notes in Japan or to any person resident in Japan for Japanese securities law purposes (including any corporation or entity organised under the laws of Japan), except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the Financial Instruments and Exchange Act and any other applicable laws, regulations and ministerial guidelines of Japan, and (ii) it has not, directly or indirectly, offered or sold and will not, as part of its initial distribution, directly or indirectly, offer or sell any Notes to, or for the benefit of, any person other than (a) a beneficial owner that is, for Japanese tax purposes, neither (x) an individual resident of Japan or a Japanese corporation, nor (y) an individual non-resident of Japan or a non-Japanese corporation that in either case is a person having a special relationship with the Issuer as described in Article 6, paragraph (4) of the Special Taxation Act, (b) a Designated Financial Institution, or (c) any other excluded category of persons, corporations or other entities under the Special Taxation Act.

### (ii) *Notes issued by KFAI and KECC*

The Notes have not been and will not be registered under the Financial Instruments and Exchange Act. Each Dealer has represented and agreed (and each further Dealer appointed under the Programme will be required to represent and agree) that it will not directly or indirectly, offer or sell any Notes in Japan or to any person resident in Japan for Japanese securities law purposes (including any corporation or other entity organised under the laws of Japan), except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the Financial Instruments and Exchange Act and any other applicable laws, regulations and ministerial guidelines of Japan.

## Belgium

Each Dealer has represented and each further Dealer appointed under the Programme will be required to represent and agree, that it has not offered or sold and will not offer or sell, directly or indirectly, any Notes to the public in Belgium and it has not distributed or caused to be distributed and will not distribute or cause to be distributed to the public in Belgium, the Offering Circular or any other offering material relating to the Notes and such offers, sales and distributions have not been and will not be made in Belgium (i) to any person located and/or resident in Belgium other than in circumstances which do not constitute an offer to the public in Belgium pursuant to the Belgian Act of 11th July, 2018 on the public offering of investment instruments to the public and the admission of investment instruments to trading on a regulated market (as amended, replaced, restated or supplemented from time to time) and the Prospectus Regulation or (ii) to any persons located and/or resident in Belgium qualifying as a consumer within the meaning of the Belgian Code of Economic Law.

## The Netherlands

Zero Coupon Notes may not, directly or indirectly, as part of their initial distribution (or immediately thereafter) or as part of any re-offering be offered, sold, transferred or delivered in The Netherlands. For the purposes of this paragraph "Zero Coupon Notes" are Notes that are in bearer form (whether in definitive or in global form) and that constitute a claim for a fixed sum against the relevant Issuer and on which interest does not become due during their tenor or on which no interest is due whatsoever.

## 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, 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 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(WUMP)O**") or which do not constitute an offer to the public within the meaning of the C(WUMP)O; and

- (b) it has not issued, or had in its possession for the purpose 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" within the meaning of the SFO and any rules made under the SFO.

#### **PRC (excluding Hong Kong, Macau and Taiwan)**

Each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that the Notes may not be offered or sold directly or indirectly in the PRC (which, for the sole purpose herein, does not include Hong Kong, Macau or Taiwan). This Offering Circular, the Notes and any material or information contained or incorporated by reference herein relating to the Notes have not been, and will not be, submitted to or approved/verified by or registered with the China Securities Regulatory Commission ("**CSRC**") or other relevant governmental and regulatory authorities in the PRC pursuant to relevant laws and regulations and thus may not be supplied to the public in the PRC or used in connection with any offer for the subscription or sale of the Notes in the PRC. Neither this Offering Circular nor any material or information contained or incorporated by reference herein relating to the Notes constitutes an offer to sell or the solicitation of an offer to buy any securities in the PRC.

The Notes may only be invested by PRC investors that are authorised to engage in the investment in the Notes of the type being offered or sold. PRC investors are responsible for informing themselves about and observing all legal and regulatory restrictions, obtaining all relevant government regulatory approvals/licenses, verification and/or registrations themselves, including, but not limited to, any which may be required from the People's Bank of China, the State Administration of Foreign Exchange, CSRC, the China Banking and Insurance Regulatory Commission and other relevant regulatory bodies, and complying with all relevant PRC regulations, including, but not limited to, all relevant foreign exchange regulations and/or overseas investment regulations.

#### **Singapore**

Each Dealer has acknowledged, and each further Dealer appointed under the Programme will be required to acknowledge, that this Offering Circular has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, each Dealer has represented, warranted and agreed, and each further Dealer appointed under the Programme will be required to represent, warrant 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 Offering Circular 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 Securities and Futures Act (Chapter 289) of Singapore, as modified or amended from time to time (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, or (iii) otherwise pursuant to, and in accordance with, the conditions of, any other applicable provision of the SFA.

Where the Notes are subscribed or purchased under Section 275 of the SFA by a relevant person which is:

- (a) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or
- (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities or securities-based derivatives contracts (each term as defined in Section 2(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the Notes pursuant to an offer made under Section 275 of the SFA except:

- (1) to an institutional investor or to a relevant person, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA;
- (2) where no consideration is or will be given for the transfer;
- (3) where the transfer is by operation of law;
- (4) as specified in Section 276(7) of the SFA; or
- (5) as specified in Regulation 37A of the Securities and Futures (Offers of Investments) (Securities and Securities-based Derivatives Contracts) Regulations 2018.

### **General**

Each Dealer has agreed, and each further Dealer appointed under the Programme will be required to agree, that it will (to the best of its knowledge and belief) comply with all applicable laws and regulations in force in any jurisdiction in which it purchases, offers, sells or delivers Notes or possesses or distributes this Offering Circular and will obtain any consent, approval or permission required by it for the purchase, offer, sale or delivery by it of Notes under the laws and regulations in force in any jurisdiction to which it is subject or in which it makes such purchases, offers, sales or deliveries, and none of the Issuers or any other Dealer shall have any responsibility therefor.

Without prejudice to the foregoing paragraph, none of the Issuers or 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 such sale.

If a jurisdiction requires that an offering be made by a licensed broker or dealer and the relevant Dealer or any affiliate of such Dealer is a licensed broker or dealer in that jurisdiction, such offering shall be deemed to be made by that Dealer or such affiliate on behalf of the relevant Issuer in such jurisdiction.

## GENERAL INFORMATION

### Authorisation

The establishment of the Programme and the issue of Notes under the Programme have been duly authorised by a resolution of the Board of Directors of KL dated 11th March, 1996, by a resolution of the Board of Directors of KFAI dated 20th March, 1996, and by a resolution of the Board of Directors of KECC dated 14th August, 2020.

### Listing of Notes

The admission of Notes issued by KL, KFAI and KECC to the Official List will be expressed as a percentage of their nominal amount (excluding accrued interest). It is expected that each Tranche of Notes issued by KL, KFAI and KECC which is to be admitted to the Official List and to trading on the PSM will be admitted separately as and when issued, subject only to the issue of a Global Note or Notes initially representing the Notes of that Tranche. Application has been made to the FCA for Notes issued by KL, KFAI or KECC under the Programme for a period of 12 months from the date of this Offering Circular to be admitted to the Official List and to the London Stock Exchange for such Notes to be admitted to trading on the PSM. The listing of the Programme in respect of such Notes is expected to be granted on or about 2nd September, 2020.

### Documents Available for Inspection

For the period of 12 months following the date of this Offering Circular, copies of the following documents will, when published, be available for inspection from the registered head offices of KL, KFAI (for inspection by non-U.S. persons only) and KECC and from the specified office of the Paying Agent for the time being in London:

- (i) the constitutional documents (with accurate English translations thereof, in the case of KL) of each of the Issuers (the "**Constitutional Documents**");
- (ii) the audited (and, in the case of KL, consolidated) annual financial statements of each Issuer in English, in each case together with the audit reports prepared in connection therewith, for each of the fiscal years ended 31st March, 2019 and 2020 (the "**Audited Annual Financial Statements**");
- (iii) the most recently available audited (and, in the case of KL, consolidated) annual financial statements of each Issuer in English, in each case together with the audit reports prepared in connection therewith, and the most recently available unaudited interim (and, in the case of KL, consolidated) financial statements of each Issuer in English (if any);
- (iv) the Programme Agreement, the Agency Agreement (which contains the forms of the Temporary Bearer Global Notes, the Permanent Bearer Global Notes, the Temporary Registered Global Notes, the Permanent Registered Global Notes, the Definitive Bearer Notes, the Definitive Registered Notes, the Coupons and the Talons), the U.S. Keep Well Agreement, the Belgian Keep Well Agreement, the Belgian Deed Poll and the Deed of Covenant;
- (v) a copy of this Offering Circular; and
- (vi) any future offering circulars, listing particulars, supplementary listing particulars, including Final Terms (save that the Final Terms will only be available for inspection by the holder of such Note and such holder must produce evidence satisfactory to the relevant Issuer and Paying Agent as to its holding of such Notes and identity) and, in the case of a syndicated Tranche of listed Notes admitted to trading on the PSM, the subscription agreement (or equivalent document).

For the period of 12 months following the date of this Offering Circular, the Constitutional Documents, the Audited Annual Financial Statements, the U.S. Keep Well Agreement, the Belgian Keep Well Agreement and the Belgian Deed Poll will, when published, be available for inspection free of charge, at the website of the Komatsu Group at <https://home.komatsu/en/>.

In addition, copies of this Offering Circular and each Final Terms in respect of any Tranche of listed Notes admitted to trading on the PSM will also be published on <http://www.londonstockexchange.com/exchange/news/market-news/market-news-home.html>.

### **Clearing Systems**

The Notes to be issued by KL and KFAI have been accepted for clearance through Euroclear and Clearstream, Luxembourg (which are the entities in charge of keeping the records). The appropriate Common Code and ISIN for each Tranche of Notes allocated by Euroclear and Clearstream, Luxembourg will be specified in the applicable Final Terms. The Notes to be issued by KECC have been accepted for clearance through NBB-SSS. The appropriate Common Code and ISIN for each Tranche of Notes allocated by NBB-SSS will be specified in the applicable Final Terms.

If the Notes are to be cleared through an additional or alternative clearing system, the appropriate information will be specified in the applicable Final Terms. Transactions will normally be effected for settlement not earlier than three days after the date of the transaction.

The address of Euroclear is Euroclear Bank SA/NV, 1 Boulevard du Roi Albert II, B-1210 Brussels, the address of Clearstream, Luxembourg is Clearstream Banking, 42 Avenue JF Kennedy, L-1855 Luxembourg and the address of NBB-SSS is Boulevard de Berlaimont 14, B-1000 Brussels.

### **Yield**

In relation to any Tranche of Fixed Rate Notes, an indication of the yield in respect of such Notes will be specified in the applicable Final Terms. The yield is calculated at the Issue Date of the Notes on the basis of the relevant Issue Price. The yield indicated will be calculated as the yield to maturity as at the Issue Date of the Notes and will not be an indication of future yield.

### **Independent Auditors**

KPMG AZSA LLC, independent certified public accountants, have audited KL's consolidated financial statements as at and for the fiscal years ended 31st March, 2019 and 2020 in accordance with generally accepted auditing standards in Japan.

The financial statements of KFAI as of 31st March, 2019 and 2020 and for the years then ended, incorporated by reference in this Offering Circular, have been audited by KPMG LLP, independent auditors, in accordance with generally accepted auditing standards in the United States and as stated in their report appearing therein.

KPMG Bedrijfsrevisoren – Réviseurs d'Entreprises CVBA/SCRL, independent auditors, have audited KECC's financial statements as at and for the fiscal years ended 31st March, 2019 and 2020 in accordance with generally accepted auditing standards in Belgium.

### **Post-issuance Information**

Each Issuer does not intend to provide any post-issuance information in relation to any issues of Notes.

### **Dealers transacting with the Issuer**

In connection with each Tranche of Notes issued under the Programme, certain Dealers or certain of their respective affiliates may purchase Notes and be allocated Notes for asset management and/or proprietary purposes but not with a view to distribution. Further, certain Dealers or their respective affiliates may purchase Notes for its or their own account and enter into transactions, including credit derivatives, such as asset swaps, repackaging and credit default swaps relating to such Notes and/or other securities of the Issuers or their respective subsidiaries or affiliates at the same time as the offer and sale of each Tranche of Notes or in secondary market transactions. Such transactions would be carried out as bilateral trades with selected counterparties and separately from any existing sale or resale of the Tranche of Notes to which a particular Final Terms relates (notwithstanding that such selected counterparties may also be purchasers of such Tranche of Notes).

In addition, in the ordinary course of their business activities, the Dealers and their respective affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their

customers. Such investments and securities activities may involve securities and/or instruments of the Issuers. Certain of the Dealers or their respective affiliates that have a lending relationship with the Issuers routinely hedge their credit exposure to the Issuers consistent with their customary risk management policies. Typically, such Dealers and their respective affiliates would hedge such exposure by entering into transactions which consist of either the purchase of credit default swaps or the creation of short positions in the Issuers' securities, including potentially the Notes offered under the Programme. Any such short positions could adversely affect future trading prices of the Notes offered under the Programme. The Dealers and their respective affiliates may also make investment recommendations and/or publish or express independent research views in respect of such securities or financial instruments and may hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments.

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**KOMATSU**