

## TERMS AND CONDITIONS OF THE NOTES

*The following, save for the paragraphs in italics, are the terms and conditions (the "Conditions") of the Notes, which will be incorporated by reference into each Global Note and endorsed on the Notes in definitive form (as these terms are defined below). The use of the word "conversion" (and related terms) in the following Conditions of the Notes shall be construed as encompassing the exchange of Notes for new Shares (as defined below).*

The issue of EUR 4,999,999.989330 subordinated mandatory convertible Notes by Abengoa Abenewco 1, S.A.U. (the "**Issuer**") due 23 December 2022 (the "**Notes**") was authorised by the relevant decisions of the Sole Shareholder on 25 April 2019 and the relevant decisions adopted by the board of directors of the Issuer on 25 April 2019. A paying, transfer and conversion agency agreement dated 25 April 2019 (the "**Paying, Transfer and Conversion Agency Agreement**") in relation to the Notes has been entered into by and between the Issuer, The Bank of New York Mellon, London Branch as paying and conversion agent (the "**Paying and Conversion Agent**", which expression shall include any successor as paying and conversion agent under the Paying, Transfer and Conversion Agency Agreement), and The Bank of New York Mellon S.A./N.V., Luxembourg Branch, in its capacity as registrar and transfer agent (the "**Registrar**" or the "**Transfer Agent**", as applicable, expressions which shall include any successors as registrars or transfer agents under the Paying, Transfer and Conversion Agency Agreement).

The Issuer has also entered into a calculation agency agreement dated 25 April 2019 (the "**Calculation Agency Agreement**") with Conv-Ex Advisors Limited (the "**Calculation Agent**", which expression shall include any successor as calculation agent under the Calculation Agency Agreement) whereby the Calculation Agent has been appointed to make certain calculations in relation to the Notes. All calculations and determinations by the Calculation Agent, as specifically required to be made by it pursuant to these Conditions, shall (save in the case of manifest error) be final and binding on the Issuer, the Noteholders and the rest of Agents. Whenever the Calculation Agent is required to act to make a calculation or determination, or to exercise a discretion, it shall do so in good faith and in a commercially reasonable manner. The Agents may consult, at the expense of the Issuer in accordance with the terms of the Paying, Transfer and Conversion Agency Agreement and the Calculation Agency Agreement, as applicable, on any matter (including, but not limited to, any legal matter), any legal or other professional adviser and they shall be able to rely upon, and they shall not be liable and shall incur no liability as against the Noteholders in respect of anything done, or omitted to be done, relating to that matter in accordance with that adviser's opinion.

The Noteholders are deemed to have notice of all the provisions of the Group Intercreditor Agreement, the Paying, Transfer and Conversion Agency Agreement, the Calculation Agency Agreement and these Conditions applicable to them. The Paying, Transfer and Conversion Agency Agreement includes the form of the Notes. The statements in these Conditions include summaries of, and are subject to, the detailed provisions of the Paying, Transfer and Conversion Agency Agreement.

The provisions of these Conditions are subject to the Group Intercreditor Agreement (as defined below). In the case of conflict between these Conditions and the Group Intercreditor

Agreement, the latter shall prevail. Nothing in the Group Intercreditor Agreement shall be deemed to prevent, delay or otherwise affect the conversion of the Notes into Shares of the Issuer in accordance with these Conditions. Such conversion, together with payment of the Contingent Interest and the Default Interest (if any), shall be considered a "*Permitted AB1 MC Payment*" for the purposes of the Group Intercreditor Agreement.

The Issuer, as required by Spanish law, has executed a public deed of notes issue ("*escritura pública de emisión de bonos*") (the "**Public Deed**") before a Spanish notary public in relation to the issue of the Notes and will register the Public Deed with the Commercial Registry ("*Registro Mercantil*") of Seville. The Public Deed contains, among other documents and information, these Conditions.

Capitalised terms used but not defined in these Conditions shall have the meanings attributed to them in the Paying, Transfer and Conversion Agency Agreement unless the context otherwise requires or unless otherwise stated herein.

## **1. Form, Denomination, Title and Status of the Notes**

### (a) *Form and Denomination*

The Notes are in registered form, in individual nominal amounts of EUR 0.025434 and integral multiples thereof (the "**Authorized Denomination**").

The Notes are upon issuance represented by one or more global registered certificates, each of which shall represent any (i) Notes sold to persons outside the United States and who are not "U.S. persons" as defined under Regulation S of the Securities Act (each such global note, a "**Regulation S Global Note**") or (ii) Notes sold in the United States to (A) institutional "accredited investors" ("*IAIs*") within the meaning of Rule 501(a)(1), (2), (3) or (7) under Regulation D of the Securities Act (each such global note, an "**IAI Global Note**") or (B) a "**Qualified Institutional Buyer**" or "**QIB**" (as such term is defined in Rule 144A under the Securities Act in reliance on an exemption from the registration requirements of the Securities Act) (each such global note, a "**Rule 144A Global Note**", and collectively with the Regulation S Global Notes and the IAI Global Notes, the "**Global Notes**").

### (b) *Title*

Title to the Notes will pass by registration and transfer thereof as described in Condition 3. The registered holder of any Note will (except as otherwise required by law or regulatory requirement or as ordered by a court of competent jurisdiction) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any interest in it or its theft or loss (or that of the related certificate, as applicable) or anything written on it or the certificate representing it (other than a duly executed transfer thereof)) and no person will be liable for so treating the holder.

*The Global Notes will be registered in the name of a common nominee for Euroclear and Clearstream, Luxembourg. The Global Notes will be held by a depositary for Euroclear and Clearstream, Luxembourg. Interests of participants in Euroclear and Clearstream, Luxembourg in the Notes will be represented by book entries in the records of Euroclear and Clearstream, Luxembourg.*

*The Notes will be traded in Euroclear and Clearstream, Luxembourg in book-entry unitary form. The Notes will be traded in an aggregate issue size of 196,587,245 units ("**Units**") with a unit value equal to the Authorized Denomination (i.e., EUR 0.025434). The minimum tradeable size is one Unit and integral multiples of one Unit in excess thereof. The Unit issue price will be EUR 0.025434.*

*Individual note certificates in respect of book-entry interests in any Units will not be issued in exchange for an interest in the Global Note, except in the very limited circumstances described therein.*

*Title to book-entry interests in the Units passes by book-entry registration of the transfer in the records of Euroclear or Clearstream, Luxembourg, as the case may be, in accordance with their respective procedures. Book-entry interests in the Units may be transferred within Euroclear and within Clearstream, Luxembourg and between Euroclear and Clearstream, Luxembourg in accordance with procedures established for these purposes by Euroclear and Clearstream, Luxembourg.*

(c) *Status of the Notes*

The Notes constitute direct, unconditional, unsecured and subordinated obligations ("*créditos subordinados*") of the Issuer in accordance with Article 92.2° of the Spanish Insolvency Act and, subject to any other ranking that may apply as a result of any mandatory provisions of law (or otherwise), in the event of the Issuer being declared in insolvency (*concurso*) under the Spanish Insolvency Act, they rank:

- (i) junior to any claims for principal in respect of unsubordinated obligations ("*créditos ordinarios*") of the Issuer and any other subordinated obligations ("*créditos subordinados*") of the Issuer which by law and/or by their terms, to the extent permitted by Spanish law, rank senior to the Issuer's obligations under the Notes;
- (ii) *pari passu* among themselves and with any claims for principal in respect of other contractually subordinated obligations ("*créditos subordinados*") of the Issuer in accordance with Article 92.2° of the Spanish Insolvency Act and any other subordinated obligations ("*créditos subordinados*") of the Issuer which by law and/or by their terms, to the extent permitted by Spanish law, rank *pari passu* with the Issuer's obligations under the Notes; and

- (iii) senior to any claims for the liquidation amount of the ordinary Shares of the Issuer and any other subordinated obligations (“*créditos subordinados*”) of the Issuer which by law and/or by their terms, to the extent permitted by Spanish law, rank junior to the Issuer’s obligations under the Notes.

## 2. Definitions

In these Conditions, unless otherwise provided:

“**Abengoa Abenewco 2**”: means Abengoa Abenewco 2, S.A.U., a Spanish public limited company (“*sociedad anónima*”) with its registered office in Seville at Campus Palmas Altas, Calle Energía Solar 1 and Tax Identification Number A-90286857, which is wholly owned by Abengoa, S.A.

“**Accelerated Mandatory Conversion Event**” means any of the events described in Condition 5 (a) (ii).

“**Accelerated Mandatory Conversion Notice**” has the meaning provided in Condition 5 (a) (ii).

“**Accelerated Voluntary Conversion Event**” has the meaning provided in Condition 5 (a) (iii).

“**Accelerated Voluntary Conversion Notice**” has the meaning provided in Condition 5 (a) (ii).

“**Agents**” means the Paying and Conversion Agent, the Transfer Agent and the Calculation Agent.

“**Anti-Corruption Laws**” means all laws, rules, and regulations of any jurisdiction applicable to the Issuer or any other Group company from time to time concerning or relating to anti-bribery or anti-corruption, including, but not limited to, the UK Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977, where applicable, legislation enacted by member states and signatories implementing the OECD Convention Combating Bribery of Foreign Officials, or other similar legislation in other jurisdictions.

“**Anti-Money Laundering Laws**” means all laws or regulations of any applicable jurisdiction that relates to money laundering, counter-terrorist financing, or financial recordkeeping and reporting requirements relating to money laundering, counter-terrorist financing, or financial recordkeeping.

“**Authorized Denomination**” means the amount set out in Condition 1 (a).

“**Breaching Noteholders**” has the meaning provided in Condition 5 (a) (ii).

“**Business Day**” means a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets are open for business in London and Madrid.

“**Calculation Agency Agreement**” means the calculation agency agreement in relation to the Notes entered into on 25 April 2019 by and between the Issuer and the Calculation Agent.

“**Calculation Agent**” has the meaning provided in the header of these terms and conditions.

“**Cash Settlement Date**” has the meaning provided in Condition 5 (b) (xiii).

“**Clearstream, Luxembourg**” means Clearstream Banking *société anonyme*.

“**Closing Date**” means 26 April 2019.

“**Commissioner**” has the meaning provided in Condition 11 (a).

“**Conditions**” has the meaning provided in the header of these terms and conditions.

“**Consolidated Group**”: means Abengoa, S.A. and all companies which are controlled directly or indirectly by Abengoa, S.A. at any given time under the terms of article 42 of the Commercial Code (or any other article which may substitute or replace such Article and irrespective of the fact that Abengoa, S.A. is not obliged to compile consolidated annual accounts).

“**Contingent Interest**” has the meaning provided in Condition 4.

“**Conversion Date**” has the meaning provided in Condition 5 (b) (v).

“**Conversion Deadline**” has the meaning provided in Condition 5 (b) (i).

“**Conversion Event**” means a Mandatory Conversion at Maturity Event, an Accelerated Mandatory Conversion Event or an Accelerated Voluntary Conversion Event.

“**Conversion Notice**” means (i) if a Noteholder holds Notes in definitive form, the notice, substantially in the form attached as Schedule 5 to the Paying, Transfer and Conversion Agency Agreement, to be surrendered by each Noteholder for the delivery of the relevant Shares pursuant to the terms of Condition 5 (b) (i) or (ii) if a Noteholder holds Notes represented by a Global Note, a SWIFT message containing all such material information required in order to effect the conversion including, but not limited to, the information set out in Clause 5.4 of the Paying, Transfer and Conversion Agency Agreement.

“**Conversion Ratio**” has the meaning provided in Condition 5 (c).

“**Default Interests**” means the interests payable in cash that shall accrue daily (and be calculated in accordance with the ICMA (Actual/Actual) day count convention) over the unpaid Contingent Interest from (and including) the date on which the Issuer makes a distribution (i.e., the date on which the Contingent Interest becomes due and payable) up to (but excluding) the date of actual payment of the Contingent Interest, at a five per cent (5%) rate per annum.

“**Distribution**” means any payments made by the Issuer to its Shareholders other than a Permitted Distribution.

“**DOE Payments**” means any payments required to be made by the Sole Shareholder in the amounts and on the dates in accordance with or pursuant to (i) the Second Omnibus and Amendment Agreement entered into on 21 November 2018 by, among others, Abengoa SA, DOE and Arizona Solar One LLC; (ii) the Omnibus Agreement entered into on 21 November 2018 by, among others, Abengoa SA, DOE and Mojave Solar LLC; (iii) the A&R Ultimate Parent Support Agreement entered into on 21 November 2018 by, among others, Abengoa SA, DOE and Arizona Solar One LLC; and (iv) the A&R GEPP Instalment Payment Agreement entered into on 21 November 2018 by, among others, Abengoa SA, DOE and Arizona Solar One LLC, provided the aggregate of the DOE Payments shall not exceed \$129,000,000.

“**Effective Date**” has the meanings provided in Condition 5 (a) (ii) and Condition 5 (a) (ii), as applicable.

“**Equity Raise**”: means any issuance of equity (or any convertible, exchangeable or other type of instrument or claim that entitles its holder to receive equity) however implemented or capital increase in the Issuer.

“**Euroclear**” means Euroclear Bank SA/NV.

“**General Expenses Schedule**”: means the schedule of general costs, expenses, and liabilities of Abengoa S.A. and as submitted by the Issuer to the SOM/NM2 MC Committee on a semi-annual basis.

“**Global Notes**” has the meaning provided in Condition 1 (a).

“**Group**”: means the group of companies belonging to the Consolidated Group, excluding the companies comprising the NM1 Group.

“**Group Intercreditor Agreement**” means the intercreditor agreement executed on 28 March 2017 by, among others, the Issuer, the NM2 Creditors and the NBF Creditors, as amended and restated from time to time.

“**Holding Period Trustee**” means Lucid Issuer Services Limited and any successor or assignee thereof under the Holding Period Trust Deed.

“**Holding Period Trust Deed**” means the agreement entered into on 25 April 2019 by, among others, the Holding Period Trustee and the Issuer in order to create the trust arrangement contemplated in Clause 18 (“Holding Period Trust Arrangements”) of the Restructuring Agreement.

“**IAI Global Notes**” has the meaning provided in Condition 1 (a).

“**IAI Notes**” means notes sold in the United States to institutional “*accredited investors*” (“*IAIs*”) within the meaning of Rule 501(a)(1), (2), (3) or (7) under Regulation D of the Securities Act.

“**Iberclear**” means “Sociedad de Gestión de los Sistemas de Registro, Compensación y Liquidación de Valores, S.A. Unipersonal”, the Spanish Central Depository of Securities.

“**Independent Adviser**” means an independent financial institution of international reputation or an independent adviser with appropriate expertise, (which may be, without limitation, the Calculation Agent), appointed by the Issuer at its own expense and, other than where the initial Calculation Agent is appointed, approved in writing by the Commissioner.

“**Insolvency Event**” has the meaning set forth under the Group Intercreditor Agreement.

“**Issuer**” means Abengoa Abenewco 1, S.A.U.

“**Issuer’s Change of Control Event**” means any operation, transaction event or circumstance under which Abengoa Abenewco 2 ceases to:

- (a) own, directly or indirectly, more than sixty-five per cent (65%) of the share capital with voting rights of the Issuer or for any other reason is no longer able to vote on the shares representing that percentage; or

(b) hold the right to appoint the majority of members of the board of directors of the Issuer.

**"Mandatory Conversion at Maturity Event"** has the meaning provided in Condition 5 (a) (i).

**"Mandatory Conversion at Maturity Notice"** has the meaning provided in Condition 5 (a) (i).

**"Maturity Date"** means 23 December 2022.

**"NBF Creditor(s)"** means the holder(s) of NBF Debt.

**"NBF Debt"** means the debt arising *vis-à-vis* the Issuer under the NBF Finance Documents.

**"NBF Finance Documents"** means the NB Facilities Agreement and the New Bonding Facility, together with any other documents entered into in relation thereto, as defined in the Group Intercreditor Agreement.

**"NB Facilities Agreement"** means the syndicated bonding facilities for a maximum amount of €322,641,956.60 entered into on 17 March 2017 by the Issuer, Abengoa, S.A., certain of its Group companies, Banco Santander S.A. and the financial entities named therein, as amended and restated from time to time.

**"Net Proceeds"** has the meaning provided in Condition 5 (a) (ii).

**"New Bonding Facility"** means the syndicated bonding facilities entered into by and between, among others, the Issuer, Banco Santander, S.A. and the financial entities named therein on or about the Closing Date, as amended and restated from time to time.

**"NM1 Group"** means Orphan Holdco, A3T Luxco 1 S.A., Abent 3T S.A.P.I., de C.V., ACIL Luxco 1, S.A., Abengoa Concessions Investments Limited, ACIL Luxco 2, S.A., A3T Luxco 2 S.A. and A3T HoldCo España S.A.

**"NM2 Creditor(s)"** means the holder(s) of NM2 Debt.

**"NM2 Debt"** means the debt arising *vis-à-vis* the Issuer under the NM2 Finance Documents.

**"NM2 Discharge Date"** has the meaning provided in the Group Intercreditor Agreement.

**"NM2 Finance Documents"** means the NM2 Facility Agreement and the NM2 Notes Issuance Deed, together with any other documents entered into in relation thereto, as defined in the Group Intercreditor Agreement.

**"NM2 Facility Agreement"** means the syndicated facility agreement amounting to EUR 223,253,378.96 entered into on 17 March 2017 by and between the Issuer and certain lenders, as amended and restated from time to time.

**"NM2 Notes Issuance Deed"** means the public deed ("*escritura pública*") of issuance of the NM2 Notes (as defined therein) executed by the Issuer as of 17 March 2017, as amended and restated from time to time.

**"Noteholders"** means the persons on whose name a Note is registered in the Register.

**“Notes”** means each of the IAI Notes, Rule 144A Notes and Regulation S Notes issued by the Issuer, whose terms and conditions are regulated herein.

**“Paying and Conversion Agent”** has the meaning provided in the header of these terms and conditions.

**“Paying, Transfer and Conversion Agency Agreement”** means the paying, transfer and conversion agency agreement in relation to the Notes entered into on 25 April 2019 by and between the Issuer, the Paying and Conversion Agent, the Transfer Agent and the Registrar.

**“Permitted Distribution”** means the payment of the following amounts by the Issuer to Abengoa, S.A., Abengoa Abenewco 2 and the Sole Shareholder:

- (a) reasonably justifiable expenses listed in the General Expenses Schedule, provided the General Expenses Schedule has received the prior written approval of the SOM/NM2 MC Committee prior to any Distribution being made, and provided further such expenses shall not exceed €32,000,000 per annum. In the event the SOM/NM2 MC Committee has no members, the expenses listed in the General Expenses Schedule shall be a Permitted Distribution in favour of Abengoa, S.A., Abengoa Abenewco 2 and the Sole Shareholder;
- (b) DOE Payments, up to an aggregate maximum of \$129,000,000 over the life of the Notes; and
- (c) distributions in favour of Abengoa, S.A. to allow Abengoa, S.A. to make payments due in relation to certain derivatives owned thereby and in effect on 17 March 2017, up to a maximum total amount over the lifetime of the Notes of €46,700,000.

**“Proceedings”** has the meaning provided in Condition 0 (b).

**“Public Deed”** has the meaning provided in the header of these terms and conditions.

**“Qualified Institutional Buyer”** or **“QIB”** has the meaning provided in Rule 144A under the Securities Act.

**“Register”** has the meaning provided in Condition 3 (a).

**“Registrar”** has the meaning provided in the header of these terms and conditions.

**“Regulations”** has the meaning provided in Condition 11.

**“Regulation D”** means Regulation D under the Securities Act.

**“Regulation S”** means Regulation S under the Securities Act.

**“Regulation S Global Notes”** has the meaning provided in Condition 1 (a).

**“Regulation S Notes”** means notes sold to persons outside the United States under Regulation S of the Securities Act.

**“Restructuring Agreement”** means the agreement dated 11 March 2019 setting out the terms and conditions of the proposed restructuring of Abengoa, S.A. and its group existing debt arrangements.

**“Rule 144A Global Notes”** has the meaning provided in Condition 1 (a).

**“Rule 144A Notes”** means the notes sold to a QIB transacting in a private transaction in reliance upon an exemption from the registration requirements of the Securities Act.

**“Sanctioned Person”** means, at any given time: (i) any natural or legal person included on any list of designated persons held by the UN Security Council, the EU or any of its member states, or the Office of Foreign Assets Control of the US Department of Treasury (OFAC) or the US State Department or Her Majesty’s Treasury Department, including, but not limited to, the Specially Designated Nationals and Blocked Persons List, the Sectoral Sanctions Identifications List and the Foreign Sanctions Evaders List; (ii) the government of a Sanctioned Territory; (iii) an agency or instrumentality of, or an entity directly or indirectly owned or controlled by, a government of a Sanctioned Territory; (iv) any natural or legal person that operates, is organised or which is domiciled or resides in a Sanctioned Territory; (v) any legal entity owned or controlled by the person or persons listed in (i) to (iv) above; (vi) any natural or legal person subject to Sanctions, or whereby the signing of any document with such person or entity would trigger the imposition of Sanctions on a Noteholder; or (vii) a natural or legal person that acts on behalf of the foregoing for the purpose of evading or trying to evade the imposition of Sanctions (or facilitating the evasion or avoidance thereof).

**“Sanctioned Territory”** means, at any given time, any country, region or territory that has been subject to the imposition of comprehensive Sanctions (including, without limitation, the Crimea region of Ukraine, Cuba, Iran, North Korea and Syria).

**“Sanctions”** means any sanction, trade embargo, ban, restriction or seizure of an economic, financial or commercial nature imposed at any given time by: (i) the UN Security Council; (ii) the European Union or any of its member states; (iii) the United Kingdom, including, without limitation, Her Majesty’s Treasury Department; (iv) the United States, including, without limitation, the Office of Foreign Assets Control of the US Treasury Department (OFAC), the Office of Export Enforcement of the US Department of Commerce; or (v) any other competent authority.

**“Securities Act”** means the United States Securities Act of 1933, as amended and restated from time to time.

**“Selling Agent”** has the meaning provided in Condition 5 (a) (ii).

**“Shareholders”** means the holders of the Shares from time to time.

**“Shareholders Agreement”** means the agreement entered into on Closing Date by and between the Issuer and the Sole Shareholder for the purposes of setting out the principles, terms and conditions that shall apply to and govern the operation, management and structural organization of the Issuer (and, indirectly, of its subsidiaries) and its business and certain aspects concerning the relationship amongst Shareholders and between the Shareholders and the Issuer.

**“Shares”** means the ordinary shares in which the equity of the Issuer is divided.

**“Sole Shareholder”** means, as of the date hereof, Abengoa Abenewco 2 Bis, S.A.U.

**“SOM Notes”**: means the series €1,148,126,558 1.5 per cent senior secured convertible notes due 2024 and the series \$562,194,026 1.5 per cent senior secured convertible notes due 2024 issued by the Sole Shareholder to the SOM Noteholders, which, subject

to certain conditions, may be exchanged for the Shares of the Issuer held by the Sole Shareholder.

**"SOM Noteholders"**: means any holders, from time to time, of the SOM Notes.

**"SOM/NM2 ABE Entitled MC Member"**: means (i) prior to a conversion of the Notes, each Noteholder who holds an amount of Notes, which will upon conversion, entitle the applicable Noteholder to more than six percent (6%) of the share capital of the Issuer and (ii) after the conversion of the Notes, each Noteholder who holds more than six percent (6%) of the fully diluted share capital of the Issuer. In each case, the determination of the holding of a Noteholder will be made taking into account the aggregate of the holdings of all entities forming part of the same group.

**"SOM/NM2 MC Committee"**: means the committee comprising any (i) SOM Noteholder holding more than six percent (6%) of the SOM Notes by either value or issuance and (ii) SOM/NM2 ABE Entitled MC Member, in each case who has consented to be a member of the SOM/NM2 MC Committee and in all instances subject to the SOM/NM2 MC Committee Yank.

**"SOM/NM2 MC Committee Yank"**: means the automatic and immediate removal of any member of the SOM/NM2 MC Committee if the holdings, or entitlement to the holdings, of the share capital of the Issuer of the applicable member falls below four percent (4%).

**"Strategic Investor"**: means any entity that (i) is not an entity which is (or is controlled by) a private equity firm, an institutional investor or any other type of financial investor, other than an operating entity which is controlled by a private equity firm, an institutional investor or any other type of financial investor if such operating entity has an annual revenue of not less than 1,700,000,000 Euros (ii) mainly operates in the same or similar industry as Abengoa or any of its Material Subsidiaries and (iii) that may strategically benefit from an investment in the Group due to identified business synergies (such as enhanced revenues or reduced costs resulting from added products or services, combined market share, market entry or expertise).

**"Syndicate of Noteholders"** has the meaning provided in Condition 11 (b).

**"Transfer Agent"** has the meaning provided in the header of these terms and conditions.

**"Unit"** has the meaning provided in Condition 1 (a).

References to any provision of any statute shall also be deemed to refer to any statutory modification or re-enactment thereof or any statutory instrument, order or regulation made thereunder or under such modification or re-enactment.

### **3. Registration and Transfer of Notes**

#### **(a) Registration**

The Issuer will cause a register (the **"Register"**) to be kept outside the United Kingdom at the specified office of the Registrar on which the names and addresses of the Noteholders, the particulars of the Notes held by them and all transfers, redemptions and conversions of Notes will be entered into.

(b) *Transfer*

Notes may, subject to the terms of the Paying, Transfer and Conversion Agency Agreement and Conditions 3 (c) and 3 (d), be transferred in whole or, except as provided in the Paying, Transfer and Conversion Agency Agreement, in part by lodging the relevant Note (with a duly executed and, where applicable, stamped application for transfer) at the specified office of the Registrar or the Transfer Agent.

No transfer of a Note will be valid unless and until entered on the Register. A Note may be registered only in the name of, and transferred only to, a named person.

Within five (5) Business Days as from the date of any application for the transfer of a Note duly executed, the Registrar will register the relevant transfer and will deliver a new Note to the transferee (and, in the case of a partial transfer, the Registrar will deliver a Note for the untransferred balance to the transferor) or will mail the Note by uninsured mail to the address requested by the transferee or the transferor, as the case may be.

IAI Notes, Rule 144A Notes and Regulation S Notes may be exchanged for IAI Notes, Rule 144A Notes and Regulation S Notes, as applicable. Such exchanges shall be effected by an increase or a reduction in the aggregate principal amount of Notes represented by the IAI Global Note, Rule 144A Global Note and Regulation S Global Note, as applicable, by the aggregate principal amount of Notes so exchanged and a corresponding reduction or increase in the aggregate amount of Notes represented by the IAI Global Note, Rule 144A Note and Regulation S Global Note, as applicable, in each case in accordance with the provisions of the Paying, Transfer and Conversion Agency Agreement and applicable securities laws.

(c) *Formalities Free of Charge*

The transfer of any Note will be effected without charge subject to (i) the person making such transfer paying or procuring the payment of any taxes, duties and other governmental charges in connection therewith; (ii) the Registrar being satisfied with the relevant documents of title and/or identity; and (iii) such reasonable regulations as the Issuer may from time to time agree with the Registrar.

(d) *Closed Periods*

Neither the Issuer nor the Registrar will be required to register the transfer of any Note (i) during the period of fifteen (15) calendar days immediately prior to the Maturity Date; (ii) from the date on which an Accelerated Mandatory Conversion Notice or an Accelerated Voluntary Conversion Notice has been delivered in accordance with Conditions 5 (a) (ii) and 5 (a) (iii), respectively or (iii) during the period from the date of receipt of the notice of an intended Distribution until the date on which the Contingent Interest is due to be paid.

#### **4. Interest**

The Notes bear the Contingent Interest (as defined below).

In the event the Issuer shall pay any Distribution to its Shareholders, the Issuer shall (a) provide ten (10) Business Days' prior notice of such intended Distribution details (i.e., date of the intended Distribution, total amount of the Distribution and percentage of share capital represented by the Shares to which the Noteholders would be entitled to convert should the Notes be converted at the then-prevailing Conversion ratio) and the resultant Contingent Interest (as defined below) to the Commissioner and the Paying and Conversion Agent and (b) make a payment in cash of the Contingent Interest to the Noteholders as per the terms of the Paying, Transfer and Conversion Agency Agreement.

The "**Contingent Interest**" in respect of each Note shall be equal to the amount distributed per Share multiplied by the Conversion Ratio prevailing as at the record date of such Distribution, and shall be paid in Euros, and rounded to the nearest smallest unit, any amount equal to 0.5 of such smallest unit being rounded up to the next whole smallest unit.

The calculation of the Contingent Interest due shall be made by the Issuer and notified via email with acknowledgement of receipt to the Commissioner with copy to the Paying and Conversion Agent and the Calculation Agent. The calculation of any such Contingent Interest shall be verified by the Calculation Agent, whose calculation shall prevail in case of discrepancy (save in the case of manifest error). The Paying and Conversion Agent shall have no obligation or liability in respect of verifying any figures provided to it.

Failure to pay Contingent Interest on or before the date a Distribution to the Shareholders is made will constitute an Accelerated Mandatory Conversion Event as per Condition 5 (a) (ii) below. Without prejudice to the foregoing, the Contingent Interest will continue to be due and payable and Default Interests will accrue from the date on which the Contingent Interest should have been paid until the date on which both the Contingent Interest and the Default Interests are paid in full by the Issuer to the Paying and Conversion Agent for its payment to the Noteholders in accordance with the terms of the Paying, Transfer and Conversion Agency Agreement.

The calculation of the Default Interests due shall be made by the Issuer and notified via email with acknowledgement of receipt to the Commissioner with copy to the Paying and Conversion Agent and the Calculation Agent at least three (3) Business Days' prior to the date on which the Issuer intends to pay it. The calculation of any such Default Interests shall be verified by the Calculation Agent, whose calculation shall prevail in case of discrepancy (save in the case of manifest error). The Paying and Conversion Agent shall have no obligation or liability in respect of verifying any figures provided to it.

#### **5. Conversion of the Notes**

- (a) *Conversion of the Notes*
  - (i) Mandatory Conversion on Maturity Date

Unless previously converted, each Note represented by the relevant Conversion Notice will be mandatorily convertible upon the Maturity Date into the number of new Shares of the Issuer resulting from its multiplication by the then-prevailing Conversion Ratio (as this term is defined below) (the “**Mandatory Conversion at Maturity Event**”).

Upon the occurrence of the Mandatory Conversion at Maturity Event, and in any event within two (2) Business Days thereof, the Issuer shall deliver a notice via email with acknowledgement of receipt to the Commissioner with copy to the Paying and Conversion Agent (the “**Mandatory Conversion at Maturity Notice**”). Failure to send the Mandatory Conversion at Maturity Notice within two (2) Business Days as set out above by the Issuer will entitle any Noteholder to send the Mandatory Conversion at Maturity Notice to the Commissioner, with a copy to the Paying and Conversion Agent.

(ii) Accelerated Mandatory Conversion

Prior to the Maturity Date and upon the occurrence of each of the events described below (each of them an “**Accelerated Mandatory Conversion Event**”), each Note represented by the relevant Conversion Notice will be early mandatorily convertible into the number of new Shares of the Issuer resulting from its multiplication by the prevailing Conversion Ratio at the Conversion Date:

- a. an Insolvency Event of the Issuer;
- b. The conversion of the SOM Notes in the Issuer provided that the NM2 Discharge Date has occurred;
- c. Ordinary termination or acceleration of the NM2 Debt or the NBF Debt, in accordance with their terms; or
- d. Failure to pay Contingent Interest to the Paying and Conversion Agent on the date a Distribution is made to the Shareholders as per Condition 4 (“Interest”) above.

Upon the occurrence of any of the Accelerated Mandatory Conversion Events referred to in paragraphs a., b., c. and d. above, and in any event within two (2) Business Days thereof, the Issuer shall deliver a notice via email with acknowledgement of receipt to the Commissioner, with copy to the Paying and Conversion Agent, containing the specific details of such Accelerated Mandatory Conversion Event (an “**Accelerated Mandatory Conversion Notice**”). Failure to send the Accelerated Mandatory Conversion Notice within two (2) Business Days as set out above by the Issuer will entitle any Noteholder to send the Accelerated Mandatory Conversion Notice to the Commissioner, with a copy to the Paying and Conversion Agent.

(iii) Accelerated Voluntary Conversion

Prior to the Maturity Date and upon the occurrence of an Issuer's Change of Control Event (the "**Accelerated Voluntary Conversion Event**"), Noteholders, without prejudice to their right to attend an Equity Raise, if any, when applicable, may opt to convert each Note represented by the relevant Conversion Notice into the number of new Shares of the Issuer resulting from its multiplication by the applicable Conversion Ratio at the Conversion Date. The decision to convert should be passed by the Syndicate of Noteholders and shall bind all Noteholders, including those who did not attend the meeting and those who dissented. If the decision to convert is passed by the Syndicate of Noteholders, the Commissioner shall deliver a notice via email with acknowledgement of receipt to the Issuer, with copy to the Paying and Conversion Agent, containing the specific details of such Accelerated Voluntary Conversion Event (the "**Accelerated Voluntary Conversion Notice**").

For the avoidance of doubt, the Agents are not required to take any steps to monitor or ascertain whether a Conversion Event has occurred and are not responsible or liable for any failure to do so.

(b) *Conversion Process*

The Conversion process shall be triggered on the earliest of the following dates: (i) upon receipt of the Mandatory Conversion at Maturity Notice, (ii) upon receipt of an Accelerated Mandatory Conversion Notice, and (iii) upon receipt of an Accelerated Voluntary Conversion Notice.

Once the Conversion process is triggered, the Issuer, the Commissioner, the Paying and Conversion Agent, the Calculation Agent and each Noteholder shall take all necessary actions to complete the conversion within the terms set out herein:

- (i) The Issuer shall give notice to Noteholders in accordance with Condition 12 of the trigger of the conversion process, and such notice shall include, at least, a reminder of the Noteholders' obligation to submit a duly completed Conversion Notice to the Issuer, together with the relevant certificates of the Notes held by them if applicable, with a copy to the Paying and Conversion Agent, before the date following one month from the date the relevant notice to Noteholders was given (the "**Conversion Deadline**"). For the avoidance of doubt, the Holding Period Trustee is not required to submit a duly completed Conversion Notice to the Issuer for the purposes of receiving the Shares corresponding to the Notes it holds on trust under the Holding Period Trust Deed that remain unclaimed at the Conversion Deadline. Upon conversion, the Shares corresponding to the Notes held on trust that have been claimed during the conversion period by holders of trust entitlements who submitted all relevant information required by the Holding Period Trustee to instruct the Issuer to issue the Shares (the

**“Instructing Claimants”**) will be allotted to the Instructing Claimants, while the Shares corresponding to non-responsive/instructing claimants will be allotted to the Selling Agent (as this term is defined in Condition 5 (b) (x) below) for the sale thereof in accordance with Condition 5 (b) (xi) et seq.

Those Noteholders that submit a Conversion Notice in respect of which the number of Notes held by a Noteholder multiplied by the Conversion Ratio would give a result of less than one Share will not receive any Shares or compensation in lieu due to the rounding provision of these Conditions.

- (ii) Any Conversion Notice duly completed and delivered in accordance with paragraph (i) above, shall be, in the absence of manifest error, irrevocable, conclusive and binding on the relevant Noteholders.

By the execution and/or delivery of a Conversion Notice, a Noteholder is deemed to represent that, at the time of signing and/or delivery of the Conversion Notice, it, or the person who has a beneficial interest in such Notes, (a) is not a U.S. Person and is not located in the United States (within the meaning of Regulation S under the Securities Act) and purchased such Notes, or the beneficial interest therein, in reliance on the exemption from registration under the Securities Act pursuant to Regulation S thereunder or (b) (i) is (x) a QIB within the meaning of Rule 144A under the Securities Act or (y) an institutional “accredited investor” (“IAI”) as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act, (ii) has acquired such Notes for its own account or for one or more managed accounts, each of which is a QIB or an IAI and as to each of which it exercises sole investment discretion, (iii) understands that the Shares issuable or deliverable upon conversion of the Notes have not been and will not be registered under the Securities Act or with any State or other jurisdiction of the United States and (iv) agrees that (1) it or such Person shall not re-offer, resell, pledge or otherwise transfer such Shares except: (x) outside the United States in offshore transactions in accordance with Rule 903 or Rule 904 of Regulation S under the Securities Act; (y) to a Person that it and any Person acting on its behalf reasonably believe is a QIB purchasing for its own account or for the account of a QIB pursuant to Rule 144A under the Securities Act (if available); or (z) pursuant to any other exemption available under the Securities Act, and in any case in compliance with any applicable laws of the United States or any State or other jurisdictions thereof and regulations governing the offer and sale of securities and all other applicable laws and (2) so long as such Shares are “restricted securities” within the meaning of Rule 144(a)(3) under the Securities Act, it and such Person will not deposit or cause to be deposited any of such Shares in any unrestricted depository receipt facility for shares of the Issuer which may be created in the United States. No Shares will be delivered to a Noteholder or a holder of a beneficial interest therein unless such holder satisfies the foregoing conditions. If such holder is unable to satisfy the foregoing conditions (no Agent is under any obligation to check whether or not such conditions are satisfied), such

holder may transfer its Notes or beneficial interest therein to a person who complies with all the foregoing conditions.

Notwithstanding the foregoing, Condition 5 (b) (ix) shall apply in case the transfer of Shares in the Issuer to Noteholders who have sent the relevant Conversion Notices may be subject to application to, or clearance by, any relevant national or supra-national competition authority, which involves that no Shares will be allotted until the relevant procedures foreseen in such Condition have been completed.

- (iii) As soon as practicable, and in any case within five (5) Business Days as from the Conversion Deadline, the Paying and Conversion Agent and/or the Issuer shall provide the Calculation Agent with copies of and/or information about the relevant Conversion Notices (if any) to the extent it has received such information in the completed Conversion Notices.
- (iv) As soon as practicable, and in any case within three (3) Business Days, the Calculation Agent shall determine the number of Shares to be issued in respect of each Conversion Notice received and it shall inform the Paying and Conversion Agent and the Issuer of such determinations. The Shares to be issued or delivered to Noteholders shall in no event have a nominal value higher than the Authorized Denomination. Fractions of Shares will not be issued or delivered and no cash payment or other adjustment will be made in lieu thereof.
- (v) The date on which (a) Conversion Notices shall be acted upon, (b) Notes shall be discharged and cancelled in full and (c) new Shares shall be issued and allotted (the "**Conversion Date**") shall be no later than the fifth (5th) Business Day as from the date on which the Calculation Agent informed the Issuer of its determinations.
- (vi) On the Conversion Date, the Issuer, duly represented by a member of its board of directors, shall appear before a Public Notary of its choice to grant the relevant share capital increase public deed and, subject to the next following sentence, the relevant Noteholder will become entitled to the economic rights of an Issuer's Shareholder for the purposes of dividend entitlement and otherwise and shall cease to be regarded as Noteholder. However, the relevant Noteholder will not be able to transfer newly-issued Shares until the relevant share capital increase has been duly registered with the relevant Commercial Registry.
- (vii) Within two (2) Business Days, the Issuer shall file the relevant share capital increase public deed with the relevant Commercial Registry and will carry out, in due course and as soon as possible, any action required

under Spanish Corporate Law, so that the relevant share capital increase public deed is registered within the term of fifteen (15) Business Days.

- (viii) The Issuer must pay directly to the relevant authorities any taxes and capital, stamp, issue and registration duties arising on conversion.
- (ix) If a transfer of the Shares in the Issuer to the Noteholders may be subject to an application to, or clearance by any relevant national or supra-national competition authority, as preliminarily determined by either the Issuer or any Noteholder, the Issuer and the relevant Noteholders shall, at the cost of the Issuer, cooperate in good faith and in consultation with a law firm of well-known prestige and standing to determine whether such application or clearance is necessary or desirable. If, following such cooperation and consultation, it is determined that such application or clearance is necessary or desirable, the Issuer shall, at its sole cost, put in place appropriate trust, participation or beneficial title transfer arrangements for an interim period to allow any necessary competition application to be made or clearance to be obtained, prior to transferring the Shares in the Issuer to the Noteholders in accordance with the terms herein. The Issuer shall put in place the same trust participation or beneficial title transfer arrangements for all Noteholders that would be subject to, application to, or clearance by any relevant national or supra-national competition authority.
- (x) In the event one or more duly completed Conversion Notices are not delivered by a Noteholder before the Conversion Deadline (the "**Breaching Noteholders**"), the Issuer shall procure that all Shares in respect of which no duly completed Conversion Notices have been delivered (the "**Unsurrendered Shares**") will be issued to a person (the "**Selling Agent**") selected by the Issuer.
- (xi) Upon the issue of the Unsurrendered Shares to, or to the order of, the Selling Agent, the Breaching Noteholders shall have no further right to the delivery of any Shares under the Notes and shall instead receive the net proceeds obtained by the Selling Agent upon a sale of the relevant Unsurrendered Shares (the "**Net Proceeds**").
- (xii) The Issuer and the Selling Agent shall procure that the Unsurrendered Shares shall be sold by, or on behalf of, the Selling Agent as soon as practicable, and, in any event, within eighteen months from the Conversion Date on advice received from a reputable financial institution, investment or commercial bank or broker selected by the Issuer (or alternatively, if the Issuer has not taken action within a reasonable period, by the Selling Agent).

(xiii) The Net Proceeds obtained by the Selling Agent shall be distributed to the Breaching Noteholders *pro rata* to the aggregate principal amount of Notes held by the relevant Breaching Noteholder, on the date falling five (5) Business Days following the relevant sale date ("**Cash Settlement Date**"), subject to:

- (i) all necessary consents required to complete such sale being obtained prior to the completion of such sale; and
- (ii) prior to any distribution of Net Proceeds, a deduction being made from the Net Proceeds by, or on behalf of, the Selling Agent in respect of (A) any amount payable by the Selling Agent in respect of any tax arising in connection with the sale of the Unsurrendered Shares and (B) for any fees or costs incurred by or on behalf of the Selling Agent in connection with the allotment and sale of the Unsurrendered Shares.

provided, that if any Breaching Noteholder cannot be identified or otherwise fails to claim its portion of the Net Proceeds, and any Net Proceeds are held by, or on behalf of, the Selling Agent on a date falling two years from the Cash Settlement Date, the Selling Agent shall, subject to paragraph (ii) above, immediately deliver the Net Proceeds it holds on such date to the Issuer.

Any cash amount paid to a Breaching Noteholder pursuant to this Condition 5. (b) (xiii) shall be treated for all purposes as discharging the Issuer's obligations in respect of such Breaching Noteholder, and all rights of such Breaching Noteholder in respect of such Shares shall be extinguished upon the payment of its portion of the Net Proceeds, if any.

(xiv) The Issuer and the Selling Agent shall have no liability in respect of the exercise or non-exercise of any discretion or power in respect of any sale of any Unsurrendered Shares, including in respect of the timing of such sale, the price received, the manner in which any such Unsurrendered Shares were sold, or the failure to sell any such Unsurrendered Shares.

(xv) The Issuer must pay directly to the relevant authorities any Tax and any capital, stamp, issue and registration duties arising on conversion. Nevertheless, the relevant Noteholder, provided such Noteholder has provided a Conversion Notice or is otherwise identifiable by the Issuer, must pay all, if any, taxes arising by reference to any disposal or deemed disposal of a Note or interest therein in connection with such conversion.

(xvi) The Issuer, the Noteholders and all other relevant parties shall take and/or consent to all necessary actions to redeem, surrender or

otherwise extinguish any Shares amortised under this Condition 5 (b) (Conversion Process).

(c) *Conversion Ratio*

The Notes shall be converted at a conversion ratio of 0.000236290065 Shares per each Authorized Denomination (the initial "**Conversion Ratio**", such Conversion Ratio being subject to adjustments in accordance with Condition 5 (d) below per each Authorized Denomination).

The number of Shares to be delivered on conversion in respect of a Conversion Notice shall be calculated by the Calculation Agent based on the aggregate number of Notes represented by such Conversion Notice, multiplied by the prevailing Conversion Ratio as at the Conversion Date.

If a Conversion Notice is received in respect of more than one Note and the Shares to be issued and delivered in respect of such Notes are to be registered under the same name, the number of Shares to be issued and delivered in respect thereof shall be calculated by the Calculation Agent on the basis of the aggregate amount of Notes being so converted, and shall be rounded down to the nearest whole number of Shares.

For the avoidance of doubt, any Equity Raise subscribed by the Strategic Investor and/or the beneficiaries of a management incentive plan of the Issuer or its Group, shall not be considered for the purposes of adjusting the Conversion Ratio set out under section 5 (d) below.

(d) *Adjustments to the Conversion Ratio*

Upon the occurrence of any of the events described below, the Calculation Agent shall adjust the Conversion Ratio (unless otherwise specified) on behalf of the Issuer, as follows:

- (i) If and whenever there shall be a consolidation, reclassification or subdivision affecting the number of Shares in issue, the Conversion Ratio shall be adjusted by multiplying the Conversion Ratio in force immediately prior to the Effective Date by the following fraction:

$$\frac{B}{A}$$

where:

- A is the aggregate number of Shares in issue immediately before such consolidation, reclassification or subdivision, as the case may be; and
- B is the aggregate number of Shares in issue immediately after, and as a result of, such consolidation, reclassification or subdivision, as the case may be.

Such adjustment shall become effective on the date (in respect of this Condition 5 (d) (i), the "**Effective Date**") which is the date on which the consolidation, reclassification or subdivision, as the case may be, takes effect.

- (ii) If and whenever the Issuer shall issue any Shares credited as fully paid to the Shareholder(s) by way of capitalisation of profits or reserves (including any share premium account or capital redemption reserve) other than an issue of Shares representing a Distribution for which a corresponding payment of Contingent Interest has been made, the Conversion Ratio shall be adjusted by multiplying the Conversion Ratio in force immediately prior to the Effective Date by the following fraction:

$$\frac{B}{A}$$

where:

- A is the aggregate number of Shares in issue immediately before such issue; and  
B is the aggregate number of Shares in issue immediately after such issue.

Such adjustment shall become effective on the date (in respect of this Condition **iError! No se encuentra el origen de la referencia.** (d)(ii), the "**Effective Date**") which is the date of issue of such Shares.

- (iii) If the Issuer (following consultation with the Calculation Agent) determines that an adjustment should be made to the Conversion Ratio as a result of one or more circumstances not referred to above in this Condition 5 (d), the Issuer shall, at its own expense and acting reasonably, request an Independent Adviser to determine as soon as practicable what adjustment (if any) to the Conversion Ratio is fair and reasonable to take account thereof and the date on which such adjustment (if any) should take effect and upon such determination such adjustment (if any) shall be made and shall take effect in accordance with such determination, provided that an adjustment shall only be made pursuant to this Condition 5 (d) (iii) if the adjustment would result in an increase to the Conversion Ratio.

Notwithstanding the foregoing provisions:

- (a) where the events or circumstances giving rise to any adjustment pursuant to this Condition 5 (d) have already resulted or will result in an adjustment to the Conversion Ratio or where the events or circumstances giving rise to any adjustment arise by virtue of any other events or circumstances which have already given or will give rise to an adjustment to the Conversion Ratio or where more than one event which

gives rise to an adjustment to the Conversion Ratio occurs within such a short period of time that, in the opinion of the Issuer, a modification to the operation of the adjustment provisions is required to give the intended result, such modification shall be made to the operation of the adjustment provisions as may be determined in good faith by an Independent Adviser to be in its opinion appropriate to give the intended result;

- (b) such modification shall be made to the operation of these Conditions as may be determined in good faith by an Independent Adviser to be in its opinion appropriate (i) to ensure that an adjustment to the Conversion Ratio or the economic effect thereof shall not be taken into account more than once and (ii) to ensure that the economic effect of a Distribution to the Shareholder(s) is not taken into account more than once; and
- (c) other than pursuant to Condition 5 (d) (i), no adjustment shall be made that would result in a decrease to the Conversion Ratio.

(e) *Decision of an Independent Adviser or the Calculation Agent*

If any doubt shall arise as to whether an adjustment falls to be made to the Conversion Ratio or as to the appropriate adjustment to the Conversion Ratio, following consultation between the Issuer and the Calculation Agent, a written opinion of an Independent Adviser in respect thereof shall be conclusive and binding on the Issuer, the Noteholders and all other parties, save in the case of manifest error.

Adjustments to the Conversion Ratio pursuant to this Condition 5 shall be determined and calculated in good faith by the Calculation Agent, and/or to the extent so specified in the terms and conditions only, in good faith by an Independent Adviser. Adjustments to the Conversion Ratio calculated by the Calculation Agent or, where applicable, an Independent Adviser and any other determinations made by the Calculation Agent or, where applicable, an Independent Adviser pursuant to these Conditions shall be final and binding (in the absence of manifest error) on the Issuer, the Noteholders and the Agents. The Calculation Agent may consult, at the expense of the Issuer and subject to the provisions of the Calculation Agency Agreement, on any matter (including but not limited to, any legal matter), with any legal or other professional adviser and it shall not be liable and shall incur no liability as against the Noteholders in respect of anything done, or omitted to be done, relating to that matter in good faith in accordance with that adviser's written opinion. The Calculation Agent shall act solely as agent of the Issuer and will not thereby assume any obligations towards or relationship of agency or trust with the Noteholders.

(f) *Rounding and Notice of Adjustment to the Conversion Ratio*

On any adjustment, the resultant Conversion Ratio, if not an integral multiple of 0.000000000001, shall be rounded up to the nearest whole multiple of

0.000000000001. Any amount by which the Conversion Ratio has been rounded up, shall be carried forward and taken into account in any subsequent adjustment, and such subsequent adjustment shall be made on the basis that the relevant rounding up had not been made.

Notice of any adjustments to the Conversion Ratio shall be given by the Issuer to Noteholders in accordance with Condition 12 and to the Agents promptly after the determination thereof.

The Conversion Ratio shall not in any event be increased beyond such a level that would result in the conversion of Notes into Shares to occur at a price, which is below the nominal value of the Shares.

(g) *Shareholders Agreement*

In case of a Conversion Event, by the execution and delivery of a Conversion Notice, each Noteholder is deemed to represent and warrant that, at the time of signing and/or delivery of the Conversion Notice, it agrees to be bound by the Shareholders Agreement.

## **6. Shares**

On the Conversion Date, the Shareholder(s) shall adopt the necessary decisions under applicable Spanish corporate law so that the Issuer carries out a share capital increase for the total amount of new Shares required to be issued in respect of any conversion by Noteholders. For the avoidance of doubt, Noteholders shall not be required to make any disbursements to subscribe their relevant Shares, which will be paid in full – due to the aforementioned conversion of the Notes – and free of any liens, charges, encumbrances and third party rights (other than by operation of law, the bylaws or the Shareholders Agreement).

All new Shares issued as a result of the conversion of the Notes shall have the same economic and voting rights as the existing Shares of the Issuer on the Conversion Date, without prejudice of subsequent amendments of the rights entitled to the Shares and/or creation of different share classes with different rights that may be agreed from time to time by and among the Shareholders and the Issuer after conversion.

## **7. Taxation**

All payments in respect of the Notes by or on behalf of the Issuer shall be made free and clear of, and without withholding or deduction for, any taxes, duties, assessments or governmental charges of whatever nature, unless such withholding or deduction is required by applicable laws or regulations. If such withholding or deduction is so required, the relevant payment shall be made subject to and after any such withholding or deduction and no additional amounts shall be payable by the Issuer in respect of any such withholding or deduction.

Any taxes, costs, expenses and fees derived from the formalization and execution of the issue of the Notes shall be borne by the Issuer.

## **8. Agents**

### *(a) Paying and Conversion Agent, Transfer Agent and Registrar*

The Issuer reserves the right under the Paying, Transfer and Conversion Agency Agreement to vary or terminate, at any time, the appointment of the Paying and Conversion Agent, the Transfer Agent or the Registrar and to appoint others provided that:

- (i) it will maintain a Paying and Conversion Agent and a Transfer Agent with specified offices in one (1) major European city;
- (ii) it will maintain a Paying and Conversion Agent willing to meet the formal requirements established under Law 10/2014 on the organization, supervision and solvency of credit entities, of June 26 as well as Royal Decree 1065/2007, of July 27, 2007, approving the General Regulations of the tax inspection and management procedures and developing the common rules of the procedures to apply taxes, as amended by Royal Decree 1145/2011, of July 29, 2011; and
- (iii) it will maintain a Registrar with a specified office outside the United Kingdom.

The Issuer will promptly give notice of any changes in the Paying and Conversion Agent, the Transfer Agent or the Registrar or their specified offices to the Commissioner in accordance with Condition 12 below.

### *(b) Calculation Agent*

The Issuer reserves the right under the Calculation Agency Agreement to vary or terminate, at any time, the appointment of the Calculation Agent and to appoint a substitute provided that it will at all times maintain a Calculation Agent which shall be a financial institution of international reputation or a financial adviser with appropriate expertise.

The Issuer will promptly give notice of any changes in the Calculation Agent or its specified offices to the Commissioner in accordance with Condition 12 below.

The Calculation Agent shall act solely as agent of, and upon request by, the Issuer and will not thereby assume any obligations towards or relationship of agency or trust with the Noteholders.

## **9. Representations, Warranties and Undertakings**

### *(a) Representations and Warranties*

- (i) Provided that the Notes are admitted to listing on a regulated market, multilateral trading facility or on any other organised OECD market and that identification procedures required by Law 10/2014 and currently established in Royal Decree 1065/2007 ("*Real Decreto 1065/2007, de 27 de julio, por el que se aprueba el Reglamento General de las actuaciones*")

*y los procedimientos de gestión e inspección tributaria), as amended by Royal Decree 1145/2011 (Real Decreto 1145/2011, de 29 de julio, que modifica el Reglamento General de las actuaciones y los procedimientos de gestión e inspección tributaria”)*, are duly and timely complied with, all payments in respect of the Notes made to Noteholders who are non-residents in Spain and corporate income taxpayers resident in Spain will be made without withholding for or deduction of any taxes or duties imposed or levied by or on behalf of Spain or any political subdivision or any authority thereof or therein having the power to tax.

- (ii) No Sanctions of any kind have been imposed on the Issuer, any of its subsidiaries, nor on any of their directors, nor (to the best of their knowledge, after conducting the necessary investigations in respect thereof) any of their partners, shareholders, managers, employees, representatives or agents, and nor is any such person a Sanctioned Person.
- (iii) Neither the Issuer nor any of its subsidiaries, nor any of their directors, nor (to the best of their knowledge, after conducting the necessary investigations in respect thereof) any of their partners, shareholders, managers or agents has made or received any payments, or has made or entered into, or makes or enters into, any transactions, operations or commercial relations (a) with, or associated with, any natural person or legal entity to whom any Sanctions apply or who is a Sanctioned Person, or (b) that would reasonably be expected to result in their violation of any Sanctions or being designated as a Sanctioned Person.
- (iv) Neither the Issuer nor any of its subsidiaries is controlled by any natural person or legal entity who is subject to Sanctions or is a Sanctioned Person.
- (v) Neither the Issuer, nor any its subsidiaries, nor any of their directors has pending litigations, investigations, proceedings or notifications of or before any government authority, agency or court with respect to any Sanctions.
- (vi) The Issuer and its subsidiaries have instituted and maintain policies and procedures to ensure compliance with Sanctions.
- (vii) Neither the Issuer, nor any of its subsidiaries, nor (to the best of their knowledge, after conducting the necessary investigations in respect thereof) any of their directors, managers, employees, partners, agents or any other person acting on their behalf, has carried out or knows they have carried out any action that, either directly or indirectly, could imply a violation of the applicable Anti-Corruption Laws.
- (viii) The Issuer and its subsidiaries have conducted their business in compliance with applicable Anti-Corruption Laws and Anti-Money

Laundrying Laws and have established and maintain policies, procedures and financial and internal controls that ensure their compliance with applicable Anti-Corruption Laws and Anti-Money Laundering Laws.

- (ix) Neither the Issuer, any of its subsidiaries, nor (to the best of their knowledge, after conducting the necessary investigations in respect thereof) any of their directors, partners, shareholders, managers, employees, representatives, or agents has pending litigations, investigations, proceedings or notifications of or before any government authority, agency, or court with respect to any Anti-Corruption Laws or Anti-Money Laundering Laws.

*(b) Undertakings*

- (i) The Issuer undertakes to obtain and/or maintain all applicable consents and approvals, which are required for the performance of its obligations under the Notes and, in particular, regarding the conversion of the Notes into new Shares of the Issuer upon the occurrence of a Conversion Event.
- (ii) The Issuer undertakes not to carry out actions out of its ordinary course of business or actions that may compromise the conversion of the Shares or lead to a breach of these Conditions.
- (iii) The Issuer undertakes to use all reasonable endeavours to maintain the eligibility for trading of the Notes on the Third Market (MTF) of the Vienna Stock Exchange, a multilateral trading facility market, which meets the requirements set out by Law 10/2014, on the organization, supervision and solvency of credit entities, of June 26. Otherwise, the Issuer shall use all reasonable endeavours to promptly list such Notes on a stock exchange that qualifies as a regulated market, a multilateral trading facility market or another organized market.
- (iv) The Issuer undertakes to promptly notify the Commissioner and the Paying and Conversion Agent of the occurrence of a Mandatory Conversion at Maturity Event or an Accelerated Mandatory Conversion Event. Furthermore, the Issuer undertakes to provide ten (10) Business Days' prior notice of an intended Distribution details (i.e., date of the intended Distribution, total amount of the Distribution and percentage of share capital represented by the Shares to which the Noteholders would be entitled to convert should the Notes be converted at the then-prevailing Conversion ratio) and the resultant Contingent Interest to the Commissioner and the Paying and Conversion Agent.
- (v) The Issuer undertakes not to carry out any consolidation, amalgamation, merger, share capital increase or decrease without the prior written consent of the Syndicate of Noteholders.

As an exception to the above, the Issuer will not need to receive consent from the Syndicate of Noteholders for those share capital increases that are approved to (i) enable a Strategic Investor enter into the Issuer's share capital by means of an Equity Raise and/or (ii) issue shares in favour of the management incentive plan beneficiaries, which will involve a dilution in the Issuer's share capital to be shared pro rata among the Noteholders and any other Issuer's Shareholders. In any event, although no authorisation from the Syndicate of Noteholders is required to undertake the transactions referred to in this paragraph, the Issuer must notify the Syndicate of Noteholders, through the Commissioner, fifteen (15) days prior to the scheduled date of the relevant share capital increase.

In the case of any authorised consolidation, amalgamation or merger of the Issuer with any other corporation, or in the case of any sale or transfer of all, or substantially all, or the assets of the Issuer, the Issuer will forthwith notify the Noteholders of such event and take such steps as shall be required to ensure that each Note then outstanding will be convertible into the amount of shares and other securities property and cash receivable upon such consolidation, amalgamation or merger, sale or transfer, which would have become liable to be issued or delivered if the conversion of the Shares would have taken place immediately prior to such consolidation, amalgamation, merger, sale or transfer. The provisions of this Condition shall apply, *mutatis mutandis*, to any subsequent consolidations, amalgamations, mergers, sales or transfers.

For the avoidance of doubt, in the case of an authorised share capital reduction to distribute funds to the Sole Shareholder or Shareholders at that time, the aforementioned distribution of funds shall be treated *mutatis mutandis* to an up-streamed distribution.

- (vi) The Issuer individually undertakes that any Distribution to its Shareholders shall be carried out in a way that at all times observes the terms of Condition 4.
- (vii) The Issuer undertakes to provide the Noteholders with the following information at the times set out below:
  - (a) As soon as they become available, and in any event within 120 days of the end of each financial year commencing with the financial year ending 31 December 2019, the audited annual consolidated financial statements of the Issuer; and
  - (b) As soon as they become available, and in any event within 90 days of the end of the first half-year of each financial year, the half-yearly consolidated financial statements of the Issuer.

- (viii) The Issuer undertakes to immediately inform the Noteholders of the occurrence of any circumstances that could, or might reasonably be expected to, render any of the Representations and Warranties untrue or inaccurate.
- (ix) The Issuer undertakes to immediately inform the Noteholders of any relevant change in the senior management or in the composition of its management body.
- (x) The Issuer will incur indebtedness only as permitted in the Group Intercreditor Agreement.
- (xi) The Issuer shall conduct its business, and shall procure that its subsidiaries conduct their business, in compliance with applicable Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions. Without limiting the foregoing, the Issuer will not use, in making any payment in connection with the Notes or to comply with any obligations under these Conditions, funds that come from (a) activities or transactions carried out with a Sanctioned Person or in a Sanctioned Territory, or (b) activities prohibited by any Sanctions or which would cause any of the Issuer, its subsidiary or Noteholder to breach any Sanctions.
- (xii) The Issuer shall maintain, and shall procure that its subsidiaries maintain, policies, procedures, and financial and internal controls designed to promote and achieve compliance with applicable Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions.
- (xiii) The Issuer undertakes within a maximum term of three (3) months as from the Closing Date to (i) have the Shares represented in account entries with Iberclear and (ii) increase the number of Shares of the Issuer by undertaking subdivisions, redenominations or reorganisations thereof, such that the Conversion Ratio would be adjusted to no less than 1 (or, if not possible, to as close to such a level as is reasonably practicable), i.e, to do a split of the current nominal value of the Shares, at least, in a 1 to 4,233 proportion.

## **10. Replacement of Notes**

If any Note is mutilated, defaced, destroyed, stolen or lost, it may be replaced at the specified office of the Paying and Conversion Agent, subject to all applicable laws and stock exchange or other relevant authority requirements, upon payment by the claimant of such costs as may be incurred in connection therewith and on such terms as to evidence and indemnity as the Issuer may reasonably require. Mutilated or defaced Notes must be surrendered before replacements are issued.

## **11. Syndicate of Noteholders**

Noteholders shall meet in accordance with certain regulations governing the Syndicate of Noteholders (the "**Regulations**"). The Regulations, which are attached hereto as

Annex I and to the Public Deed, contain the rules governing both the Syndicate of Noteholders and its relationship with the Issuer, as well as the relevant majorities' regime.

Agensynd, S.L. has been appointed as Commissioner for the Noteholders. By purchasing and/or holding Notes, Noteholders shall be deemed to have agreed to: (i) the appointment of the Commissioner; and (ii) become a member of the Syndicate of Noteholders.

The Issuer, with the consent of the Commissioner for the Noteholders, may amend these Conditions insofar as they may apply to the Notes to correct manifest errors, to implement amendments of a formal, minor or technical nature or to comply with mandatory provisions of law.

In addition to the above, the Issuer and the Commissioner for the Noteholders, the latter with the sanction of a resolution of the Syndicate of Noteholders, may agree any modification, whether material or not, to these Conditions and any waiver of any breach or proposed breach of these Conditions.

For the purposes of these Conditions,

- (a) "**Commissioner**" means the "*comisario*" as this term is defined under the Spanish Companies Act (*Ley de Sociedades de Capital*) of the Syndicate of Noteholders; and
- (b) "**Syndicate of Noteholders**" means the "*sindicato*" as this term is described under the Spanish Companies Act (*Ley de Sociedades de Capital*).

## 12. Notices

### (a) General

All notices regarding the Notes will be valid if sent to the address of the relevant Noteholder as specified in the Register. The Issuer shall also ensure that all notices are duly published in a manner, which complies with the rules and regulations of any stock exchange, or other relevant authority on which the Notes are for the time being listed and/or admitted to trading. Any such notice shall be deemed to have been given on the date of such notice's publication, or, if such notice is published more than once, on the first date on which publication is made. If publication, as provided above, is not practicable, notice will be given in such other manner, and shall be deemed to have been given on such date, as the Commissioner may approve.

Notwithstanding the above, for so long as the Notes are represented by the Global Notes and the Global Notes are deposited with the depositary for Euroclear and/or Clearstream, Luxembourg, notices to Noteholders may be given by delivery of the relevant notice to Euroclear or Clearstream, Luxembourg and such notices shall be deemed to have been given to Noteholders on the day following the day of delivery to Euroclear and/or Clearstream, Luxembourg, provided that for so long as any of the Notes are listed on the Official List of the Vienna Stock Exchange and admitted to trading on the Third

Market (MTF) of the Vienna Stock Exchange and the rules of the Vienna Stock Exchange so require, a notice will also be published in a leading newspaper having general circulation in Austria or, alternatively, on the website of the Vienna Stock Exchange (<https://www.wienerbourse.at/en/>).

Notwithstanding the specific addressees foreseen for each of the relevant notices to be sent in accordance with these Conditions, the Issuer shall send or procure to be sent to the Paying and Conversion Agent, the Registrar and Transfer Agent, and the Commissioner, one copy of each notice to be given to the Noteholders. Furthermore, the Commissioner shall send or procure to be sent to the Paying and Conversion Agent and the Registrar and Transfer Agent one copy of each notice to be given to the Noteholders.

*(b) Notices of Mandatory Conversion at Maturity and Accelerated Conversions*

Any notices to be delivered by email with acknowledgement of receipt pursuant to these Conditions shall be sent to the following email addresses (as applicable) and without prejudice that these may be modified in the future as long as the rest of the parties are notified in due course:

- (i) Issuer: [daniel.alaminos@abengoa.com](mailto:daniel.alaminos@abengoa.com) / [mercedes.domecq@abengoa.com](mailto:mercedes.domecq@abengoa.com)
- (ii) Commissioner: [agency@agensynd.com](mailto:agency@agensynd.com) / Attention: Mrs. Pilar García, Mrs. Julieta Moreno and Mr. Ramón Cáceres
- (iii) Paying and Conversion Agent: [CONVTRAN@bnymellon.com](mailto:CONVTRAN@bnymellon.com) / [corpsov4@bnymellon.com](mailto:corpsov4@bnymellon.com)
- (iv) Calculation Agent: [calculation.agent@conv-ex.com](mailto:calculation.agent@conv-ex.com)

### **13. Governing Law and Jurisdiction**

*(a) Governing Law*

The Notes, and any non-contractual obligations arising out of or in connection with them are governed by, and shall be construed in accordance with, Spanish law.

*(b) Jurisdiction*

The courts of the city of Madrid are to have jurisdiction to settle any disputes, which may arise out of or in connection with the Notes and accordingly any legal action or proceedings arising out of or in connection with the Notes ("**Proceedings**"), may be brought in such courts. The Issuer has irrevocably submitted to the jurisdiction of such courts and has waived any objection to Proceedings in such courts whether on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. This submission is made for the benefit of the Noteholders and shall not limit the right of any of them to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).

ANNEX I | REGLAMENTO DEL SINDICATO DE BONISTAS / REGULATIONS OF THE  
SYNDICATE OF NOTEHOLDERS

*The following are the Regulations of the Syndicate of Noteholders referred to in the Terms and Conditions of the Notes, which will be incorporated by reference into each Global Note and endorsed on the Notes in definitive form. The English version of the Regulations of the Syndicate of Noteholders is the legally binding version. The Spanish translation provided below is a translation of the original English text given for information purposes only.*

**REGLAMENTO**

A continuación se recoge el reglamento del Sindicato de Bonistas de la emisión (la "**Emisión**") de bonos subordinados, por importe global de 4.999.999,989330 Euros y vencimiento el 23 de diciembre de 2022, obligatoriamente convertibles en acciones de Abengoa Abenewco 1, S.A.U. (los "**Bonos**").

En caso de discrepancia, la versión inglesa prevalecerá.

**TÍTULO I**

**CONSTITUCIÓN, DENOMINACIÓN, OBJETO, DOMICILIO, GOBIERNO Y DURACIÓN DEL SINDICATO DE OBLIGACIONISTAS.**

**ARTÍCULO 1º.- CONSTITUCIÓN**

Con sujeción a lo dispuesto en el Capítulo IV, Título XI del Real Decreto Legislativo 1/2010, de 2 de julio, por el que se aprueba el Texto Refundido de la Ley de Sociedades de Capital (la "**Ley de Sociedades de Capital**"), el sindicato de los titulares de los Bonos (los "**Bonistas**") quedará constituido una vez inscrita en el Registro Mercantil la escritura pública relativa a la Emisión.

Este sindicato de Bonistas (el "**Sindicato**") se regirá por el presente Reglamento, por la Ley de Sociedades de Capital, por las disposiciones aplicables de los estatutos sociales de Abengoa Abenewco 1, S.A.U. (la "**Sociedad Emisora**") y demás disposiciones legales aplicables.

La suscripción o adquisición de los Bonos implica la aceptación expresa del presente Reglamento por los Bonistas.

**REGULATIONS**

The regulations that follow correspond to the Syndicate of Noteholders of the issue (the "**Issue**") subordinated notes for a maximum amount of EUR 4,999,999.989330 due 23 December 2022 mandatorily convertible in shares of Abengoa Abenewco 1, S.A.U. (the "**Notes**").

In case of discrepancy, the English version shall prevail.

**TITLE I**

**INCORPORATION, NAME, PURPOSE, ADDRESS, GOVERNANCE AND DURATION OF THE SYNDICATE OF NOTEHOLDERS.**

**1<sup>st</sup> ARTICLE.- INCORPORATION**

In accordance with the provisions of Chapter IV, Title XI of the Royal Legislative Decree on Capital Companies ("*Real Decreto Legislativo 1/2010, de 2 de julio, por el que se aprueba el texto refundido de la Ley de Sociedades de Capital*") (the "**Spanish Companies Act**"), the Syndicate of owners of the Notes (the "**Noteholders**") will be incorporated once the public deed of issue has been registered with the Mercantile Registry.

This syndicate of Noteholders (the "**Syndicate**") shall be governed by these Regulations, by the Spanish Companies Act, by the applicable provisions of the articles of association of Abengoa Abenewco 1, S.A.U. (the "**Issuer**") and by any other applicable legislation.

By subscribing for or acquiring Notes, Noteholders expressly accept these Regulations.

## **ARTÍCULO 2º.- DENOMINACIÓN**

El Sindicato se denominará "SINDICATO DE BONISTAS DE LA EMISIÓN DE BONOS CONVERTIBLES EN ACCIONES DE ABENGOA ABENEWCO 1, S.A.U."

## **ARTÍCULO 3º.- OBJETO**

El Sindicato tendrá por objeto la representación y defensa de los legítimos intereses de los Bonistas frente a la Sociedad Emisora, mediante el ejercicio de los derechos que le reconocen las leyes por las que se rige y el presente Reglamento, para ejercerlos y conservarlos de forma colectiva, y bajo la representación que se determina en las presentes normas.

## **ARTÍCULO 4º.- DOMICILIO**

El domicilio del Sindicato se fija en c/ O' Donell, 12, 6ª Planta, Derecha, 28009, Madrid.

La Asamblea General de Bonistas (la "**Asamblea General**") podrá, sin embargo, reunirse, cuando se considere oportuno, en otro lugar de la ciudad de Madrid, expresándose así en la convocatoria.

## **ARTÍCULO 5º.- DURACIÓN**

El Sindicato estará en vigor hasta que se hayan satisfecho cuantos derechos correspondan a los Bonistas en virtud de los Bonos por cualquier concepto.

## **TÍTULO II**

### **RÉGIMEN DEL SINDICATO**

#### **ARTÍCULO 6º.- ÓRGANOS DEL SINDICATO**

Los órganos de gobierno del Sindicato son:

- (a) La Asamblea General.
- (b) El Comisario de la Asamblea General (el "**Comisario**").

## **2<sup>nd</sup> ARTICLE.- NAME**

The Syndicate shall be referred to as "SYNDICATE OF NOTEHOLDERS OF THE ISSUE OF NOTES MANDATORILY CONVERTIBLE IN SHARES OF ABENGOA ABENEWCO 1, S.A.U."

## **3<sup>rd</sup> ARTICLE.- PURPOSE**

This Syndicate is formed for the purpose of representing and protecting the lawful interests of the Noteholders before the Issuer, by means of the exercise of the rights granted by the applicable laws and the present Regulations, to exercise and preserve them in a collective way and under the representation determined by these regulations.

## **4<sup>th</sup> ARTICLE.- ADDRESS**

The Syndicate's domicile shall be located at c/ O' Donell, 12, 6ª Planta, Derecha, 28009, Madrid.

However, the Noteholders General Meeting (the "**General Meeting**") is also authorised to hold a meeting, when considered convenient, in any other place in the city of Madrid, which is specified in the notice convening the meeting.

## **5<sup>th</sup> ARTICLE.- DURATION**

This Syndicate shall be in force until all rights deriving from the Notes that may correspond to the Noteholders for any concept have been satisfied.

## **TITLE II**

### **SYNDICATE'S REGIME**

#### **6<sup>th</sup> ARTICLE.- SYNDICATE MANAGEMENT BODIES**

The management bodies of the Syndicate are:

- (a) The General Meeting.
- (b) The Commissioner of the General Meeting (the "**Commissioner**").

**ARTÍCULO 7º.- NATURALEZA JURÍDICA**

La Asamblea General, debidamente convocada y constituida, es el órgano de expresión de la voluntad de los Bonistas, con sujeción al presente Reglamento, y sus acuerdos vinculan a todos los Bonistas en la forma establecida por las leyes, incluso a los no asistentes y a los disidentes.

**ARTÍCULO 8º.- LEGITIMACIÓN PARA LA CONVOCATORIA**

La Asamblea General será convocada por los administradores de la Sociedad Emisora o por el Comisario, siempre que cualquiera de ellos lo estime conveniente.

Sin perjuicio de lo anterior, el Comisario deberá convocarla cuando lo soliciten por escrito, y expresando el objeto de la convocatoria, los Bonistas que representen, por lo menos, la vigésima parte del importe no amortizado de la Emisión. En este caso, la Asamblea General deberá convocarse para ser celebrada dentro de los cuarenta y cinco (45) días naturales siguientes a aquél en que el Comisario hubiere recibido la solicitud.

**ARTÍCULO 9.- FORMA DE CONVOCATORIA**

La convocatoria de la Asamblea General se hará, por lo menos quince (15) días naturales antes de la fecha fijada para su celebración, mediante (i) anuncio que se publicará en la página web de Abengoa Abenewco 1, S.A.U. ([www.abengoa.es](http://www.abengoa.es)) y (ii) envío del anuncio a Euroclear y/o Clearstream, Luxembourg.

En todo caso, se expresará en el anuncio el nombre de la Sociedad Emisora y la denominación del Sindicato, el lugar y la fecha de reunión, los asuntos que hayan de tratarse y la forma de acreditar la titularidad de los Bonos para tener derecho de asistencia a la Asamblea General.

**ARTÍCULO 10º.- DERECHO DE ASISTENCIA**

**7<sup>th</sup> ARTICLE.- LEGAL NATURE**

The General Meeting, duly called and constituted, is the body of expression of the Noteholders' will, subject to the present Regulations, and its resolutions are binding for all the Noteholders in the way established by law, including non-attendees and absents.

**8<sup>th</sup> ARTICLE. – AUTHORITY FOR CONVENING MEETINGS**

The General Meeting shall be convened by the directors of the Issuer or by the Commissioner, whenever they may deem it convenient.

Notwithstanding the above, the Commissioner shall convene a General Meeting upon the written request of Noteholders holding, at least, the twentieth part of the non-amortised amount of the Issue, which should specify the purpose of the meeting. In such case, the General Meeting shall be held within a maximum term of forty-five (45) calendar days as from the date of receipt of the request by the Commissioner.

**9<sup>th</sup> ARTICLE.- PROCEDURE FOR CONVENING MEETINGS**

The General Meeting shall be convened at least fifteen (15) calendar days in advance of the scheduled meeting date by (i) a notice published on Abenewco 1, S.A.U.'s website ([www.abengoa.es](http://www.abengoa.es)) and (ii) delivery of the relevant notice to Euroclear and/or Clearstream, Luxembourg.

In any case, the notice shall state the name of the Issuer and the naming of the Syndicate, the place and the date for the General Meeting, the agenda for the meeting and the way in which the ownership of the Notes shall be proved in order to have the right to attend the meeting.

**10<sup>th</sup> ARTICLE.- RIGHT TO ATTEND MEETINGS**

Tendrán derecho de asistencia a la Asamblea General los Bonistas que lo sean, con al menos cinco (5) días hábiles de antelación, a aquél en que haya de celebrarse la reunión.

Los administradores de la Sociedad Emisora y el "Paying and Conversion Agent" de la Emisión tendrán derecho de asistencia a la Asamblea General, aunque no hubieren sido convocados. El Comisario deberá asistir a la Asamblea General, aunque no la hubiera convocado.

#### **ARTÍCULO 11º.- DERECHO DE REPRESENTACIÓN**

Todo Bonista que tenga derecho de asistencia a la Asamblea General podrá hacerse representar por medio de otro Bonista. Además, todo Bonista con derecho de asistencia podrá, en caso de no poder delegar su representación en otro Bonista, hacerse representar por el Comisario. La representación deberá conferirse por escrito y con carácter especial para cada Asamblea General. En ningún caso podrán hacerse representar los Bonistas por los administradores de la Sociedad Emisora, aunque también sean Bonistas.

#### **ARTÍCULO 12º.- QUÓRUM DE ASISTENCIA Y ADOPCIÓN DE ACUERDOS**

Los acuerdos de la Asamblea General se adoptarán por mayoría absoluta de los votos emitidos, sin necesidad de quorum mínimo de asistencia.

Por excepción, las materias identificadas a continuación requerirán el voto favorable de las cuatro quintas (4/5) partes de los votos emitidos, siempre y cuando hayan votado a favor al menos Bonistas que representen al menos dos terceras (2/3) partes de los Bonos en circulación:

- Modificación de la fecha de vencimiento de los Bonos;
- Modificación de la ratio de conversión de los Bonos y/o de la base para el cálculo de los intereses pagaderos en relación con los mismos;

Noteholders who have held such condition at least five (5) business days prior to the date on which the General Meeting is scheduled, shall have the right to attend thereto.

The directors of the Issuer and the Paying and Conversion Agent of the Issue shall have the right to attend the General Meeting even if they have not been called. The Commissioner shall attend the General Meeting even if it has not been convened by it.

#### **11<sup>th</sup> ARTICLE.- RIGHT TO BE REPRESENTED**

All Noteholders having the right to attend the General Meeting may be represented by another Noteholder. In addition, any Noteholder with the right to attend the General Meeting may, in case it is unable to delegate its representation to another Noteholder, be represented by the Commissioner. Appointment of a proxy must be formalized in writing and only for each particular General Meeting. Noteholders cannot be represented by directors of the Issuer, even if they also are Noteholders.

#### **12<sup>th</sup> ARTICLE.- QUORUM FOR MEETINGS AND TO PASS RESOLUTIONS**

Resolutions at the General Meeting shall be adopted by absolute majority of the votes issued, with no minimum quorum for attendance.

As an exception to the above, the matters set out below shall require a favourable vote of four-fifths (4/5) of the votes issued provided that Noteholders representing a minimum of two-thirds (2/3) of the outstanding Notes has voted in favour:

- Amendment to the maturity date of the Notes;
- Amendment to the Notes conversion ratio and/or the basis for the calculation of the interests payable in respect thereof;

- Modificación del supuesto de conversión obligatoria a vencimiento o de los supuestos de conversión anticipada de los Bonos (tanto supuestos de conversión anticipada obligatoria como supuestos de conversión anticipada a instancia de los Bonistas);
- Aprobación de la sustitución del Emisor como obligado principal bajo los Bonos;
- Modificación del nominal de los Bonos, de la moneda en la que éstos están emitidos o de los supuestos de los que se derivan pagos bajo los mismos;
- Modificación de la ley aplicable a los Bonos; y
- Modificación de los artículos del Reglamento relativos al quórum de asistencia y a las mayorías requeridas para la adopción de acuerdos.

Una resolución por escrito firmada por, o en nombre de, Bonistas titulares de los Bonos requeridos para alcanzar las mayorías requeridas, según sea el caso, ya sea contenida en un documento o en varios documentos de la misma forma, cada uno de ellos firmado por, o en nombre de, uno o más Bonistas, tendrá efecto como si fuera una resolución de la Asamblea General y será vinculante para todos los Bonistas.

#### **ARTÍCULO 13°.- DERECHO DE VOTO**

Cada Bono conferirá al Bonista un derecho de voto proporcional al valor nominal no amortizado de los Bonos de que sea titular

#### **ARTÍCULO 14°.- PRESIDENCIA DE LA ASAMBLEA GENERAL**

La Asamblea General estará presidida por el Comisario, quien dirigirá los debates, dará por terminadas las discusiones cuando lo estime conveniente y dispondrá que los asuntos sean sometidos a votación. El Comisario, actuando como Presidente, designará un Secretario que podrá o no ser Bonista.

- Amendment to the mandatory conversion at maturity event or to the accelerated conversion events of the Notes (either accelerated mandatory conversion events or accelerated voluntary conversion events at the option of the Noteholders);
- Approval of the substitution of the Issuer as principal obligor under the Notes;
- Modification of the denomination of the Notes, of the currency in which they are issued or of the events from which payments thereunder derive;
- Amendment to the governing law of the Notes; and
- Amendment to the articles of these Regulations concerning quorum for meetings and majorities required to pass resolutions.

A written resolution signed by, or on behalf of, Noteholders who own the Notes required for the purposes of reaching the required majorities, as applicable, whether contained in one document or in several documents in the same form, each signed by, or on behalf of, one or more Noteholders, shall take effect as if it were a resolution of the General Meeting and shall be binding on all Noteholders.

#### **13<sup>th</sup> ARTICLE.- VOTING RIGHTS**

Each Note confers on the Noteholder a right to vote that is proportionate to the outstanding nominal value of the Notes held.

#### **ARTICLE 14°.- CHAIRMAN OF THE GENERAL MEETING**

The General Meeting is chaired by the Commissioner, which shall chair the discussions, shall have the right to bring the discussions to an end when he considers it convenient and shall arrange for matters to be put to the vote. The Commissioner, acting as Chairman, shall appoint a Secretary, who may (or may not) be a Noteholder.

**ARTÍCULO 15º.- LISTA DE ASISTENCIA**

El Comisario formará, antes de entrar a discutir el orden del día, la lista de los asistentes, expresando el carácter y representación de cada uno y el nominal no amortizado de los Bonos, propios o ajenos, con que concurren.

**ARTÍCULO 16º.- FACULTADES DE LA ASAMBLEA GENERAL**

La Asamblea General de Bonistas, debidamente convocada, se presume facultada para acordar las medidas que sean necesarias para la mejor defensa de los legítimos intereses de los Bonistas frente a la Sociedad Emisora, modificar de acuerdo con las mayorías previstas los términos y condiciones de los Bonos, destituir o nombrar al Comisario, ejercer, cuando proceda, las acciones judiciales o extrajudiciales correspondientes y aprobar los gastos ocasionados en defensa de los intereses comunes.

**ARTÍCULO 17º.- IMPUGNACIÓN DE LOS ACUERDOS**

Los acuerdos de la Asamblea General podrán ser impugnados por los Bonistas conforme a lo dispuesto en el Capítulo IX del Título V de la Ley de Sociedades de Capital.

**ARTÍCULO 18º.- ACTAS**

El acta de la sesión podrá ser aprobada por la propia Asamblea General, acto seguido de haberse celebrado ésta, o, en su defecto, y dentro del plazo de quince (15) días naturales, por el Comisario y al menos un Bonista designado al efecto por la Asamblea General.

**ARTÍCULO 19º.- CERTIFICACIONES**

Las certificaciones de las actas de los acuerdos de la Asamblea General serán expedidas por el Comisario.

**ARTÍCULO 20º.- EJERCICIO INDIVIDUAL DE ACCIONES**

Los Bonistas sólo podrán ejercitar individualmente las acciones judiciales o

**15<sup>th</sup> ARTICLE.- ATTENDANCE LIST**

Before discussing the meeting agenda, the Commissioner shall compound the attendance list, stating the nature and representation of each of the attendants and the outstanding nominal value of the Notes, either directly owned or owned by other third parties, that concur.

**16<sup>th</sup> ARTICLE.- POWER OF THE GENERAL MEETING**

The General Meeting, duly convened, is presumed to be authorised to take all measures necessary to best defend the legitimate interests of Noteholders vis-à-vis the Issuer, to modify the terms and conditions of the Notes pursuant to the relevant majorities, to appoint or remove the Commissioner, to pursue, when applicable, the relevant judicial or extra judicial actions and to approve the expenses incurred in the defence of common interests.

**17<sup>th</sup> ARTICLE.- CHALLENGE OF RESOLUTIONS**

The resolutions of the General Meeting may be challenged by the Noteholders in accordance with Chapter IX of Section V of the Spanish Companies Act.

**18<sup>th</sup> ARTICLE.- MINUTES**

The minutes of the meeting may be approved by the General Meeting, after the meeting has been held or, if not, within a term of fifteen (15) calendar days, by the Commissioner and at least one Noteholder appointed for such purpose by the General Meeting.

**19<sup>th</sup> ARTICLE.- CERTIFICATES**

Certifications of the minutes of the resolutions of the General Meeting shall be issued by the Commissioner.

**20<sup>th</sup> ARTICLE.- INDIVIDUAL EXERCISE OF ACTIONS**

The Noteholders will only be entitled to individually exercise judicial or extra

extrajudiciales que correspondan cuando no contradigan los acuerdos adoptados previamente por el Sindicato, dentro de su competencia, y sean compatibles con las facultades que al mismo se hubiesen conferido.

**ARTÍCULO 21º.- GASTOS DEL SINDICATO**

Los gastos normales que ocasione el sostenimiento del Sindicato correrán a cargo de la Sociedad Emisora.

**TÍTULO III DEL COMISARIO**

**ARTÍCULO 22º.- NATURALEZA JURÍDICA DEL COMISARIO**

Incumbe al Comisario ostentar la representación legal del Sindicato y actuar de órgano de relación entre éste y la Sociedad Emisora.

**ARTÍCULO 23º.- DURACIÓN DEL CARGO**

El Comisario ejercerá su cargo en tanto no sea destituido por decisión de la Asamblea General.

**ARTÍCULO 24º.- FACULTADES**

Serán facultades del Comisario:

- 1º Tutelar los intereses comunes de los Bonistas.
- 2º Convocar y presidir las Asambleas Generales.
- 3º Informar a la Sociedad Emisora de los acuerdos del Sindicato.
- 4º Controlar el pago del interés contingente (y, en su caso, de los intereses de demora) que debe realizarse a los Bonistas en caso de que se efectúen distribuciones previas a la conversión.
- 5º Llevar a cabo todas las actuaciones que estén previstas realice o pueda llevar a cabo el Comisario de acuerdo con los términos y condiciones de los Bonos.
- 6º Ejecutar los acuerdos de la Asamblea General.

judicial claims if such claims do not contradict the resolutions previously adopted by the Syndicate, within its powers, and are compatible with the faculties conferred to the Syndicate.

**21<sup>st</sup> ARTICLE.- EXPENSES OF THE SYNDICATE**

The ordinary expenses resulting from the maintenance of the Syndicate shall be for the account of the Issuer.

**TITLE III THE COMMISSIONER**

**22<sup>nd</sup> ARTICLE.- NATURE OF THE COMMISSIONER**

The Commissioner shall bear the legal representation of the Syndicate and shall be the body for liaison between the Syndicate and the Issuer.

**23<sup>rd</sup> DURATION OF THE MANDATE**

The Commissioner shall perform its role unless it is dismissed by decision of the General Meeting.

**24<sup>th</sup> ARTICLE.- FACULTIES**

The Commissioner shall have the following faculties:

- 1º To protect the Noteholders' common interests.
- 2º To call and act as chairman of the General Meetings.
- 3º To inform the Issuer of the resolutions passed by the Syndicate.
- 4º To control the payment of the contingent interest (and, where applicable, default interests) that shall be made to the Noteholders in case distributions are carried out pre-conversion.
- 5º To carry out all those actions to be carried out or that may be carried out by the Commissioner in accordance with the terms and conditions of the Notes.
- 6º To execute the resolutions of the General Meeting.

7º Ejercitar las acciones que correspondan al Sindicato.

8º En general, las que le confiere la Ley y el presente Reglamento.

**TÍTULO IV DISPOSICIONES  
ESPECIALES**

**ARTÍCULO 25º.- SUMISIÓN A FUERO**

Para cuantas cuestiones se deriven de este reglamento, los Bonistas, por el solo hecho de serlo, se someten, de forma exclusiva, con renuncia expresa a cualquier otro fuero que pudiera corresponderles, a la jurisdicción de los Juzgados y Tribunales de la ciudad de Madrid.

7º To exercise the actions corresponding to the Syndicate.

8º In general, the ones granted to him by Law and the present Regulations.

**TITLE IV SPECIAL DISPOSITIONS**

**ARTICLE 25º.- JURISDICTION**

For any dispute arising from these Regulations, the Noteholders, by virtue of being so, shall submit to the exclusive jurisdiction of the courts and tribunals of the city of Madrid.