

# **BASE PROSPECTUS**

DATED 21 July 2020

## **D Foods Finance p.l.c.**

a public liability company registered under the laws of Malta

with company registration number C 94912

and having its registered office at Dizz Buildings, Carob Street, Santa Venera, Malta

## **€10 million Secured Convertible Notes Programme**

**THE LISTING AUTHORITY HAS AUTHORISED THE ADMISSIBILITY OF THE NOTES TO LISTING ON THE INSTITUTIONAL FINANCIAL SECURITIES MARKET, WHICH MEANS THAT THIS BASE PROSPECTUS HAS BEEN APPROVED BY THE LISTING AUTHORITY AS A BASE PROSPECTUS IN TERMS OF THE PROSPECTUS REGULATION AND THAT THE NOTES ARE IN COMPLIANCE WITH THE LISTING RULES FOR THE WHOLESALE SECURITIES MARKET.**

**APPLICATION WILL ALSO BE MADE TO THE INSTITUTIONAL FINANCIAL SECURITIES MARKET FOR EACH TRANCHE OF NOTES ISSUED UNDER THE PROGRAMME TO BE ADMITTED TO LISTING AND TRADING ON THE INSTITUTIONAL FINANCIAL SECURITIES MARKET.**

## IMPORTANT INFORMATION

This Base Prospectus (together with any Supplement and Final Terms published from time to time) constitutes a base prospectus for the purpose of Article 8.1 of the Prospectus Regulation in respect of all Notes issued under the Programme.

This Base Prospectus has been filed with and approved by the Listing Authority, acting in its capacity as listing authority under the Financial Markets Act and as the competent authority under Regulation (EU) 2017/1129 (the Prospectus Regulation). The Listing Authority only approves this Base Prospectus as meeting the standards of completeness, comprehensibility and consistency imposed by Regulation (EU) 2017/1129. Such approval should not be considered as an endorsement of the quality of the Notes or of the Issuer. The investors should make their own assessment as to the suitability of investing in the Notes. This Base Prospectus will be published in electronic form on the website of the Listing Authority and is also available, in printed form, free of charge, from the registered office of the Issuer and the Agent.

**THE LISTING AUTHORITY ACCEPTS NO RESPONSIBILITY FOR THE CONTENTS OF THIS PROSPECTUS, MAKES NO REPRESENTATION AS TO ITS ACCURACY OR COMPLETENESS AND EXPRESSLY DISCLAIMS ANY LIABILITY WHATSOEVER FOR ANY LOSS HOWEVER ARISING FROM, OR IN RELIANCE UPON, THE WHOLE OR ANY PART OF THE CONTENTS HEREOF.**

This Base Prospectus is to be read and construed in conjunction with any Supplement hereto and any documents that are deemed to be incorporated herein by reference and, with respect to any particular Tranche, also in conjunction with the Final Terms relating to such Tranche.

The Issuer confirms that, to the best of its knowledge and belief (i) this Base Prospectus, supplemented (with respect to any particular Tranche of Notes) with the relevant Final Terms, contains all information with respect to the Issuer and the Notes that is material in the context of the Programme and the issue and offering of the Notes; (ii) the information contained herein in respect of the Issuer and the Notes is accurate in all material respects and is not misleading; (iii) any opinions and intentions expressed herein are honestly held and based on reasonable assumptions; (iv) there are no other facts, the omission of which would make any statement, whether fact or opinion, in this Base Prospectus misleading in any material respect; and (v) all reasonable enquiries have been made to ascertain all facts and to verify the accuracy of all statements contained herein.

No Broker, dealer, salesman or other person has been authorised by the Issuer to give any information, issue any advertisement or make any representation which is not contained or consistent with this Base Prospectus or any other document produced by the Issuer in relation to the Programme and, if given or made, such information, advertisement or representation must be relied upon as having been authorised by the Issuer.

All of the Directors whose names appear under Section 5.3 of this Base Prospectus are the persons responsible for the information contained in this Base Prospectus. To the best of the knowledge and belief of the Directors the information contained in this Base Prospectus is in accordance with the facts and does not omit anything likely to affect its import, and the Directors have taken all reasonable care to ensure that this is the case. The Directors accept responsibility accordingly.

None of the advisors or any person mentioned on this Base Prospectus, other than the Issuer and its Directors, shall be responsible for the information contained in this Base Prospectus and any Supplement, in any documents incorporated by reference or in any Final Terms, and accordingly, to the

extent permitted by the laws of any relevant jurisdiction, none of these persons accepts any responsibility as to the accuracy and completeness of the information contained in any of these documents.

All the advisors to the Issuer, have acted and are acting exclusively for the Issuer in relation to the Prospectus and have no contractual, fiduciary or other obligation or responsibility towards any other person and will accordingly not be responsible to any investor or any other person whomsoever in relation to the contents of and any information contained in the Prospectus, its completeness or accuracy or any statement made in connection therewith. Each person receiving this Base Prospectus and Final Terms acknowledges that such person has not relied on any of the advisors in connection with its investigation of the accuracy of such information or its investment decision and each person must rely on its own evaluation of the Programme and the merits and risks involved in the Programme.

This Base Prospectus is not and does not purport to represent investment advice.

The Issuer confirms that information included in the Prospectus in respect of undertakings or obligors or other third parties that are involved in the Issue, has been accurately reproduced from information published by or sourced from the relevant undertaking, obligor or other third party or which is otherwise publicly available. The Issuer further confirms that such information has been accurately reproduced, and as far as the Issuer is aware and is able to ascertain from information published by that third party, no facts have been omitted which would render the reproduced information inaccurate or misleading.

It is the responsibility of any person in possession of this Prospectus to inform themselves of and to observe and comply with, all applicable law and regulations of any relevant jurisdiction. Prospective Applicants for any Notes that may be issued under the Programme should inform themselves as to the legal, tax and investment requirements of applying for any such Notes and any applicable exchange control requirements and taxes in the countries of their nationality, residence or domicile. Applicants must rely on their own legal advisors, accountants and other financial advisors as to legal, tax, investment or any other related matters concerning the Programme.

**The Base Prospectus, together with all Supplements, any documents incorporated by reference and the relevant Final Terms, should be read in their entirety before deciding whether to acquire any Notes. This Base Prospectus is valid for twelve (12) months from the date of publication. This Base Prospectus, any Supplement and any Final Terms reflect their status as at their respective dates of issue. The Issuer shall have no obligation to supplement this Base Prospectus in the event of significant new factors, material mistakes or material inaccuracies when this Base Prospectus is no longer valid.**

The Base Prospectus, the Final Terms and/or the offering, sale or delivery of any Notes may not be taken as an implication that (i) the information contained in such documents is accurate and complete subsequent to their respective dates of issue; (ii) there has been no adverse change in the financial condition of the Issuer since such date; or (iii) any other information supplied in connection with the Programme is accurate at any time subsequent to the date on which it was supplied or, if different, the date indicated in the document containing the same.

This Base Prospectus and/or the Final Terms do not constitute, and may not be used for the purpose of an offer, invitation or solicitation to any person (i) in any jurisdiction in which such offer, invitation or solicitation is not authorized; (ii) in any jurisdiction in which any person making such offer, invitation or solicitation is not qualified to do so; or (iii) to whom it is unlawful to make such offer, invitation or solicitation. The distribution of this Base Prospectus and/or the Final Terms in certain jurisdictions may be restricted and accordingly, persons into whose possession it is received are required to inform themselves about, and to observe, such restrictions.

The Notes will not be registered under the United States Securities Act of 1993, as amended. The Notes may not be offered, sold or delivered within the United States or to U.S. persons (as such term is defined in Regulation S under the Securities Act of 1933 of the United States of America, as amended). The Notes may only be offered, sold or delivered to, and accepted by, 'qualified investors' (as such term is defined in Section 14.1 below).

The Notes issued under the Programme will be listed and admitted to trading on the Institutional Financial Securities Market. The Institutional Financial Securities Market is a 'regulated market' for the purpose of MiFID that is authorised and supervised by the MFSA.

**The value of investments can rise or fall and past performance is not necessarily indicative of future performance. If you need advice with respect to the Programme, you should consult a licensed investment adviser.**

The Notes, all the rights and obligations of the Noteholders and the Issuer, and any non-contractual obligations arising out of or in connection with the Notes, shall be governed by and construed in accordance with the laws of Malta. The Courts of Malta shall have exclusive jurisdiction to settle any disputes that may arise out of or in connection with the Notes, all the rights and obligations of the Noteholders and/or the Issuer, and any non-contractual obligations arising out of or in connection with the Notes. Statements made in this Prospectus are (except where otherwise stated) based on the law and practice currently in force in Malta and are subject to changes thereto.

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# 1 DEFINITIONS

In the Prospectus, unless the context otherwise requires, the following terms shall have the respective meanings set out below:

<b>Account Bank</b>	Bank of Valletta p.l.c., a public liability company incorporated under the laws of Malta with company registration number C 2833 having its registered office situated at 58, Zachary Street, Valletta VLT1130, a credit institution licensed by the MFSA in terms of the Banking Act, Chapter 371 of the laws of Malta;
<b>Agency Agreement</b>	the agreement between the Issuer and the Agent dated on or around the date of this Base Prospectus pursuant to which the Agent is appointed as the Issuer's subscription, redemption, paying and conversion agent in respect of the Notes;
<b>Agent</b>	GlobalCapital Financial Management Ltd (GCFM), a company incorporated under the laws of Malta with company registration number C30053 having its registered office at Testaferrata Street, Ta' Xbiex, an investment services firm licensed by the MFSA in terms of the Investment Services Act, Chapter 370 of the laws of Malta, in its capacity as the Issuer's s subscription, paying, redemption and conversion agent pursuant to the terms of the Agency Agreement;
<b>Applicant/s</b>	a person whose name, or persons whose names in the case of joint applicants, appear in the registration details of an Application Form;
<b>Application Form/s</b>	the application for subscription of the Notes, copies of which are available from the Issuer or the Agent upon request;
<b>Approved Investors</b>	Applicants whose Application Forms have been accepted and approved by the Issuer or the Agent on behalf of the Issuer;
<b>Base Prospectus</b>	this document in its entirety;
<b>Board or Directors or Board of Directors</b>	the directors of the Issuer whose names and addresses are set out under the heading "Board of Directors" in Section 5.3 of this Base Prospectus;
<b>Business Day</b>	any day between Monday and Friday (both days included) on which commercial banks in Malta settle payments and are open for normal banking business;
<b>Central Securities Depository or CSD</b>	the central registration system for dematerialized financial instruments in Malta operated by the MSE (of Garrison Chapel, Castille Place, Valletta VLT 1063, Malta) and authorised in terms of the Financial Market Act;
<b>Collateral</b>	the collateral that is granted in connection with this Programme which shall be vested in the Security Trustee in its capacity as trustee of the D Foods Trust, which shall include Security Rights over Security Property identified in Final Terms;

<b>Condition Precedent</b>	the following conditions which shall apply to the issuance of each Tranche:  a) that part of the Collateral applicable to such Tranche being duly constituted as described and/or outlined in the relative Final Terms; and  b) the admission to trading of the Notes to the IFSM.
<b>Companies Act</b>	the Companies Act, Chapter 386 of the laws of Malta;
<b>Conversion Date</b>	30 days from the receipt of the Conversion Request, provided that the Conversion Request is not unreasonably withheld by the Issuer;
<b>Conversion Request</b>	the written request signed by at least 75% of the Noteholders outstanding at that point in time who jointly agree to convert the outstanding Notes into Underlying Shares, following the Independent Business Valuation obtained by the Noteholders from a Reputable Audit Firm. The Independent Business Valuation shall not be older than 30 days from the Conversion Request date;
<b>Conversion Option</b>	the option to convert the Notes held by the outstanding Noteholders into the Underlying Shares of the Issuer provided that a Conversion Request is received and which shall be regulated in accordance with the terms and conditions prescribed in this Prospectus;
<b>Conversion Period</b>	the period between the Issue Date and the Maturity Date;
<b>Credit Institution</b>	a credit institution which is, and/or whose head office and/or parent company is, licensed, regulated, registered or based in an Eligible State;
<b>D Foods Finance p.l.c. or the Issuer or the Company</b>	D Foods Finance p.l.c., a public liability company registered under the laws of Malta with company registration number C 94912 and having its registered office at Dizz Buildings, Triq Il-Harruba, Santa Venera, Malta;
<b>D Foods Group</b>	the Issuer and the Eligible Assets, when such Eligible Assets comprise shares in companies in which the Issuer gains or retains control;
<b>D Foods Trust</b>	the trust established by a deed entered into by the Security Trustee and the Issuer on 21 July 2020 whereby the Security Trustee shall receive the Collateral to be held on trust for the benefit of the Noteholders;
<b>Debt Securities</b>	debt instruments in whatever form with a determinable maturity or redemption date;
<b>Dizz Group</b>	Dizz Group of Companies Limited and the following subsidiaries: Dizz Finance p.l.c. (C 71189), D Fashion Limited (C 82303), DKV & Co. Limited (C 70942), Dizz Labs Limited (C 74298), D3 Fashion Limited (C 70701), DK Max Limited (C 75168), D's Ltd. (C 33852),



	DK G Limited (C 75176), Dizz Limited (C 26823), Dizz Manufacturing Limited (C 62693), Dizz Franchises Limited (C 72974), D Foods Finance p.l.c. (C 94912), DK Pascucci Limited (C 58478), DCAFFE Holding Ltd. (C88760), DCAFFE Ltd (C88762), Xilema Limited (C 77551), D Kitchen Lab Limited (C 92593), D Shopping Malls Limited (C 87499), D Shopping Malls Finance p.l.c. (C 87809);
<b>Dizz Group of Companies Limited</b>	Dizz Group of Companies Limited, bearing company registration number C 64435 and having its registered address at Dizz Buildings, Triq il-Harruba, Santa Venera, SVR 1700 Malta;
<b>Duty on Documents and Transfers Act</b>	the Duty on Documents and Transfers Act, Chapter 364 of the laws of Malta;
<b>EBITDA</b>	Earnings before interest, taxes, depreciation and amortisation
<b>Eligible Assets</b>	the Eligible Assets in which the Issuer is permitted to invest in which consist of unlisted equity securities that demonstrate high dividend yield potential through turnaround strategies and/or management synergies, operating in the food and beverage establishments, with cafeterias in particular or Debt Securities. These include but are not limited to, the Subsidiaries;
<b>Eligible Asset Obligor/s</b>	the obligors of the Issuer in respect of the Eligible Assets acquired and held by the Issuer from time to time, including but not limited to the Subsidiaries;
<b>Eligible Investors</b>	persons who are ‘qualified investors’ (as this term is defined in Article 2 (e) of the Prospectus Regulation), and that are not “U.S. persons” (as such term is defined in Regulation S under the Securities Act of 1933 of the United States of America, as amended) and who are not subscribing, acquiring or accepting the Notes from within the United States of America, its territories or its possessions, or any area subject to its jurisdiction (the “ <b>United States</b> ”) or on behalf or for the account of anyone within the United States or anyone who is a U.S. person;
<b>Eligible State</b>	any member state of the European Union and any member of the Organisation for Economic Co-operation and Development (OECD), including but not limited to, Malta;
<b>Equity Securities</b>	shares and other securities that are equivalent to shares in companies and that are issued by issuers whose registered office or main place of business is located in an Eligible State;
<b>EUR, Euro or €</b>	the lawful currency of the Eurozone, being the region comprised of Member States of the European Union that have and continue to adopt the single currency in accordance with the Treaty establishing the European Community, as amended by the Treaty on the European Union and by the Treaty of Amsterdam;

<b>Event of Default</b>	<p>Each event of default as listed below:</p> <p>(a) the Issuer fails to pay any interest on any Note when due and such failure shall continue for sixty (60) days after written notice thereof shall have been given to the Issuer by any Noteholder; or</p> <p>(b) the Issuer fails to pay the principal on any Note when due and such failure shall continue for sixty (60) days after written notice thereof shall have been given to the Issuer by any Noteholder; or</p> <p>(c) the Issuer fails to perform or observe any material covenant, material condition or material provision contained in these Terms and Conditions or the Prospectus (other than any obligation for the payment of the principal or interest in respect of the Notes) and such failure is incapable of remedy or is not remedied within sixty (60) days after notice of such default shall have been given to the Issuer by any Noteholder; or</p> <p>(d) the Issuer is deemed unable or admits its inability to pay its debts as they fall due within the meaning of Article 214(5) of the Companies Act; or</p> <p>(e) the Issuer stops or suspends payments (whether of principal or interest) with respect to the Notes or announces an intention to do so or ceases or threatens to cease to carry on its business or a substantial part of its business; or</p> <p>(f) the Issuer is adjudicated or found bankrupt or insolvent, or an order is made by any competent court, or a resolution is passed by the Issuer or any other action is taken for the dissolution, liquidation, or winding-up of the Issuer: provided that this paragraph (f) shall not apply to an application for dissolution, liquidation, or winding-up presented by a creditor of the Issuer which is being contested in good faith and with due diligence;</p>
<b>Final Terms</b>	the final terms applicable to a Tranche that will be published by the Issuer from time to time in the form set out in Section 11 to this Base Prospectus;
<b>Financial Markets Act</b>	the Financial Market Act, Chapter 345 of the laws of Malta;
<b>Income Tax Act</b>	the Income Tax Act, Chapter 123 of the laws of Malta;
<b>Independent Business Valuation</b>	the valuation of the Issuer, including all of its subsidiaries at that point in time, prepared by a Reputable Audit Firm;
<b>Institutional Financial Securities Market or IFSM</b>	the Institutional Financial Securities Market, a 'regulated market' for the purposes of MiFID that is authorised and supervised by the MFSA;
<b>Interest Commencement Date</b>	the Issue Date;

<b>Interest Payment Date</b>	such date/s of each year (between and including the Interest Commencement Date and the Maturity Date, or if any such date is not a Business Day, the next following day that is a Business Day) on which interest payable on the Notes shall be paid, which Interest Payment Date/s shall be the same for, and indicated in the Final Terms of, each Tranche;
<b>Interest Rate</b>	the interest rate of a Note as set out in the Final Terms for that Tranche;
<b>Investment Services Act</b>	the Investment Services Act, Chapter 370 of the laws of Malta;
<b>Issue Date</b>	the issue date of a Tranche, which shall be indicated in the Final Terms for that Tranche;
<b>Issue Price</b>	the issue price of a Note under any Tranche, which shall be indicated in the Final Terms for that Tranche;
<b>Listing Agent</b>	Grant Thornton Limited, a company incorporated in Malta with registered office at Fort Business Centre, Triq l-Intornjatur, Mriehel, CBD 1050, Malta, and bearing company registration number C 80426, in its capacity as the listing agent appointed by the Company in respect of the Notes;
<b>Listing Authority</b>	the Board of Governors of the Malta Financial Services Authority, appointed as the Listing Authority for the purposes of the Financial Markets Act (Chapter 345 of the laws of Malta);;
<b>Listing Rules</b>	the Listing Rules issued by the Listing Authority for the Wholesale Securities Market;
<b>Malta Stock Exchange or MSE</b>	Malta Stock Exchange p.l.c., as originally constituted by the Financial Markets Act, bearing company registration number C42525 and having its registered office at Garrison Chapel, Castille Place, Valletta VLT 1063, Malta;
<b>Maturity Date</b>	the maturity date of all the Notes issued under the Programme, which maturity date shall be the same for, and indicated in the Final Terms of each Tranche, unless previously converted into Shares as set out in section 9.4;
<b>Memorandum and/or Articles of Association</b>	the memorandum and articles of association of the Issuer in force at the time of publication of this Base Prospectus;
<b>MFSA or Malta Financial Services Authority</b>	the Malta Financial Services Authority, established in terms of Malta Financial Services Authority Act, Chapter 330 of the laws of Malta;
<b>MiFID</b>	Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU;

<b>Money Market Instruments</b>	any securities that at the time of acquisition by the Issuer have an initial or remaining maturity which does not exceed 397 days;
<b>Nominal Value</b>	in respect of each Note (under each Tranche) €100,000;
<b>Notes or Convertible Notes</b>	the secured convertible notes issued or to be issued by the Issuer in terms of the Programme;
<b>Noteholder/s</b>	any holders of the Notes from time to time, as evidenced by an electronic entry in the register of Notes held by the CSD;
<b>Operating Account</b>	the Issuer's operating account with the Account Bank;
<b>Programme</b>	the €10,000,000 notes programme to which this Base Prospectus relates and under which the Notes will be issued;
<b>Prospectus</b>	this Base Prospectus in its entirety, together with any Supplements and the relevant Final Terms in each issue of Notes;
<b>Prospectus Regulation</b>	Regulation (EU) 2017/1129 of 14 June 2017 of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC, as may be amended and/or supplemented from time to time;
<b>Regulated Market</b>	any stock exchange or other regulated market (including a multilateral trading facility) which operates regularly and which is recognized and is open to the public, and which is located in a Member State of the European Union (EU) or of the European Economic Area (EEA) or a country which is a member of the Organisation for Economic Cooperation and Development (OECD);
<b>Reputable Audit Firm</b>	a reputable audit firm mutually agreed to by the Issuer and at least 75% of the Noteholders outstanding as at 31 December 2020;
<b>Security Property</b>	the immovable property over which Security Rights forming part of the Collateral shall be granted;
<b>Security Rights</b>	the rights over Security Property granted to the Security Trustee in virtue of the Security Trust Deed;
<b>Security Trustee or Trustee</b>	Equity Wealth Solutions Limited, a private limited liability company duly registered and validly existing under the laws of Malta, with company registration number C 31987 and having its registered office at 176, Old Bakery Street, Valletta, VLT 1455, Malta, duly authorised to act as a trustee or co-trustee in terms of article 43(3) of the Trusts and Trustees Act, Chapter 331 of the laws of Malta;
<b>Series</b>	the single series of Notes to be issued by the Issuer under the Programme, which shall be made up of one or more Tranches;
<b>Shares</b>	ordinary shares having a nominal value of €1 each in the capital of the Company;

<b>Subscription Account</b>	the Issuer's subscription account with the Account Bank;
<b>Subsidiaries</b>	DK Pascucci Limited (C 58478), Xilema Limited (C 77551), DCAFFE Holding Ltd. (C 88760) (which in turn owns DCAFFE Ltd (C 88762)), D Kitchen Lab Limited (C 92593), all registered under the laws of Malta and all having their registered office at Dizz Buildings, Carob Street, Santa Venera, Malta;
<b>Supplement</b>	any supplement to this Base Prospectus which may be issued from time to time by the Issuer;
<b>Terms and Conditions</b>	the terms and conditions applicable to each Tranche that can be found in Section 10, as completed or supplemented by the Final Terms for the relevant Tranche and other relevant terms of this Base Prospectus;
<b>Tranche</b>	each tranche of the single Series of Notes issued by the Issuer under the Programme in accordance with the provisions of this Base Prospectus (as may be amended, supplemented and updated from time to time) and the applicable Final Terms, each tranche being identical in all respects, except for the Issue Date and/or Interest Commencement Date and/or Interest Rate and/or Issue Price.
<b>Trust Deed or Security Trust Deed</b>	the security trust deed establishing the 'D Foods Trust';
<b>Underlying Shares</b>	ordinary shares of the Issuer.

All references in this Prospectus to "Malta" are to the "Republic of Malta".

Unless it appears otherwise from the context:

- (a) words importing the singular shall include the plural and vice-versa;
- (b) words importing the masculine gender shall include the feminine gender and vice-versa;
- (c) the word "may" shall be construed as permissive and the word "shall" shall be construed as imperative;
- (d) any reference to a person includes natural persons, firms, partnerships, companies, corporations, associations, organisations, governments, states, foundations or trusts;
- (e) any reference to a person includes that person's legal personal representatives, successors and assigns;
- (f) any phrase introduced by the terms "including", "include", "in particular" or any similar expression is illustrative only and does not limit the sense of the words preceding those terms;
- (g) any reference to a law, legislative act, and/or other legislation shall mean that particular law, legislative act and/or legislation as in force at the time of issue of this Base Prospectus.

## 2 RISK FACTORS

AN INVESTMENT IN THE NOTES ISSUED BY THE ISSUER INVOLVES CERTAIN RISKS, INCLUDING BUT NOT LIMITED TO THOSE BELOW. THE FOLLOWING RISKS ARE THOSE IDENTIFIED BY THE ISSUER AS AT THE DATE OF THIS BASE PROSPECTUS. PROSPECTIVE INVESTORS SHOULD CAREFULLY CONSIDER, TOGETHER WITH THEIR INDEPENDENT FINANCIAL AND OTHER PROFESSIONAL ADVISERS, THE FOLLOWING RISK FACTORS (NOT LISTED IN ORDER OF PRIORITY) AND OTHER INVESTMENT CONSIDERATIONS AS WELL AS ALL THE OTHER INFORMATION CONTAINED IN THE PROSPECTUS BEFORE DECIDING TO MAKE AN INVESTMENT IN THE ISSUER AND THE NOTES. SOME OF THESE RISKS ARE SUBJECT TO CONTINGENCIES THAT MAY OR MAY NOT OCCUR AND THE ISSUER IS NOT IN A POSITION TO EXPRESS A VIEW ON THE LIKELIHOOD OF ANY SUCH CONTINGENCIES OCCURRING.

THE RISK FACTORS BELOW HAVE BEEN CATEGORISED UNDER THREE MAIN CATEGORIES, ACCORDING TO WHETHER THE RISK FACTORS RELATE TO: (I) FORWARD LOOKING STATEMENTS; (II) THE COMPANY PER SE; (III) THE ELIGIBLE ASSETS AND (IV) THE NOTES. THE RISK FACTOR FIRST APPEARING UNDER EACH CATEGORY CONSTITUTES THAT RISK FACTOR WHICH THE DIRECTORS HAVE ASSESSED TO BE THE MOST MATERIAL RISK FACTOR UNDER SUCH CATEGORY AS AT THE DATE OF THIS PROSPECTUS. IN MAKING THIS ASSESSMENT OF MATERIALITY, THE DIRECTORS HAVE EVALUATED THE COMBINATION OF: (I) THE PROBABILITY THAT THE RISK FACTOR OCCURS; AND (II) THE EXPECTED MAGNITUDE OF THE ADVERSE EFFECT ON THE FINANCIAL CONDITION AND PERFORMANCE OF THE COMPANY, IF THE RISK FACTOR WERE TO MATERIALISE.

IF ANY OF THE RISKS DESCRIBED BELOW MATERIALISE, THEY COULD HAVE A SERIOUS ADVERSE EFFECT ON THE ISSUER'S FINANCIAL RESULTS, TRADING PROSPECTS AND THE ABILITY OF THE ISSUER TO FULFIL ITS OBLIGATIONS UNDER THE NOTES AND/OR ON THE VALUE, YIELD, MARKETABILITY, REPAYABILITY AND OTHER CHARACTERISTICS OF THE NOTES.

THE RISKS AND UNCERTAINTIES DISCUSSED BELOW ARE THOSE THAT THE DIRECTORS BELIEVE TO BE MATERIAL AS AT THE DATE HEREOF, BUT THESE RISKS AND UNCERTAINTIES MAY NOT BE THE ONLY ONES THAT THE ISSUER FACES OR AFFECTING THE NOTES. ADDITIONAL RISKS AND UNCERTAINTIES INCLUDING THOSE THE DIRECTORS OF THE ISSUER MAY NOT CURRENTLY BE AWARE OF, OR DO NOT DEEM MATERIAL, COULD WELL RESULT IN A MATERIAL IMPACT ON THE FINANCIAL CONDITION AND OPERATIONAL PERFORMANCE OF THE ISSUER, ON THE NOTES OR ON THE NOTEHOLDERS' RIGHTS THEREUNDER.. ACCORDINGLY, PROSPECTIVE INVESTORS SHOULD MAKE THEIR OWN INDEPENDENT EVALUATION OF ALL RISK FACTORS, AND SHOULD CAREFULLY READ, CONSIDER AND UNDERSTAND THE PROSPECTUS AS A WHOLE BEFORE INVESTING IN THE NOTES. IN ADDITION, PROSPECTIVE INVESTORS OUGHT TO BE AWARE THAT RISKS MAY BE AMPLIFIED DUE TO A COMBINATION OF RISK FACTORS.

### 2.1 Forward-looking statement

This document includes statements that are or may be deemed to be "forward-looking statements". These forward-looking statements can be identified by the use of forward-looking terminology,

including the terms “believes”, “estimates”, “anticipates”, “expects”, “intends”, “may”, “will”, or “should” or, in each case, their negative or other variation or comparable terminology. These forward-looking statements are based purely on the intentions, beliefs or current expectations of the Issuer and/or the Directors. There can be no assurance that the results and events contemplated by the forward-looking statements contained in this Base Prospectus will occur.

Forward-looking statements, by their very nature, involve substantial uncertainties because they relate to events and depend on circumstances that may or may not occur in the future, many of which are beyond the Issuer’s control. Forward-looking statements are not guarantees of future performance and should therefore not be construed as such. The value, yield, marketability, repayability and other matters affecting the Notes and the Issuer’s actual results of operations and financial condition may, as a result of many different factors, differ materially from the impression created by the forward-looking statements contained in this Prospectus. In addition, even if these matters affecting the Notes and/or the results of operations and financial condition of the Issuer are consistent with the forward-looking statements contained in this Prospectus, those results or developments may not be indicative of results or developments in subsequent periods.

Subject to its legal and regulatory obligations (including those under the Listing Rules), the Issuer and its Directors expressly disclaim any obligations to update or revise any forward-looking statement contained herein to reflect any change in expectations with regard to any change in events, conditions or circumstances on which any statement is based.

## **2.2 Risks relating to the Business of the Issuer**

### **2.2.1 Limited History of Operations and dependence on Eligible Assets**

The Issuer was incorporated on 21 May 2020 as a holding company of the Eligible assets (refer to Section 5 for further information). Consequently, the Issuer has a limited operating history that can be evaluated as a basis for the Issuer’s potential performance and will not undertake any business or trading activities in its own name other than acting as a holding company of the Eligible Assets.

The success of the Issuer will depend on its ability to improve the results of operations of each of its Eligible Asset and successfully integrate their operations. As such, the Issuer’s operating and financial performance is directly related to, and dependent on, the financial and operating performance of its Eligible Assets and is subject to the risks associated, or potentially associated, with its Eligible Assets. The Subsidiaries are expected to constitute the entire investment, at least for the foreseeable future. This means that the Issuer’s financial position and its ability to meet its obligations to Noteholders will be dependent on the Subsidiaries’ operations and their ability to pay a dividend. As a matter of Maltese law, a company can only pay dividends to the extent that it has distributable reserves and sufficient cash available for this purpose. The availability of profits available for distribution is contingent on the positive results of operations of the undertakings underlying the Eligible Assets, including but not limited to, the Subsidiaries, while any future losses of the said undertakings, will continue to impact negatively the said undertakings’ accumulated losses. The undertakings underlying the Eligible Assets, including but not limited to, the Subsidiaries, will not be in a position to pay any dividends before reversing in full any accumulated losses through the generation of sufficient distributable profits and/or the reduction of the said undertakings’ issued share capital to offset (in whole or in part) such accumulated losses.

Due to this dependence on the Eligible Assets, the Issuer is subject to liquidity risk given that there can be no assurance that there will be sufficient funds received by or available to the Issuer to enable the Issuer to meet its financial commitments and obligations as they become due, including but not limited

to the payments or repayments of principal, interest, or other dues under the Notes, in whole or in part. There is the risk that the Issuer may default on its obligation or be unable to pay the redemption of principal upon the Maturity Date (as set out in section 10.9). Any amount received by Noteholders in such circumstances may be less (even substantially less) than the redemption of principal and less (even substantially less) than their initial investment. This risk is further aggravated if there are other creditors of the Issuer, especially if their claims against the Issuer are secured, guaranteed or otherwise rank in priority to those of Noteholders.

The Issuer is also subject to the risk of delay arising between the scheduled payment dates for interest, dividends or other distributions owed to the Issuer in respect of the Eligible Assets, and the date of actual receipt of those payments, dividends or other distributions. Any delay in payments due to the Issuer in respect of the Eligible Assets could result in a delay in payments due by the Issuer to the Noteholders under the Notes.

### **2.2.2 Credit Risk**

The Issuer is subject to the credit risk of the Eligible Asset Obligors defaulting on their obligations to the Issuer. Any default or inability of the Eligible Asset Obligors to pay the Issuer amounts due in respect of the Eligible Assets may result in the inability of the Issuer to meet its obligations, in whole or in part, to Noteholders under the Notes. Credit risk includes, but is not limited to, default risk, counterparty risk, cross border (or transfer) risk and credit concentration risk.

### **2.2.3 Dependence on the Ultimate Beneficial Owners/Board of Directors**

The Company's founders and directors, Diane Izzo and Karl Izzo, have gained considerable experience in the food and beverage sector, conducting business in Malta and negotiating with the franchisors of the Subsidiaries being acquired by the Issuer. Furthermore, they are the ultimate beneficial owners of the Company, and therefore they have defined the group's strategy and led its operating drive since its inception. They have gained strong credentials in the local and international market and helped obtain all franchises, permits and licenses required to set up operations within the Subsidiaries. If Diane Izzo and Karl Izzo are unable or unwilling to continue in their present position, they may not be replaceable within the short term, which could have an adverse effect on the Subsidiaries' and ultimately the Company's business, financial condition and results of operations. The Company's future success will also depend, among other things, on its future directors and management. There is no guarantee that these objectives will be achieved to the degree expected following the loss of key personnel.

In addition to being responsible for the general management of the Issuer's affairs, the Board is responsible for the selection of the Eligible Assets. The Issuer has not appointed and will not be appointing a manager or other outside service provider to manage its assets. The selection of Eligible Assets by the directors could therefore affect the ability of the Issuer to meet its obligations to Noteholders under the Notes.

### **2.2.4 Valuations**

The valuation of an asset is inherently subjective due to, amongst other things, the individual nature of each asset, and valuations are sensitive to changes in market sentiment. As such, valuations are subject to uncertainty and cash generated on disposals may be different from the value of assets previously stated by the independent qualified architect. There is no assurance that valuations of assets, when made, will reflect the actual sale prices even where those sales occur shortly after the valuation date. This may mean that the value ascribed by the independent qualified architect, may not reflect the value



realised on sale, and that the returns generated upon disposal of such assets may be less than anticipated.

### **2.3 Risks relating to the Eligible Assets**

The Eligible Assets, including the Subsidiaries (which the Issuer has partially acquired and which the Issuer intends to fully acquire by means of the use of proceeds derived from this Notes Programme), shall be companies engaged solely in the food and beverage industry and the cafeteria industry and as a result their business activities are concentrated to these industry and may be exposed to various risks, including but not limited to the various risks detailed below, all of which are outside the Issuer's control.

#### **2.3.1 Dependence on Franchise**

The Eligible Assets may represent risks relating to franchise agreements which they may have concluded. In virtue of the current operations of DK Pascucci Limited, DCAFFE Holding Ltd., DCAFFE Ltd, Xilema Limited and D Kitchen Lab Limited, D Food Group's operations will be centered on the:

- Pascucci brand developed in Malta by the franchisee, namely DK Pascucci Limited pursuant to a franchise agreement entered into with Café Pascucci Torrefazione S.p.A.;
- Pastrocchio brand developed in Malta by the franchisee, namely DCAFFE Ltd pursuant to a franchise agreement entered into with Pasticcio & Co. Srl;
- Yogorino brand developed in Malta by the franchisee, namely Xilema Limited pursuant to a franchise agreement entered into with FantasyonIce Ltd;
- Salad Box brand developed in Malta by the franchisee, namely DCAFFE Ltd pursuant to a franchise agreement entered into with S.C. Alon S.R.L.;
- Nespresso brand developed in Malta by the franchisee, namely DCAFFE Ltd pursuant to a franchise agreement entered into with Nestle Nespresso S.A.

The long-term success of the Eligible Assets, including that of the Subsidiaries, depends, to a significant extent, on: (i) the ability of the franchisees and franchisors to identify and react to new food and beverage industry trends; (ii) the ability of the franchisees and franchisors to develop marketing strategies to maintain and enhance reputation and develop new products; (iii) the goodwill associated with the Pascucci, Pastrocchio, Yogorino, Salad Box and Nespresso trademarks; (iv) the continued relationship between the group and the franchisors; and (v) the continued vitality of the Pascucci, Pastrocchio, Yogorino, Salad Box and Nespresso concepts and the success, quality and management of the franchisors' overall systems. As the operations of the franchisors are international, the franchisors' success is susceptible to various factors, including economic, political and legal conditions, which may vary from one region to another. The franchise agreements will expire between 2020 and 2025 and may only be renewed upon the franchisee meeting certain conditions. There is no guarantee that such conditions will be met, and that the franchise agreements will be renewed.

#### **2.3.2 Governing Law and Jurisdiction**

The franchise agreements for the Pascucci and Pastrocchio brands are governed by the laws of Italy, with exclusive jurisdiction of the courts of Rimini; the franchise agreement for the Yogorino brand is governed by the laws of Dublin; the franchise agreement for the Salad Box brand is governed by the laws of Romania; the franchise agreement for the Nespresso brand is governed by the laws of Switzerland. Other franchise agreements entered into by Eligible Assets may be also be governed by

laws other than those of Malta. This foreign law element increases the complexity involved in any legal proceedings arising in connection with any of these agreements.

### **2.3.3 Term of Leases**

The premises from which the Subsidiaries operate in Malta are leased premises. Other undertakings underlying the Eligible Assets may also operate from leased premises. There is no guarantee that the undertakings underlying the Eligible Assets, including the Subsidiaries, will be able to renew the leases. Furthermore, their inability to renew the lease agreements or to fulfil their obligations thereunder, leading to their termination, could lead to the simultaneous termination of some or all of the franchise agreements. This may have a material adverse effect on their business and results of operations.

### **2.3.4 General risks associated with the food and beverage industry, generally, and the cafeteria industry in particular**

The performance of the undertakings underlying the Eligible Assets, including that of the Subsidiaries, is or may be subject to several risk factors that affect the food and beverage industry, generally, and the cafeteria segment of the industry in particular, including:

- a downturn in internal market conditions or the national and/or local political, economic and market conditions, which may in turn cause changes in consumer confidence, disposable income and discretionary spending patterns;
- increases in interest rates and a reduction in the availability of financing and/or refinancing on favourable terms;
- periodic local oversupply of cafeterias in Malta;
- increases in operating expenses as a result of inflation, increased personnel costs and health and safety related costs, higher utility costs (including energy costs), increased taxes and insurance costs, as well as unanticipated costs as a result of acts of nature and their consequences and other factors that may not be offset by increased product rates;
- competition from other food and beverage establishments and cafeterias with respect to price, service, location, food quality and consistency;
- changes in demographic trends, traffic patterns and the type and number of competing cafeterias;
- changes in consumer preferences and perceptions including fluctuations in consumer spending, dietary patterns and trends;
- health concerns and potential litigation relating to health;
- potential litigation in relation to operational aspects of the business;
- changes in regulatory frameworks setting out the requirements and obligations applicable to, *inter alia*, restaurant-owners and employers in general;
- the termination, non-renewal and/or the renewal on less favourable terms of the material contracts, these being the franchise agreements and the lease agreements.

Adverse changes in any one or more of these factors could reduce customer transactions at the cafeterias operated by the undertakings underlying the Eligible Assets, impose limits on pricing, or cause the said undertakings to incur additional expenditure to modify their concepts, which could adversely affect their business. The catering operations of the undertakings underlying the Eligible Assets also depend on their ability to avoid any degradation in product quality and/or service levels for customers, which could undermine confidence in their services. The business of the undertakings underlying the Eligible Assets, including that of the Subsidiaries, could be negatively impacted from these delays, errors, failures or faults.

### **2.3.5 Relations with Suppliers**

The profitability of the food and beverage activities of the undertakings underlying the Eligible Assets partially depends on their ability to anticipate and react to changes in the cost of its supplies, and on its dependence on timely deliveries by its suppliers. Any deterioration in their relationships with their suppliers could have an adverse effect on the undertakings underlying the Eligible Assets, including the Subsidiaries. Other factors, such as interruptions in supply caused by adverse weather conditions, could materially adversely affect the availability and costs of their products.

### **2.3.6 Contamination and Reputation Risk**

The Subsidiaries rely heavily on the reputation of their branded products. An event, or series of events, that materially damage/s the reputation of the Pascucci, Pastrocchio, Yogorino, Salad Box and Nespresso brands could have an adverse effect on the value of that brand and subsequent revenues from that brand or business. In the event of contamination occurring in the future, this may lead to business interruption, product recalls or liability, each of which could have an adverse effect on the Subsidiaries' business, reputation, prospects, financial condition and results of operations. The Subsidiaries may not be able to enforce their rights in respect of insurance policies in place and, in the event contamination occurs, any amounts that the Subsidiary does recover may not be sufficient to offset any damage it may suffer. This risk may also apply to other undertakings underlying the Eligible Assets as they too would be active in the food and beverage industry.

Furthermore, given the nature of the food and beverage activities, the undertakings underlying the Eligible Assets, including the Subsidiaries, may be subject to customer complaints or claims alleging food-related illness, injuries suffered on their premises, or other food quality or operational concerns. Adverse publicity from such allegations may materially affect sales revenue generated by their food and beverage establishments. If such complaints or litigation result in fines or damage to the reputation of the undertakings underlying the Eligible Assets, including that of the Subsidiaries, their business could also be impacted.

### **2.3.7 Operational Risk**

This risk covers the losses arising from inadequate or failed internal processes and systems, the inability to retain key personnel, failure to maintain licensing and regulation (including health and safety measures), acts of negligence, gross negligence or otherwise misconduct by employees, and also by contractors and service providers and unforeseen external events. Such operational risks include incurring direct or indirect loss due to inadequate or inoperative internal control processes, staff errors, and/or illegal actions, closure of business due to failure to comply with the relevant laws and regulations or external factors.

The Subsidiaries, and other undertakings underlying the Eligible Assets, rely and are, or are likely to rely and be, dependent on IT systems (hardware and software), and the functioning thereof, which could be considerably impaired by internal and external factors. IT systems are susceptible to a number of risks, such as computer viruses, hackers or damage to critical IT hardware. The partial or complete failure of the said IT systems, accompanied by a breakdown in back-up resources, could lead to a significant disruption of business processes, a temporary shutdown of business operations, claims for damages and/or a loss of customers. Should such events or similar events occur and lead to damages or lost revenues, there could be a material adverse effect on the assets, financial position and earnings of the undertakings underlying the Eligible Assets, and of the Subsidiaries.

## **2.4 Risks Relating to the Notes**

### **2.4.1 No Assurance of Active Secondary Market for the Notes**

There is currently no market for the Notes and, notwithstanding that the Notes shall be admitted to listing and trading on the IFSM, there can be no assurance that any secondary market for the Notes will develop or, if a secondary market does develop, that it will provide Noteholders with sufficient liquidity of investment or that it will continue for the life of the Notes.

If a secondary market for the Notes does develop, it is not possible to predict the prices at which the Notes will trade in such secondary market. As such, issue, they may trade at a discount or premium from their initial issue price. In addition to the Issuer's creditworthiness, many other factors may affect the trading market for, and market value of, the Notes. These factors include: general economic conditions; the Issuer's and/or Dizz Group's securities or any takeover or merger activity involving the Issuer and/or Dizz Group; the performance and prospects of the undertakings underlying the Eligible Assets, including but not limited to, the Subsidiaries; the time remaining to maturity; redemption or repayment features; and the level, direction and volatility of market interest rates generally.

The Issuer is under no obligation to make a market in the Notes. Therefore, Noteholders 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.

No assurance is given that the Notes shall remain listed indefinitely.

The liquidity of such notes may also be affected by other risk factors, including those affecting the Eligible Assets and also by restriction on offers and sale of such Notes in some jurisdictions.

### **2.4.2 Risks Relating to Fixed Rate Debt Securities**

The Notes are fixed rate notes. Investment in the Notes involves the risk that subsequent changes in market interest rates may adversely affect the market value of the Notes. Investors should be aware that because of the way yield is typically calculated by market participants, the price of fixed income securities tends to move in a way that is inversely proportional to changes in interest rates. Accordingly, when prevailing market interest rates are rising, the prices that market participants will generally be willing to pay for the Notes can be expected to decline. Conversely, if market interest rates are declining, secondary market prices for the Notes will tend to rise. Moreover, fixed rate debt securities with a longer period to maturity will tend to reflect a greater degree of secondary market price volatility relative to movements in market interest rates when compared to fixed rate debt securities with a shorter remaining life.

### **2.4.3 Proceeds of the realization of security**

The Notes, as and when issued and allotted, shall constitute the general, direct, and unconditional obligations of the Issuer and shall at all times rank *pari passu* without any priority or preference among themselves. The obligations of the Issuer pursuant to the Notes will be secured in accordance with the terms and conditions laid down in the applicable Final Terms. Notwithstanding that the Notes constitute the general, direct, and unconditional obligations of the Company, and shall be secured as detailed in the Final Terms with respect to a particular Tranche, they may rank after causes of preference which may arise by operation of law. There can be no guarantee that privileges accorded by law in specific situations will not arise during the course of the business of the Company which may rank with priority or preference over the Collateral.

There can be no assurance that, in the event that the Collateral is enforced, the amounts realised will be sufficient to satisfy the obligations to repay principal, and pay accrued interest, due to the holders of the Notes, and in the event that such proceeds are insufficient to discharge such obligations in full, the Noteholders will share in such proceeds pro rata to the amounts then due to them.

#### **2.4.4 Priority of claims of the Security Trustee**

Upon an enforcement of any security by the Security Trustee, the Noteholders will have the right to be paid amounts due to them only after payment of all claims, demands, liabilities, proceedings, costs, fees, charges, losses and expenses incurred by the Security Trustee in relation to or arising out of, the taking or holding of any security in respect of the Notes, the exercise or purported exercise of any of the rights, trusts, powers and discretions vested in the Security Trustee or any other matter or thing done or omitted to be done in connection with the security in respect of the Notes. Any such payments may result in Noteholders not receiving all amounts outstanding under the Notes.

#### **2.4.5 No Voting or Direct Rights in the undertakings underlying the Eligible Assets, including but not limited to, the Subsidiaries**

Following the acquisition of the Eligible Assets, Noteholders will not have voting or direct rights in the undertakings underlying the Eligible Assets, including but not limited to, the Subsidiaries, unless converted into Shares. Should the Notes be converted into Shares, the Noteholders will subsequently have voting and direct rights in the Subsidiaries and their value will be linked directly to that for the ordinary shares of the Issuer. Nevertheless, once converted into Shares, the Issuer has no obligation to update the disclosures or information contained in this Prospectus prior to the Conversion Date and such Shares shall not be admitted to trading on a Regulated Market.

#### **2.4.6 No Restriction on Incurring Additional Indebtedness**

The Notes do not restrict the Issuer's ability to incur additional debt or securing that indebtedness in the future, which actions may negatively affect the Issuer's financial position and its ability to make payments on the Notes when due. The Notes also do not restrict the undertakings underlying the Eligible Assets, including but not limited to, the Subsidiaries' ability to incur additional debt or take other actions that could negatively affect Noteholders. The said undertakings are not restricted under the Terms and Conditions of the Notes from incurring additional indebtedness or securing indebtedness in the future. In addition, the Notes do not require the said undertakings to achieve or maintain any minimum financial results relating to its financial position or results of operation. The said undertakings' ability to recapitalise, incur additional debt and take a number of other actions that are not limited by the Terms and Conditions of the Notes could have the effect of diminishing the ability of the Issuer to make payments on the Notes when due.

#### **2.4.7 No Involvement by the undertakings underlying the Eligible Assets, including but not limited to, the Subsidiaries, in the Offering of Notes**

The undertakings underlying the Eligible Assets, including but not limited to, the Subsidiaries are not involved in the offering of the Notes and do not have any obligation to take consideration of, or act in accordance with, the interests of the Noteholders. The said undertakings did not decide to issue the Notes and will not receive any funds from the acquisition of their share. The said undertakings will not determine when the Issuer will issue the Notes, the price at which the Issuer will sell them or how many Notes will be issued. The said undertakings are not involved in managing or trading the Notes. Accordingly, a Noteholder can have recourse only against the Issuer to the extent of its obligation under the Notes for repayment of the Notes and will have no recourse against the said undertakings.

#### 2.4.8 Non-recourse

If the proceeds of the realization of the security granted in respect of the Notes is less than the amount payable by the Issuer in respect of the Notes, the obligations of the Issuer shall be limited to such net proceeds which shall be applied in such order as the Issuer may decide pro rata (by reference to the principal amount of the Notes outstanding and accrued interest thereon at the relevant time) and no other assets of the Issuer or Dizz Group will be available for payment of the shortfall.

#### 2.4.9 Discontinuation of Listing

The Listing Authority has the authority to suspend trading or listing of the Notes if, *inter alia*, it determines that such action is required for the protection of investors or of the integrity or reputation of the market. The Listing Authority may also discontinue the listing of the Notes on the IFSM. Any trading suspension or listing discontinuation described above could have a material adverse effect on the liquidity and value of the Notes.

**THE FOREGOING RISK FACTORS ARE NOT EXHAUSTIVE AND DO NOT PURPORT TO BE A COMPLETE LIST OF ALL OF THE RISKS AND CONSIDERATIONS INVOLVED IN INVESTING IN THE NOTES. IN PARTICULAR, THE ISSUER'S PERFORMANCE MAY BE AFFECTED BY CHANGES IN MARKET OR ECONOMIC CONDITIONS AS WELL AS LEGAL, REGULATORY AND TAX REQUIREMENTS APPLICABLE TO THE ISSUER, THE NOTES AND/OR THE ELIGIBLE ASSETS AND ANY UNDERTAKING RELATING THERETO.**

### **3 PERSONS RESPONSIBLE**

All of the Directors, whose names appear under the heading “Board of Directors” in Section 5.3.1 of this Base Prospectus, are persons responsible for the information contained in this Base Prospectus and accept responsibility therefor.

To the best of the knowledge and belief of the Directors, who have taken all reasonable care to ensure that such is the case, the information contained in this Prospectus is in accordance with the facts and does not omit anything likely to affect the import of such information. The Directors accept responsibility accordingly.

## 4 ADVISORS AND STATUTORY AUDITORS

### 4.1 Advisors

Listing Agent:

Grant Thornton Limited  
Fort Business Centre,  
Triq l-Intornjatur, Zone 1  
Central Business District  
Birkirkara, CBD 1050  
Malta

### 4.2 Statutory Auditors

KSİ Malta of 6, Villa Gauci, Mdina Road, Balzan Malta, have been appointed as the Issuer's statutory auditors until the next general meeting of the Issuer.

KSİ Malta, is a firm of certified public accountants, holding a warrant to practice the profession of accountant and a practicing certificate to act as auditors in terms of the Accountancy Profession Act (Chapter 281 of the laws of Malta). KSİ Malta is a registered audit firm with the Accountancy Board of Malta with registration number AB/26/84/43.



## 5 THE ISSUER

### 5.1 Information about the Issuer:

Full Legal and Commercial Name of the Issuer:	D Foods Finance p.lc.
Company Registration Number:	C 94912
LEI Number:	485100QEA16AFT5IHK83
Legal Form:	Limited liability company established under the Companies Act which was subsequently converted into a public limited company on 14 June 2020
Place of Registration and Domicile:	Malta
Date of Incorporation:	21 May 2020
Registered Address:	Dizz Buildings, Carob Street, Santa Venera, Malta
Legislation under which the Issuer operates:	Maltese law
Telephone Number:	+356 21 225589
Email address:	info@dizz.com.mt
Website:	<a href="http://www.dizz.com.mt/d-foods-finance-plc/">www.dizz.com.mt/d-foods-finance-plc/</a> The information on the website does not form part of the Base Prospectus

### 5.2 Business Overview:

The Issuer was established as a finance and investment company whose business is to pursue investment opportunities in the food and beverage sector, whether in Malta or elsewhere, that demonstrate potential for increased shareholder value through turnaround strategies and management synergies and to finance such investment through the issuance of securities and any other form of finance. Consequently, the Issuer's business involves the acquisition of the Eligible Assets and the management thereof. The Issuer intends, and has already taken steps, to invest in the Subsidiaries, as the latter shall form part of the Eligible Assets. Further information on the principal activities of the Subsidiaries including the main categories of products sold and/or services performed can be found in Section 7.

### 5.3 Administrative, Management and Supervisory Bodies

#### 5.3.1 Board of Directors

The Board of Directors of the Issuer must consist of a minimum of two (2) members and a maximum of seven (7) members, who do not need to be shareholders of the Issuer.

The Board of Directors is in charge of the administrative, management and supervisory functions within the Issuer.

As at the date of this Base Prospectus, the Board of Directors of the Issuer is composed of the following persons, whose business address is that of the Issuer:

Diane Izzo

Karl Izzo

The Chairman of the Board is Diane Izzo. The Business address of the Directors is that of the Issuer.

### 5.3.2 Curriculum Vitae of the Directors

**Diane Izzo** founded the Dizz Group with her husband in 2000. The spouses came across the Terranova brand whilst in Hungary and immediately recognized its potential in Malta. The first Terranova outlet was subsequently opened in Baystreet, St Julian's. In the following years new outlets were opened for Terranova and other brands were subsequently acquired, including Calliope and Liu Jo in the fashion apparel sector. Dizz Group acts as the exclusive agent in Malta for franchises Terranova, Terranova Kids, Calliope, Liu Jo, Pascucci, Guess, Brooks Brothers, Elisabetta Franchi, Max & Co, Paul & Shark, Harmont & Blaine, Trussardi, Golden Point, PINKO, Michael Kors and Makeup Store. The Company also owns Caffè Pascucci.

**Karl Izzo** has been a Director of the Dizz Group since its inception. He is responsible for the Public Relations of the Group. He is also pivotal in the relationships between the Dizz Group and the franchisors, attending all important company meetings both locally and overseas, and assisting Diane in all major decisions taken and with ongoing developments. As from 1 July 2019, Karl has held the post of Maltese ambassador to Montenegro. On the sporting front, Karl was appointed coach of the National Waterpolo team in 2013, a position he holds to date. Prior to that, Karl advanced from playing waterpolo, where he formed part of junior national teams, to assistant head coach and coach of a number of local water polo clubs. During the 42nd anniversary in 2016 of the Republic, Karl was awarded for National Order of Merit with the medals for Service to the Republic of Malta. He was also awarded with the Gieh Ir Repubblika.

### 5.3.3 No Committees

The Board of Directors has not established any committees.

The primary purpose of an audit committee is to protect the interests of the company's shareholders and assist the Directors in conducting their role effectively. As the Issuer's shareholders are private stakeholders (and not investors in the Notes being offered pursuant to the Prospectus), and also given the size, nature and (lack of) complexity of the Issuer's business, the Directors have determined that it is not necessary, appropriate or feasible to establish an audit committee. The functions normally assigned to an audit committee as referred to and in terms of the Listing Rules will be performed by the Board of Directors as a whole. Furthermore, given that the Issuer is a subsidiary of Dizz Group of Companies Limited, whereby the latter is the guarantor of the €8 million 5% unsecured bond issued by Dizz Finance p.l.c. (ISIN No. MT0001201202), the terms of reference of the audit committee of Dizz Finance p.l.c. also include Dizz Group of Companies Limited and all its underlying subsidiaries. Consequently, going forward the audit committee of Dizz Finance p.l.c., through its oversight of the Dizz Group of Companies Limited, shall have an overseeing responsibility of the Issuer.

Furthermore, it should be noted that in the eventuality of exercise of the Conversion Option, it is not the intention of the Issuer to have the Shares, or any of them, admitted to trading or listed on any Regulated Market.

### 5.3.4 Employees

As at the date hereof, the Issuer has no employees, and will be reliant on the Dizz Group for administrative support.

## 5.4 Share Capital and Major Shareholders and Organizational Structure

The Issuer was incorporated with an issued and authorized share capital of one thousand and two hundred Euro (€1,200) divided into one thousand and two hundred ordinary shares of one Euro (€1)

each. The Issuer was subsequently converted into a public limited company on 14 June 2020, and as at the date of this Base Prospectus, the authorized share capital of the Issuer is €10,000,000 and issued share capital of the Issuer is 3,279,286 Euro (€3,279,286 ) divided into 3,279,286 ordinary shares of one Euro (€1) each, fully paid up and subscribed as follows:

- 1,639,643 ordinary shares by Dizz Group of Companies, a company registered under the laws of Malta, with company registration number (C64435) and with registered office at Dizz Buildings, Triq il-Harruba, Santa Venera, Malta;
- 1,639,643 ordinary share by Diane Izzo, holder of ID card number 407077M, residing at Flat 13, Waterside Apartments, Qui-Si-Sana Place, Sliema, Malta.

Except for the Conversion Option stipulated in this Base Prospectus, to the best of the Issuer's knowledge there are no arrangements in place as at the date of this Base Prospectus, the operation of which may at a subsequent date result in a change in the control of the Issuer.

The Directors of the Company shall be appointed by the shareholders in the annual general meeting of the Company. Save for the provisions included in Article 55.3 of the Articles of Association of the Issuer, an election of Directors shall take place every year. The procedure for the appointment of Directors shall be as follows:

Any shareholder or number of shareholders who in the aggregate hold not less than 50,000 shares having voting rights in the Company shall be entitled to nominate fit and proper persons for appointment as Directors of the Company.

In addition to the nominations that may be made by shareholders pursuant to the above, the Directors themselves or a committee appointed for this purpose by the Directors, may make recommendations and nominations to the shareholders for the appointment of Directors at the next following annual general meeting.

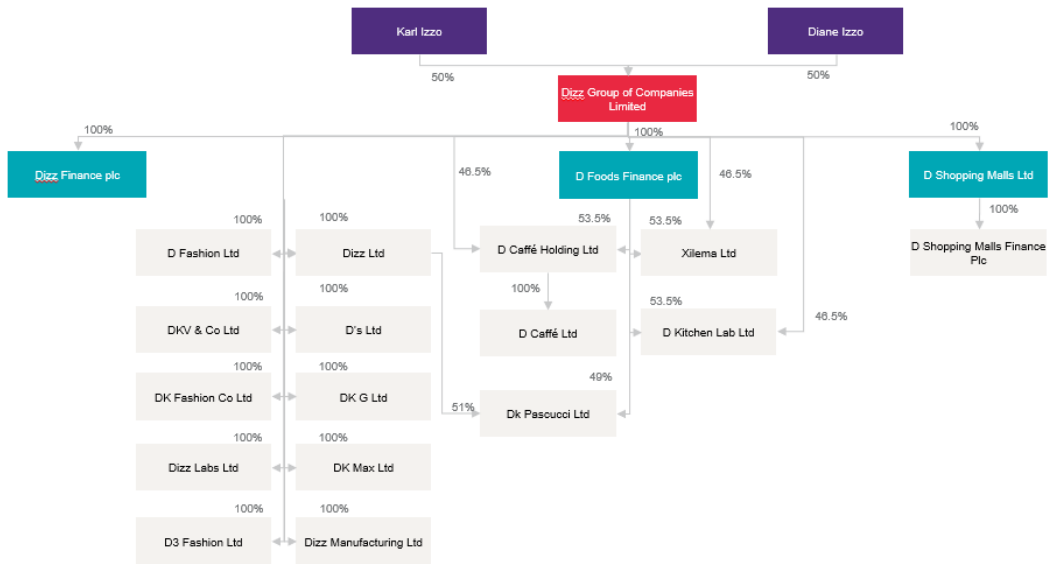
Any Director may be removed, at any time, by the shareholder or shareholders by whom he was appointed. The removal may be made in the same manner as the appointment.

Any Director may be removed at any time by the Company in general meeting pursuant to the provisions of section 140 of the Companies Act.

Dizz Group of Companies has sufficient voting powers to pass, on its own, both ordinary and extraordinary resolutions at general meetings of the Issuer, and controls the Issuer.

Dizz Group of Companies was incorporated on 28 March 2014 and its business mainly consists of holding shares in its subsidiaries.

The following organizational structure illustrates the Issuer's position within the Dizz Group as at the date of this Prospectus:



## 5.5 Potential Conflict of Interest of Directors / Shareholders

As at the date of this Base Prospectus:

- Diane Izzo who is a director of the Issuer, is also one of the two shareholders and one of the directors of Dizz Group of Companies Limited, which is in turn the majority shareholder of the Issuer; and
- Karl Izzo, who is a director of the Issuer, is the other only shareholder of Dizz Group of Companies Limited, which is in turn the majority shareholder of the Issuer.

The interest of Diane and Karl Izzo as the ultimate beneficial owners of the Issuer are aligned with their duties as Directors of the Issuer to act in the best interests of the Issuer. Diane and Karl Izzo are also directors on the Subsidiaries.

Other than the economic interest that Diane and Karl Izzo have in ensuring the success of the Issuer's activities and their position as directors of the Subsidiaries, Diane and Karl Izzo have no understanding or arrangement with the Issuer or the Subsidiaries, whether related to the issue of the Notes or otherwise.

Other than as stated in this Section 5.5 there are no potential conflicts of interest between the duties of the Issuer, of its directors and their private interests and/or other duties.

Potential conflicts of interest situations regarding Board members are specifically regulated by the Companies Act and by Article 64.1 of the Articles of Association, pursuant to which a Director is required to declare his interest in any contract or arrangement which is being discussed by the Board, even though he shall not be precluded from voting on that contract or arrangement at the meeting. Moreover, the minutes of Board meetings will invariably include a suitable record of such declaration and of the action taken by the individual Director concerned. Given the nature of the potential conflicts of interest described in the preceding paragraphs, there are no other measures in place to manage conflicts of interest (at board level or otherwise) to ensure that the control of the Issuer's majority shareholder is not abused, as none have been deemed necessary by the Issuer.

## 5.6 Historical Financial Information, Financial Statements and Auditing

As at the date of this Base Prospectus, the Issuer has not yet made up financial statements (audited or unaudited) for its first accounting reference period.

## 5.7 Working capital

After reasonable enquiry, the Directors of the Issuer are of the opinion that the working capital available is sufficient for the Company's present business requirements.

## 5.8 Capitalisation and Indebtedness

A summary of the Company's capitalization and indebtedness on as at the date of this Prospectus prior to the issuance of any Tranche is provided below

	<b>€000</b>
Notes	-
Total interest-bearing debt	-
Equity and reserves	3,401
Total capitalisation	3,401

## 5.9 Trend information

Since the date of its incorporation, the Issuer has not undertaken any activity, however a trend information analysis of the Subsidiaries has been included in Section 7.2.

## 5.10 Legal and Arbitration Proceedings

No governmental, legal or arbitration proceedings whatsoever are pending or threatened by or against the Issuer. Nor have any such proceedings been pending or threatened since the date of incorporation of the Company.

## 5.11 Material contracts

The Issuer has not entered into any material contracts which are not in the ordinary course of its business.

## 5.12 Third party information, Statements by Experts and Declaration of Interest

### 5.12.1 Interests of experts

The Base Prospectus does not contain any statement or report attributed to any person as an expert.

## 6 THE ELIGIBLE ASSETS

The Issuer was incorporated on 21 May 2020, as a finance and investment company, and therefore one of its objectives is that of issuing debt securities in order to acquire the Eligible Assets. No relevant investments have been made to date.

The net proceeds from the issue of the Convertible Notes will be used by the Issuer for the acquisition or part-funding of Eligible Assets, including but not limited to, shares in the Subsidiaries as set out in Section 7.1.

### 6.1 Eligible Assets

The Issuer is undertaking towards Noteholders to acquire only Eligible Assets. Moreover, the Board will ensure that all Eligible Assets acquired by the Issuer have characteristics that demonstrate the capacity to produce profits to service any payments due and payable on the Notes.

The Eligible Assets shall be managed by the Board, within the parameters reflected in this section and therefore the Board is responsible for the Eligible Assets, namely full acquisition of the Subsidiaries and/or the selection of the other Eligible Assets and/or investing further in the Subsidiaries, and concluding transactions thereon.

The Issuer intends to invest primarily in the Subsidiaries, which the Issuer has already identified and partially acquired (as further explained in section 7.1), through negotiations and/or agreements and arrangements with relevant counterparties, as having characteristics that demonstrate the capacity to produce sufficient profits to service any payments due and payable on the Notes. Consequently, the first proceeds to be raised will be used to part-fund the acquisition of the Subsidiaries. Applicants should understand that further Eligible Assets may be acquired by the Issuer from time to time using the proceeds of each Tranche and/or payments derived from Eligible Assets held by the Issuer from time to time. Applicants should note that all Eligible Assets, once acquired by the Issuer, will form part of the same assets held by the Issuer, and therefore there will not be any segregation of Eligible Assets on a Tranche-by-Tranche basis. As a result, the payment of yearly interest and of the redemption of principal on a particular Tranche will not necessarily be funded by the returns from those Eligible Assets funded by the proceeds raised from that particular Tranche only, but from the returns of all Eligible Assets held by the Issuer, whether acquired by the Issuer prior to or following the issue of that Tranche. Conversely, funds produced by those particular Eligible Assets acquired from the proceeds of that Tranche will be available for the payment of yearly interest and of the redemption of principal of other Tranches.

The Issuer has the right to substitute the Eligible Assets with other Eligible Assets, provided that in the Board's opinion, it is expected that the new Eligible Assets substituting the existing Eligible Assets will provide the Issuer with a return at least equivalent to the existing Eligible Assets being substituted (always with a view to ensuring that the Issuer has the ability to produce sufficient funds to service all payments due and payable on the Notes). The Issuer shall not substitute any Eligible Assets with assets that are not Eligible Assets.

The Issuer shall invest in Eligible Assets with a view to ensuring effective cash management and that the Eligible Assets have the ability to produce sufficient funds to service all payments due and payable on the Notes.

The Issuer expects the Eligible Assets acquired to consist solely of Equity Securities that are not listed and are operating in the food and beverage establishments, with cafeterias in particular or Debt Securities, whereby it shall advance the proceeds raised from future Tranches to the Subsidiaries

and/or other Eligible Assets under title of loan. The Board is only permitted to invest in unlisted Equity Securities that demonstrate high dividend yield potential through turnaround strategies and/or management synergies.

The Issuer will not acquire futures, options or other derivatives to leverage its position nor shall it underwrite securities. Until the Notes are admitted to trading on a Regulated Market, the Issuer is not permitted to invest in Equity Securities listed on a Regulated Market, Money Market Instruments or Deposits with a Credit Institution.

The Board is responsible for the selection of Eligible Assets. The members of the Board and their collective experience, is set out in Sections 5.3.1 and 5.3.2 above. Members of the Board are appointed and removed by ordinary resolution of the Issuer's shareholders in general meeting pursuant to Article 55.1 of the Articles of Association of the Issuer, provided that a Director may be removed by the shareholder or shareholders that appointed him. Any relationship of the Directors with the other parties involved in the issue of Notes is set out in Section 5.5 above.

## 7 THE SUBSIDIARIES

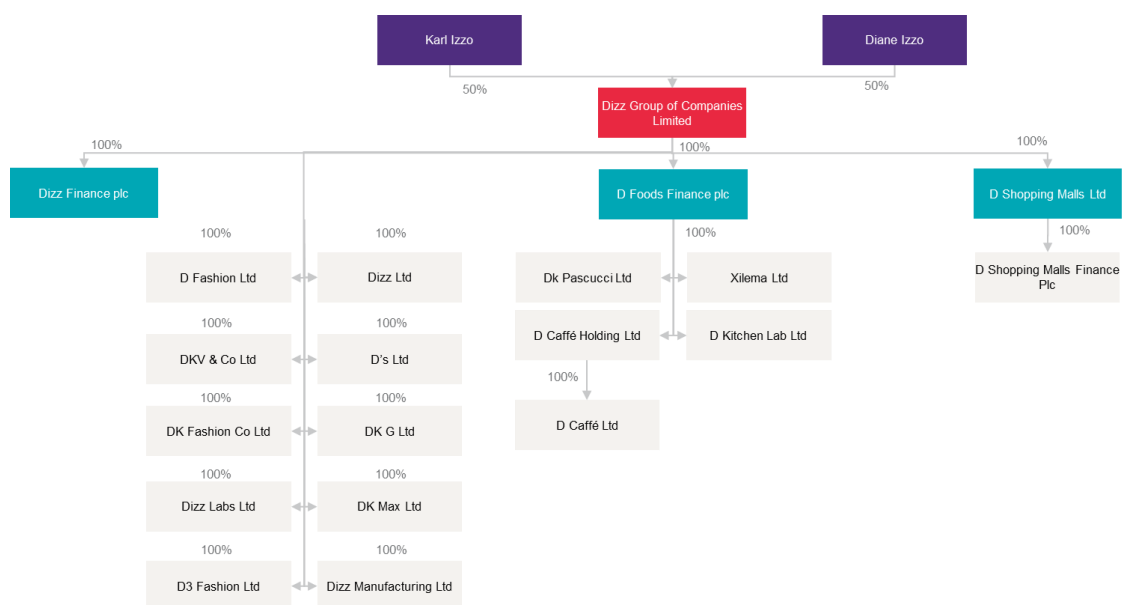
### 7.1 Use of proceeds in relation to the Subsidiaries

The shares in the Subsidiaries have been valued by Grant Thornton on 31 May 2020 at approximately €6.2 million. The Issuer has, on 14 June 2020, acquired the following stake in the Subsidiaries as set out in the organizational chart illustrated in section 5.4:

- 7,350 fully paid up ordinary shares of one euro (€1) each, representing 49% shareholding in DK Pascucci Limited
- 642 fully paid up ordinary shares of one euro (€1) each, representing 53.514% shareholding in Xilema Limited
- 642 fully paid up ordinary shares of one euro (€1) each, representing 53.514% shareholding in DCAFFE Holding Ltd.
- 642 fully paid up ordinary shares of one euro (€1) each, representing 53.514% shareholding in D Kitchen Lab Limited.

The acquisition was done by means of a consideration in kind consisting of allotment of its own shares equivalent to a nominal value of three million and two hundred seventy eight thousand and eighty six euro (€3,278,086), divided three million and two hundred seventy eight thousand and eighty six (3,278,086) ordinary shares of one euro (€1) each, issued by the Issuer and allotted to Dizz Group of Companies Limited.

The Issuer intends, and has taken steps, to acquire the remaining shares forming the entire share capital of the Subsidiaries by means of a cash consideration of €2.9 million, which will be paid through the proceeds raised from the first Tranche issued in virtue of this Notes Programme and payable 1 August 2020, such that the Issuer shall become the sole shareholder of all of the Subsidiaries. The below organizational illustrates the Issuer's position within the Dizz Group, following the issue of the Notes and acquisition of the Subsidiaries.



By fully acquiring the Subsidiaries, the Issuer would fully own companies that collectively operate the Pascucci, Pastrocchio, Yogorino, Salad Box and Nespresso brands in twelve establishments around Malta. Consequently, the Issuer shall generate operational and management synergies, hence creating shareholder value. The Subsidiaries are not listed on a Regulated Market.



Going forward, the Board of Directors may invest proceeds from other Tranches in the Subsidiaries to continue expanding the current brands by opening further establishments and/or conclude franchise agreements with other franchisors operating in the same market hence expanding its product range.

### 7.1.1 DK Pascucci Limited

DK Pascucci Limited is the holder of the franchisee license for the Pascucci brands. The company was incorporated on 5 December 2012, with registered office at Dizz Building, Carob Street, Santa Venera SVR 1700 and is the largest company from all of the Subsidiaries.

Until FY2018 DK Pascucci Limited operated three Caffè Pascucci outlets in Santa Venera, Paceville and Baystreet. On these establishments, the company generated revenue of €1.2 million in both FY2017 and FY2018, and a gross profit of €0.7 million and €0.8 million in FY2017 and FY2018 respectively. In FY2018, the company generated an EBITDA of €0.4 million, compared to €0.1 million in the previous year, through a decrease in administration costs. The latest audited financial statements, as audited by KSi Malta, in respect of DK Pascucci Limited relate to the financial year ended 31 December 2018. A copy of the audited financial statements for the last three years is reproduced below.

#### Statement of comprehensive income

€	FY2016	FY2017	FY2018
Revenue	710,115	1,244,260	1,207,092
Cost of sales	(271,979)	(578,441)	(408,932)
Gross profit	438,136	665,819	798,160
Direct costs	(291,903)	(501,860)	(348,689)
Operational profit	146,233	163,959	449,471
Administrative expenses	(51,946)	(38,803)	(38,906)
EBITDA	94,287	125,156	410,565
Depreciation	(61,383)	(82,558)	(83,086)
EBIT	32,904	42,598	327,479
Financial expenses	(14,032)	(28,756)	(36,669)
Net profit before tax	18,872	13,842	290,810
Tax	-	(4,924)	(76,976)
<b>Net profit after tax</b>	<b>18,872</b>	<b>8,918</b>	<b>213,834</b>

## Statement of financial position

€	FY2016	FY2017	FY2018
<b>Assets</b>			
<b>Non-current assets</b>			
Property plant and equipment	424,919	532,756	507,760
Investment in subsidiary	24,000	-	-
Deferred tax	226	8,365	8,365
<b>Total non-current assets</b>	<b>449,145</b>	<b>541,121</b>	<b>516,125</b>
<b>Current assets</b>			
Inventories	19,458	37,627	37,627
Trade and other receivables	192,528	220,345	820,834
Cash and cash equivalents	36,736	7,678	1,262
<b>Total current assets</b>	<b>248,722</b>	<b>265,650</b>	<b>859,723</b>
<b>Total assets</b>	<b>697,867</b>	<b>806,771</b>	<b>1,375,847</b>
<b>Equity and liabilities</b>			
<b>Equity</b>			
Issued capital	15,000	15,000	15,000
Retained earnings	116,045	124,963	338,797
<b>Total equity</b>	<b>131,045</b>	<b>139,963</b>	<b>353,797</b>
<b>Liabilities</b>			
<b>Non-current liabilities</b>			
Borrowings from related companies	305,380	305,000	395,000
<b>Total non-current liabilities</b>	<b>305,380</b>	<b>305,000</b>	<b>395,000</b>
<b>Current liabilities</b>			
Trade and other payables	138,332	348,194	432,169
Bank overdraft	123,110	551	104,842
Current tax liabilities	-	13,063	90,039
<b>Total current liabilities</b>	<b>261,442</b>	<b>361,808</b>	<b>627,050</b>
<b>Total liabilities</b>	<b>566,822</b>	<b>666,808</b>	<b>1,022,050</b>
<b>Total equity and liabilities</b>	<b>697,867</b>	<b>806,771</b>	<b>1,375,847</b>

## Statement of cash flows

€	FY2016	FY2017	FY2018
Net cash used in operating activities	52,131	332,661	343,533
Net cash used in investing activities	(217,012)	(190,295)	(41,961)
Net cash generated from financing activities	131,122	(48,865)	(412,279)
<b>Net movement in cash and cash equivalents</b>	<b>(33,759)</b>	<b>93,501</b>	<b>(110,707)</b>
Cash and cash equivalents at beginning of year	(52,615)	(86,374)	7,127
<b>Cash and cash equivalents at end of year</b>	<b>(86,374)</b>	<b>7,127</b>	<b>(103,580)</b>

In the latter part of FY2019, the company opened three Caffè Pascucci outlets in Gzira, Qormi and Sliema, following which the company generated €1.4 million revenue in FY2019 as per its management accounts. Going forward, the company is expected to generate €2.8 million revenue and achieve a 22% EBITDA margin.

‘Pascucci’ is an international brand with branches in over 25 countries, placing itself globally for the dedication of producing top quality coffee with its own patented roasting system.

### 7.1.2 DCAFFE Ltd

DCAFFE Ltd, is the holder of the franchise licensee for the Pastrocchio, Salad Box and Nespresso brand. The company was incorporated on 11 October 2018, with registered office at Dizz Building, Carob Street, Santa Venera SVR 1700 and as a result, as at the date of the Prospectus, the company has not yet issued any audited financial statements. Going forward, the company is expected to generate

annual revenues of c. €2.5 million from the Pastrocchio brand at a stabilised EBITDA margin of 7%, revenues of c. €950k from the Salad Box brand at a stabilised EBITDA margin of 16% and c. €4.2 million revenue from the Nespresso brand at an EBITDA margin of 17% by FY2022.

### **Pastrocchio**

Pastrocchio is synonymous with offering a wide range of meals at all times whilst maintaining quality and freshness. Pastrocchio specializes in coffee, breakfast, bakery, pastry, brunch, lunch, cocktail, dinner, pizza and brewery.

In 2019, DCAFFE Ltd, opened its first Pastrocchio outlet in Mriehel.

### **Salad box**

Salad Box is a Romanian fast-food restaurant chain specialising in salads and fresh food, which has stores spread across 11 countries from three continents. The concept revolves around providing customers the opportunity to adopt a new lifestyle, based on healthy eating at affordable prices.

DCAFFE Ltd expects to introduce this new brand to the local market in 2020 by opening three outlets in Sliema, Santa Venera and Qormi and a further outlet in Baystreet in 2021.

### **Nespresso**

Nespresso, 30 years ago, pioneered the portioned coffee segment with the idea of allowing anyone to create the perfect espresso at home. Today, the brand continues as the category driver of innovation, quality and consumer demand, with the brand remaining as the reference and preference for coffee connoisseurs worldwide.

DCAFFE Ltd opened the first Nespresso outlet in Malta in Mriehel in December 2018. In October 2019, it opened the flagship store at the Tigne Point Shopping Mall, Sliema. This store offers coffee lovers the opportunity to discover and enjoy the ultimate coffee experience at Malta's largest shopping centre.

### **7.1.3 Xilema Limited**

Xilema Limited, is the holder of the franchise licensee for the Yogorino brand. Yogorino is primarily known for its quality frozen yoghurt, however the brand has evolved over the years and also offers ice-cream, parfaits and confectionery, crêpes, waffles and pancakes, sticks, frappes, smoothies and shakes, water-ice, hot chocolate and coffee bar.

Xilema Limited operates the Pascucci outlet in Valletta since 2018 and has opened the first Yogorino outlet in 2019 in Valletta and is expected to open a new outlet in Paceville in 2020. The company is projecting a stabilized annual revenue of c. €600k from the three stores, and a 6% EBITDA margin.

The latest audited financial statements, as audited by KSi Malta, in respect of Xilema Limited relate to the financial year ended 31 December 2018, a copy of which is reproduced below.

## Statement of comprehensive income

€	FY2018
Sales	530,171
Cost of sales	(82,215)
Gross profit	447,956
Direct costs	(163,374)
Operational profit	284,582
Administrative expenses	(6,799)
EBITDA	277,783
Amortisation	(8,800)
Depreciation	(9,326)
EBIT	259,657
Financial expenses	(1,062)
Net profit before tax	258,596
Tax	(1,847)
<b>Net profit after tax</b>	<b>256,749</b>

## Statement of financial position

€	FY2018
<b>Assets</b>	
<b>Non-current assets</b>	
Property plant and equipment	55,962
Intangible assets	79,200
Deferred tax	-
<b>Total non-current assets</b>	<b>135,162</b>
<b>Current assets</b>	
Inventories	6,767
Trade and other receivables	207,901
Cash and cash equivalents	356,199
<b>Total current assets</b>	<b>570,867</b>
<b>Total assets</b>	<b>706,029</b>
<b>Equity and liabilities</b>	
<b>Equity</b>	
Issued capital	1,200
Retained earnings	272,202
Shareholders' account	(1,200)
<b>Total equity</b>	<b>272,202</b>
<b>Liabilities</b>	
<b>Non-current liabilities</b>	
Borrowings from related companies	79,679
<b>Total non-current liabilities</b>	<b>79,679</b>
<b>Current liabilities</b>	
Trade and other payables	339,281
Bank overdraft	14,865
<b>Total current liabilities</b>	<b>354,147</b>
<b>Total liabilities</b>	<b>433,826</b>
<b>Total equity and liabilities</b>	<b>706,029</b>

## Statement of cash flows

€	FY2018
Net cash used in operating activities	414,542
Net cash used in investing activities	(153,288)
Net cash generated from financing activities	67,674
<b>Net movement in cash and cash equivalents</b>	<b>328,928</b>
Cash and cash equivalents at beginning of year	12,405
<b>Cash and cash equivalents at end of year</b>	<b>341,333</b>

### 7.1.4 D Kitchen Lab Limited

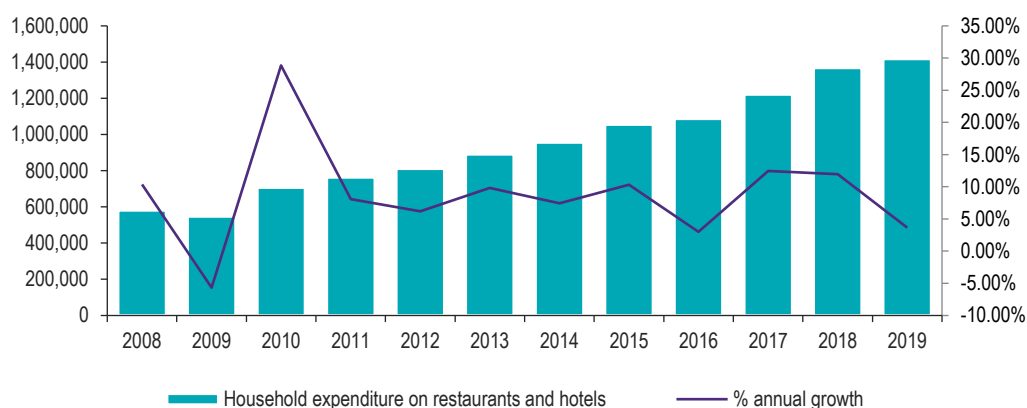
D Kitchen Lab Limited was incorporated on 16 July 2019, with registered office at Dizz Building, Carob Street, Santa Venera SVR 1700 and as a result, the company's first financial year shall end on 31 December 2020. Consequently, as at the date of the Prospectus, the company has not yet issued any audited financial statements.

The main activity of the company is to operate a kitchen which will prepare food items which will be distributed to Caffè Pascucci, Pastrocchio, Yogorino and other third-party companies. The target customers currently operate or are expected to operate several food and beverage outlets around Malta.

### 7.2 The food and beverage market

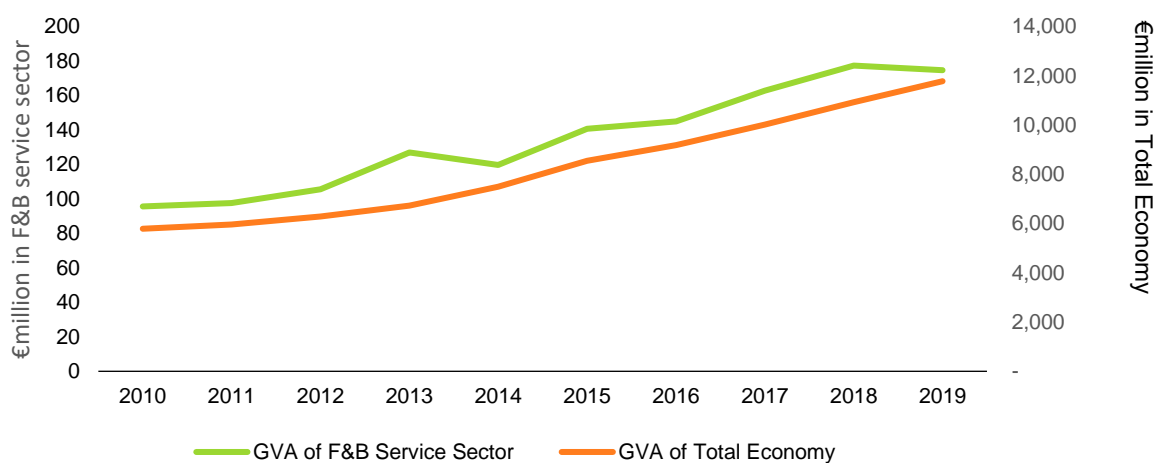
The food and beverage service sector comprises restaurants and mobile food service activities and beverage serving activities. Between 2008 and 2019 the food and beverage industry experienced year-on-year increases in the amount of Maltese household expenditure on restaurants and hotels, with the highest amount of expenditure being recorded in 2019 at €1.3 billion. Consequently, the food and beverage industry achieved a compound annual growth rate of 8.6% between 2008 and 2019.

#### Maltese household expenditure on restaurants and hotels



Source: National Statistics Office, Malta

The chart hereunder shows that the gross value added generated by the food and beverage service sector in Malta, which has grown on a year-to-year basis from €95 million in 2010 to €174 million in 2019. The chart also highlights the sector's correlation to Malta's economic performance, since over the reported period the food and beverage service sector has maintained the same percentage of gross value added generated by the whole economy of circa 1.6%.



In 2018, Malta had the third highest portion of expenditure on catering expenditure relevant to its total local household expenditure when compared to the rest of EU countries. This portion stood at 12.8%. On the contrary, the lowest percentage was that of Romania at only 2.0%. The EU spent 7.0% of its total expenditure on restaurants and hotels.

### 7.2.1 The outlook: 2020 onwards

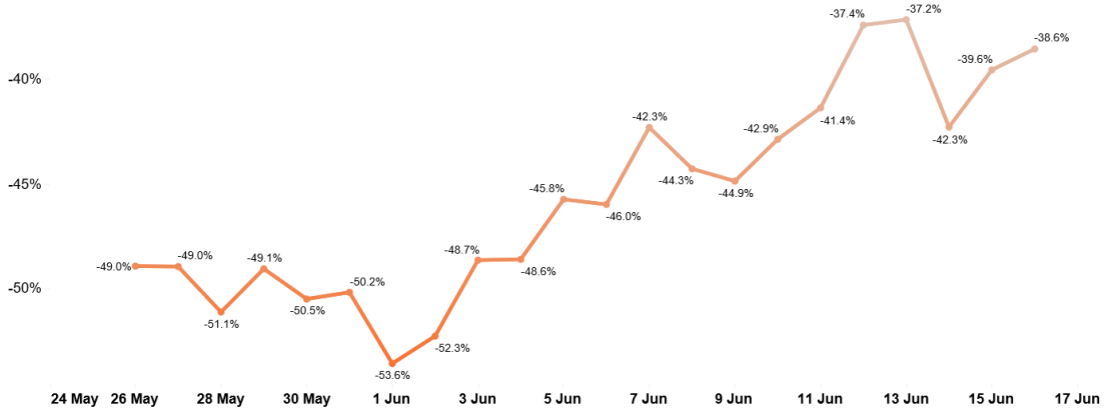
Due to the unfortunate and unprecedented times the world is currently experiencing, businesses worldwide have been adversely impacted by the disruptions brought about by the COVID-19 pandemic. The outbreak of the pandemic has forced numerous countries to close their borders and impose lockdowns with the aim of minimising the spread of the virus. Consequently, this has led to the worldwide economy suffering from several significant shocks and repercussions as a result of the longevity of the global pandemic, which are still being experienced to this day, albeit at a smaller scale.

In order to combat the spread of the pandemic, governments worldwide halted the operations of non-essential retail outlets, including the closure of food and beverage outlets, thereby drastically reducing the demand and consumption of such products. Malta swiftly followed suite, with the Government of Malta issuing Legal Notice 95 in March 2020, imposing the indefinite closure of non-essential retail outlets providing non-essential services. In order to mitigate the effects of the imposed lockdowns, various companies started offering take away services for their customers in order to ensure continuation of their operations. Consequently, consumers shifted their interests from predominantly dine-in options to the recently introduced delivery and take away options made available to them.

As the pandemic slowly subsided worldwide and the number of active cases reduced significantly, governments worldwide eased numerous restrictions previously imposed in order to combat the pandemic, including the elimination of all lockdown requirements in May. This allowed non-essential outlets to reopen and resume their operations, whilst adhering to stricter hygiene measures and social distancing rules. As consumers worldwide slowly regained confidence in visiting such outlets, between 24 May and 17 June 2020, the average daily trend of restaurant revenue in American states has increased by 12%, despite being 40% lower than that generated in the previous year as at 17 June 2020, as illustrated in the below figure.

### Average Daily Revenue Trend - Year Over Year %

% Based On The Equivalent Day In 2020 Vs. 2019



Source: <https://rallyforrestaurants.com/impact-COVID-19-restaurant-insights.html>

Similarly, the Government of Malta issued Legal Notice 202 during the month of May, allowing local retail outlets to reopen and resume their operations as from 22 May 2020. This has allowed consumers to revert to their pre-pandemic habits, thereby increasing their visits and consumption at such local outlets. Consequently, although companies operating in the food and beverage sector shall have a dip in profitability in 2020, the sector shall return to a semblance of normality over the coming months as consumer confidence, disposable income, and tourism levels gradually increase. Moreover, local food and beverage outlets have mitigated the effects of imposed social distancing measures by availing themselves of extensions to their outdoor dining areas where available, thereby overcoming the effects of the restrictions on the number of table covers.

Due to the fact that the duration of the pandemic is difficult to predict, many experts believe that consumers should learn to coexist with the virus, as the waterfall effects of the pandemic are expected to be continued to be experienced until a vaccine is rolled out. As per the International Monetary Fund (IMF), economic recovery may begin in 2021, but only if the nations of the world successfully contain the virus and limit the economic fallout. Despite the pandemic possibly leaving several long term repercussions on the food and beverage industry, due to shifts in consumer behaviour, the food and beverage outlets are expected to bounce back stronger than ever through the implementation of major structural and operational changes, adherence to new health standards and constantly adapting to new customer expectations.

## **8 STRUCTURE OF THE TRANSACTION**

### **8.1 Overview of the Parties involved in the Transaction**

#### **8.1.1 The Agent**

The Agent is an MFSA authorized investment services firm in terms of the Investment Services Act (Chapter 330 of the laws of Malta). The Agent's primary business is investment brokerage. The Agent has been appointed as the Issuer's subscription, redemption, paying and conversion agent pursuant to the Agency Agreement. The main responsibilities of the Agent are (as the Issuer's agent) the collection and processing of Application Forms and subscription monies from Applicants, ensuring that the Notes are constituted and registered by the CSD Approved Investors' names, and payment of all amounts due and payable to Noteholders in accordance with the Terms and Conditions of the Notes.

The Agency Agreement (and the Agent's appointment pursuant to the Agency Agreement) shall terminate automatically on the date following the Maturity Date, or the Conversion Date, whichever comes first, on which the Agent has fully performed its duties under the said agreement in respect of the final and full redemption of the Notes. The Agency Agreement may also be terminated at any time by notice in writing by either the Issuer or the Agent upon the occurrence of certain specified events (as set out in further detail in the Agency Agreement) including a material default of the other party's obligations under the Agency Agreement. If the Agent's appointment is terminated prior to the Maturity Date or the Conversion Date, the Issuer will, as soon as reasonably practicable appoint a replacement agent to perform the functions of the Agent on substantially the same terms of the Agency Agreement other than those relating to remuneration.

#### **8.1.2 The Account Bank**

The Account Bank provides the Issuer with the Operating Account. Bank of Valletta is a public limited liability company registered under the laws of Malta, with registration number C 2833 and with registered office at 58, Zachary Street, Valletta, VLT 1130. The Account Bank is licensed to carry on the business of banking as a credit institution in terms of the Bank Act (Chapter 371 of the laws of Malta). The Account Bank assumes no responsibility for the contents of this Prospectus. The Account Bank has no duty to monitor or oversee the operations of the Issuer or any of the service providers to, or counterparties of, the Issuer.

### **8.2 Interests of Natural and Legal Persons involved in the Issue**

The interests or potential conflicts of interests of any Director or shareholder of the Issuer that are relevant to the issue of Notes is disclosed in Section 5.5, "Potential Conflict of Interest of Directors/Shareholders."

### **8.3 Transaction Structure and Cashflow**

#### **8.3.1 Subscription**

Subscription monies from Applicants shall be paid into the Subscription Account and shall be held in the Subscription Account under the control of the Agent for the Applicants' benefit until the Notes are constituted by the approval of the Applications and registration of Approved Investors' names by the CSD, at which point the subscription monies will be transferred to the Operating Account. The proceeds from the issue of each Tranche will then be invested in Eligible Assets on a timely basis once the proceeds are received in the Operating Account.



### **8.3.2 Income**

All amounts received from time to time by the Issuer from the Eligible Asset Obligors in respect of the Eligible Assets are paid to and received by the Issuer in its Operating Account and management of the Eligible Assets will be instructed by the Board of Directors to make or transfer any such payments received by them into the Issuer's Operating Account. A part of such income and other payments received from Eligible Assets which are not necessary to finance costs, expenses and other liabilities of the Issuer may be invested in Eligible Assets and/or made available to the Board of Directors to invest in Eligible Assets.

### **8.3.3 Payments to Noteholders and Third Parties**

Payments to the Issuer in respect of the Eligible Assets are used to fund the Issuer's obligations to the Noteholders, as well as the Issuer's other payment obligations. There are no other arrangements upon which payment of interest and of the redemption of principal to the Noteholders will be dependent.

The Issuer shall not procure any insurance in connection with the Eligible Assets, although it is not excluded that the Issuer may in future take out insurance or be named as beneficiary on any relevant insurance policy taken out by the Board of Directors or usufructuaries'/borrowers. There is and will be no credit enhancement, liquidity support, or subordinate debt finance (in relation to the issue of Notes or otherwise) nor will the Issuer make any provision to cover principal shortfall risks.

As the Eligible Assets will primarily consist of the Subsidiaries and other unlisted Eligible Assets operating in the food and beverage sector, whereby the ultimate customers are principally retail customers paying in cash upon consumption of the products bought, the Eligible Assets are expected to generate steady returns, and hence, the Issuer expects that there will be sufficient funds to service all payments due and payable on the Notes and meet all of the Issuer's ongoing costs and expenses.

All amounts due and payable to the Issuer by the Eligible Asset Obligors in respect of the Eligible Assets are paid to and received by the Issuer in its Operating Account. In the event that any payments to the Issuers in respect of the Eligible Assets are made into the Issuer's Subscription Account, the Agent shall promptly arrange for the transfer of such amounts into the Issuer's Operating Account. All payments of interest on the Notes and of the redemption of principal on maturity will be effected by the Agent on behalf of the Issuer (as the Issuer's paying agent) from the Operating Account. The Agent will, on behalf of the Issuer, discharge these payment obligations under the Notes by making payments to the CSD for onward distribution to the accounts of the respective Noteholders indicated in the CSD's electronic register of Noteholders.

Payment of fees and expenses due to service providers and other creditors of the Issuer will likewise be made out of the Operating Account.

Both in the event that the Issuer is unable to make payments to all of its creditors and on an ongoing basis prior to any Event of Default, the Agent shall cause the Account Bank to make payments (of any amounts that are due and payable) from the Operating Account in accordance with the following order of priority of:

1. All taxes owed by the Issuer, whether to the Maltese tax authorities or otherwise and other creditors preferred by operation of law;
2. Fees and expenses of the service providers of the Issuer;
3. Fees and expenses of the Account Bank;
4. Payment of accrued and unpaid interest on the Notes; and

5. Repayment of principal of the Notes.

#### **8.3.4 Post-Issuance Reporting**

The Issuer shall provide post-issuance transaction reporting as required by the Listing Rules.

## 9 THE OFFERING PROGRAMME

### 9.1 General Description of the Programme

The following general description does not purport to be complete and is taken from, and is qualified in its entirety by, the remainder of this Base Prospectus and the Final Terms applicable to the relevant Tranche. This information constitutes a general description of the Programme for the purposes of Article 25(1)(b) of the Commission Delegated Regulation (EU) 2019/980. The Programme and this Base Prospectus was authorised by resolution of the Issuer's Board of Directors dated 1 June 2020.

Under this EUR 10,000,000 Note Programme, the Issuer may from time to time issue Notes. The maximum aggregate nominal value/principal amount of the Notes from time to time outstanding under the Programme will not exceed EUR 10,000,000 (or its equivalent in any other currency). Notes may be issued on a continuous basis in Tranches. All Notes will have a minimum denomination of EUR 100,000 and accordingly, no Tranche issued under the Programme shall constitute an 'offer of securities to the public' within the meaning of the Companies Act or the Prospectus Regulation. Application will be made for each Tranche of the Notes to be admitted to listing and trading on the IFSM. Each Note will be issued at an Issue Price which is at par or at a discount to or a premium over par.

Each Tranche will consist of Notes that are identical in all respects except for the Issue Date and/or Issue Price and/or Interest Rate and/or Interest Commencement Date. The Issuer will be issuing only one Series of Notes under the Programme. Accordingly, each Tranche issued under the Programme will be consolidated and form part of the same Series and will be fungible with all other Tranches issued.

The specific terms governing each Tranche will be set forth in the applicable Final Terms, which shall be published by the Issuer in the form set out in Section 11. The Issuer shall make the Final Terms available to the public by means of electronic publication on the website of the Listing Authority ([www.mfsa.com.mt](http://www.mfsa.com.mt)) and on the website of the Issuer ([www.dizz.com.mt/d-foods-finance-plc/](http://www.dizz.com.mt/d-foods-finance-plc/)). Any notice so given will be deemed to have been validly given on the date of such publication. The Final Terms for each Tranche may also be obtained free of charge from the registered office of the Issuer or the Agent.

### 9.2 Security

The Issuer shall arrange for the Notes issued under a particular Tranche to be secured by Security Rights granted in favour of the Security Trustee for the benefit of Noteholders from time to time registered in the CSD, in accordance with the provisions of the Security Trust Deed.

The security shall be constituted in favour of the Security Trustee for the benefit of all Noteholders from time to time registered in the CSD.

A Trust Deed has been constituted which consists of the covenants of the Issuer to pay the principal amount under the Notes on the Maturity Date (unless converted into shares of the Issuer) and interest thereon, and all the rights and benefits under the Security Trust Deed. The Collateral will be vested in the Security Trustee for the benefit and interest of Noteholders for the Notes being issued, in proportion to their respective holding of Notes.

The Security Trustee's role includes holding of the Collateral for the benefit of the Noteholders and the enforcement of the said Collateral upon the happening of certain events. The Security Trustee shall

have no payment obligations to Noteholders in terms of the Notes which remain exclusively the obligations of the Issuer.

The terms and conditions of the Trust Deed shall, upon subscription or purchase of any Notes, be binding on such subscriber or purchaser as a beneficiary under the trust as if the Noteholders had been a party to the Trust Deed and as if the Trust Deed contained covenants on the part of each Noteholder to observe and be bound by all the provisions therein, and the Security Trustee is authorised and required to do the things required of it by the Trust Deed.

### **9.3 Description of the Underlying Shares subject to the Conversion Option**

#### Type and class of Shares

Ordinary shares

#### Legislation under which the shares have been or will be created

Maltese legislation

#### Shares Form

The shares are in registered and certified form

#### Currency

Euro

#### Rights

In accordance with the Memorandum and Articles of Association of the Issuer, all shares shall grant the right of one (1) vote for every share held and are participating shares entitled to receive dividend distributions as deemed fit by the Board of Directors and shall rank *pari passu* in all respects including dividend and capital repayment rights.

#### **Dividends**

The Company in its general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Directors. The Directors may from time to time pay to the Members such interim dividends as appear to the Directors to be justified by the profits of the Company.

The general meetings of the Company shall be convened in accordance with General Meetings provisions in the Articles of Association of the Issuer.

All holders of ordinary shares shall rank "*pari passu*" upon any distribution of assets in a winding up.

#### **Pre-emption rights on allotment of new shares**

In accordance with article 88 of the Act and Article 8.1 of the Articles of Association of the Issuer, should any Shares in the Company be proposed for allotment for consideration in cash, the Company must, on a pre-emptive basis, offer existing holders a proportion of such Shares which are as nearly as practicable equal to the proportion in nominal value held by him/her/it of the aggregate Shares in issue in the Company immediately prior to the new issue of Shares. The obligation of the Company to offer Shares to existing Shareholders on a pre-emptive basis would not, however, apply to allotment of shares which are to be, wholly or partly paid up otherwise than in cash, and/or which are being allotted in pursuance to a conversion of listed debt securities into Shares in the Company in pursuance to a conversion option granted in terms of the offering document governing the issuance of the said listed debt securities. The Company shall not issue or allot any Shares such that such issue or allotment would dilute a substantial interest in the Company without prior approval of the members in general

meeting. Further details on pre-emption rights in case of allotments may be found in the Company's Memorandum and Articles of Association.

### **Pre-emption rights on transfer of existing shares**

If any shareholder (the "transferring member") wishes to transfer his shares or any of them, he shall inform the Directors by notice in writing (the "Transfer Notice") specifying the number of shares to be transferred and his estimated valuation of each shares. The transferring member shall not be entitled to revoke a transfer notice without the consent in writing of the Directors. The receipt by the Directors of such a Transfer Notice shall constitute an authority to them to offer for sale the shares specified therein at their "fair value" in accordance with current professional practice to be ascertained:

- a. by the Auditors of the Company; or
- b. by any other accountant / firm of accountants whom the Directors shall appoint with the consent in writing of the transferring member:

Provided that the above options are to be exercised in the order stipulated above.

Any holder of Shares wishing to transfer his shares must first offer them for sale to the other holders of Shares at their "fair value". The other holders of Shares shall have the right to purchase such shares and should more than one (1) holder of Shares desire to take up the offer such shares shall be distributed amongst them in proportion as nearly as may be to the number of Shares held by each. Such offer has to be made through the Board of Directors of the Company, which within thirty (30) days of receipt of such offer is to transmit it by registered mail to the holders of Shares in the Company, together with the Auditor's report establishing the "fair value" of such shares, allowing each holder of Shares fifteen (15) days to indicate the number, if any, he is willing to purchase. Any holder of Shares not replying to the offer by registered mail within the specified period will be considered to have declined the said offer. In the event of the whole of the said offer not being taken up by the holders of Shares of the Company in accordance with the above, the proposing transferor may at any time within three (3) calendar months after the expiration of the said thirty (30) days, beginning on the date of the transfer notice, sell the shares not taken up to any person, at a price not lower than the "fair value".

#### Trading

The Shares are not and will not be admitted to trading or listed on a Regulated Market upon exercise of the Conversion Option.

### **9.4 Conversion**

Each convertible Note shall entitle the holder, provided that a Conversion Request is made, to convert its Notes still outstanding into new ordinary shares of the Issuer (Underlying Shares), subject to and as provided in this Prospectus.

If 75% of the Noteholders outstanding at the Conversion Date jointly agree to convert the outstanding Notes into Underlying Shares, following the Independent Business Valuation obtained by the Noteholders from the Reputable Audit Firm, a written request of the joint Noteholders is to be provided to the Issuer. The Independent Business Valuation cannot be older than 30 days prior to the Conversion Request date.

Upon receipt of the written request, the Issuer cannot unreasonably withhold the request, following which all the Notes in issue at the Conversion Date will be converted into ordinary shares of the Issuer.

The number of ordinary shares to be delivered on exercise of a Conversion Option shall be determined by dividing the nominal value of the Convertible Notes by the value of the Issuer in effect on the relevant Conversion Date as stipulated in the Independent Business Valuation.

Conversion rights attaching to the Convertible Notes are not transferable by a Noteholder to a third party.

The Conversion Option, in respect of a Convertible Note may be exercised at any time during the term of the Notes.

## **9.5 Application for and Issue of the Notes**

Notes are offered and issued from time to time (each as a separate Tranche) when the Board, in its sole discretion, deems it appropriate to acquire and/or has identified for acquisition an amount of Eligible Assets as referred to in Section 6.1. The issue of each Tranche and Convertible Notes thereunder will be authorised by a separate resolution of the Board.

The issuance of each Tranche will be conditional upon:

- a) that part of the Collateral applicable to such Tranche being duly constituted as described and/or outlined in the relative Final Terms; and
- b) the admission to trading of the Notes to the IFSM

together referred to as the Condition Precedent.

In the event that such Condition Precedent is not met, the issue of a Tranche will be revoked unilaterally by the Issuer and, within five (5) Business Days of the revocation taking effect, the Application monies will be returned by the Issuer, without interest, by direct credit into the Applicant's bank account as indicated by the Applicant on the Application Form, at the Applicant's sole risk. The Issuer shall not be responsible for any charges or delay arising in connection with such transfer.

The Issuer has not established an aggregate minimum subscription level as a condition for the issue of each Tranche and, subject to the admission to trading of a Tranche on the IFSM (and the aggregate maximum nominal value of Notes that may be issued under the Programme and/or the maximum nominal value of Notes that may be issued under a particular Tranche as may be specified under the respective Final Terms), the Issuer shall issue Notes to each Applicant in the respective amount subscribed to by each of them.

Application Forms for each Tranche will be available from the Issuer or the Agent upon request following the publication of the relevant Final Terms; the Issuer and the Agent may be contacted using the contact details provided in the "Directory" at the end of this Base Prospectus. Unless an exception is made by the Issuer, all Application Forms must be received by the Issuer or the Agent by no later than two (2) Business Days prior to the respective Issue Date.

All Applicants submitting an Application Form will be required to submit, together with, but separately from, the respective Application Form a declaration that they qualify as Eligible Investors and the basis upon which they so qualify.

The Agent shall process the Application Forms on behalf of the Issuer, and in so doing it shall assess on behalf of the Issuer that all Applicants qualify as Eligible Investors: it being provided, for the avoidance of doubt, that for the purposes of such assessment it shall be sufficient for the Agent and the Issuer to rely on the relevant declaration/s signed by or on behalf of the respective Applicant at the exclusive responsibility of such Applicant and without the Agent or the Issuer being required to make further verifications in this respect (without prejudice to their right to request further information and to make further verifications, in their absolute discretion), and the Agent and the Issuer shall not be liable to any person for relying on the Applicant's declaration/s as aforesaid. In all cases, the relevant Application and the respective Applicant shall be subject to final approval by the Issuer, following the processing of the Agent.

In addition to any information or documentation required pursuant to the Application Form, the Agent and the Issuer reserve the right to request any further documentation from an Applicant (or from its representatives or financial intermediaries through which the Applicant submits its Application) that may in their discretion be deemed required or desirable in order to verify eligibility or client identification or generally to complete or approve an Application Form.

Following such processing and approval of Applications and allocation of the Notes amongst Approved Investors, the Issuer will, through the Agent, issue Notes to such Approved Investors who have provided proof of payment into the Subscription Account, in cleared funds, of the full subscription monies in respect of the Notes that are the subject of the relevant Application Form by no later than 10:00 am on the relevant Issue Date. The issue (and constitution) of such Notes to Approved Investors shall be made on the Issue Date, by means of the appropriate book-entries in the electronic register held at the CSD upon instruction of the Agent (acting on behalf of the Issuer), pursuant to the relevant resolution of the Board referred to above (and pursuant to the authorisations contained in such resolution and in the Agency Agreement).

### **Terms and Conditions of Issue and Application**

The Issuer reserves the right to withdraw any offer of Notes prior to the Issue Date for reasons beyond its control, such as extraordinary events, substantial change of the political, financial, economic, legal, monetary or market conditions at national or international level and/or adverse events regarding the financial or commercial position of the Issuer and/or other relevant events that in the reasonable discretion of the Issuer may be prejudicial to the offer. In such case, Approved Investors who have already paid or delivered subscription monies for Notes will be entitled to reimbursement (without any interest) of such amounts, within five (5) Business Days of the withdrawal taking effect, by direct credit into the Applicant's bank account as indicated by the Applicant on the Application Form, at the Applicant's sole risk. The Issuer shall not be responsible for any charges or delay arising in connection with such transfer.

Subject to all other terms and conditions set out in the Prospectus, the Issuer reserves the right to reject, in whole or in part, or to scale down, any Application, including multiple or suspected multiple applications. The right is also reserved to refuse any Application which in the opinion of the Issuer is not properly completed in all respects in accordance with the requirements hereof or set out in the Application or is not accompanied by the required documents.

In the event that an Applicant has not been allocated any Notes or has been allocated a number of Notes which is less than the number applied for, the Applicant shall receive a full refund or, as the case may be, the balance of the price of the Notes applied for but not allocated, without interest, by direct credit into the Applicant's bank account as indicated by the Applicant on the Application Form, at the

Applicant's sole risk, within five (5) Business Days from the relevant Issue Date. The Issuer shall not be responsible for any charges or delay arising in connection with such transfer.

The Issuer or the Agent on its behalf may in its discretion process an Application received by facsimile, but reserves the right not to process the same until receipt of the original.

It is the responsibility of investors wishing to apply for the Notes to inform themselves as to the legal requirements of so applying including any requirements relating to external transaction requirements and any exchange control in the countries of their nationality, residence or domicile.

It is the responsibility of any person wishing to make any Application to satisfy himself/herself as to full observance of the laws of any relevant territory in connection therewith, including obtaining any requisite governmental or other consents, observing any other formalities required to be observed in such territory and paying any issue, transfer or other taxes required to be paid in such territory.

The contract created by the Issuer's acceptance of an Application filed by an Applicant shall be subject to all the terms and conditions set out in the Prospectus and the relevant Application, as provided in Section 9.6 below.

If an Application is signed on behalf of another party or on behalf of a corporation or corporate entity or association of persons, the person signing will be deemed to have duly bound his principal, or the relative corporation, corporate entity, or association of persons, and will be deemed also to have given the declarations, confirmations, covenants, warranties and undertakings contained herein (in particular in Section 9.6 below) on their behalf. Such representative may be requested to submit the relative power of attorney/resolution or a copy thereof duly certified by a lawyer or notary public if so required by the Issuer, the Agent and/or the CSD, but it shall not be the duty or responsibility of the Issuer, the Agent and/or the CSD to ascertain that such representative is duly authorised to appear on the Application.

In the case of joint Applications, the person whose name shall be inserted in the field entitled "Applicant" on the Application shall for all intents and purposes be deemed to be the person nominated by all those joint Applicants whose names appear in the field entitled "Additional Applicants" in the Application to be their representative, and his/her name will be entered in the register of Noteholders with such designation. Such person shall, for all intents and purposes, be deemed to be the registered holder of the Note/s so held. Notwithstanding what is stated above, the joint Applicants for Notes shall be liable, jointly and severally, in respect of all subscription monies due to the Issuer and in respect of the production of documents and information and all other obligations which may be due by applicants for Notes to the Issuer.

In respect of a Note held subject to usufruct, the name of the bare owner and the usufructuary shall be entered in the register. The usufructuary shall, for all intents and purposes, be deemed vis-à-vis the Issuer to be the holder of the Note so held, as and subject to what is provided in Section 10.18 ("Notes held subject to Usufruct").

The Notes are only being offered to and may only be applied and subscribed for by Eligible Investors.

No person receiving a copy of the Prospectus or an Application Form in any territory may treat the same as constituting an invitation or offer to such person, nor should such person in any event use such Application Form, unless, in the relevant territory, such an invitation or offer could lawfully be made to such person or such Application Form could lawfully be used without contravention of any registration or other legal or regulatory requirements.



The Notes will be issued in whole, in denominations of €100,000 each. The minimum subscription amount for any investor (or joint investors considered cumulatively) shall be €100,000.

The issue of the Notes is not underwritten.

#### **9.6 Contract constituted by Acceptance of Application and Covenants, Warranties and Representations by Approved Investors**

The full contents of the Prospectus (including this Base Prospectus, and Supplements and the relevant Final Terms) as well as of the relevant Application, exhaustively set out and contain the terms and conditions of offering, issue, subscription, transfer, acquisition, holding and redemption of the Notes of the relevant Tranche. By signing and submitting the relevant Application, the Applicant (and in the case of joint applications, each individual joint Applicant) will be entering into a legally binding contract with the Issuer (which shall become binding on the Issuer if and when such Application is accepted by the Issuer, acting through the Agent, until which time the Application shall be irrevocable by the Applicant):

- (a) whereby the Applicant acknowledges, declares and agrees (and will automatically be deemed to be acknowledging, declaring and agreeing) that he/she/it has made the Application solely on the basis of, and that he/she/it shall at all times be bound by and comply with, and shall be subscribing, acquiring and/or holding the relevant Notes on the basis of, such contents, terms and conditions;
- (b) whereby he/she/it makes and gives (and will automatically be deemed to be making and giving) to the Issuer the declarations, covenants, representations and warranties contained below in this Section 9.6 and all other applicable declarations, covenants, representations and warranties contained in the Prospectus and/or in the relevant Application;
- (c) which contract, and any non-contractual matter arising out of or in connection with it, shall be governed and construed in all respects in accordance with the laws of Malta, and any disputes arising out of in connection with such contract or any non-contractual matter arising out of or in connection therewith shall be subject to the exclusive jurisdiction of the courts of Malta, as provided in section 10.20 (“Governing Law and Jurisdiction”).

Without prejudice to the aforesaid, by completing and delivering an Application, the Applicant:

- (a) agrees and acknowledges to have had the opportunity to read the Prospectus and to be deemed to have had notice of all information and representations made available to him by or on behalf of the Issuer concerning the Issuer and the issue of the Notes contained therein;
- (b) warrants that the information submitted by the Applicant in the Application is true and correct in all respects;
- (c) accepts that the Issuer, the Agent, the IFSM and the CSD may process, and authorizes the same to process the personal data that the Applicant provides in the Application, for all purposes necessary and subsequent to the Notes applied for, in accordance with applicable data protection legislation. The Applicant has the right to request access to and rectification of the personal data relating to him/her as processed by the Issuer, the Agent, the IFSM and/or the CSD. Any such requests must be made in writing and sent to the Issuer, the Agent, the IFSM and/or the CSD at the address indicated in the Prospectus. The requests must further be signed by the Applicant to whom the personal data relates;
- (d) confirms that in making such Application no reliance was placed on any information or representation in relation to the Issuer or the Notes or the issue of the Notes other than what is contained in the Prospectus and accordingly agrees that no person responsible solely or

- jointly for the Prospectus or any part thereof will have any liability for any such other information or representation;
- (e) agrees that the documents and any monies returnable to the Applicant may be retained pending clearance of his/her remittance, and any verification of identity as required by applicable prevention of money laundering and funding of terrorism legislation, and that such monies will not bear interest;
  - (f) agrees to provide the Agent and/or the Issuer, as the case may be, with any information which it/they may request in connection with the Application;
  - (g) warrants, in connection with the Application, to have observed all applicable laws, obtained any requisite governmental or other consents, complied with all requisite formalities and paid any issue, transfer or other taxes due in connection with his/her/its Application in any territory, and that the Applicant has not taken any action which will or may result in the Issuer or the Agent acting in breach of the regulatory or legal requirements of any territory in connection with the issue of the Notes or his/her/its Application;
  - (h) warrants that all applicable exchange control or other such regulations (including those relating to external transactions) have been duly and fully complied with;
  - (i) represents and warrants that the Applicant is an Eligible Investor;
  - (j) agrees that all documents in connection with the issue of the Notes will be sent at the Applicant's own risk and may be sent by post at the address (or, in the case of joint Applications, the address of the first named Applicant) as set out in the Application;
  - (k) renounces to any rights the Applicant may have to set off any amounts the Applicant may at any time owe the Issuer against any amount due under the terms of the Notes; and
  - (l) the Notes shall become repayable before the Maturity Date only if an Event of Default occurs as provided in Section 10.14.

## **9.7 Allocation Policy**

The Notes shall be allocated between Applicants in the manner determined by the Issuer at its discretion. Such allocation policy shall be made public through a company announcement.

## **9.8 Admission to Listing and Trading**

The Listing Authority has authorised the admissibility of the Notes to listing and trading on the IFSM pursuant to the Listing Rules by virtue of a letter dated 21 July 2020. Application will also be made for the Notes of each Tranche to be admitted to listing and trading on the IFSM. The expected admission date of the Notes will be set out in the relevant Final Terms.

## **9.9 Expenses of Issue and Admission to Trading; Introducer Fees**

An estimate of the total expenses relating to the issue of each Tranche and its admission to trading on the IFSM will be indicated in the relevant Final Terms for each Tranche.

The Issuer may appoint introducers of Eligible Investors in respect of any Tranche/s, in which case it will or may pay introducer fees to such introducers, the amount whereof shall be disclosed in the relevant Final Terms.

All of the Issuer's fees and expenses, including any introducer fees, will be payable out of the proceeds of the issue of each Tranche. No fees or expenses will be charged directly to Investors.

## **10 TERMS AND CONDITIONS OF THE NOTES**

### **10.1 General**

Each Convertible Note forms part of a duly authorized issue of up to €10,000,000 in aggregate nominal value of secured notes which may be issued under various Tranches under the Programme, at an interest rate specified in each Final Terms of each tranche, which shall be due on the Maturity Date, unless previously converted into shares of the Issuer, with each Note having a Nominal Value of €100,000, and issued by the Issuer at the Issue Price, namely €100,000 per Note. The Notes will be listed on the IFSM.

Unless previously purchased and cancelled or converted as provided herein, the Notes shall be redeemed as set out in Section 10.8 below.

The issue and listing of the Notes is made in accordance with the requirements of the laws of Malta, the Listing Rules and the Prospectus Regulation.

The Issuer has not sought assessment of the Notes by any independent credit rating agency.

The Notes and their issue will be governed by the terms and conditions contained in this Section 10 and all the other terms and conditions contained in and constituted by the Prospectus, including the Final Terms of the relevant Tranche. Accordingly, the Terms and Conditions set out in this Section 10 and elsewhere in this Base Prospectus must be read together with the provisions of the Final Terms of a Tranche for a full description of the Terms and Conditions of that Tranche. These Terms and Conditions will therefore apply to the Notes as completed or supplemented by the applicable Final Terms. Any blanks in the provisions of these Terms and Conditions (or in the definitions of any terms used in these Terms and Conditions) that are applicable to the Notes shall be deemed to be completed by the information contained in the Final Terms as if such information were inserted in the blanks of such provisions.

References in these Terms and Conditions to Notes or Noteholders are to the Notes or Noteholders of all Notes that may be issued under the Programme. References to Final Terms are to the Final Terms published by the Issuer in respect of the Tranche to be issued pursuant to those Final Terms.

### **10.2 Constitution, Currency and Denomination, Form and Title**

#### **10.2.1 Constitution of the Notes**

The Programme and this Base Prospectus was authorised by resolution of the Issuer's Board of Directors dated 1 June 2020. The issue of each Tranche and Notes thereunder will be authorised by a separate resolution of the Board.

The Notes under each Tranche will accordingly be issued on the respective Issue Date of such Tranche, pursuant to the said resolutions and the authorisations contained therein and in the Agency Agreement, in favour of the Approved Investors, by means of the appropriate book-entries in the electronic register held at the CSD upon instruction of the Agent (acting on behalf of the Issuer).

After processing and acceptance/approval of Applications by the Agent (acting on behalf of the Issuer as duly authorized by virtue of the above-mentioned Board resolutions and the Agency Agreement), the Agent will on the relevant Issue Date instruct the CSD (on the Issuer's behalf as aforesaid) to make the appropriate book-entries in the electronic register held at the CSD.

Such constitution and issue of the Notes will be subject to the terms and conditions of application and issue set out in Section 10.

### **10.3 Currency and Denomination**

The Notes will be issued in euro (€). The Nominal Value of each Note (denomination per unit) will be €100,000. The aggregate principal amount of Notes that the Issuer may issue under the Programme is €10,000,000, divided into 100 Notes of €100,000 each.

The Notes will be issued in whole, and not in part.

### **10.4 Form and Title**

The Notes are issued in fully registered and dematerialised form and are represented in uncertificated form by the appropriate entry in the electronic register maintained by the CSD on behalf of the Issuer. There will be entered in such electronic register, the names, addresses, identity card numbers (or details of some other official document in the case of natural persons), registration numbers (or details of some other official document in the case of companies or other legal persons) and account details of the Noteholders and the particulars of the Notes held by them respectively. Noteholders will also have, at all reasonable times during business hours, access to the register of Noteholders held at the CSD for purposes of inspecting information held on their respective accounts.

Title to the Notes shall be evidenced by an entry in the electronic register of Notes held by the CSD. The CSD will issue, upon a request by a Noteholder, a statement of holdings to a Noteholder evidencing that Noteholder's entitlement to Notes held in the register kept by the CSD. Except as ordered by a court of competent jurisdiction or as required by law, the Issuer shall be entitled to treat the person in whose name a Note shall be registered at the CSD as the absolute owner thereof for the purpose of making payment and for all other purposes, regardless of any notice of any nominee relationship or trust.

### **10.5 Status and ranking of the Notes**

The Notes shall, as and when issued, constitute the general, direct and unconditional obligations of the Issuer, and shall at all times rank equally *pari passu*, without any priority or preference among themselves.

Pursuant to the Trust Deed, the Issuer, agreed to constitute in favour of the Security Trustee, for the benefit of Noteholders as beneficiaries, Security Rights to be identified in the relevant Final Terms.

If the security granted to the holders of the Notes is enforced, the claims of Noteholders will rank equally amongst themselves. There can be no guarantee that the proceeds realised from the enforcement of the Security Property will be sufficient to repay the amounts due to the Noteholders in full.

### **10.6 Rights attaching to the Notes**

The Terms and Conditions of the Notes as described and set out in the Prospectus constitute the terms and conditions of the contract between the Issuer and the Noteholder which comes into effect upon approval by the Issuer (or the Agent on its behalf) of the relevant Application submitted by such Noteholder, which approval shall be signified by the instruction given by the Agent (on behalf of the

Issuer) to the CSD on the relevant Issue Date to make the appropriate book-entries in respect of the relevant Noteholder and the relevant Note/s in the electronic register held at the CSD. A Noteholder shall have such rights as are, pursuant to the Base Prospectus, attached to the Notes, including (without limitation):

- (i) The payment of interest and of the principal amount;
- (ii) The right to convert the outstanding Notes at any time during the term of the Notes into shares of the Issuer;
- (iii) The benefit of the Collateral through the Security Trustee;
- (iv) The right to attend, participate in and vote at meetings of Noteholders in accordance with the Terms and Conditions; and
- (v) All such other rights attaching to the Notes emanating from the Prospectus.

No Notes shall be issued to Eligible Investors before the Condition Precedent set out in Section 9.5 has been duly satisfied.

## **10.7 Interest/yield**

### **10.7.1 Interest Rate and Interest Payment Dates**

Each Note bears interest on its Nominal Value at the Interest Rate from (and including) the Interest Commencement Date up to (but excluding) the Maturity Date or the Conversion Date. Interest shall be payable in arrears in Euro on each Interest Payment Date. The first payment of interest shall be made on the first Interest Payment Date. In the event that any Interest Payment Date falls on a day other than a Business Day, the relevant Interest Payment Date will be the first following day which is a Business Day. Upon exercise of the Conversion Option, the right to receive Interest shall cease.

### **10.7.2 Accrual of Interest**

Interest on the Notes will accrue on a daily basis from the date of issue on the basis of a three hundred and sixty (360) day year divided into twelve (12) months of thirty (30) days each, and in the case of an incomplete month, the number of days elapsed. Interest shall cease to accrue on each Note on the day preceding the Maturity Date or the Conversion Date unless payment of principal is improperly withheld or refused or unless the Issuer defaults in respect of payment, in which event, interest shall continue to accrue at the Interest Rate until the date of payment thereof.

### **10.7.3 Yield**

The yield on the Notes is stipulated in the Final Terms of each Tranche, reflecting the Interest Rate payable thereon.

## **10.8 Redemption**

Unless previously redeemed or purchased and cancelled or converted into shares of the Issuer, the Notes shall be redeemed at their Nominal Value on the Maturity Date.

The Issuer reserves the right to redeem all or some of the Notes between 1 January 2026 and the Maturity Date on giving not less than thirty (30) Business Days prior written notice to the relevant Noteholders. Any partial redemption of the Notes held by a Noteholder shall be made in multiples of EUR 100,000. Any early redemption of the Notes shall take place by payment of all principal, adjusted by the following premium together with interest accrued on the Notes being redeemed until the date of redemption:

- For Notes redeemed in 2026: 1.03
- For Notes redeemed in 2027: 1.02
- For Notes redeemed in 2028: 1.01

The notice of redemption shall be effective only on actual receipt by the relevant Noteholder, shall be irrevocable and oblige the Issuer to make, and the Noteholder to accept, such redemption on the date specified in the notice.

## **10.9 Payments**

Noteholders must rely on the procedures of the CSD to receive payments under the Notes. The Issuer will discharge all of its payment obligations under the Notes by making payments to the CSD for onward distribution (through [Clearstream], if necessary) to the accounts of the respective Noteholders indicated in the CSD's electronic register of Noteholders. The Issuer has no responsibility or liability for the records relating to, or payments made in respect of, holdings of Notes through the CSD.

Repayment of the principal amount of the Notes will be made in Euro on the Maturity Date, unless the Notes are converted into shares of the Issuer, by the Issuer to the person in whose name such Notes are registered as at the close of business on the Maturity Date, together with interest accrued up to (but excluding) the Maturity Date. The Issuer shall not be responsible for any loss or delay in transmission. Upon repayment of the principal the Notes shall be redeemed and the appropriate entry made in the electronic register of the Notes at the CSD.

In the case of Notes held subject to usufruct, payment will be made against the joint instructions of all bare owners and usufructuaries. Before effecting payment, the CSD shall be entitled to request any legal documents deemed necessary concerning the entitlement of the bare owner/s and the usufructuary/ies to payment of the Notes.

Payment of any instalment of interest on a Note will be made to the person in whose name such Note is registered at the close of business fifteen (15) days prior to the relevant Interest Payment Date.

All payments with respect to the Notes are subject in all cases to any pledge (duly constituted) of the Notes and to any applicable fiscal or other laws and regulations. In particular, but without limitation, all payments by the Issuer in respect of the Notes may be made net of any amount to be deducted or withheld for or on account of any present or future taxes, duties, assessments or other government charges of whatsoever nature imposed or levied by or on behalf of the Government of Malta or any other authority thereof or therein having power to tax.

No commissions or expenses shall be charged by the Issuer to Noteholder in respect of such payments. The Issuer shall not be liable for charges, expenses and commissions levied by parties other than the Issuer, nor for any taxes whatsoever (including any interest and penalties payable in connection therewith) arising from or in connection with such payments, which shall be at the charge of the Noteholders, and the Noteholders will keep the Issuer and the Agent at all times indemnified against the same.

Any claim against the Issuer by Noteholders in connection with all payments due to them in respect of the Notes shall be prescribed (time-barred) upon the lapse of five (5) years from the day on which an action in relation to the same can be exercised.

## **10.10 Purchase and Cancellation**

To the extent allowed by law, the Issuer may at any time purchase or cancel Notes in the open market or otherwise and at any price. All Notes purchased by or on behalf of the Issuer may, at the option of the Issuer, be surrendered for cancellation, or otherwise disposed of at any price. Any Notes so surrendered for cancellation may not be reissued or resold and the obligations of the Issuer in respect of any such Notes shall be discharged.

## **10.11 Transferability of the Notes**

The Notes are freely transferable in accordance with applicable laws and the rules and regulations of the IFSM. Should the Notes be converted into shares of the Issuer, the shares of the Issuer will not be admitted to trading or listed on any Regulated Market.

Any person becoming entitled to a Note in consequence of the death or bankruptcy of a Noteholder may, upon such evidence being produced as may from time to time properly required by the CSD, elect either to be registered himself as holder of the Note or to have some person nominated by him registered as the transferee thereof. If the person so becoming entitled shall elect to be registered himself, he shall deliver or send to the CSD a notice in writing signed by him stating that he so elects. If he shall elect to have another person registered he shall testify his election by executing to that person a transfer of the Note.

All transfers and transmissions are subject in all cases to any pledge (duly constituted) of the Notes and to any applicable laws and regulations.

The cost and expenses of effecting any trading or transfer in the Notes on the IFSM shall be at the charge of the Noteholder or at the charge of such person as the rules and regulations of the IFSM may from time to time determine.

Because the Notes will be held at the CSD, investors will have to rely on its procedures for transfers. The CSD will not register the transfer or transmission of Notes for a period of fifteen (15) days preceding the due date for any payment of principal or interest on the Notes.

Notes may only be transferred in whole, and no part of a Note may form the object of a transfer.

## **10.12 Further Issues**

The Issuer may from time to time, without the consent of any existing Noteholders, constitute and issue further Tranches identical to earlier issued Tranches in all respects (provided that the Issuer may only issue up to EUR 10,000,000 of Notes under the Programme) except for the Issue Date and/or Issue Price and/or Interest Rate and/or Interest Commencement Date. Each Tranche issued under the Programme will be consolidated and form part of the same Series and will be fungible with all other outstanding Tranches. Although the amount of Notes that may be issued under the Programme is limited to EUR 10,000,000, there is no other restriction on the amount of debt which the Issuer may issue. Accordingly, the Issuer may incur additional indebtedness (other than the indebtedness incurred in relation to the issue of the Notes) without the consent of the Noteholders.

## **10.13 Meetings of Noteholders and Amendments to Terms and Conditions**

The Issuer may from time to time call meetings of Noteholders for the purpose of consultation with Noteholders or for the purpose of obtaining the consent of Noteholders on matters which pursuant to Maltese law and/or the Prospectus require their approval or the approval of a Noteholders' meeting.

The Security Trustee also at any time, and at the cost of the Issuer, prior to exercising any power or discretion in terms of the Security Trust Deed may call a meeting of Noteholders.

Where the Issuer calls a meeting of Noteholders, the said meeting shall be called by the Directors by giving all Noteholders listed on the register of Noteholders as at a date being twenty eight (28) days preceding the date scheduled for the meeting, not less than fourteen (14) days' notice in writing. Such notice shall set out the time, place and date set for the meeting and the matters to be discussed or decided thereat, including, if applicable, sufficient information on any amendment of the Prospectus that is proposed to be voted upon at the meeting and seeking the approval of the Noteholders. Following a meeting of Noteholders held in accordance with the provisions contained hereunder, the Issuer shall, acting in accordance with the resolution(s) taken at the meeting, communicate to the Noteholders whether the necessary consent to the proposal made by the Issuer has been granted or withheld. Subject to having obtained the necessary approval by the Noteholders in accordance with the provisions of this Section 10.13 at a meeting called for that purpose as aforesaid, any such decision shall subsequently be given effect to by the Issuer, and shall be binding on all Noteholders.

The amendment or waiver of any of the Terms and Conditions of the Notes contained in this Prospectus, may only be made with the approval of the Issuer and the Noteholders at a meeting called and held for that purpose.

A meeting of Noteholders shall only validly and properly proceed to business if there is a quorum present at the commencement of the meeting. For this purpose, any number of Noteholders present, in person or by proxy, representing not less than fifty per cent (50%) in Nominal Value of the Notes then outstanding, shall constitute a quorum. If a quorum is not present within thirty (30) minutes from the time scheduled for the commencement of the meeting as indicated on the notice convening same, the meeting shall stand adjourned to a place, date and time as shall be communicated by the Directors to the Noteholders present at that meeting. The Issuer shall within five (5) days from the date of the original meeting publish by way of a company announcement the date, time and place where the adjourned meeting is to be held. An adjourned meeting shall be held not earlier than seven (7) days, and not later than fifteen (15) days, following the original meeting. At an adjourned meeting: any number of Noteholders present, in person or by proxy, shall constitute a quorum; and only the matters specified in the notice calling the original meeting shall be placed on the agenda of, and shall be discussed at, the adjourned meeting.

A Noteholder shall be entitled to be represented at any such meeting and to exercise his rights (including the right to vote) by proxy. For such purpose, the Issuer shall make available a proxy form, on paper or, where applicable, by electronic means to each Noteholder entitled to vote at a meeting of Noteholders. The proxy form shall be made available either together with the notice convening the meeting or after a company announcement of the meeting. Every instrument appointing a proxy must be in writing signed by the appointer or his attorney or in the case of a corporation executed as a deed or signed by its duly authorised representative. The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified or true copy of such power or authority shall be deposited at the registered office of the Issuer not less than forty eight (48) hours before the time appointed for holding the meeting or adjourned meeting at which the person named in such instrument proposes to vote and, in default, the instrument of proxy shall not, unless the Directors otherwise decide, be treated as valid. A vote given in accordance with the terms of an instrument appointing a proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the instrument of proxy or of the authority under which the instrument of proxy is given or transfer of the Note in respect of which it is given unless previous intimation in writing of such death, insanity, revocation or transfer shall have been received at the registered office of the Issuer.



Any person who in accordance with the Articles of Association of the Issuer is to chair the annual general meetings of shareholders shall also chair meetings of Noteholders, or if he is not present within thirty (30) minutes from the time scheduled for the commencement of the meeting or is not willing to act, the Directors present shall elect one of their number to be the chairman of the meeting.

Once a quorum is declared present by the chairman of the meeting, the meeting may then proceed to business and address the matters set out in the notice convening the meeting. In the event of decisions being required at the meeting, the Directors or their representative, shall present to the Noteholders the reasons why it is deemed necessary or desirable and appropriate that a particular decision is taken. The meeting shall allow reasonable and adequate time to Noteholders to present their views to the Issuer and the other Noteholders present at the meeting. The meeting shall then put the matter as proposed by the Issuer to a vote of the Noteholders present at the time at which the vote is being taken, and any Noteholders taken into account for the purpose of constituting a quorum who are no longer present for the taking of the vote shall not be taken into account for the purpose of such vote.

The voting process shall be managed by the company secretary of the Issuer or some other person appointed for the purpose by the Directors or by the chairman of the meeting.

Except where otherwise required herein in respect of a specific matter or matters, any resolution proposed at a meeting of Noteholders shall only be considered as approved if the resolution is approved by Noteholders representing seventy-five (75%) of the Nominal Value of the Notes held by Noteholders present or represented at the meeting.

Save for the above, the rules generally applicable by law or under the Articles to proceedings at general meetings of shareholders of the Issuer shall mutatis mutandis apply to meetings of Noteholders.

#### **10.14 Events of Default**

In the event that:

- (a) the Issuer fails to pay any interest on any Note when due and such failure shall continue for sixty (60) days after written notice thereof shall have been given to the Issuer by any Noteholder; or
- (b) the Issuer fails to pay the principal on any Note when due and such failure shall continue for sixty (60) days after written notice thereof shall have been given to the Issuer by any Noteholder; or
- (c) the Issuer fails to perform or observe any material covenant, material condition or material provision contained in these Terms and Conditions or the Prospectus (other than any obligation for the payment of the principal or interest in respect of the Notes) and such failure is incapable of remedy or is not remedied within sixty (60) days after notice of such default shall have been given to the Issuer by any Noteholder; or
- (d) the Issuer is deemed unable or admits its inability to pay its debts as they fall due within the meaning of Article 214(5) of the Companies Act; or
- (e) the Issuer stops or suspends payments (whether of principal or interest) with respect to the Notes or announces an intention to do so or ceases or threatens to cease to carry on its business or a substantial part of its business; or
- (f) the Issuer is adjudicated or found bankrupt or insolvent, or an order is made by any competent court, or a resolution is passed by the Issuer or any other action is taken for the dissolution, liquidation, or winding-up of the Issuer: provided that this paragraph (f) shall not apply to an application for dissolution, liquidation, or winding-up presented by a creditor of the Issuer which is being contested in good faith and with due diligence;

the Noteholders may by a written notice to the Issuer (which shall be delivered by hand or registered mail to the registered office of the Issuer) from Noteholders holding 75% or more in nominal value of the Notes then issued and outstanding, at any time while such event remains unremedied and has not been waived by a written notice, direct that the principal amount of all Notes, all unpaid accrued interest and any other sum then payable on such Notes, shall become due and payable immediately. If the Noteholders give such a direction under this clause, then the principal amount of all Notes, all unpaid accrued interest and any other sum then payable on such Notes (in each case less any applicable taxes) shall be immediately due and payable by the Issuer and the Issuer shall immediately pay or repay such amounts to the Noteholders. If a Noteholder shall waive in writing its right of repayment then the notes held by such Noteholder shall remain outstanding on the terms of these Terms and Conditions and the relevant Final Terms.

#### **10.15 Covenants of the Issuer**

The Issuer hereby further undertakes and covenants in favour of the Noteholders that, at all times during which any of the Notes shall remain outstanding, it shall:

- (a) pay interest to the Noteholders at the Interest Rate on each Interest Payment Date and the principal amount of the Notes on the Maturity Date, unless previously converted into shares of the Issuer;
- (b) maintain its corporate existence as a public limited liability company duly organised, existing and in good standing under Maltese law;
- (c) promptly notify the Noteholders upon the occurrence of an Event of Default;
- (d) duly and punctually pay, perform and observe all rents, rates, taxes, stamp duties, covenants and other obligations whatsoever which ought properly to be paid or to be observed or to be performed by it;
- (e) exercise reasonable endeavours to carry on and conduct its business in a proper and efficient manner; and
- (f) comply with the requirements of all laws in force in any jurisdiction from time to time as applicable to it.

#### **10.16 Non-recourse**

If the proceeds of the realization of the security granted in respect of the Notes is less than the amount payable by the Issuer in respect of the Notes, the obligations of the Issuer shall be limited to such net proceeds which shall be applied in such order as the Issuer may decide pro rata (by reference to the principal amount of the Notes outstanding and accrued interest thereon at the relevant time). In such circumstances, no other assets of the Issuer or Dizz Group will be available for payment of the shortfall which shall be borne pro rata and the rights of the Noteholders to receive any further amounts in respect of such obligations shall be extinguished and none of the Noteholders may take any further action to recover such amounts.

#### **10.17 Notes held Jointly**

In respect of a Note held jointly by several persons, the joint holders shall nominate one of their number as their representative and his/her name will be entered in the register of Noteholders with such designation. Such person shall, for all intents and purposes, be deemed to be the registered holder of the Note so held. In the absence of such nomination and until such nomination is made, the person first named on the register in respect of such Note shall, for all intents and purposes, be deemed to be the registered holder of the Note so held. Notwithstanding what is stated above, the joint holders of Notes shall be liable, jointly and severally, in respect of the production of documents and information and all other obligations which may be due by holders of Notes to the Issuer.

### **10.18 Notes held subject to Usufruct**

In respect of a Note held subject to usufruct, the name of the bare owner and the usufructuary shall be entered in the register held by the CSD on behalf of the Issuer. Without prejudice to what is provided in Section 10.9 regarding payment of the principal amount, the usufructuary shall, for all intents and purposes, be deemed vis-à-vis the Issuer to be the holder of the Note so held and shall have the right to receive interest on the Note and to vote at meetings of the Noteholder, but shall not, during the continuance of the Note, have the right to dispose of the Note so held without the consent of the bare owner.

### **10.19 Notices to Noteholders**

Notices to the Noteholder shall be mailed to them at their respective addresses contained in the register of Noteholders maintained by the CSD on behalf of the Issuer and shall be deemed to have been served at the expiration of three (3) calendar days after the date of mailing. In proving such service, it shall be sufficient to prove that a prepaid letter containing such notice was properly addressed to such Noteholder at the address contained in the register of Noteholder maintained by the CSD on behalf of the Issuer. Notices concerning the Notes shall also be available on the website of the IFSM ([www.borzamalta.com.mt](http://www.borzamalta.com.mt)), where so required by the rules and regulations of the IFSM.

### **10.20 Governing Law and Jurisdiction**

The Notes, all the rights and obligations of the Noteholder and the Issuer, and any noncontractual obligations arising out of or in connection with the Notes, shall be governed by and construed in accordance with Maltese law.

The Courts of Malta shall have exclusive jurisdiction to settle any disputes that may arise out of or in connection with the Notes, all the rights and obligations of the Noteholder and/or the Issuer, and any non-contractual obligations arising out of or in connection with the Notes. Each of the Issuer and the Noteholders hereby irrevocably submits to the exclusive jurisdiction of the Courts of Malta to hear and determine any proceedings and to settle any dispute which may arise out of, or in connection with the Notes.

Each of the Issuer and the Noteholder waives any objection to the Maltese Courts on grounds of inconvenient forum or otherwise as regards proceedings in connection herewith and agrees that a judgement or order of such a Court shall be conclusive and binding on it and may be enforced against it in the Courts of any other jurisdiction.

## 11 FORM OF THE FINAL TERMS

The Final Terms for each Tranche shall be published by the Issuer in the following form:

### FINAL TERMS

Dated [-]

Series 1

Tranche [*Year*]/[*Tranche No.*]

issued pursuant to the

**€10,000,000 Notes Programme**

Dated [*Date of Base Prospectus Approval*]

of

**D Foods Finance p.l.c**

ISIN: [-]

Issue Price: €100,000 per Note

Issue Date: [-]

These are the Final Terms for the issue of a Tranche of Notes under the €10,000,000 Notes Programme of D Foods Finance p.l.c. (the “**Programme**”) and comprise the final terms required for the issue and admission to trading on the Institutional Financial Securities Market of the Notes described herein pursuant to the Programme, as authorised by the Issuer’s board of directors’ resolution dated 1 June 2020. These Final Terms have been prepared for the purpose of Article 8 of the Prospectus Regulation and must be read in conjunction with the Base Prospectus dated 21 July 2020 and any Supplement(s) thereto from time to time (collectively, the “**Base Prospectus**”). Full information on the Issuer and the issue of the Notes is only available if these Final Terms are read in conjunction with the Base Prospectus. The Base Prospectus shall be made available to the public by means of electronic publication on the website of the Listing Authority ([www.mfsa.com.mt](http://www.mfsa.com.mt)). Capitalised terms used but not defined in these Final Terms shall have the same meanings specified in the Base Prospectus.

## **PART I: TERMS AND CONDITIONS**

This part of the Final Terms is to be read in conjunction with the Terms and Conditions of the Notes set out in the Base Prospectus.

### *1. Currency, Denomination, Minimum Subscription and Form*

Specified currency: Euro

Aggregate Nominal Value to be issued: []

Specified (unit) denomination: EUR 100,000

Number of Notes to be issued: []

Minimum subscription per Noteholder: EUR 100,000

Form: fully registered, dematerialised and uncertificated form, represented by the appropriate entry in the electronic register maintained by the CSD of the Malta Stock Exchange

### *2. Interest*

Fixed Rate of Interest/Yield (% per annum) on the Nominal Value: []

Interest Commencement Date: [Issue Date]

Interest Payment Dates: [-] and [-]

First Interest Payment Date: []

### *3. Maturity Date []*

### *4. Security []*

## **PART II: TIMETABLE / ADMISSION TO LISTING AND TRADING AND AGENT**

### *5. Timetable / Admission to Listing and Trading*

Application available from the Agent: []

Application deadline: []

Issue Date: []

Date of admission to listing and trading on IFSM: []

Commencement of dealing: []

## **PART III: ADDITIONAL DISCLOSURE REQUIREMENTS**

### *6. Amount of Eligible Assets to be Acquired: []*

### *7. Reasons for the Issue: []*

### *8. Additional Information on the Eligible Assets to be acquired []*

### *9. Any interest material to issue []*

### *10. Estimated Expenses of Issue and Admission to Trading []*

### *11. Introducer Fees (if applicable) []*

### *12. Valuation Reports: []*

## 12 TAXATION

Investors and prospective investors are urged to seek professional advice as regards both Maltese and any foreign tax legislation which may be applicable to them in respect of the Notes, including their acquisition, holding, conversion and disposal, and any income/gains derived therefrom or made on their disposal. The following is a summary of the anticipated tax treatment applicable to the holders of the Notes or Shares, in so far as taxation in Malta is concerned. This information, which does not constitute legal or tax advice, and which does not purport to be exhaustive refers only to the holders who do not deal in securities in the course of a trading activity.

The information below is based on an interpretation of tax law and practice relative to the applicable legislation in Malta, as known to the Issuer at the date of the Base Prospectus, in respect of a subject on which no official guidelines exist. Investors are reminded that tax law and practice and their interpretation as well as the levels of tax on the subject-matter referred to in the preceding paragraph, may change from time to time and may vary depending on the jurisdiction of the investor.

The information is being given solely for the general information of investors. The precise implications for investors will depend, among other things, on their particular circumstances and on the classification of the Notes from a Maltese tax perspective, and professional advice in this respect should be sought accordingly.

### INFORMATION TO INVESTORS IN THE BONDS

#### 12.1 Malta Tax on Interest

Since interest is payable in respect of a Bond which is the subject of a public issue, unless the Issuer is otherwise instructed by a Noteholder to receive the interest gross of any withholding tax or if the Noteholder does not fall within the meaning of “recipient” in terms of article 41(c) of the Income Tax Act, chapter 123 of the laws of Malta, interest shall be paid to such person net of a final withholding tax, currently at the rate of 15% (reduced to 10% in the case of certain types of collective investment schemes) of the gross amount of the interest, pursuant to article 33 of the Income Tax Act. Noteholders that do not fall within the definition of a “recipient” do not qualify for the said rate and should seek professional advice on the taxation of such income as special rules may apply.

This withholding tax is considered as a final tax and a Maltese resident individual Noteholder is not obliged to declare the interest so received in his income tax return. No person shall be charged to further tax in respect of such income. Furthermore, the tax so withheld is not available as a credit against the recipient’s tax liability or for a refund, as the case may be, for the relevant year of assessment in Malta.

In the case of valid election made by an eligible Noteholder resident in Malta to receive the interest due without the deduction of a final tax, interest shall be paid gross and such person will be obliged to declare the interest so received in his Maltese income tax return and be subject to tax on it at the income tax rates applicable to that person at that time. Any such election made by a resident Noteholder at the time of subscription may be subsequently changed by giving notice in writing to the Issuer. Such election revocation will be effective within the time limit set out in the Income tax Act.

In terms of article 12(1)(c) of the Income Tax Act, Bondholders who are not resident in Malta and who satisfy the conditions set out in the Act, including but not limited to the condition that the

Noteholder is not owned and controlled, whether directly or indirectly, nor acts for and on behalf of an individual or individuals who is/are ordinarily resident and domiciled in Malta, are not taxable in Malta on the interest received and will receive interest gross, subject to the requisite declaration and evidence being provided to the Issuer in terms of law.

The Issuer will render an account to the Maltese Commissioner for Revenue of all interest paid, tax deducted (where applicable) and the identity of the recipient.

## **12.2 Capital Gains on the Transfer of the Notes**

As the Notes do not fall within the meaning of “securities” in terms of article 5(1)(b) of the Income Tax Act, that is, “shares and stocks and such like instruments that participate in any way in the profits of the company and whose return is not limited to a fixed rate of return”, to the extent that the Notes are held as capital assets by the Noteholder, no Maltese tax on gains is chargeable in respect of a transfer of the Notes.

## **12.3 Duty on Documents and Transfers**

In terms of Article 50 of the Financial Markets Act, any transfer of the Notes should be exempt from Maltese duty which may otherwise be chargeable in terms of the Duty on Documents and Transfers Act (Chapter 364 of the laws of Malta).

## **12.4 Conversion**

Where the Noteholder converts the Notes into new shares issued by the Issuer, tax and duty is not chargeable in Malta in terms of the Income Tax Act and the Duty on Documents and Transfers Act.

## **12.5 Taxation of Dividends**

In general, distributions of dividends from the profits of a company to its shareholders should not be subject to any further tax in Malta.

Under the full imputation system, a shareholder may be entitled to claim a tax refund of the difference between the tax payable on the grossed-up dividend and the tax paid by the company distributing the dividend. However, in certain circumstances, the amount of dividend that may be declared and for which a credit for the tax paid at the level of the company may be claimed, may be limited.

Tax refunds may not be claimed on profits distributed from the Final Tax Account or profits the tax on which was relieved from tax at the level of the company by way of certain credits and/or deductions.

Dividends distributed out of the untaxed account to a “recipient” as defined in article 61 of the Income Tax Act are subject to a withholding tax of 15%. Such dividends distributed to persons not falling within the meaning of “recipient”, including a non-resident person who is not owned and controlled by, directly or indirectly, or who acts on behalf of an individual or individuals that are ordinarily resident in Malta, are not subject to withholding tax and the shareholder is not subject to any Maltese taxation.

The taxpayer, who is a “recipient”, may in certain circumstances opt to declare the gross dividend distributed from the untaxed account in the tax return and claim a refund on the difference between the 15% withholding tax and the personal tax rate applicable to him, where his marginal rate of tax is less than 15%.

## 12.6 Tax on Capital Gains

For and so long as the shares are not admitted to listing, gains derived on their transfer are subject to tax in Malta at the rates applicable to the transferor of the shares and are to be declared in the transferor's tax return.

Where the shares so transferred are not shares in a "property" company as defined in the Income Tax Act, in terms of article 12(1)(c) of the Income Tax Act, gains thereon are not subject to Maltese tax where the transferor is a person not resident in Malta and the said person is not owned and controlled by, directly or indirectly, nor acts on behalf of an individual or individuals who are ordinarily resident and domiciled in Malta.

## 12.7 Duty on documents and transfers

For and so long as the shares are not admitted to listing, duty is chargeable on each and every transfer at the rate of € 2 per € 100 or part thereof of the higher of the consideration and real value of the shares. The stated rate is increased to € 5 per € 100 or part thereof of the higher of the consideration and real value of the shares where the company or underlying subsidiaries own or have real interests in immovable property situated in Malta and the value of these properties exceed a certain proportion of total assets, other than current assets.

## 12.8 Exchange of Information

In terms of applicable Maltese legislation, the Issuer and/or its agent are required to collect and forward certain information, including but not limited to, information on the Noteholder and/or Shareholder, his address and tax number of his State of residence and payments made, to the Maltese Commissioner for Revenue. The Commissioner for Revenue will or may, in turn, automatically or on request, forward the information to other relevant tax authorities subject to certain conditions.

In order to comply with its obligations, an entity resident in Malta that qualifies as a Financial Institution in terms of the Cooperation with Other Jurisdictions on Tax Matter Regulations, subsidiary legislation 123.127 (CRS) and the Exchange of Information (United States of America)(FATCA) Order, subsidiary legislation 123.156, has the right to request any information and documentation required in respect of any financial account. In the case of failure to provide satisfactory documentation and information, Financial Institutions may take such action as it thinks fit and appropriate, including without limitation, the closure of the financial account.

**THE ABOVE INFORMATION IS BASED ON TAX LAW AND PRACTICE APPLICABLE AS AT THE DATE OF THIS BASE PROSPECTUS. PROSPECTIVE INVESTORS ARE CAUTIONED THAT TAX LAW AND PRACTICE AND THE LEVELS OF TAX RELATING TO THE NOTEHOLDERS MAY CHANGE FROM TIME TO TIME.**

**PROSPECTIVE INVESTORS ARE URGED TO SEEK PROFESSIONAL ADVICE AS REGARDES BOTH MALTESE AND FOREGIN TAX LEGISLATION APPLICABLE TO THE ACQUISITION, HOLDING, CONVERSION AND DISPOSAL OF THE NOTES. THIS INFORMATION, WHICH DOES NOT CONSTITUTE LEGAL OR TAX ADVICE, REFERS ONLY TO INVESTORS WHO DO NOT DEAL IN SECURITIES IN THE COURSE OF A TRADING ACTIVITY.**



## 13 DOCUMENTS AVAILABLE FOR INSPECTION

The following documents are available for physical inspection at the Issuer's registered office for the duration of the validity of the Prospectus:

- a. The Memorandum and Articles of Association of the Issuer;
- b. The Memorandum and Articles of Association of the Subsidiaries;
- c. The audited financial statements of the DK Pascucci Limited for the years ending 31 December 2016, 2017 and 2018;
- d. The audited financial statements of Xilema Limited for the year ending 31 December 2018;
- e. The Security Trust Deed; and
- f. The Agency Agreement.

The documents set out in paras (a), (b), (c) and (d) are also available for inspection in electronic form on the Issuer's website [www.dizz.com.mt/d-foods-finance-plc/](http://www.dizz.com.mt/d-foods-finance-plc/).

## **14 SELLING RESTRICTIONS**

### **14.1 Qualified Investors**

The Notes may be offered, sold or delivered to, and accepted by, ‘qualified investors’ (as such term is defined in the Prospectus Regulation).

### **14.2 United States of America**

The Notes have not been and will not be registered under the Securities Act 1933 of the United States of America. The Notes may not be offered or sold or delivered within the United States or to or for the account or benefit of a U.S. person (as such term is defined in Regulation S under the Securities Act of 1933 of the United States of America, as amended).

# **DIRECTORY**

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