

Dated 12 May 2017

**MERLIN PROPERTIES, SOCIMI, S.A.**

as Issuer

and

**SOCIÉTÉ GÉNÉRALE BANK & TRUST S.A.**

as Fiscal Agent, Paying Agent and Calculation Agent

**AGENCY AGREEMENT**

relating to

Merlin Properties, SOCIMI, S.A.

€4,000,000,000

Euro Medium Term Note Programme

arranged by

Société Générale

**Linklaters**

Linklaters, S.L.P.

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This Agency Agreement is made as of 12 May 2017 **between:**

- (1) **MERLIN PROPERTIES, SOCIMI, S.A.** (the “**Issuer**”); and
- (2) **SOCIÉTÉ GÉNÉRALE BANK & TRUST S.A.** as Fiscal Agent, Paying Agent and Calculation Agent.

The Issuer proposes to issue from time to time euro medium term notes pursuant to this Agreement (the “**Notes**”, which expression shall, if the context so admits, include the Global Notes (in temporary or permanent form) to be initially delivered in respect of Notes) in an aggregate principal amount outstanding at any one time not exceeding the Programme Limit (the “**Programme**”).

It is agreed as follows:

## 1 Interpretation

**1.1 Definitions:** Capitalised terms used in this Agreement but not defined in this Agreement shall have the meanings given to them in the Dealer Agreement relating to the Programme dated today between the Issuer, Société Générale and the other dealers and arrangers named in it. In this Agreement:

“**Agents**” means the Fiscal Agent, the Paying Agent and the Calculation Agent or any of them and shall include such other Agent or Agents as may be appointed from time to time hereunder and, except in Clause 15, references to Agents are to them acting solely through their specified offices;

“**Business Day**” means, in respect of each Note, (i) a day other than a Saturday or Sunday on which Euroclear and Clearstream, Luxembourg are operating and (ii) a day on which banks and foreign exchange markets are open for general business in the city of the Fiscal Agent’s specified office and (iii) (if a payment is to be made on that day) a day on which banks and foreign exchange markets are open for general business in the principal financial centre for the currency of the payment or, in the case of euro, a day on which the TARGET System is operating;

“**Calculation Agent**” means Société Générale Bank & Trust S.A. as Calculation Agent hereunder (or such other Calculation Agent(s) as may be appointed hereunder from time to time either generally hereunder or in relation to a specific issue or Series of Notes);

“**CGN**” means a temporary Global Note in the form set out in Part A of Schedule 1 or a permanent Global Note in the form set out in Part B of Schedule 1;

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

“**Common Depositary**” means, in relation to a Series, a depositary common to Euroclear and Clearstream, Luxembourg;

“**Common Safekeeper**” means, in relation to a Series where the relevant Global Note is a NGN, the common safekeeper for Euroclear and/or Clearstream, Luxembourg appointed in respect of such Notes;

“**Common Service Provider**” means, in relation to a Series where the relevant Global Note is a NGN, the common service provider for Euroclear and Clearstream, Luxembourg appointed in respect of such Notes;

**“Conditions”** means in respect of the Notes of each Series the terms and conditions applicable thereto which shall be substantially in the form set out in Schedule 2 as modified, with respect to any Notes represented by a Global Note, by the provisions of such Global Note, shall incorporate any additional provisions forming part of such terms and conditions set out in Part A of the Final Terms relating to the Notes of that Series and shall be endorsed on the Definitive Notes subject to amendment and completion as referred to in the first paragraph of Part B of Schedule 2 and any reference to a particularly numbered Condition shall be construed accordingly;

**“Definitive Note”** means a Note in definitive form substantially in the form set out in Schedule 2 and having, where appropriate, Coupons and a Talon attached thereto on issue;

**“Euroclear”** means Euroclear Bank S.A./N.V.;

**“Exercise Notice”** has the meaning given to it in the Conditions and, in the case of a Noteholders’ redemption option, shall be substantially in the form set out in Schedule 4;

**“Extraordinary Resolution”** has the meaning set out in Schedule 3;

**“FATCA Withholding”** means any deduction or withholding imposed or required pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended (the “Internal Revenue Code”), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Internal Revenue Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Internal Revenue Code;

**“Final Terms”** means, in relation to a Tranche, the Final Terms issued specifying the relevant issue details of such Tranche, substantially in the form of Schedule C to the Dealer Agreement;

**“Fiscal Agent”** means Société Générale Bank & Trust S.A. as Fiscal Agent hereunder (or such other Fiscal Agent as may be appointed from time to time hereunder);

**“Global Note”** means a temporary Global Note or, as the context may require, a permanent Global Note, a CGN and/or a NGN, as the context may require;

**“Issue Date”** means, in relation to any Tranche, the date on which the Notes of that Tranche have been issued or, if not yet issued, the date agreed for their issue between the Issuer and the Relevant Dealer(s);

**“NGN”** means a temporary Global Note in the form set out in Part C of Schedule 1 or a permanent Global Note in the form set out in Part D of Schedule 1;

**“outstanding”** means, in relation to the Notes of any Series, all the Notes issued other than (a) those that have been redeemed in accordance with the Conditions, (b) those in respect of which the date for redemption has occurred and the redemption moneys (including all interest accrued on such Notes to the date for such redemption and any interest payable after such date) have been duly paid to the Fiscal Agent as provided in this Agreement and remain available for payment against presentation and surrender of Notes and/or Coupons, as the case may be, (c) those which have become void or in respect of which claims have become prescribed, (d) those which have been purchased and cancelled as provided in the Conditions, (e) those mutilated or defaced Notes that have been surrendered in exchange for replacement Notes, (f) (for the purpose only of

determining how many Notes are outstanding and without prejudice to their status for any other purpose) those Notes alleged to have been lost, stolen or destroyed and in respect of which replacement Notes have been issued, (g) any temporary Global Note to the extent that it shall have been exchanged for a permanent Global Note and any Global Note to the extent that it shall have been exchanged for one or more Definitive Notes, in either case pursuant to its provisions; provided that, for the purposes of (i) ascertaining the right to attend and vote at any meeting of Noteholders and (ii) the determination of how many Notes are outstanding for the purposes of Conditions 11 and 12 and Schedule 3, those Notes that are beneficially held by, or are held on behalf of, the Issuer or any of its Subsidiaries and not cancelled shall (unless and until ceasing to be so held) be deemed not to be outstanding. Save for the purposes of the proviso herein, in the case of any Notes represented by a NGN, the Fiscal Agent shall rely on the records of Euroclear and Clearstream, Luxembourg in relation to any determination of the principal amount outstanding of each NGN;

**"Paying Agents"** means the Paying Agent referred to above and such further or other Paying Agent or Agents as may be appointed from time to time hereunder;

**"permanent Global Note"** means a Global Note representing Notes of one or more Tranches of the same Series, either on issue or upon exchange of a temporary Global Note, or part of it, and which shall be substantially in the form set out in Part B or Part D of Schedule 1, as the case may be;

**"Procedures Memorandum"** means the administrative procedures and guidelines relating to the settlement of issues of Notes as shall be agreed upon from time to time by the Issuer, the Dealers and the Fiscal Agent and which, at the date of this Agreement, are set out in Schedule A to the Dealer Agreement;

**"Programme Limit"** means the maximum aggregate principal amount of Notes that may be issued and outstanding at any time under the Programme, as such limit may be increased pursuant to the Dealer Agreement;

**"Redemption Amount"** means the Final Redemption Amount, Early Redemption Amount or Optional Redemption Amount, as the case may be, all as defined in the Conditions;

**"Series"** means a series of Notes, either issued on the same date or in more than one Tranche on different dates, that (except in respect of the first payment of interest and their issue price) have identical terms and are expressed to have the same series number;

**"specified office"** means each of the offices of the Agents specified herein and shall include such other office or offices as may be specified from time to time hereunder;

**"Subscription Agreement"** means an agreement between the Issuer and two or more Dealers made pursuant to Clause 2.2 of the Dealer Agreement;

**"Subsidiary"** has the meaning given to it in the Conditions;

**"Syndicated Issue"** means an issue of Notes pursuant to Clause 2.2 of the Dealer Agreement;

**"temporary Global Note"** means a Global Note representing Notes on issue and which shall be substantially in the form set out in Part A or Part C of Schedule 1, as the case may be; and

“**Tranche**” means, in relation to a Series, those Notes of that Series that are issued on the same date.

**1.2 Construction of Certain References:** References to:

- 1.2.1 the records of Euroclear and Clearstream, Luxembourg shall be to the records that each of Euroclear and Clearstream, Luxembourg holds for its customers which reflect the amount of such customers’ interests in the Notes;
- 1.2.2 other capitalised terms not defined in this Agreement or the Dealer Agreement are to those terms as defined in the Conditions;
- 1.2.3 principal and interest shall be construed in accordance with Condition 9; and
- 1.2.4 costs, charges, remuneration or expenses include any value added, turnover or similar tax charged in respect thereof.

**1.3 Headings:** Headings shall be ignored in construing this Agreement.

**1.4 Contracts:** References in this Agreement to this Agreement or any other document are to this Agreement or those documents as amended, supplemented or replaced from time to time in relation to the Programme and include any document which amends, supplements or replaces them.

**1.5 Schedules:** The Schedules are part of this Agreement and have effect accordingly.

**1.6 Alternative Clearing System:** References in this Agreement to Euroclear and/or Clearstream, Luxembourg shall, wherever the context so permits, be deemed to include reference to any additional or alternative clearing system approved by the Issuer and the Fiscal Agent. In the case of NGNs, such alternative clearing system must also be authorised to hold such Notes as eligible collateral for Eurosystem monetary policy and intra-day credit operations.

**1.7 Contracts (Rights of Third Parties) Act 1999:** A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

## **2 Appointment and Duties**

**2.1 Fiscal and Paying Agent:** The Issuer appoints Société Générale Bank & Trust S.A. at its specified office in Luxembourg as Fiscal Agent and Paying Agent in respect of each Series of Notes.

**2.2 Calculation Agent:** Société Générale Bank & Trust S.A. may be appointed as Calculation Agent in respect of any Series of Notes by agreement with the Issuer. Société Générale Bank & Trust S.A. shall be treated as having agreed to act as Calculation Agent in respect of a Series if it shall have received the Purchase Information (in draft or final form) naming it as Calculation Agent no later than five Business Days before the Issue Date or, if earlier, the first date on which it is required to make any calculation or determination and shall have notified the Issuer that it accepts such appointment within two Business Days of such receipt.

**2.3 Agents’ Duties:** The obligations of the Agents are several and not joint. Each Agent shall be obliged to perform only such duties as are specifically set out in this Agreement (including Schedule 8 in the case of the Fiscal Agent where the relevant Notes are

represented by a NGN and Schedule 5), the Conditions and the Procedures Memorandum and any duties necessarily incidental to them. No implied duties or obligations shall be read into any such documents. No Agent shall be obliged to perform additional duties set out in any Final Terms and thereby incorporated into the Conditions unless it shall have previously agreed to perform such duties. If the Conditions are amended on or after a date on which any Agent accepts any appointment in a way that affects the duties expressed to be performed by such Agent, it shall not be obliged to perform such duties as so amended unless it has first approved the relevant amendment. No Agent shall be under any obligation to take any action under this Agreement that it expects, and has so notified the Issuer in writing, will result in any expense to or liability of such Agent, the payment of which is not, in its opinion, assured to it within a reasonable time. In the case of Notes represented by a NGN, each of the Agents (other than the Fiscal Agent) agrees that if any information required by the Fiscal Agent to perform the duties set out in Schedule 8 becomes known to it, it will promptly provide such information to the Fiscal Agent.

**2.4 Common Safekeeper:** In relation to each Series where the relevant Global Note is in NGN form, the Issuer hereby authorises and instructs the Fiscal Agent to elect Euroclear/Clearstream, Luxembourg as Common Safekeeper. From time to time, the Issuer and the Fiscal Agent may agree to vary this election. The Issuer acknowledges that any such election is subject to the right of Euroclear and Clearstream, Luxembourg to jointly determine that the other shall act as Common Safekeeper in relation to any such issue and agrees that no liability shall attach to the Fiscal Agent in respect of any such election made by it.

### **3 Issue of Notes**

**3.1 Preconditions to Issue:** The Issuer shall not agree to any Issue Date unless it is a Business Day. Before issuing any Notes that are intended to be cleared through a clearing system other than Euroclear or Clearstream, Luxembourg the Issuer shall inform the Fiscal Agent of its wish to issue such Notes and shall agree with the Fiscal Agent the procedure for issuing such Notes, in the case of Notes that are to be cleared through such other clearing system, which agreement shall cover the time, date and place for the delivery of the relevant Global Note by the Fiscal Agent, whether such delivery is to be free of payment or against payment, an appropriate method for determining non-U.S. beneficial ownership of Notes in accordance with applicable U.S. law and the method by which the Fiscal Agent is to receive any payment, and hold any moneys, on behalf of the Issuer.

**3.2 Notification:** Not later than the time specified in the Procedures Memorandum the Issuer shall in respect of each Tranche notify and/or confirm to the Fiscal Agent by fax or in writing all such information as the Fiscal Agent may reasonably require for it to carry out its functions as contemplated by this Clause.

**3.3 Issue of Global Notes:** Upon receipt by the Fiscal Agent of the information enabling it, and instructions, to do so, the Fiscal Agent shall complete a temporary or, as the case may be, permanent Global Note in an aggregate principal amount equal to that of the Tranche to be issued.

**3.4 Delivery of Global Notes:** Immediately before the issue of any Global Note, the Fiscal Agent (or its agent on its behalf) shall authenticate it. Following authentication of any Global Note, the Fiscal Agent shall deliver it:



- 3.4.1 in the case of a Tranche (other than for a Syndicated Issue) intended to be cleared through a clearing system, on the Business Day immediately preceding its Issue Date: (i) save in the case of a Global Note which is a NGN to the Common Depository or to such clearing system or other depository for a clearing system as shall have been agreed between the Issuer and the Fiscal Agent, and (ii) in the case of a Global Note which is a NGN, to the Common Safekeeper together with instructions to effectuate the same, together with instructions to the clearing systems to whom (or to whose depository or Common Safekeeper) such Global Note has been delivered to credit the underlying Notes represented by such Global Note to the securities account(s) at such clearing systems that have been notified to the Fiscal Agent by the Issuer on a delivery against payment basis or, if notified to the Fiscal Agent by the Issuer, on a delivery free of payment basis; or
- 3.4.2 in the case of a Syndicated Issue, on the Issue Date at or about the time specified in the relevant Subscription Agreement (i) save in the case of a Global Note which is a NGN, to, or to the order of, the Lead Manager at such place in London as shall be specified in the relevant Subscription Agreement (or such other time, date and/or place as may have been agreed between the Issuer and the Fiscal Agent) and (ii) in the case of a Global Note which is a NGN, to the Common Safekeeper together with instructions to effectuate the same, in each case against the delivery to the Fiscal Agent of evidence that instructions for payment of the subscription moneys due to the Issuer have been made, such evidence to be in the form set out in such Subscription Agreement; or
- 3.4.3 otherwise, at such time, on such date, to such person and in such place as may have been agreed between the Issuer and the Fiscal Agent.

Where the Fiscal Agent delivers any authenticated Global Note to the Common Safekeeper for effectuation using electronic means, it is authorised and instructed to destroy the Global Note retained by it following its receipt of confirmation from the Common Safekeeper that the relevant Global Note has been effectuated.

- 3.5 **Clearing Systems:** In delivering any Global Note in accordance with Clause 3.4.1, the Fiscal Agent shall give instructions to the relevant clearing system to hold the Notes represented by it to the order of the Fiscal Agent pending transfer to the securities account(s) referred to in Clause 3.4.1. Upon payment for any such Notes being made to the Fiscal Agent, it shall transfer such payment to the account of the Issuer notified to it by the Issuer. For so long as any such Note continues to be held to the order of the Fiscal Agent, the Fiscal Agent shall hold such Note to the order of the Issuer.
- 3.6 **Advance Payment:** If the Fiscal Agent pays an amount (the “**Advance**”) to the Issuer on the basis that a payment (the “**Payment**”) has been, or will be, received from any person and if the Payment has not been, or is not, received by the Fiscal Agent on the date the Fiscal Agent pays the Issuer, the Issuer shall, on demand, reimburse the Fiscal Agent the Advance and pay interest to the Fiscal Agent on the outstanding amount of the Advance from the date on which it is paid out to the date of reimbursement at the rate per annum equal to the cost to the Fiscal Agent of funding such amount, as certified by the Fiscal Agent. Such Interest shall be compounded daily.
- 3.7 **Exchange for Permanent Global Notes and Definitive Notes:** On and after the due date for exchange of any temporary Global Note which is exchangeable for a permanent Global Note, the Fiscal Agent shall, on presentation to it or to its order of the temporary Global

Note, complete a permanent Global Note, authenticate it (or cause its agent on its behalf to do so), and in the case of a permanent Global Note which is a NGN, deliver the permanent Global Note to the Common Safekeeper which is holding the temporary Global Note representing the Tranche for the time being on behalf of Euroclear and/or Clearstream, Luxembourg together with instructions to the Common Safekeeper to effectuate the same, and, in each case, procure the exchange of interests in such temporary Global Note for interests in an equal principal amount of such permanent Global Note in accordance with such temporary Global Note. On or after the due date for exchange of any Global Note which is exchangeable for Definitive Notes, the Fiscal Agent shall, on presentation to it or to its order of the Global Note, procure the exchange of interests in such Global Note for Definitive Notes (if applicable, having attached Coupons and/or a Talon other than any that mature on or before the relevant date for exchange) in a principal amount equal to that portion of such Global Note submitted for exchange in accordance with such Global Note. On exchange in full of any Global Note the Fiscal Agent shall cancel it and, if so requested by the bearer, return it to the bearer.

- 3.8 Signing of Notes, Coupons and Talons:** The Notes, Coupons and Talons shall be signed manually or in facsimile on behalf of the Issuer by a duly authorised signatory of the Issuer. The Issuer shall promptly notify the Fiscal Agent of any change in the names of the person or persons whose signature is to be used on any Note and shall if necessary provide new master Global Notes reflecting such changes. The Issuer may however adopt and use the signature of any person who at the date of signing a Note, Coupon or Talon is a duly authorised signatory of the Issuer even if, before the Note, Coupon or Talon is issued, he ceases for whatever reason to hold such office and the Notes, Coupons or Talons issued in such circumstances shall nevertheless be valid and binding obligations of the Issuer. Definitive Notes, Coupons and Talons shall be security printed in accordance with all applicable stock exchange requirements.
- 3.9 Details of Notes Delivered:** As soon as practicable after delivering any Global Note or Definitive Note, the Fiscal Agent shall supply to the Issuer and the other Agents all relevant details of the Notes delivered, in such format as it shall from time to time agree with the Issuer.
- 3.10 Cancellation:** If any Note in respect of which information has been supplied under Clause 3.2 is not to be issued on a given Issue Date, the Issuer shall immediately (and, in any event, prior to the Issue Date) notify the Fiscal Agent. Upon receipt of such notice, the Fiscal Agent shall not thereafter issue or release the relevant Note(s) but shall cancel and, unless otherwise instructed by the Issuer, destroy them.
- 3.11 Outstanding Amount:** The Fiscal Agent shall, upon request from the Issuer or any Dealer, inform such person of the aggregate principal amount of Notes, or Notes of any particular Series, then outstanding at the time of such request. In the case of Notes represented by a NGN, the principal amount of Notes represented by such NGN shall be the aggregate amount from time to time entered in the records of both Euroclear and Clearstream, Luxembourg. The records of Euroclear and Clearstream, Luxembourg shall be conclusive evidence of the principal amount of Notes represented by the relevant NGN and for such purposes, a statement issued by Euroclear or Clearstream, Luxembourg stating the principal amount of Notes represented by the relevant NGN at any time shall be conclusive evidence of the records of the relevant Clearing Systems at that time. Payments made by the Issuer in respect of Notes represented by a NGN shall discharge the Issuer's

obligations in respect thereof. Any failure to make the entries in the records of the relevant clearing systems shall not affect such discharge.

- 3.12 Procedures Memorandum:** The Issuer shall furnish a copy of the Procedures Memorandum from time to time in effect to the Fiscal Agent. The parties agree that all issues of Notes shall be made in accordance with the Procedures Memorandum unless the Issuer, the Relevant Dealer(s) and the Fiscal Agent agree otherwise in respect of any issue. The Procedures Memorandum may only be amended with the consent of the Fiscal Agent, such consent not to be unreasonably withheld or delayed.

#### **4 Payment**

- 4.1 Payment to the Fiscal Agent:** The Issuer shall, on each date on which any payment in respect of the Notes becomes due, transfer to the Fiscal Agent such amount as may be required for the purposes of such payment by 10:00 a.m. (local time in the city of the Fiscal Agent's specified office). In this Clause, the date on which a payment in respect of the Notes becomes due means the first date on which the holder of a Note or Coupon could claim the relevant payment by transfer to an account under the Conditions, but disregarding the necessity for it to be a business day in any particular place of presentation.
- 4.2 Pre-advice of Payment:** The Issuer shall procure that the bank through which the payment to the Fiscal Agent required by Clause 4.1 is to be made shall irrevocably confirm to the Fiscal Agent by authenticated SWIFT message no later than 3.00 p.m. (local time in the city of the Fiscal Agent's specified office) on the second Business Day before the due date for any such payment that it will make such payment.
- 4.3 Notification of Failure to Pre-advise Payment:** The Fiscal Agent shall forthwith notify by fax each of the other Agents and the Issuer if it has not received the confirmation referred to in Clause 4.2 by the time specified for its receipt, unless it is satisfied that it will receive the amount referred to in Clause 4.1.
- 4.4 Payment by Agents:** Unless it receives a notification from the Fiscal Agent under Clause 4.3 and subject as provided in Clause 4.7, each Paying Agent shall, subject to and in accordance with the Conditions, pay or cause to be paid on behalf of the Issuer on and after each due date therefor the amounts due in respect of the Notes and Coupons and shall be entitled to claim any amounts so paid from the Fiscal Agent.
- 4.5 Notification of Non-payment:** The Fiscal Agent shall forthwith notify by fax each of the other Agents and the Issuer if it has not received the amount referred to in Clause 4.1 by the time specified for its receipt, unless it is satisfied that it will receive such amount or it has already notified such persons pursuant to Clause 4.3.
- 4.6 Payment After Failure to Pre-advise or Late Payment:** The Fiscal Agent shall forthwith notify by fax each of the other Agents and the Issuer if at any time following the giving of a notice by the Fiscal Agent under Clauses 4.3 or 4.5 either any payment provided for in Clause 4.1 is made on or after its due date but otherwise in accordance with this Agreement or the Fiscal Agent is satisfied that it will receive such payment.
- 4.7 Suspension of Payment by Agents:** Upon receipt of a notice from the Fiscal Agent under Clause 4.3, no Agent shall be bound to make any payment in accordance with Clause 4.4. Upon receipt of a notice from the Fiscal Agent under Clause 4.5, each Agent shall be entitled to cease making payments in accordance with Clause 4.4 as soon as is

reasonably practicable. Upon receipt of a notice from the Fiscal Agent under Clause 4.6, each Agent shall make, or shall recommence making, payments in accordance with Clause 4.4.

- 4.8 Reimbursements of Agents:** The Fiscal Agent shall on demand promptly reimburse each Agent for payments in respect of the Notes and Coupons properly made by it in accordance with the Conditions and this Agreement.
- 4.9 Method of payment to Fiscal Agent:** All sums payable to the Fiscal Agent hereunder shall be paid in the currency in which such sums are denominated and in immediately available or same day funds to such account with such bank as the Fiscal Agent may from time to time notify to the Issuer.
- 4.10 Moneys held by Fiscal Agent:** The Fiscal Agent may deal with moneys paid to it under this Agreement in the same manner as other moneys paid to it as a banker by its customers except that (1) it may not exercise any lien, right of set-off or similar claim in respect of them and (2) it shall not be liable to anyone for interest on any sums held by it under this Agreement.
- 4.11 Partial Payments:** If on presentation of a Note or Coupon only part of the amount payable in respect of it is paid (except as a result of a deduction of tax permitted by the Conditions), the Agent to whom it is presented shall, in the case of a Global Note which is a CGN, procure that it is enfaced with a memorandum of the amount paid and the date of payment and shall return it to the person who presented it. In the case of a Global Note which is a NGN, the Agent to whom such Note or Coupon is presented shall instruct Euroclear and Clearstream, Luxembourg to make appropriate entries in their records to reflect such shortfall in payment.
- 4.12 Interest:** If the Fiscal Agent pays out any amount due in respect of the Notes in accordance with the Conditions or due in accordance with Clause 4.8 before receipt of the amount due under Clause 4.1, the Issuer shall on demand reimburse the Fiscal Agent for the relevant amount and pay interest to the Fiscal Agent on such amount that is outstanding from the date on which it is paid out to the date of reimbursement at the rate per annum equal to the cost to the Fiscal Agent of funding the amount paid out, as certified by the Fiscal Agent. Such interest shall be compounded daily.
- 4.13 Void Global Note:** If any Global Note becomes void (in whole or in part) in accordance with its terms after the occurrence of an Event of Default, the Fiscal Agent shall promptly notify the Agents and, after such notice has been given, no payment shall be made by them in respect of that Note to the extent that it has become void.

## **5 Repayment**

If claims in respect of any Note or Coupon become void or prescribed under the Conditions, the Fiscal Agent shall forthwith repay to the Issuer the amount that would have been due on such Note or Coupon if it had been presented for payment before such claims became void or prescribed. Subject to Clause 15, the Fiscal Agent shall not however be otherwise required or entitled to repay any sums received by it under this Agreement.

## **6 Early Redemption and Exercise of Options**

- 6.1 Notice to Fiscal Agent:** If the Issuer intends (other than consequent upon an Event of Default or any right of the holder to require redemption) to redeem all or any of the Notes

of any Series before their stated maturity date or to exercise any Issuer's option in the Conditions it shall, at least 14 days before the latest date for the publication of the notice of redemption or of exercise of an Issuer's option required to be given to Noteholders, give notice of such intention to the Fiscal Agent stating the date on which such Notes are to be redeemed or such option is to be exercised and the principal amount of Notes to be redeemed or subject to the option.

**6.2 Drawing on Partial Redemption or Exercise of Option:** If some only of the Notes of a Series are to be redeemed, or subject to the exercise of an Issuer's option, in the case of Notes in definitive form on such date the Fiscal Agent shall make the drawing that is required in accordance with the Conditions and the Issuer shall be entitled to send representatives to attend such drawing.

**6.3 Notice to Noteholders:** The Fiscal Agent shall publish any notice to Noteholders required in connection with any such redemption or exercise of an Issuer's option and shall at the same time also publish a separate list of the certificate numbers of any Notes previously drawn and not presented either for payment or as may otherwise be required pursuant to any Issuer's option. Such notice shall specify the date fixed for redemption or exercise of any option, the redemption price and the manner in which redemption will be effected or the terms of the exercise of such option and, in the case of a partial redemption or exercise of any option, the certificate numbers of the Notes drawn.

**6.4 Option Exercise Notices:** The Paying Agent with which a Note is deposited in a valid exercise of any Noteholders' option shall hold such Note (together with any Coupons or Talon relating to such Note deposited with it) on behalf of the depositing Noteholder (but shall not, save as provided below, release it) until the due date for redemption of, or exercise of the option relating to, the relevant Note(s) consequent upon the exercise of such option, when, in the case of an option to redeem, and subject as provided below, it shall present any such Note, Coupons and Talon to itself for payment of the amount due in accordance with the Conditions and shall pay such moneys in accordance with the directions of the Noteholder contained in the Exercise Notice. In the event of the exercise of any other option, each Agent shall take the steps required of it in the Conditions. If any such Note becomes immediately due and payable before the due date for its redemption or exercise of the option, or if upon due presentation payment of the amount due is improperly withheld or refused or exercise of the option is improperly denied, the Agent concerned shall mail such Note (and any related Coupons or Talon) by uninsured post to, and at the risk of, the relevant Noteholder (unless the Noteholder otherwise requests and pays the costs of such insurance in advance to the relevant Agent) to such address as may have been given by the Noteholder in the Exercise Notice. At the end of each period for the exercise of any such option, each Agent shall promptly notify the Fiscal Agent of the principal amount of the Notes in respect of which such option has been exercised with it together with their certificate numbers and the Fiscal Agent shall promptly notify such details to the Issuer.

## **7 Cancellation, Destruction, Records and Reporting Requirements**

**7.1 Cancellation:** All Notes that are redeemed (together with such unmatured Coupons or unexchanged Talons as are attached to or are surrendered with them at the time of such redemption), all Coupons that are paid in full and all Talons that have been exchanged for Coupon sheets shall be cancelled forthwith by the Paying Agent through which they are redeemed, paid or exchanged. Such Paying Agent shall send to the Fiscal Agent the

details required by such person for the purposes of this Clause and the cancelled Notes, Coupons and Talons.

- 7.2 Cancellation by Issuer:** If the Issuer or any of its Subsidiaries purchases any Notes that are to be cancelled in accordance with the Conditions, the Issuer shall forthwith cancel them or procure their cancellation, inform the Fiscal Agent in writing as soon as practicable and send them (if in definitive form) to the Fiscal Agent.
- 7.3 Certificate of Fiscal Agent:** The Fiscal Agent shall, as soon as possible and in any event within four months after the date of any such redemption, payment, exchange or purchase, send the Issuer a certificate stating (1) the aggregate principal amount of Notes that have been redeemed and cancelled and the aggregate amount paid in respect of any related Coupons that have been paid and cancelled or in respect of interest paid on a Global Note, (2) the certificate numbers of such Notes, (3) the total number by maturity dates of such Coupons, (4) the certificate numbers and maturity dates of such Talons and (5) the total number and maturity dates of unmatured Coupons, and the certificate numbers and maturity dates of unmatured Talons, not surrendered with Notes redeemed, in each case distinguishing between Notes of each Series and denomination (and any Coupons and Talons relating to them).
- 7.4 Destruction:** Unless otherwise instructed by the Issuer or unless, in the case of the Global Note, it is to be returned to its holder in accordance with its terms, the Fiscal Agent, (or its designated agent) shall destroy the cancelled Notes, Coupons, and Talons in its possession and shall send the Issuer a certificate giving the certificate numbers of such Notes in numerical sequence, the maturity dates and certificate numbers (in numerical sequence) of such Talons and the total numbers by maturity date of such Coupons, in each case distinguishing between Notes of each Series and denomination (and any Coupons and Talons relating to them) and Coupons and Talons that have been paid or exchanged and those that have been surrendered for cancellation before their due date.
- 7.5 Records:** The Fiscal Agent shall keep a full and complete record of all Notes, Coupons and Talons (other than the certificate numbers of Coupons) and of their redemption, purchase, payment, exchange, cancellation, replacement and destruction and make such records available at all reasonable times to the Issuer.
- 7.6 Reporting Requirements:** The Fiscal Agent shall (on behalf of the Issuer) submit such reports or information as may be required from time to time in relation to the issue and purchase of Notes by applicable law, regulations and guidelines promulgated by any relevant governmental regulatory authority agreed between the Issuer and the Fiscal Agent.

## **8 Coupon Sheets**

As regards each Note issued with a Talon, the Fiscal Agent shall, on or after the due date for exchange of such Talon, make available in exchange for such Talon at the specified office of the Fiscal Agent a further coupon sheet and, if relevant, a further Talon appertaining to such Note, but subject always to the Issuer having procured the delivery of a supply of such coupon sheets to the Fiscal Agent. To the extent that any Coupon in any such coupon sheet shall have become void before issue, the Fiscal Agent shall cancel such Coupon and destroy it in accordance with the provisions of Clause 7.4.

## **9 Replacement Notes, Coupons and Talons**

- 9.1 Replacement:** The Fiscal Agent (in such capacity, the “**Replacement Agent**”) shall issue replacement Notes, Coupons and Talons in accordance with the Conditions.
- 9.2 Coupons and Talons on Replacement Notes:** In the case of mutilated or defaced Notes, the Replacement Agent shall ensure that (unless such indemnity as the Issuer may require is given) any replacement Note only has attached to it Coupons and/or a Talon corresponding to those attached to the Note that it replaces.
- 9.3 Cancellation:** The Replacement Agent shall cancel and, unless otherwise instructed by the Issuer, destroy any mutilated or defaced Notes, Coupons and Talons replaced by it and shall send the Issuer a certificate giving the information specified in Clause 7.4.
- 9.4 Notification:** The Replacement Agent shall, on issuing a replacement Note, Coupon or Talon, forthwith inform the Issuer and the other Agents of its certificate number and of the one that it replaces.
- 9.5 Presentation after Replacement:** If a Note, Coupon or Talon that has been replaced is presented to an Agent for payment or exchange, that Agent shall forthwith inform the Fiscal Agent, which shall so inform the Issuer.

## **10 Documents and Forms**

- 10.1 Fiscal Agent:** The Issuer shall provide to the Fiscal Agent in a sufficient quantity as notified to the Issuer by the Fiscal Agent, in the case of paragraphs 10.1.2(ii), 10.1.3 and 10.1.4, for distribution among the relevant Agents as required by this Agreement or the Conditions:
- 10.1.1** executed master Global Notes to be used from time to time for the purpose of issuing Notes in accordance with Clause 3;
  - 10.1.2** if Definitive Notes of any Series are to be issued, (i) such Definitive Notes and any related Coupons and Talons, duly executed on behalf of the Issuer, (ii) specimens of such Notes, Coupons and Talons and (iii) additional forms of such Notes, Coupons and Talons for the purpose of issuing replacements, at least 14 days before the Exchange Date for the relative Global Note (and the Fiscal Agent (or its agent on its behalf) shall authenticate such Definitive Notes immediately before their issue);
  - 10.1.3** all documents (including Exercise Notices) required under the Notes or by any stock exchange on which the Notes are listed to be available for issue or inspection during business hours (and each Paying Agent shall make such documents available for collection or inspection to the Noteholders that are so entitled); and
  - 10.1.4** forms of voting certificates and block voting instructions, together with instructions as to how to complete, deal with and record the issue of such forms (and each Paying Agent shall make such documents available to the relevant Noteholders and carry out the other functions set out in Schedule 3).
- 10.2 Notes etc. held by Agents:** Each Agent (1) acknowledges that all forms of Notes, Coupons and Talons delivered to and held by it pursuant to this Agreement shall be held by it as custodian only and it shall not be entitled to and shall not claim any lien or other security interest on such forms, (2) shall only use such forms in accordance with this

Agreement, (3) shall maintain all such forms in safe custody, (4) shall take such security measures as may reasonably be necessary to prevent their theft, loss or destruction and (5) shall keep an inventory of all such forms and make it available to the Issuer and the other Agents at all reasonable times.

## **11 Duties of Calculation Agent**

The Calculation Agent shall perform the duties expressed to be performed by it in the Conditions in respect of each Series of Notes in respect of which it is appointed as Calculation Agent. As soon as practicable after the relevant time on each Interest Determination Date or such time on such date as the Conditions may require to be calculated any rate or amount, any quotation to be obtained or any determination or calculation to be made by the Calculation Agent, the Calculation Agent shall determine such rate and calculate the Interest Amounts in respect of each denomination of the Notes for the relevant Interest Accrual Period, Interest Period or Interest Payment Date, calculate the Redemption Amount, obtain such quotation and/or make such determination or calculation, as the case may be, and cause the Rate of Interest and the Interest Amounts for each Interest Accrual Period, Interest Period or Interest Payment Date and, if required, the relevant Interest Payment Date and, if required to be calculated, any Redemption Amount to be notified to any other Calculation Agent appointed in respect of the Notes that is to make a further calculation upon receipt of such information, the Fiscal Agent, the Issuer, each Paying Agent, the relevant Noteholders and, if the relevant Notes are to be listed on a stock exchange and the rules of such exchange so require, such exchange as soon as possible after their determination but in no event later than (i) the commencement of the relevant Interest Period, if determined prior to such time, in the case of notification to such exchange of a Rate of Interest and Interest Amount, or (ii) in all other cases, the fourth Business Day after such determination. If the Calculation Agent at any material time does not make any determination or calculation or take any action that it is required to do pursuant to the Conditions, it shall forthwith notify the Issuer and the Fiscal Agent.

## **12 Fees and Expenses**

**12.1 Fees:** The Issuer shall pay to the Fiscal Agent the fees and expenses in respect of the Agents' services as is separately agreed with the Fiscal Agent and the Issuer need not concern itself with their apportionment between the Agents.

**12.2 Costs:** The Issuer will also pay, within five business days following receipt of a demand, all reasonable out-of-pocket expenses (including but not limited to reasonable legal, advertising and postage expenses) properly incurred by the Agents in connection with their services together with any applicable value added tax and stamp, issue, documentary or other taxes and duties. These out-of-pocket expenses shall be directly invoiced, to the extent permitted by the issuer of the invoice, to the Issuer. Where the issuer of the invoice is unable to directly invoice the Issuer, the Issuer shall reimburse each Agent an amount equal to that which has been paid by such Agent to the issuer of the invoice.

**12.3 Taxes:** All payments by the Issuer under this Clause 12 shall be made free and clear of, and without withholding or deduction for, any taxes, duties, assessments or governmental charges of whatsoever nature imposed, levied, collected, withheld or assessed by the Kingdom of Spain or any political subdivision or any authority thereof or therein having power to tax, unless such withholding or deduction is required by law. In the event any such withholding or deduction is required to be made, the Issuer shall pay such additional



amounts as will result in the receipt by the Agents of the amounts which would otherwise have been receivable by them had no such withholding or deduction been required except that no such additional amounts shall be payable by the Issuer where (i) an Agent has not presented the relevant certificate of tax residence or relevant documentation issued by the tax authorities of its country of residence evidencing such Agent as resident for tax purposes in a country which has entered into a Tax Treaty with Spain and valid at the time any payment is due or made, provided that the delivery of such tax documentation is required under applicable Spanish regulations for the purposes of eliminating or reducing the withholding or deduction on payments under this Agreement, or (ii) an Agent is acting, for the purposes of this Agreement, through a permanent establishment in a Spanish territory or (iii) an Agent operates, for the purposes of this Agreement, through a tax haven jurisdiction (as defined in Royal Decree 1080/1991, of 5 July 1991, as amended). In case of an assignment of this Agreement by an Agent this Clause 12.3 will apply under the same terms and conditions and with the limitations set up in (i) and (ii) above. The certificate of tax residence mentioned in (i) above is valid for a 1 year period from the date of its issuance and has to be renewed annually.

### **13 Indemnity**

**13.1 By Issuer:** The Issuer shall indemnify each Agent against any loss, liability, cost, claim, action, demand or expense (including, but not limited to, all reasonable costs, charges and expenses paid or incurred in disputing or defending any of the foregoing) that it may incur or that may be made against it arising out of or in relation to or in connection with its appointment or the exercise of its functions, except such as may result from a breach by it of this Agreement or its own negligence, bad faith or wilful default or that of its officers, employees or agents.

**13.2 By Agents:** Each Agent shall indemnify the Issuer against any loss, liability, cost, claim, action, demand or expense (including, but not limited to, all reasonable costs, charges and expenses paid or incurred in disputing or defending any of the foregoing) that the Issuer may incur or that may be made against it arising out of or in relation to or in connection with a breach by that Agent of this Agreement or its negligence, bad faith or wilful default or that of its officers, employees or agents. For the avoidance of doubt, the indemnity provided in this paragraph shall also cover any loss, liability, cost, claim, action, demand or expenses suffered by the Issuer (including, but not limited to, any costs incurred in connection with the recovery from the Agent of payments made to the Spanish tax authorities) as a result of the failure by the Agent to comply with its obligations in Schedule 5 to this Agreement (Procedures to be performed by the Issuer and the Paying Agent in connection with Spanish Law 10/2014, of June 26, and Royal Decree 1065/2007, of July 27, as amended by Royal Decree 1145/2011, of July 29).

**13.3** The indemnities contained in this Clause 13 shall survive the termination and expiry of this Agreement.

### **14 General**

**14.1 No Agency or Trust:** In acting under this Agreement the Agents shall have no obligation towards or relationship of agency or trust with the holder of any Note, Coupon or Talon.

- 14.2 Holder to be treated as Owner:** Except as otherwise required by law, each Agent shall treat the holder of a Note, Coupon or Talon as its absolute owner as provided in the Conditions and shall not be liable for doing so.
- 14.3 No Lien:** No Agent shall exercise any lien, right of set-off or similar claim against any holder of a Note or Coupon in respect of moneys payable by it under this Agreement.
- 14.4 Taking of Advice:** Each Agent may consult on any legal matter any legal adviser selected by it, who may be an employee of or adviser to the Issuer, and it shall not be liable in respect of anything done, or omitted to be done, relating to that matter in good faith in accordance with that adviser's opinion.
- 14.5 Reliance on Documents etc.:** No Agent shall be liable in respect of anything done or suffered by it in reliance on a Note, Coupon, Talon or other document reasonably believed by it to be genuine and to have been signed by the proper parties.
- 14.6 Other Relationships:** Any Agent and any other person, whether or not acting for itself, may acquire, hold or dispose of any Note, Coupon, Talon or other security (or any interest therein) of the Issuer or any other person, may enter into or be interested in any contract or transaction with any such person, and may act on, or as depositary, trustee or agent for, any committee or body of holders of securities of any such person, in each case with the same rights as it would have had if that Agent were not an Agent and need not account for any profit.
- 14.7 List of Authorised Persons:** The Issuer shall provide the Fiscal Agent for itself and for delivery to each other Agent with a copy of the certified list of persons authorised to take action on behalf of the Issuer in connection with this Agreement (as referred to in Clause 9.1.4 of the Dealer Agreement) and shall notify the Fiscal Agent and each other Agent immediately in writing if any of such persons ceases to be so authorised or if any additional person becomes so authorised. Unless and until notified of any such change, each Agent may rely on the certificate(s) most recently delivered to it and all instructions given in accordance with such certificate(s) shall be binding on the Issuer.
- 14.8 Compliance with certain Spanish tax formalities:** The Agents and the Issuer have agreed to implement certain procedures that are required under Spanish law and regulations to allow payments on the Notes to be made free and clear of Spanish withholding tax pursuant to and in accordance with the procedures set forth in Schedule 5 hereto.
- If, despite these procedures, the relevant information is not received by the Issuer in a timely manner and the withholding tax was required by law, the Issuer would pay such additional amounts as may be necessary such that a noteholder would receive the same amount that he would have received in the absence of any such withholding or deduction, except as provided in Condition 9 (*Taxation*).
- 14.9 Delivery of documents for tax reasons:** Each Paying Agent shall deliver to the Issuer, without charge, a certificate of tax residence or the relevant documentation duly issued by the tax authorities of its country of residence before any payment under this Agreement is due or made and evidencing that such Paying Agent is resident for tax purposes in a country which has entered into a tax treaty with Spain under which provisions such payment would not be subject to taxation in Spain. Each certificate of tax residence mentioned above must be issued not before than a year from the date when the relevant payment is due.

**14.10 FATCA Compliance:** If the Issuer informs the Paying Agent that payments in respect of the Notes are or shall become subject to FATCA Withholding, and if any Agent is not eligible to receive payments from the Issuer in respect of the Notes free of FATCA Withholding, and any such FATCA Withholding arises and is wholly or partially attributable to an Agent not being or having ceased to be a person to whom payments are free from FATCA Withholding due to its own status under FATCA (and not that of its payees), then the Issuer may terminate the appointment of the Agent without further notice.

**14.11 Compliance with European Sanctions and International Embargoes:** The parties to this Agreement hereby certify that they do not have and will not have in any way whatsoever any capital link with entities targeted by sanctions and/or embargoes established by the European Union (the “EU”) or the Office of Foreign Assets Control of the U.S. Department of the Treasury (the “OFAC”) (collectively, “Sanctions”). It is understood that funds received in relation to the issuing of Notes, shall and will not be used in any manner whatsoever to circumvent the sanctions established against the targeted entities by the OFAC or the EU.

For the avoidance of doubt, any breach of this clause by one of the parties unequivocally authorizes the other party to immediately terminate this Agreement. Further to this, the parties agree and acknowledge that the provisions of the above paragraph shall automatically apply as soon as one of the parties is or becomes targeted by Sanctions.

## **15 Changes in Agents**

**15.1 Appointment and Termination:** In relation to any Series of Notes, the Issuer may at any time appoint additional Paying Agents and/or terminate the appointment of any Agent by giving to the Fiscal Agent and that Agent at least 60 days’ notice to that effect, which notice shall expire at least 30 days before or after any due date for payment in respect of the Notes of that Series. Upon any letter of appointment being executed by or on behalf of the Issuer and any person appointed as an Agent, such person shall become a party to this Agreement as if originally named in it and shall act as such Agent in respect of that or those Series of Notes in respect of which it is appointed.

**15.2 Resignation:** In relation to any Series of Notes, any Agent may resign its appointment at any time by giving the Issuer and the Fiscal Agent at least 60 days’ notice to that effect, which notice shall expire at least 30 days before or after any due date for payment in respect of the Notes of that Series.

**15.3 Condition to Resignation and Termination:** No such resignation or (subject to Clause 15.5) termination of the appointment of the Fiscal Agent or Calculation Agent shall, however, take effect until a new Fiscal Agent (which shall be a bank or trust company) or, as the case may be, Calculation Agent has been appointed and no resignation or termination of the appointment of a Paying Agent shall take effect if there would not then be a Paying Agent as required by the Conditions.

**15.4 Change of Office:** If an Agent changes the address of its specified office in a city it shall give the Issuer and the Fiscal Agent at least 60 days’ notice of the change, giving the new address and the date on which the change is to take effect.

**15.5 Automatic Termination:** The appointment of the Fiscal Agent shall forthwith terminate if the Fiscal Agent becomes incapable of acting, is adjudged bankrupt or insolvent, files a voluntary petition in bankruptcy, makes an assignment for the benefit of its creditors,

consents to the appointment of a receiver, administrator or other similar official of all or a substantial part of its property or admits in writing its inability to pay or meet its debts as they mature or suspends payment thereof, or if a resolution is passed or an order made for the insolvency, winding-up or dissolution of the Fiscal Agent, a receiver, administrator or other similar official of the Fiscal Agent or all or a substantial part of its property is appointed, a court order is entered approving a petition filed by or against it under applicable bankruptcy or insolvency law, or a public officer takes charge or control of the Fiscal Agent or its property or affairs for the purpose of rehabilitation, conservation or liquidation.

- 15.6 Delivery of Records:** If the Fiscal Agent resigns or its appointment is terminated, the Fiscal Agent shall on the date on which the resignation or termination takes effect pay to the new Fiscal Agent any amount held by it for payment in respect of the Notes or Coupons and the Fiscal Agent shall deliver to the new Fiscal Agent the records kept by it and all documents and forms held by it pursuant to this Agreement.
- 15.7 Successor Corporations:** A corporation into which an Agent is merged or converted or with which it is consolidated or that results from a merger, conversion or consolidation to which it is a party shall, to the extent permitted by applicable law, be the successor Agent under this Agreement without further formality. The Agent concerned shall forthwith notify such an event to the other parties to this Agreement.
- 15.8 Notices:** The Fiscal Agent shall give Noteholders at least 30 days' notice of any proposed appointment, termination, resignation or change under Clauses 15.1 to 15.4 of which it is aware and, as soon as practicable, notice of any succession under Clause 15.7 of which it is aware. The Issuer shall give Noteholders, as soon as practicable, notice of any termination under Clause 15.5 of which it is aware.

## **16 Communications**

- 16.1 Method:** Each communication under this Agreement shall be made by fax, electronic communication or otherwise in writing. Each communication or document to be delivered to any party under this Agreement shall be sent to that party at the fax number, postal address or electronic address, and marked for the attention of the person (if any), from time to time designated by that party to the Fiscal Agent (or, in the case of the Fiscal Agent, by it to each other party) for the purpose of this Agreement. The initial telephone number, fax number, postal address, electronic address and person so designated are set out in the Procedures Memorandum.
- 16.2 Deemed Receipt:** Any communication from any party to any other under this Agreement shall be effective, (if by fax) when the relevant delivery receipt is received by the sender, (if in writing) when delivered and (if by electronic communication) when the relevant receipt of such communication being read is given, or where no read receipt is requested by the sender, at the time of sending, provided that no delivery failure notification is received by the sender within 24 hours of sending such communication; provided that any communication which is received (or deemed to take effect in accordance with the foregoing) outside business hours or on a non-business day in the place of receipt shall be deemed to take effect at the opening of business on the next following business day in such place. Any communication delivered to any party under this Agreement which is to be sent by fax or electronic communication will be written legal evidence.

## **17 Notices**

- 17.1 Publication:** At the request and expense of the Issuer, the Fiscal Agent shall arrange for the publication of all notices to Noteholders (other than those to be published by the Calculation Agent). Notices to Noteholders shall be published in accordance with the Conditions.
- 17.2 Notices from Noteholders:** The Fiscal Agent shall promptly forward to the Issuer any notice received by it from a Noteholder, whether electing to exchange a Global Note for Definitive Notes or otherwise.

## **18 Governing Law and Jurisdiction**

- 18.1 Governing Law:** This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.
- 18.2 Submission to Jurisdiction:** In relation to any legal action or proceedings arising out of or in connection with this Agreement ("**Proceedings**"), each of the Issuer and the Agents incorporated outside the United Kingdom irrevocably submits to the jurisdiction of the High Court of Justice in England and waives 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 Clause is for the benefit of each of the other parties to this Agreement and shall not affect 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 any of them from taking Proceedings in any other jurisdiction (whether concurrently or not).
- 18.3 Process Agent:** The Issuer hereby irrevocably appoints Law Debenture Corporate Services Limited of Fifth Floor, 100 Wood Street, London EC2V 7EX as its agent to accept service of process in any Proceedings in England in connection herewith. Such service shall be deemed completed on delivery to such process agent (whether or not it is forwarded to and received by the Issuer). If for any reason such process agent ceases to be able to act as such or no longer has an address in London, the Issuer irrevocably agrees to appoint a substitute process agent acceptable to the Agents, and to deliver to the Agents a copy of the new agent's acceptance of that appointment, within 30 days. Nothing shall affect the right to serve process in any other manner permitted by law.

This Agreement has been entered into on the date stated at the beginning.

**MERLIN PROPERTIES, SOCIIMI, S.A.**

By:



**SOCIÉTÉ GÉNÉRALE BANK & TRUST S.A.**

By:

This Agreement has been entered into on the date stated at the beginning.

**MERLIN PROPERTIES, SOCIMI, S.A.**

By:

**SOCIÉTÉ GÉNÉRALE BANK & TRUST S.A.**

By:



**Emilie RONDOT**  
**Head of Custody and Issuer Services**  
**Société Générale Bank & Trust S.A.**  
**28-32 Place de la Gare**  
**L-1616 Luxembourg**

**Schedule 1**  
**Part A**  
**Form of CGN Temporary Global Note**

**MERLIN PROPERTIES, SOCIMI, S.A.**  
**(incorporated as a limited liability company (*sociedad anónima*) in the Kingdom of Spain)**  
**Euro Medium Term Note Programme**

**TEMPORARY GLOBAL NOTE**  
**Temporary Global Note No. [●]**

This temporary Global Note is issued in respect of the Notes (the “**Notes**”) of the Tranche and Series specified in Part A of the Second Schedule hereto of Merlin Properties, SOCIMI, S.A. (the “**Issuer**”).

**Interpretation and Definitions**

References in this temporary Global Note to the “**Conditions**” are to the Terms and Conditions applicable to the Notes (which are in the form set out in Part B of Schedule 2 to the Agency Agreement (as amended or supplemented as at the Issue Date, the “**Agency Agreement**”) dated 12 May 2017 between the Issuer, Société Générale Bank & Trust S.A. as fiscal agent and the other agents named in it, as such form is supplemented and/or modified and/or superseded by the provisions of this temporary Global Note (including the supplemental definitions and any modifications or additions set out in Part A of the Second Schedule hereto), which in the event of any conflict shall prevail). Other capitalised terms used in this temporary Global Note shall have the meanings given to them in the Conditions or the Agency Agreement. If Part A of the Second Schedule hereto specifies that the applicable TEFRA exemption is either “C Rules” or “not applicable”, this temporary Global Note is a “C Rules Note”, otherwise this temporary Global Note is a “D Rules Note”.

The Issuer has executed a public deed (*escritura pública*) relating to the Notes dated [●] 2017 granted before the Notary of Madrid, Spain, [●] with number [●] of his/her protocol.

**Aggregate Principal Amount**

The aggregate principal amount from time to time of this temporary Global Note shall be an amount equal to the aggregate principal amount of the Notes as shall be shown by the latest entry in the fourth column of Part I of the First Schedule hereto, which shall be completed by or on behalf of the Fiscal Agent upon (i) the issue of Notes represented hereby, (ii) the exchange of the whole or a part of this temporary Global Note for a corresponding interest in a permanent Global Note or for Definitive Notes, (iii) the redemption or purchase and cancellation of Notes represented hereby, and/or (iv) the exchange of interests in this temporary Global Note for direct enforcement rights, all as described below.

**Promise to Pay**

Subject as provided herein, the Issuer, for value received, promises to pay to the bearer of this temporary Global Note, upon presentation and (when no further payment is due in respect of this temporary Global Note) surrender of this temporary Global Note, on the Maturity Date (or on such earlier date as the amount payable upon redemption under the Conditions may become payable in accordance with the Conditions) the amount payable upon redemption under the Conditions in respect of the aggregate principal amount of Notes represented by this temporary Global Note and (unless this temporary Global Note does not bear interest) to pay interest in respect of the Notes from the Interest Commencement Date in arrear at the rates, on the dates for payment, and in



accordance with the method of calculation provided for in the Conditions, save that the calculation is made in respect of the total aggregate amount of the Notes, together with such other sums and additional amounts (if any) as may be payable under the Conditions, in accordance with the Conditions.

### **Exchange**

On or after the first day following the expiry of 40 days after the Issue Date (the “**Exchange Date**”), this temporary Global Note may be exchanged (free of charge to the holder) in whole or (in the case of a D Rules Note only) from time to time in part by its presentation and, on exchange in full, surrender to or to the order of the Fiscal Agent for interests in a permanent Global Note or, if so specified in Part A of the Second Schedule hereto, for Definitive Notes in an aggregate principal amount equal to the principal amount of this temporary Global Note submitted for exchange; provided that, in the case of any part of a D Rules Note submitted for exchange for a permanent Global Note or Definitive Notes, there shall have been Certification with respect to such principal amount submitted for such exchange dated no earlier than the Exchange Date.

“**Certification**” means the presentation to the Fiscal Agent of a certificate or certificates with respect to one or more interests in this temporary Global Note, signed by Euroclear or Clearstream, Luxembourg, substantially to the effect set out in Schedule 7 to the Agency Agreement to the effect that it has received a certificate or certificates substantially to the effect set out in Schedule 6 to the Agency Agreement with respect thereto and that no contrary advice as to the contents thereof has been received by Euroclear or Clearstream, Luxembourg, as the case may be.

Upon the whole or a part of this temporary Global Note being exchanged for a permanent Global Note, such permanent Global Note shall be exchangeable in accordance with its terms for Definitive Notes.

The Definitive Notes for which this temporary Global Note or a permanent Global Note may be exchangeable shall be duly executed and authenticated, shall, in the case of Definitive Notes, have attached to them all Coupons (and, where appropriate, Talons) in respect of interest that have not already been paid on this temporary Global Note or the permanent Global Note, as the case may be, shall be security printed and shall be substantially in the form set out in the Schedules to the Agency Agreement as supplemented and/or modified and/or superseded by the terms of the Second Schedule hereto.

On exchange in full and surrender of this temporary Global Note for Definitive Notes, the Issuer shall, if the holder so requests, procure that it is cancelled and returned to the holder together with the relevant Definitive Notes. On any exchange of a part of this temporary Global Note for an equivalent interest in a permanent Global Note or for Definitive Notes, as the case may be, the portion of the principal amount hereof so exchanged shall be endorsed by or on behalf of the Fiscal Agent in Part I of the First Schedule hereto, whereupon the principal amount hereof shall be reduced for all purposes by the amount so exchanged and endorsed.

If, for any actual or alleged reason that would not have been applicable had there been no exchange of this temporary Global Note (or part of this temporary Global Note) or in any other circumstances whatsoever, the Issuer does not perform or comply with any one or more of what are expressed to be its obligations under any Definitive Notes, then any right or remedy relating in any way to the obligation(s) in question may be exercised or pursued on the basis of this temporary Global Note despite its stated cancellation after its exchange in full, as an alternative, or in addition, to the Definitive Notes (or the Coupons or Talons appertaining to them as appropriate).

With this exception, upon exchange in full and cancellation of this temporary Global Note for Definitive Notes, this temporary Global Note shall become void.

### **Benefit of Conditions**

Except as otherwise specified herein, this temporary Global Note is subject to the Conditions and, until the whole of this temporary Global Note is exchanged for equivalent interests in a permanent Global Note or for Definitive Notes, the holder of this temporary Global Note shall in all respects be entitled to the same benefits as if it were the holder of the permanent Global Note (or the relevant part of it) or the Definitive Notes, as the case may be, for which it may be exchanged as if such permanent Global Note or Definitive Notes had been issued on the Issue Date.

### **Payments**

No person shall be entitled to receive any payment in respect of the Notes represented by this temporary Global Note that falls due on or after the Exchange Date unless, upon due presentation of this temporary Global Note for exchange, delivery of (or, in the case of a subsequent exchange, due endorsement of) a permanent Global Note or delivery of Definitive Notes, as the case may be, is improperly withheld or refused by or on behalf of the Issuer.

Payments due in respect of a D Rules Note before the Exchange Date shall only be made in relation to such principal amount of this temporary Global Note with respect to which there shall have been Certification dated no earlier than such due date for payment.

Any payments that are made in respect of this temporary Global Note shall be made to its holder against presentation and (if no further payment falls to be made on it) surrender of it at the specified office of the Fiscal Agent or of any other Paying Agent provided for in the Conditions. If any payment in full of principal is made in respect of any Note represented by this temporary Global Note, the portion of this temporary Global Note representing such Note shall be cancelled and the amount so cancelled shall be endorsed by or on behalf of the Fiscal Agent in Part I of the First Schedule hereto (such endorsement being *prima facie* evidence that the payment in question has been made) whereupon the principal amount hereof shall be reduced for all purposes by the amount so cancelled and endorsed. If any other payments are made in respect of the Notes represented by this temporary Global Note, a record of each such payment shall be endorsed by or on behalf of the Fiscal Agent on an additional schedule hereto (such endorsement being *prima facie* evidence that the payment in question has been made).

For the purposes of any payments made in respect of this temporary Global Note, the words "in the relevant place of presentation" shall not apply in the definition of "**business day**" in Condition 8(g) (*Non-Business Days*).

### **Cancellation**

Cancellation of any Note represented by this temporary Global Note that is required by the Conditions to be cancelled (other than upon its redemption) shall be effected by reduction in the principal amount of this temporary Global Note representing such Note on its presentation to or to the order of the Fiscal Agent for endorsement in Part I of the First Schedule hereto, whereupon the principal amount hereof shall be reduced for all purposes by the amount so cancelled and endorsed.

### **Events of Default**

The holder hereof may from time to time exercise the right to declare Notes represented by this temporary Global Note due and payable following an Event of Default in accordance with the Conditions by stating in a notice given to the Fiscal Agent the principal amount of Notes (which may be less than the outstanding principal amount hereof) to which such notice relates.

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If principal in respect of any Notes is not paid when due (but subject as provided below), the holder of this temporary Global Note may from time to time elect that Direct Rights under the provisions of (and as defined in) the Deed of Covenant (as supplemented and/or amended as at the Issue Date, the "**Deed of Covenant**") executed by the Issuer as of 12 May 2017 (a copy of which is available for inspection at the specified office of the Fiscal Agent and which the Issuer acknowledges to apply to the Notes represented by this temporary Global Note) shall come into effect in respect of a principal amount of Notes up to the aggregate principal amount in respect of which such failure to pay principal has occurred. Such election shall be made by notice to the Fiscal Agent and presentation of this temporary Global Note to or to the order of the Fiscal Agent for reduction of the principal amount of Notes represented by this temporary Global Note by such amount as may be stated in such notice by endorsement in Part I of the First Schedule hereto and a corresponding endorsement in Part II of the First Schedule hereto of such principal amount of Notes formerly represented hereby as the principal amount of Notes in respect of which Direct Rights have arisen under the Deed of Covenant. Upon each such notice being given, this temporary Global Note shall become void to the extent of the principal amount stated in such notice, save to the extent that the appropriate Direct Rights shall fail to take effect, for whatever reason.

No such election may however be made on or before the Exchange Date unless the holder elects in such notice that the exchange for such Notes shall no longer take place.

#### **Notices**

Notices required to be given in respect of the Notes represented by this temporary Global Note may be given by their being delivered (so long as this temporary Global Note is held on behalf of Euroclear and Clearstream, Luxembourg or any other clearing system) to Euroclear, Clearstream, Luxembourg or such other clearing system, as the case may be, or otherwise to the holder of this temporary Global Note, rather than by publication as required by the Conditions, except that so long as the Notes are listed on the Luxembourg Stock Exchange and the rules of that exchange so require, notices shall also be published either on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)) or in a leading newspaper having general circulation in Luxembourg (which is expected to be *the Luxemburger Wort*).

No provision of this temporary Global Note shall alter or impair the obligation of the Issuer to pay the principal and premium of and interest on the Notes when due in accordance with the Conditions.

This temporary Global Note shall not be valid or become obligatory for any purpose until authenticated by or on behalf of the Fiscal Agent.

This temporary Global Note and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.

In witness whereof the Issuer has caused this temporary Global Note to be duly signed on its behalf.

Dated as of the Issue Date.

**MERLIN PROPERTIES, SOCIMI, S.A.**

By:

**Certificate of Authentication**

This temporary Global Note is authenticated in Luxembourg by or on behalf of the Fiscal Agent.

**SOCIÉTÉ GÉNÉRALE BANK & TRUST S.A.**

as Fiscal Agent

By:

Authorised Signatory

For the purposes of authentication only.

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

## The First Schedule

### Part I

#### Principal Amount of Notes Represented by this Temporary Global Note

The following (i) issue of Notes initially represented by this temporary Global Note, (ii) exchanges of the whole or a part of this temporary Global Note for interests in a permanent Global Note, for Definitive Notes or for Direct Rights under the Deed of Covenant and/or (iii) cancellations or forfeitures of interests in this temporary Global Note have been made, resulting in the principal amount of this temporary Global Note specified in the latest entry in the fourth column below:

<b>Date</b>	<b>Amount of decrease in principal amount of this temporary Global Note</b>	<b>Reason for decrease in principal amount of this temporary Global Note (exchange, cancellation or forfeiture)</b>	<b>Principal amount of this temporary Global Note on issue or following such decrease</b>	<b>Notation made by or on behalf of the Fiscal Agent</b>
Issue Date	Not applicable	Not applicable		

**Part II**  
**Direct Rights**

The principal amount of Notes in respect of which Direct Rights have arisen under the Deed of Covenant is shown by the latest entry in the third column below:

<b>Date</b>	<b>Amount of decrease in principal amount of Notes in respect of which Direct Rights have arisen</b>	<b>Initial principal amount and principal amount following such increase</b>	<b>Notation by or on behalf of the Fiscal Agent (other than in respect of initial principal amount)</b>
Issue Date	Not applicable	Zero	Not applicable

## **The Second Schedule**

[INSERT THE PROVISIONS OF THE RELEVANT FINAL TERMS THAT RELATE TO THE  
CONDITIONS OR THE GLOBAL NOTES AS THE SECOND SCHEDULE]

**Schedule 1**  
**Part B**  
**Form of CGN Permanent Global Note**

**MERLIN PROPERTIES, SOCIMI, S.A.**  
**(incorporated as a limited liability company (*sociedad anónima*) in the Kingdom of Spain)**  
**Euro Medium Term Note Programme**

**PERMANENT GLOBAL NOTE**  
**Permanent Global Note No. [●]**

This permanent Global Note is issued in respect of the Notes (the “Notes”) of the Tranche(s) and Series specified in Part A of the Third Schedule hereto of Merlin Properties, SOCIMI, S.A. (the “Issuer”).

**Interpretation and Definitions**

References in this permanent Global Note to the “Conditions” are to the Terms and Conditions applicable to the Notes (which are in the form set out in Part B of Schedule 2 to the Agency Agreement (as amended or supplemented as at the Issue Date, the “Agency Agreement”) dated 12 May 2017 between the Issuer, Société Générale Bank & Trust S.A. as fiscal agent and the other agents named in it, as such form is supplemented and/or modified and/or superseded by the provisions of this permanent Global Note (including the supplemental definitions and any modifications or additions set out in Part A of the Third Schedule hereto), which in the event of any conflict shall prevail). Other capitalised terms used in this permanent Global Note shall have the meanings given to them in the Conditions or the Agency Agreement.

The Issuer has executed a public deed (*escritura pública*) relating to the Notes dated [●] 2017 granted before the Notary of Madrid, Spain, [●] with number [●] of his/her protocol.

**Aggregate Principal Amount**

The aggregate principal amount from time to time of this permanent Global Note shall be an amount equal to the aggregate principal amount of the Notes as shall be shown by the latest entry in the fourth column of Part I of the First Schedule hereto, which shall be completed by or on behalf of the Fiscal Agent upon (i) the exchange of the whole or a part of the temporary Global Note initially representing the Notes for a corresponding interest herein (in the case of Notes represented by a temporary Global Note upon issue), (ii) the issue of the Notes represented hereby (in the case of Notes represented by this permanent Global Note upon issue), (iii) the exchange of the whole or, where the limited circumstances so permit, a part of this permanent Global Note for Definitive Notes, (iv) the redemption or purchase and cancellation of Notes represented hereby and/or (v) the exchange of interests in this permanent Global Note for direct enforcement rights, all as described below.

**Promise to Pay**

Subject as provided herein, the Issuer, for value received, promises to pay to the bearer of this permanent Global Note, upon presentation and (when no further payment is due in respect of this permanent Global Note) surrender of this permanent Global Note, on the Maturity Date (or on such earlier date as the amount payable upon redemption under the Conditions may become repayable in accordance with the Conditions) the amount payable upon redemption under the Conditions in respect of the aggregate principal amount of Notes represented by this permanent Global Note and (unless this permanent Global Note does not bear interest) to pay interest in respect of the Notes from the Interest Commencement Date in arrear at the rates, on the dates for payment, and



in accordance with the method of calculation provided for in the Conditions, save that the calculation is made in respect of the total aggregate amount of the Notes, together with such other sums and additional amounts (if any) as may be payable under the Conditions, in accordance with the Conditions.

### **Exchange**

This permanent Global Note is exchangeable (free of charge to the holder) on or after the Exchange Date in whole but not, except as provided in the next paragraph, in part for the Definitive Notes (1) if this permanent Global Note is held on behalf of Euroclear or Clearstream, Luxembourg or any other clearing system (an “**Alternative Clearing System**”) and any such clearing system is closed for business for a continuous period of 14 days (other than by reason of holidays, statutory or otherwise) or announces an intention permanently to cease business or does in fact do so or (2) if principal in respect of any Notes is not paid when due, by the holder giving notice to the Fiscal Agent of its election for such exchange.

This permanent Global Note is exchangeable in part (provided, however, that if this permanent Global Note is held by or on behalf of Euroclear, Clearstream, Luxembourg and/or an Alternative Clearing System, Euroclear, Clearstream, Luxembourg and/or such Alternative Clearing System, as the case may be, so permit) if principal in respect of any Notes is not paid when due.

“**Exchange Date**” means a day falling not less than 60 days or in the case of exchange following failure to pay principal in respect of any Notes when due 30 days, after that on which the notice requiring exchange is given and on which banks are open for business in the city in which the specified office of the Fiscal Agent is located and, except in the case of exchange pursuant to (1) above, in the cities in which Euroclear and Clearstream, Luxembourg or, if relevant, the Alternative Clearing System, are located.

Any such exchange may be effected on or after an Exchange Date by the holder of this permanent Global Note surrendering this permanent Global Note or, in the case of a partial exchange, presenting it for endorsement to or to the order of the Fiscal Agent. In exchange for this permanent Global Note, or part thereof to be exchanged, the Issuer shall deliver, or procure the delivery of, duly executed and authenticated Definitive Notes in an aggregate principal amount equal to the principal amount of this permanent Global Note submitted for exchange (if appropriate, having attached to them all Coupons (and, where appropriate, Talons) in respect of interest that have not already been paid on this permanent Global Note), security printed and substantially in the form set out in the Schedules to the Agency Agreement as supplemented and/or modified and/or superseded by the terms of the Third Schedule hereto.

On exchange in full and surrender of this permanent Global Note, the Issuer shall, if the holder so requests, procure that it is cancelled and returned to the holder together with the relevant Definitive Notes. On any exchange of a part of this permanent Global Note the portion of the principal amount hereof so exchanged shall be endorsed by or on behalf of the Fiscal Agent in Part I of the First Schedule hereto, whereupon the principal amount hereof shall be reduced for all purposes by the amount so exchanged and endorsed.

If, for any actual or alleged reason that would not have been applicable had there been no exchange of this permanent Global Note (or part of this permanent Global Note) or in any other circumstances whatsoever, the Issuer does not perform or comply with any one or more of what are expressed to be its obligations under any Definitive Notes, then any right or remedy relating in any way to the obligation(s) in question may be exercised or pursued on the basis of this permanent Global Note despite its stated cancellation after its exchange in full, as an alternative, or in addition, to the Definitive Notes (or the Coupons or Talons appertaining to them as

appropriate). With this exception, upon exchange in full and cancellation of this permanent Global Note for Definitive Notes, this permanent Global Note shall become void.

### **Benefit of Conditions**

Except as otherwise specified herein, this permanent Global Note is subject to the Conditions and, until the whole of this permanent Global Note is exchanged for Definitive Notes, the holder of this permanent Global Note shall in all respects be entitled to the same benefits as if it were the holder of the Definitive Notes for which it may be exchanged and as if such Definitive Notes had been issued on the Issue Date.

### **Payments**

No person shall be entitled to receive any payment in respect of the Notes represented by this permanent Global Note that falls due after an Exchange Date for such Notes, unless upon due presentation of this permanent Global Note for exchange, delivery of Definitive Notes is improperly withheld or refused by or on behalf of the Issuer or the Issuer does not perform or comply with any one or more of what are expressed to be its obligations under any Definitive Notes.

Payments in respect of this permanent Global Note shall be made to its holder against presentation and (if no further payment falls to be made on it) surrender of it at the specified office of the Fiscal Agent or of any other Paying Agent provided for in the Conditions. A record of each such payment shall be endorsed on the First or Second Schedule hereto, as appropriate, by the Fiscal Agent or by the relevant Paying Agent, for and on behalf of the Fiscal Agent, which endorsement shall (until the contrary is proved) be *prima facie* evidence that the payment in question has been made.

For the purposes of any payments made in respect of this permanent Global Note, the words "in the relevant place of presentation" shall not apply in the definition of "**business day**" in Condition 8(g) (*Non-Business Days*).

### **Prescription**

Claims in respect of principal and interest (as each is defined in the Conditions) in respect of this permanent Global Note shall become void unless it is presented for payment within a period of 10 years (in the case of principal) and five years (in the case of interest) from the appropriate Relevant Date.

### **Meetings**

For the purposes of any meeting of Noteholders, the holder of this permanent Global Note shall be treated as one person for the purposes of any quorum requirements of a meeting of Noteholders and, at any such meeting, as having one vote in respect of each integral currency unit of the Specified Currency of the Notes.

### **Cancellation**

Cancellation of any Note represented by this permanent Global Note that is required by the Conditions to be cancelled (other than upon its redemption) shall be effected by reduction in the principal amount of this permanent Global Note representing such Note on its presentation to or to the order of the Fiscal Agent for endorsement in Part I of the First Schedule hereto, whereupon the principal amount hereof shall be reduced for all purposes by the amount so cancelled and endorsed.

### **Purchase**

Notes may only be purchased by the Issuer or any of its Subsidiaries if they are purchased together with the right to receive all future payments of interest (if any) thereon.

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### **Issuer's Options**

Any option of the Issuer provided for in the Conditions shall be exercised by the Issuer giving notice to the Noteholders within the time limits set out in and containing the information required by the Conditions, except that the notice shall not be required to contain the serial numbers of Notes drawn in the case of a partial exercise of an option and accordingly no drawing of Notes shall be required.

### **Noteholders' Options**

Any option of the Noteholders provided for in the Conditions may be exercised by the holder of this permanent Global Note giving notice to the Issuer within the time limits relating to the deposit of Notes with a Paying Agent set out in the Conditions substantially in the form of the notice available from any Paying Agent, except that the notice shall not be required to contain the certificate numbers of the Notes in respect of which the option has been exercised, and stating the principal amount of Notes in respect of which the option is exercised and at the same time presenting this permanent Global Note to the Fiscal Agent, or to a Paying Agent acting on behalf of the Fiscal Agent, for notation accordingly in the Fourth Schedule hereto.

### **Events of Default**

The holder hereof may from time to time exercise the right to declare Notes represented by this permanent Global Note due and payable following an Event of Default in accordance with the Conditions by stating in a notice given to the Fiscal Agent the principal amount of Notes (which may be less than the outstanding principal amount hereof) to which such notice relates.

If principal in respect of any Notes is not paid when due (but subject as provided below), the holder of this permanent Global Note may from time to time elect that Direct Rights under the provisions of (and as defined in) the Deed of Covenant (as supplemented and/or amended as at the Issue Date, the "**Deed of Covenant**") executed by the Issuer as of 12 May 2017 (a copy of which is available for inspection at the specified office of the Fiscal Agent and which the Issuer acknowledges to apply to the Notes represented by this permanent Global Note) shall come into effect in respect of a principal amount of Notes up to the aggregate principal amount in respect of which such failure to pay principal has occurred. Such election shall be made by notice to the Fiscal Agent and presentation of this permanent Global Note to or to the order of the Fiscal Agent for reduction of the principal amount of Notes represented by this permanent Global Note by such amount as may be stated in such notice by endorsement in Part I of the First Schedule hereto and a corresponding endorsement in Part II of the First Schedule hereto of such principal amount of Notes formerly represented hereby as the principal amount of Notes in respect of which Direct Rights have arisen under the Deed of Covenant. Upon each such notice being given, this permanent Global Note shall become void to the extent of the principal amount stated in such notice, save to the extent that the appropriate Direct Rights shall fail to take effect, for whatever reason.

No such election may however be made on or before an Exchange Date unless the holder elects in such notice that the exchange for such Notes shall no longer take place.

## **Notices**

Notices required to be given in respect of the Notes represented by this permanent Global Note may be given by their being delivered (so long as this permanent Global Note is held on behalf of Euroclear, Clearstream, Luxembourg or any other clearing system) to Euroclear, Clearstream, Luxembourg or such other clearing system, as the case may be, or otherwise to the holder of this permanent Global Note, rather than by publication as required by the Conditions, except that so long as the Notes are listed on the Luxembourg Stock Exchange and the rules of that exchange so require, notices shall also be published either on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)) or in a leading newspaper having general circulation in Luxembourg (which is expected to be *the Luxemburger Wort*).

## **Negotiability**

This permanent Global Note is a bearer document and negotiable and accordingly:

- 1** is freely transferable by delivery and such transfer shall operate to confer upon the transferee all rights and benefits appertaining hereto and to bind the transferee with all obligations appertaining hereto pursuant to the Conditions;
- 2** the holder of this permanent Global Note is and shall be absolutely entitled as against all previous holders to receive all amounts by way of amounts payable upon redemption, interest or otherwise payable in respect of this permanent Global Note and the Issuer has waived against such holder and any previous holder of this permanent Global Note all rights of set-off or counterclaim that would or might otherwise be available to it in respect of the obligations evidenced by this Global Note; and
- 3** payment upon due presentation of this permanent Global Note as provided herein shall operate as a good discharge against such holder and all previous holders of this permanent Global Note.

No provisions of this permanent Global Note shall alter or impair the obligation of the Issuer to pay the principal and premium of and interest on the Notes when due in accordance with the Conditions.

This permanent Global Note shall not be valid or become obligatory for any purpose until authenticated by or on behalf of the Fiscal Agent.

This permanent Global Note and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.

**In witness** whereof the Issuer has caused this permanent Global Note to be duly signed on its behalf.

Dated as of the Issue Date.

**MERLIN PROPERTIES, SOCIMI, S.A.**

By:

**Certificate of Authentication**

This permanent Global Note is authenticated in Luxembourg by or on behalf of the Fiscal Agent.

**SOCIÉTÉ GÉNÉRALE BANK & TRUST S.A.**

as Fiscal Agent

By:

Authorised Signatory

For the purposes of authentication only.

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

## The First Schedule

### Part I

#### Principal Amount of Notes Represented by this Permanent Global Note

The following (i) issues of Notes initially represented by this permanent Global Note, (ii) exchanges of interests in a temporary Global Note for interests in this permanent Global Note, (iii) exchanges of the whole or a part of this permanent Global Note for Definitive Notes or for Direct Rights under the Deed of Covenant, (iv) cancellations or forfeitures of interests in this permanent Global Note and/or (v) payments of amounts payable upon redemption in respect of this permanent Global Note have been made, resulting in the principal amount of this permanent Global Note specified in the latest entry in the fourth column:

<b>Date</b>	<b>Amount of increase/decrease in principal amount of this permanent Global Note</b>	<b>Reason for increase/decrease in principal amount of this permanent Global Note (initial issue, exchange, cancellation, forfeiture or payment, stating amount of payment made)</b>	<b>Principal Amount of this permanent Global Note following such increase/decrease</b>	<b>Notation made by or on behalf of the Fiscal Agent</b>
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**Part II**  
**Direct Rights**

The principal amount of Notes in respect of which Direct Rights have arisen under the Deed of Covenant is shown by the latest entry in the third column below:

<b>Date</b>	<b>Amount of increase in principal amount of Notes in respect of which Direct Rights have arisen</b>	<b>Initial principal amount and principal amount following such increase</b>	<b>Notation by or on behalf of the Fiscal Agent (other than in respect of initial principal amount)</b>
Issue Date	Not applicable	zero	Not applicable

**The Second Schedule  
Payments of Interest**

The following payments of interest or Interest Amount in respect of this Permanent Global Note have been made:

<b>Due date of payment</b>	<b>Date of payment</b>	<b>Amount of interest</b>	<b>Notation made by or on behalf of the Fiscal Agent</b>
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## **The Third Schedule**

[INSERT THE PROVISIONS OF THE RELEVANT FINAL TERMS THAT RELATE TO THE CONDITIONS OR THE GLOBAL NOTES AS THE THIRD SCHEDULE]

**The Fourth Schedule  
Exercise of Noteholders' Option**

The following exercises of the option of the Noteholders provided for in the Conditions have been made in respect of the stated principal amount of this permanent Global Note:

<b>Date of exercise</b>	<b>Principal Amount of this permanent Global Note in respect of which exercise is made</b>	<b>Date on which exercise of such option is effective</b>	<b>Notation made by or on behalf of the Fiscal Agent</b>
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**Schedule 1**  
**Part C**  
**Form of NGN Temporary Global Note**

**MERLIN PROPERTIES, SOCIMI, S.A.**  
**(incorporated as a limited liability company (*sociedad anónima*) in the Kingdom of Spain)**  
**Euro Medium Term Note Programme**

**TEMPORARY GLOBAL NOTE**  
**Temporary Global Note No. [●]**

This temporary Global Note is issued in respect of the Notes (the “**Notes**”) of the Tranche and Series specified in Part A of the Schedule hereto of Merlin Properties, SOCIMI, S.A. (the “**Issuer**”).

**Interpretation and Definitions**

References in this temporary Global Note to the “**Conditions**” are to the Terms and Conditions applicable to the Notes (which are in the form set out in Part B of Schedule 2 to the Agency Agreement (as amended or supplemented as at the Issue Date, the “**Agency Agreement**”) dated 12 May 2017 between the Issuer, Société Générale Bank & Trust S.A. as fiscal agent and the other agents named in it, as such form is supplemented and/or modified and/or superseded by the provisions of this temporary Global Note (including the supplemental definitions and any modifications or additions set out in Part A of the Schedule hereto), which in the event of any conflict shall prevail). Other capitalised terms used in this temporary Global Note shall have the meanings given to them in the Conditions or the Agency Agreement. If the Second Schedule hereto specifies that the applicable TEFRA exemption is either “C Rules” or “not applicable”, this temporary Global Note is a “C Rules Note”, otherwise this temporary Global Note is a “D Rules Note”.

The Issuer has executed a public deed (*escritura pública*) relating to the Notes dated [●]2017 granted before the Notary of Madrid, Spain, [●] with number [●] of his/her protocol.

**Aggregate Principal Amount**

The aggregate principal amount from time to time of this temporary Global Note shall be an amount equal to the aggregate principal amount of the Notes from time to time entered in the records of both Euroclear and Clearstream, Luxembourg (together the “**relevant Clearing Systems**”), which shall be completed and/or amended, as the case may be, upon (i) the issue of Notes represented hereby, (ii) the exchange of the whole or a part of this temporary Global Note for a corresponding interest recorded in the records of the relevant Clearing Systems in a permanent Global Note or for Definitive Notes, (iii) the redemption or purchase and cancellation of Notes represented hereby and/or (iv) the exchange of interests in this temporary Global Note for direct enforcement rights, all as described below.

The records of the relevant Clearing Systems (which expression in this temporary Global Note means the records that each relevant Clearing System holds for its customers which reflect the amount of such customers’ interests in the Notes) shall be conclusive evidence of the principal amount of the Notes represented by this temporary Global Note and, for these purposes, a statement issued by a relevant Clearing System (which statement shall be made available to the bearer upon request) stating the principal amount of Notes represented by the temporary Global Note at any time shall be conclusive evidence of the records of the relevant Clearing Systems at that time.

## **Promise to Pay**

Subject as provided herein, the Issuer, for value received, promises to pay to the bearer of this temporary Global Note, upon presentation and (when no further payment is due in respect of this temporary Global Note) surrender of this temporary Global Note, on the Maturity Date (or on such earlier date as the amount payable upon redemption under the Conditions may become payable in accordance with the Conditions) the amount payable upon redemption under the Conditions in respect of the aggregate principal amount of Notes represented by this temporary Global Note and (unless this temporary Global Note does not bear interest) to pay interest in respect of the Notes from the Interest Commencement Date in arrear at the rates, on the dates for payment, and in accordance with the method of calculation provided for in the Conditions, save that the calculation is made in respect of the total aggregate amount of the Notes, together with such other sums and additional amounts (if any) as may be payable under the Conditions, in accordance with the Conditions.

## **Exchange**

On or after the first day following the expiry of 40 days after the Issue Date (the “**Exchange Date**”), this temporary Global Note may be exchanged (free of charge to the holder) in whole or (in the case of a D Rules Note only) from time to time in part by its presentation and, on exchange in full, surrender to or to the order of the Fiscal Agent for interests recorded in the records of the relevant Clearing Systems in a permanent Global Note or, if so specified in Part A of the Schedule hereto, for Definitive Notes in an aggregate principal amount equal to the principal amount of this temporary Global Note submitted for exchange; provided that, in the case of any part of a D Rules Note submitted for exchange for interests recorded in the records of the relevant Clearing Systems in a permanent Global Note or Definitive Notes, there shall have been Certification with respect to such principal amount submitted for such exchange dated no earlier than the Exchange Date.

“**Certification**” means the presentation to the Fiscal Agent of a certificate or certificates with respect to one or more interests in this temporary Global Note, signed by Euroclear or Clearstream, Luxembourg, substantially to the effect set out in Schedule 7 to the Agency Agreement to the effect that it has received a certificate or certificates substantially to the effect set out in Schedule 6 to the Agency Agreement with respect thereto and that no contrary advice as to the contents thereof has been received by Euroclear or Clearstream, Luxembourg, as the case may be.

Upon the whole or a part of this temporary Global Note being exchanged for a permanent Global Note, such permanent Global Note shall be exchangeable in accordance with its terms for Definitive Notes.

The Definitive Notes for which this temporary Global Note or a permanent Global Note may be exchangeable shall be duly executed and authenticated, shall, in the case of Definitive Notes, have attached to them all Coupons (and, where appropriate, Talons) in respect of interest that have not already been paid on this temporary Global Note or the permanent Global Note, as the case may be, shall be security printed and shall be substantially in the form set out in the Schedules to the Agency Agreement as supplemented and/or modified and/or superseded by the terms of Part A of the Schedule hereto.

On exchange in full and surrender of this temporary Global Note for Definitive Notes, the Issuer shall, if the holder so requests, procure that it is cancelled and returned to the holder together with the relevant Definitive Notes and procure that such exchange and cancellation shall be recorded in the records of the relevant Clearing Systems. On any exchange of a part of this temporary Global Note for an equivalent interest in a permanent Global Note or for Definitive Notes, as the case may

be, the Issuer shall procure that details of the portion of the principal amount hereof so exchanged shall be entered *pro rata* in the records of the relevant Clearing Systems and upon any such entry being made, the principal amount of the Notes recorded in the records of the relevant Clearing Systems and represented by this temporary Global Note shall be reduced by an amount equal to such portion so exchanged.

If, for any actual or alleged reason that would not have been applicable had there been no exchange of this temporary Global Note (or part of this temporary Global Note) or in any other circumstances whatsoever, the Issuer does not perform or comply with any one or more of what are expressed to be its obligations under any Definitive Notes, then any right or remedy relating in any way to the obligation(s) in question may be exercised or pursued on the basis of this temporary Global Note despite its stated cancellation after its exchange in full, as an alternative, or in addition, to the Definitive Notes (or the Coupons or Talons appertaining to them as appropriate). With this exception, upon exchange in full and cancellation of this temporary Global Note for Definitive Notes, this temporary Global Note shall become void.

### **Benefit of Conditions**

Except as otherwise specified herein, this temporary Global Note is subject to the Conditions and, until the whole of this temporary Global Note is exchanged for equivalent interests in a permanent Global Note or for Definitive Notes, the holder of this temporary Global Note shall in all respects be entitled to the same benefits as if it were the holder of the permanent Global Note (or the relevant part of it) or the Definitive Notes, as the case may be, for which it may be exchanged as if such permanent Global Note or Definitive Notes had been issued on the Issue Date.

### **Payments**

No person shall be entitled to receive any payment in respect of the Notes represented by this temporary Global Note that falls due on or after the Exchange Date unless, upon due presentation of this temporary Global Note for exchange, delivery of (or, in the case of a subsequent exchange, a corresponding entry being recorded in the records of the relevant Clearing Systems) a permanent Global Note or delivery of Definitive Notes, as the case may be, is improperly withheld or refused by or on behalf of the Issuer.

Payments due in respect of a D Rules Note before the Exchange Date shall only be made in relation to such principal amount of this temporary Global Note with respect to which there shall have been Certification dated no earlier than such due date for payment.

Any payments that are made in respect of this temporary Global Note shall be made to its holder against presentation and (if no further payment falls to be made on it) surrender of it at the specified office of the Fiscal Agent or of any other Paying Agent provided for in the Conditions and each payment so made will discharge the Issuer's obligations in respect thereof. Any failure to make the entries in the records of the relevant Clearing Systems referred to herein shall not affect such discharge. If any payment in full or in part of principal is made in respect of any Note represented by this temporary Global Note, the Issuer shall procure that details of such payment shall be entered *pro rata* in the records of the relevant Clearing Systems and, upon any such entry being made, the principal amount of the Notes recorded in the records of the relevant Clearing Systems and represented by this temporary Global Note shall be reduced by the aggregate principal amount of the Notes so redeemed. If any other payments are made in respect of the Notes represented by this temporary Global Note, the Issuer shall procure that a record of each such payment shall be entered *pro rata* in the records of the relevant Clearing Systems.

For the purposes of any payments made in respect of this temporary Global Note, the words “in the relevant place of presentation” shall not apply in the definition of “**business day**” in Condition 8(g) (*Non-Business Days*).

### **Cancellation**

On cancellation of any Note represented by this temporary Global Note that is required by the Conditions to be cancelled (other than upon its redemption), the Issuer shall procure that details of such cancellation shall be entered *pro rata* in the records of the relevant Clearing systems and, upon any such entry being made, the principal amount of the Note recorded in the records of the relevant Clearing Systems and represented by this temporary Global Note shall be reduced by the aggregate principal amount of the Notes so cancelled.

### **Events of Default**

The holder hereof may from time to time exercise the right to declare Notes represented by this temporary Global Note due and payable following an Event of Default in accordance with the Conditions by stating in a notice given to the Fiscal Agent the principal amount of Notes (which may be less than the outstanding principal amount hereof) to which such notice relates.

If principal in respect of any Notes is not paid when due (but subject as provided below), the holder of this temporary Global Note may from time to time elect that Direct Rights under the provisions of (and as defined in) the Deed of Covenant (as supplemented and/or amended as at the Issue Date, the “**Deed of Covenant**”) executed by the Issuer as of 12 May 2017 (a copy of which is available for inspection at the specified office of the Fiscal Agent and which the Issuer acknowledges to apply to the Notes represented by this temporary Global Note) shall come into effect in respect of a principal amount of Notes up to the aggregate principal amount in respect of which such failure to pay principal has occurred. Such election shall be made by notice to the Fiscal Agent and presentation of this temporary Global Note to or to the order of the Fiscal Agent. Upon each such notice being given, this temporary Global Note shall become void to the extent of the principal amount stated in such notice, save to the extent that the appropriate Direct Rights shall fail to take effect, for whatever reason.

No such election may however be made on or before the Exchange Date unless the holder elects in such notice that the exchange for such Notes shall no longer take place.

### **Notices**

Notices required to be given in respect of the Notes represented by this temporary Global Note may be given by their being delivered (so long as this temporary Global Note is held on behalf of Euroclear and/or Clearstream, Luxembourg or any other permitted clearing system) to Euroclear, Clearstream, Luxembourg or such other permitted clearing system, as the case may be, or otherwise to the holder of this temporary Global Note, rather than by publication as required by the Conditions, except that so long as the Notes are listed on the Luxembourg Stock Exchange and the rules of that exchange so require, notices shall also be published either on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)) or in a leading newspaper having general circulation in Luxembourg (which is expected to be *the Luxemburger Wort*).

No provision of this temporary Global Note shall alter or impair the obligation of the Issuer to pay the principal and premium of and interest on the Notes when due in accordance with the Conditions.

This temporary Global Note shall not be valid or become obligatory for any purpose until authenticated by or on behalf of the Fiscal Agent and effectuated by the entity appointed as Common Safekeeper by the relevant Clearing Systems.

This temporary Global Note and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.

In witness whereof the Issuer has caused this temporary Global Note to be duly signed on its behalf.

Dated as of the Issue Date.

**MERLIN PROPERTIES, SOCIMI, S.A.**

By:

### **Certificate of Authentication**

This temporary Global Note is authenticated in Luxembourg by or on behalf of the Fiscal Agent.

**SOCIÉTÉ GÉNÉRALE BANK & TRUST S.A.**

as Fiscal Agent

By:

Authorised Signatory  
For the purposes of authentication only.

### **Effectuation**

This temporary Global Note is effectuated by or on behalf of the Common Safekeeper.

**[COMMON SAFEKEEPER]**

as Common Safekeeper

By:

Authorised Signatory  
For the purposes of effectuation only.

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

## **Schedule**

[INSERT THE PROVISIONS OF THE RELEVANT FINAL TERMS THAT RELATE TO THE CONDITIONS OR THE GLOBAL NOTES AS THE SCHEDULE]



**Schedule 1**  
**Part D**  
**Form of NGN Permanent Global Note**

**MERLIN PROPERTIES, SOCIMI, S.A.**  
**(incorporated as a limited liability company (*sociedad anónima*) in the Kingdom of Spain)**  
**Euro Medium Term Note Programme**

**PERMANENT GLOBAL NOTE**  
**Permanent Global Note No. [●]**

This permanent Global Note is issued in respect of the Notes (the “**Notes**”) of the Tranche(s) and Series specified in Part A of the Schedule hereto of Merlin Properties, SOCIMI, S.A. (the “**Issuer**”).

**Interpretation and Definitions**

References in this permanent Global Note to the “Conditions” are to the Terms and Conditions applicable to the Notes (which are in the form set out in Part B of Schedule 2 to the Agency Agreement (as amended or supplemented as at the Issue Date, the “**Agency Agreement**”) dated 12 May 2017 between the Issuer, Société Générale Bank & Trust S.A. as fiscal agent and the other agents named in it, as such form is supplemented and/or modified and/or superseded by the provisions of this permanent Global Note (including the supplemental definitions and any modifications or additions set out in Part A of the Schedule hereto), which in the event of any conflict shall prevail). Other capitalised terms used in this permanent Global Note shall have the meanings given to them in the Conditions or the Agency Agreement.

The Issuer has executed a public deed (*escritura pública*) relating to the Notes dated [●] 2017 granted before the Notary of Madrid, Spain, [●] with number [●] of his/her protocol.

**Aggregate Principal Amount**

The aggregate principal amount from time to time of this permanent Global Note shall be an amount equal to the aggregate principal amount of the Notes from time to time entered in the records of both Euroclear and Clearstream, Luxembourg (together, the “**relevant Clearing Systems**”), which shall be completed and/or amended as the case may be upon (i) the exchange of the whole or a part of the interests recorded in the records of the relevant Clearing Systems in the temporary Global Note initially representing the Notes for a corresponding interest herein (in the case of Notes represented by a temporary Global Note upon issue), (ii) the issue of the Notes represented hereby (in the case of Notes represented by this permanent Global Note upon issue), (iii) the exchange of the whole or, where the limited circumstances so permit, a part of this permanent Global Note for Definitive Notes, (iv) the redemption or purchase and cancellation of Notes represented hereby, and/or (v) the exchange of interests in this permanent Global Note for direct enforcement rights, all as described below.

The records of the relevant Clearing Systems (which expression in this permanent Global Note means the records that each relevant Clearing System holds for its customers which reflect the amount of such customers’ interests in the Notes) shall be conclusive evidence of the principal amount of the Notes represented by this permanent Global Note and, for these purposes, a statement issued by a relevant Clearing Systems (which statement shall be made available to the bearer upon request) stating the principal amount of Notes represented by this permanent Global Note at any time shall be conclusive evidence of the records of the relevant Clearing System at that time.

## **Promise to Pay**

Subject as provided herein, the Issuer, for value received, promises to pay to the bearer of this permanent Global Note, upon presentation and (when no further payment is due in respect of this permanent Global Note) surrender of this permanent Global Note, on the Maturity Date (or on such earlier date as the amount payable upon redemption under the Conditions may become repayable in accordance with the Conditions) the amount payable upon redemption under the Conditions in respect of the aggregate principal amount of Notes represented by this permanent Global Note and (unless this permanent Global Note does not bear interest) to pay interest in respect of the Notes from the Interest Commencement Date in arrear at the rates, on the dates for payment, and in accordance with the method of calculation provided for in the Conditions, save that the calculation is made in respect of the total aggregate amount of the Notes, together with such other sums and additional amounts (if any) as may be payable under the Conditions, in accordance with the Conditions.

## **Exchange**

This permanent Global Note is exchangeable (free of charge to the holder) on or after the Exchange Date in whole but not, except as provided in the next paragraph, in part for the Definitive Notes (1) if this permanent Global Note is held on behalf of Euroclear or Clearstream, Luxembourg or any other permitted clearing system (an “**Alternative Clearing System**”) and any such clearing system is closed for business for a continuous period of 14 days (other than by reason of holidays, statutory or otherwise) or announces an intention permanently to cease business or does in fact do so or (2) if principal in respect of any Notes is not paid when due, by the holder giving notice to the Fiscal Agent of its election for such exchange.

This permanent Global Note is exchangeable in part (provided, however, that if this permanent Global Note is held by or on behalf of Euroclear, Clearstream, Luxembourg and/or an Alternative Clearing System, Euroclear, Clearstream, Luxembourg and/or such Alternative Clearing System, as the case may be, so permit) if principal in respect of any Notes is not paid when due.

“**Exchange Date**” means a day falling not less than 60 days, or in the case of exchange following failure to pay principal in respect of any Notes when due 30 days, after that on which the notice requiring exchange is given and on which banks are open for business in the city in which the specified office of the Fiscal Agent is located and, except in the case of exchange pursuant to (1) above, in the cities in which Euroclear and Clearstream, Luxembourg or, if relevant, the Alternative Clearing System, are located.

Any such exchange may be effected on or after an Exchange Date by the holder of this permanent Global Note surrendering this permanent Global Note or, in the case of a partial exchange, presenting it to or to the order of the Fiscal Agent. In exchange for this permanent Global Note, or part thereof to be exchanged, the Issuer shall deliver, or procure the delivery of, duly executed and authenticated Definitive Notes in an aggregate principal amount equal to the principal amount of this permanent Global Note submitted for exchange (if appropriate, having attached to them all Coupons (and, where appropriate, Talons) in respect of interest that have not already been paid on this permanent Global Note), security printed and substantially in the form set out in the Schedules to the Agency Agreement as supplemented and/or modified and/or superseded by the terms of Part A of the Schedule hereto.

On exchange in full and surrender of this permanent Global Note, the Issuer shall, if the holder so requests, procure that it is cancelled and returned to the holder together with the relevant Definitive Notes. On any exchange of a part of this permanent Global Note, the Issuer shall procure that the portion of the principal amount hereof so exchanged shall be entered *pro rata* in

the records of the relevant Clearing Systems and upon any such entry being made, the principal amount of the Notes recorded in the records of the relevant Clearing Systems and represented by this permanent Global Note shall be reduced by an amount equal to such portion so exchanged.

If, for any actual or alleged reason that would not have been applicable had there been no exchange of this permanent Global Note (or part of this permanent Global Note) or in any other circumstances whatsoever, the Issuer does not perform or comply with any one or more of what are expressed to be its obligations under any Definitive Notes, then any right or remedy relating in any way to the obligation(s) in question may be exercised or pursued on the basis of this permanent Global Note despite its stated cancellation after its exchange in full, as an alternative, or in addition, to the Definitive Notes (or the Coupons or Talons appertaining to them as appropriate). With this exception, upon exchange in full and cancellation of this permanent Global Note for Definitive Notes, this permanent Global Note shall become void.

### **Benefit of Conditions**

Except as otherwise specified herein, this permanent Global Note is subject to the Conditions and, until the whole of this permanent Global Note is exchanged for Definitive Notes, the holder of this permanent Global Note shall in all respects be entitled to the same benefits as if it were the holder of the Definitive Notes for which it may be exchanged and as if such Definitive Notes had been issued on the Issue Date.

### **Payments**

No person shall be entitled to receive any payment in respect of the Notes represented by this permanent Global Note that falls due after an Exchange Date for such Notes, unless upon due presentation of this permanent Global Note for exchange, delivery of Definitive Notes is improperly withheld or refused by or on behalf of the Issuer or the Issuer does not perform or comply with any one or more of what are expressed to be its obligations under any Definitive Notes.

Payments in respect of this permanent Global Note shall be made to its holder against presentation and (if no further payment falls to be made on it) surrender of it at the specified office of the Fiscal Agent or of any other Paying Agent provided for in the Conditions and each payment so made will discharge the Issuer's obligations in respect thereof. Any failure to make the entries in the records of the relevant Clearing Systems referred to herein shall not affect such discharge. The Issuer shall procure that details of each such payment shall be entered *pro rata* in the records of the relevant Clearing Systems and in the case of any payment of principal, and upon any such entry being made, the principal amount of the Notes recorded in the records of the relevant Clearing Systems and represented by this permanent Global Note shall be reduced by the aggregate principal amount of the Notes so redeemed. For the purposes of any payments made in respect of this permanent Global Note, the words "in the relevant place of presentation" shall not apply in the definition of "**business day**" in Condition 8(g) (*Non-Business Days*).

### **Prescription**

Claims in respect of principal and interest (as each is defined in the Conditions) in respect of this permanent Global Note shall become void unless it is presented for payment within a period of 10 years (in the case of principal) and five years (in the case of interest) from the appropriate Relevant Date.

### **Meetings**

For the purposes of any meeting of Noteholders, the holder of this permanent Global Note shall be treated as one person for the purposes of any quorum requirements of a meeting of Noteholders

and, at any such meeting, as having one vote in respect of each integral currency unit of the Specified Currency of the Notes.

### **Cancellation**

On cancellation of any Note represented by this permanent Global Note that is required by the Conditions to be cancelled (other than upon its redemption), the Issuer shall procure that details of such cancellation shall be entered *pro rata* in the records of the relevant Clearing Systems and, upon any such entry being made, the principal amount of the Notes recorded in the records of the relevant Clearing Systems and represented by this permanent Global Note shall be reduced by the aggregate principal amount of the Notes so cancelled.

### **Purchase**

Notes may only be purchased by the Issuer or any of its Subsidiaries if they are purchased together with the right to receive all future payments of interest (if any) thereon.

### **Issuer's Options**

Any option of the Issuer provided for in the Conditions shall be exercised by the Issuer giving notice to the Noteholders and the relevant Clearing Systems (or procuring that such notice is given on its behalf) within the time limits set out in and containing the information required by the Conditions, except that the notice shall not be required to contain the serial numbers of Notes drawn in the case of a partial exercise of an option and accordingly no drawing of Notes shall be required. In the case of a partial exercise of an option, the rights of accountholders with a clearing system in respect of the Notes will be governed by the standard procedures of Euroclear and/or Clearstream, Luxembourg and shall be reflected in the records of Euroclear and/or Clearstream, Luxembourg as either a pool factor or a reduction in principal amount, at their discretion. Following the exercise of any such option, the Issuer shall procure that the principal amount of the Notes recorded in the records of the relevant Clearing Systems and represented by this permanent Global Note shall be reduced accordingly.

### **Noteholders' Options**

Any option of the Noteholders provided for in the Conditions may be exercised by the holder of this permanent Global Note giving notice to the Issuer within the time limits relating to the deposit of Notes with a Paying Agent set out in the Conditions substantially in the form of the notice available from any Paying Agent, except that the notice shall not be required to contain the certificate numbers of the Notes in respect of which the option has been exercised. Following the exercise of any such option, the Issuer shall procure that the principal amount of the Notes recorded in the records of the relevant Clearing Systems and represented by this permanent Global Note shall be reduced by the aggregate principal amount stated in the relevant exercise notice.

### **Events of Default**

The holder hereof may from time to time exercise the right to declare Notes represented by this permanent Global Note due and payable following an Event of Default in accordance with the Conditions by stating in a notice given to the Fiscal Agent the principal amount of Notes (which may be less than the outstanding principal amount hereof) to which such notice relates.

If principal in respect of any Notes is not paid when due (but subject as provided below), the holder of this permanent Global Note may from time to time elect that Direct Rights under the provisions of (and as defined in) the Deed of Covenant (as supplemented and/or amended as at the Issue Date, the "**Deed of Covenant**") executed by the Issuer as of 12 May 2017 (a copy of which is available for inspection at the specified office of the Fiscal Agent and which the Issuer acknowledges to apply to the Notes represented by this permanent Global Note) shall come into

effect in respect of a principal amount of Notes up to the aggregate principal amount in respect of which such failure to pay principal has occurred. Such election shall be made by notice to the Fiscal Agent and presentation of this permanent Global Note to or to the order of the Fiscal Agent. Upon each such notice being given, this permanent Global Note shall become void to the extent of the principal amount stated in such notice, save to the extent that the appropriate Direct Rights shall fail to take effect, for whatever reason.

No such election may however be made on or before an Exchange Date unless the holder elects in such notice that the exchange for such Notes shall no longer take place.

### **Notices**

Notices required to be given in respect of the Notes represented by this permanent Global Note may be given by their being delivered (so long as this permanent Global Note is held on behalf of Euroclear and/or Clearstream, Luxembourg and/or an Alternative Clearing System) to Euroclear, Clearstream, Luxembourg and/or such Alternative Clearing System, as the case may be, or otherwise to the holder of this permanent Global Note, rather than by publication as required by the Conditions, except that so long as the Notes are listed on the Luxembourg Stock Exchange and the rules of that exchange so require, notices shall also be published either on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)) or in a leading newspaper having general circulation in Luxembourg (which is expected to be *the Luxemburger Wort*).

### **Negotiability**

This permanent Global Note is a bearer document and negotiable and accordingly:

- 1** is freely transferable by delivery and such transfer shall operate to confer upon the transferee all rights and benefits appertaining hereto and to bind the transferee with all obligations appertaining hereto pursuant to the Conditions;
- 2** the holder of this permanent Global Note is and shall be absolutely entitled as against all previous holders to receive all amounts by way of amounts payable upon redemption, interest or otherwise payable in respect of this permanent Global Note and the Issuer has waived against such holder and any previous holder of this permanent Global Note all rights of set-off or counterclaim that would or might otherwise be available to it in respect of the obligations evidenced by this Global Note; and
- 3** payment upon due presentation of this permanent Global Note as provided herein shall operate as a good discharge against such holder and all previous holders of this permanent Global Note.

No provisions of this permanent Global Note shall alter or impair the obligation of the Issuer to pay the principal and premium of and interest on the Notes when due in accordance with the Conditions.

This permanent Global Note shall not be valid or become obligatory for any purpose until authenticated by or on behalf of the Fiscal Agent and effectuated by the entity appointed as Common Safekeeper by the relevant Clearing Systems.

This permanent Global Note and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.

**In witness** whereof the Issuer has caused this permanent Global Note to be duly signed on its behalf.

Dated as of the Issue Date.

**MERLIN PROPERTIES, SOCIMI, S.A.**

By:

### **Certificate of Authentication**

This permanent Global Note is authenticated in Luxembourg by or on behalf of the Fiscal Agent.

**SOCIÉTÉ GÉNÉRALE BANK & TRUST S.A.**

as Fiscal Agent

By:

Authorised Signatory

For the purposes of authentication only.

### **Effectuation**

This permanent Global Note

is effectuated by or on behalf of the Common Safekeeper.

**[COMMON SAFEKEEPER]**

as Common Safekeeper

By:

Authorised Signatory

For the purposes of effectuation only.

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

## **The Schedule**

[INSERT THE PROVISIONS OF THE RELEVANT FINAL TERMS THAT RELATE TO THE CONDITIONS OR THE GLOBAL NOTES AS THE SCHEDULE]

**Schedule 2**  
**Part A**  
**Form of Definitive Note**

On the front:

[Denomination]      [ISIN]                      [Series]                      [Certif. No.]<sup>1</sup>

[Currency and denomination]

**MERLIN PROPERTIES, SOCIMI, S.A.**  
**(incorporated as a limited liability company (*sociedad anónima*) in the Kingdom of Spain)**  
**Euro Medium Term Note Programme**

**Series No. [●]**  
**[Title of issue]**

This Note forms one of the Series of Notes referred to above (the “**Notes**”) of Merlin Properties, SOCIMI, S.A. (the “**Issuer**”) designated as specified in the title hereof. The Notes are subject to the Terms and Conditions (the “**Conditions**”) endorsed hereon. Expressions defined in the Conditions have the same meanings in this Note.

The Issuer for value received promises to pay to the bearer of this Note, on presentation and (when no further payment is due in respect of this Note) surrender of this Note on the Maturity Date (or on such earlier date as the amount payable upon redemption under the Conditions may become payable in accordance with the Conditions) the amount payable upon redemption under the Conditions and (unless this Note does not bear interest) to pay interest from the Interest Commencement Date in arrear at the rates, in the amounts and on the dates for payment provided for in the Conditions together with such other sums and additional amounts (if any) as may be payable under the Conditions, in accordance with the Conditions.

The Issuer has executed a public deed (*escritura pública*) relating to the Notes dated [●] 2017 granted before the Notary of Madrid, Spain, [●] with number [●] of his/her protocol.

This Note shall not become valid or obligatory for any purpose until authenticated by or on behalf of the Fiscal Agent.



**In witness** whereof the Issuer has caused this Note to be signed on its behalf.

Dated as of the Issue Date.

**MERLIN PROPERTIES, SOCIMI, S.A.**

By:

Certificate of Authentication

This Note is authenticated in Luxembourg  
by or on behalf of the Fiscal Agent.

**SOCIÉTÉ GÉNÉRALE BANK & TRUST S.A.**

as Fiscal Agent

By:

Authorised Signatory

For the purposes of authentication only.

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

On the back:

**Terms and Conditions of the Notes**

[The Terms and Conditions that are set out in Part B of Schedule 2 to the Agency Agreement as amended by and incorporating any additional provisions forming part of such Terms and Conditions and set out in Part A of the relevant Final Terms will be set out here]

**Société Générale Bank & Trust S.A.**

11 Avenue Emile Reuter  
L-2420 Luxembourg

**Schedule 2**  
**Part B**  
**Terms and Conditions of the Notes**

*The following is the text of the terms and conditions that, save for the text in italics and subject to completion in accordance with the provisions of Part A of the relevant Final Terms, shall be applicable to the Notes in definitive form (if any) issued in exchange for the Global Note(s) representing each Series. Either (i) the full text of these terms and conditions together with the relevant provisions of Part A of the Final Terms or (ii) these terms and conditions as so completed (and subject to simplification by the deletion of non-applicable provisions), shall be endorsed on such Notes. All capitalised terms that are not defined in these Conditions will have the meanings given to them in Part A of the relevant Final Terms. Those definitions will be endorsed on the definitive Notes. References in the Conditions to “Notes” are to the Notes of one Series only, not to all Notes that may be issued under the Programme.*

The Notes are issued pursuant to an Agency Agreement (as amended or supplemented as at the Issue Date, the “**Agency Agreement**”) dated 12 May 2017 between the Issuer, Société Générale Bank & Trust S.A. as fiscal agent and the other agents named in it and with the benefit of a Deed of Covenant (as amended or supplemented as at the Issue Date, the “**Deed of Covenant**”) dated 12 May 2017 executed by the Issuer in relation to the Notes. The fiscal agent, the paying agents and the calculation agent(s) for the time being (if any) are referred to below respectively as the “**Fiscal Agent**”, the “**Paying Agents**” (which expression shall include the Fiscal Agent) and the “**Calculation Agent(s)**”. The Noteholders (as defined below), the holders of the interest coupons (the “**Coupons**”) relating to interest bearing Notes in bearer form and, where applicable in the case of such Notes, talons for further Coupons (the “**Talons**”) (the “**Couponholders**”) are deemed to have notice of all of the provisions of the Agency Agreement applicable to them. If so required by Spanish law, the Issuer will execute a public deed (*escritura pública*) (the “**Public Deed**”) before a Spanish public notary in relation to the Notes and will register the Public Deed with the Commercial Registry of Madrid. The Public Deed will contain, among other information, the terms and conditions of the Notes.

As used in these terms and conditions (the “**Conditions**”), “**Tranche**” means Notes which are identical in all respects.

Copies of the Agency Agreement and the Deed of Covenant are available for inspection at the specified offices of each of the Paying Agents.

**1 Form, Denomination and Title**

The Notes are issued in bearer form in each case in the Specified Denomination(s) shown in the relevant Final Terms, provided that in the case of any Notes which are to be admitted to trading on a regulated market within the European Economic Area or offered to the public in a Member State of the European Economic Area in circumstances which require the publication of a prospectus under the Prospectus Directive, the minimum Specified Denomination shall be €100,000 (or its equivalent in any other currency as at the date of issue of those Notes).

This Note is a Fixed Rate Note, a Floating Rate Note, a Zero Coupon Note or a combination of any of the foregoing, depending upon the Interest and Redemption/Payment Basis shown in the relevant Final Terms.

Notes are serially numbered and are issued with Coupons (and, where appropriate, a Talon) attached, save in the case of Zero Coupon Notes in which case references to interest (other than in relation to interest due after the Maturity Date), Coupons and Talons in these Conditions are not applicable.

Title to the Notes and to the Coupons and Talons shall pass by delivery. Except as ordered by a court of competent jurisdiction or as required by law, the holder (as defined below) of any Note, Coupon or Talon shall be deemed to be and may be treated as its absolute owner for all purposes, whether or not it is overdue and regardless of any notice of ownership, trust or an interest in it, any writing on it or its theft or loss and no person shall be liable for so treating the holder.

In these Conditions, “**Noteholder**” means the bearer of any Note, “**holder**” (in relation to a Note, Coupon or Talon) means the bearer of any Note, Coupon or Talon and capitalised terms have the meanings given to them hereon, the absence of any such meaning indicating that such term is not applicable to the Notes.

## **2 No Exchange of Notes**

Notes of one Specified Denomination may not be exchanged for Notes of another Specified Denomination.

## **3 Status of Notes**

The Notes and Coupons constitute direct, general, unconditional, unsubordinated and (subject to Condition 4) unsecured obligations of the Issuer and, in the event of insolvency (*concurso*) of the Issuer, will (unless they qualify as subordinated debts under Article 92 of Spanish Act 22/2003, of 9 July 2003 (*Ley Concursal*) (the “**Spanish Insolvency Act**”) or equivalent legal provision which replaces it in the future, and subject to any legal and statutory exceptions) rank *pari passu* without any preference among themselves and with all other outstanding unsecured and unsubordinated indebtedness and monetary obligations of the Issuer, present and future.

*In the event of insolvency (concurso) of the Issuer, under the Spanish Insolvency Act claims relating to the Notes (which are not subordinated pursuant to article 92 of the Spanish Insolvency Act) will be ordinary credits (créditos ordinarios) as defined in the Spanish Insolvency Act. Ordinary credits rank below credits against the insolvency state (créditos contra la masa) and credits with a general or special privilege (créditos con privilegio general o especial). Ordinary credits rank above subordinated credits and the rights of shareholders. Interest on the Notes accrued but unpaid as at the commencement of any insolvency proceeding (concurso) relating to the Issuer under Spanish law shall thereupon constitute subordinated obligations of the Issuer ranking below its unsecured and unsubordinated obligations. Under Spanish law, accrual of interest on the Notes shall be suspended as from the date of any declaration of insolvency (concurso) of the Issuer.*

## **4 Negative Pledge**

So long as any Note or Coupon remains outstanding (as defined in the Agency Agreement) the Issuer will not, and will ensure that none of its Subsidiaries will create, or have outstanding any mortgage, charge, lien, pledge or other security interest (each, a “**Security Interest**”), other than a Permitted Security Interest, upon the whole or any part of its present or future undertaking, assets or revenues (including any uncalled capital) to

secure any Relevant Indebtedness or to secure any guarantee or indemnity in respect of any Relevant Indebtedness without at the same time or prior thereto securing the Notes and the Coupons equally and rateably therewith or according the Notes and the Coupons such other Security Interest as shall be approved by an Extraordinary Resolution (as defined in the Agency Agreement) of the Noteholders.

In these Conditions:

**“Permitted Security Interest”** means any Security Interest created in respect of (i) any Relevant Indebtedness of an entity which, in each case after 12 May 2017, merges with the Issuer or one of its Subsidiaries or which is acquired by the Issuer or one of its Subsidiaries, provided that such security was already in existence at the time of the merger or the acquisition, was not created for the purpose of financing the merger or the acquisition and is not increased in amount or otherwise extended following the merger or the acquisition, or (ii) any Refinancing Relevant Indebtedness;

**“Refinancing Relevant Indebtedness”** means any Relevant Indebtedness incurred by Tree Inversiones Inmobiliarias SOCIMI, S.A.U. to refinance the indebtedness under the senior facility agreement entered into on 23 September 2009 between Tree Inversiones Inmobiliarias SOCIMI, S.A.U., as borrower, and a syndicate of financing entities, as lenders;

**“Relevant Indebtedness”** means any present or future indebtedness which is in the form of, or represented or evidenced by, bonds, notes, debentures, loan stock or other securities which for the time being are, or are intended to be (with the consent of the issuer thereof), quoted, listed or dealt in or traded on any stock exchange or over-the-counter or other securities market; and

**“Subsidiary”** means in relation to any company, corporation or other legal entity, (a “holding company”), a company, corporation or other legal entity:

- (a) which is controlled, directly or indirectly, by the holding company;
- (b) more than half the issued share capital of which is beneficially owned, directly or indirectly, by the holding company; or
- (c) which is a subsidiary of another Subsidiary of the holding company,

and, for this purpose, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to determine the composition of the majority of its board of directors or equivalent body.

## 5 Covenants

For so long as any Note or Coupon remains outstanding (as defined in the Agency Agreement), the Issuer undertakes that:

- (a) **Financial Condition:**
  - (i) **Loan to Value Ratio:** the Loan to Value Ratio will not at any time exceed 60 per cent.;
  - (ii) **Interest Cover:** the Interest Cover for each Relevant Period will not be less than 2.5; and

- (iii) **Unencumbered Ratio:** the Unencumbered Ratio will not at any time be less than 125 per cent.

The financial covenant calculations set out in paragraphs (i), (ii) and (iii) of this Condition 5(a), in each case, shall be calculated and interpreted on a consolidated basis in accordance with IFRS-EU and shall be expressed in euro;

- (b) **Reports:** the Issuer will post on its website:
  - (i) within 180 days after the end of each of the Issuer's fiscal years, annual reports containing the following information:
    - (x) audited consolidated financial statements prepared in accordance with IFRS-EU; and
    - (y) the related audit report of the Independent Auditors on the consolidated financial statements; and
  - (ii) within 120 days after the end of each half of each fiscal year of the Issuer, unaudited consolidated semi-annual financial statements prepared in accordance with International Accounting Standard 34, Interim Financial Reporting, as adopted by the European Union.

This Condition 5(b) shall not apply for so long as the Issuer's ordinary shares are listed on an EEA Regulated Market;

- (c) **Compliance Certificates:**
  - (i) the Issuer will deliver to the Noteholders through the Fiscal Agent promptly following the publication of each set of Financial Statements, a certificate (a "**Compliance Certificate**") setting out (in reasonable detail) computations as to the compliance by the Issuer, as at the relevant Reporting Date, with the covenants set out in paragraphs (i), (ii) and (iii) of Condition 5(a);
  - (ii) each Compliance Certificate shall be signed by a duly authorised representative of the Issuer; and
  - (iii) each Compliance Certificate that is delivered in connection with publication of an annual report of the Issuer pursuant to Condition 5(b)(i) shall be reported on by the Independent Auditors on the proper extraction of the numbers used in the financial covenant calculations; and

In these Conditions:

**"EEA Regulated Market"** means a regulated market for the purposes of the Markets in Financial Instruments Directive 2004/39/EC which is situated in the European Economic Area;

**"Excluded Subsidiaries"** means Tree Inversiones Inmobiliarias SOCIMI, S.A.U. and any other Subsidiary of the Issuer whose gross asset value from residential real estate business represents at least 75% of its gross asset value, calculated on the same basis as the Gross Assets Value;

**"Facility Agreement"** means the facilities agreement entered into by the Issuer with certain financial institutions on 20 December 2015, as novated and modified on 24 October 2016, which as at 31 December 2016 had a maximum amount of €1,790,000,000;

**“Financial Indebtedness”** means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with IFRS-EU, be treated as a finance or capital lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition required by IFRS-EU to be shown as borrowing in the consolidated statement of financial position of the Group;
- (g) any amounts due and payable under any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price;
- (h) any shares which are expressed to be redeemable (*acciones rescatables*); and
- (i) without double counting any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (j) without double counting the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (i) above.

**“Financial Statements”** means the audited annual consolidated financial statements (including the management report) of the Issuer, prepared in accordance with IFRS-EU, or, as the case may be, the unaudited consolidated semi-annual financial statements (including the management report) of the Issuer, prepared in accordance with International Accounting Standard 34, Interim Financial Reporting, as adopted by the European Union in each case as published by the Issuer as at a Reporting Date;

**“Gross Assets Value”** means, as at each Reporting Date, the value of the assets owned by the Group (valued on a current market basis) based on the most recent Valuation delivered by the Valuer (adjusted, for assets owned by a non-wholly-owned Subsidiary of the Issuer (other than Testa), by the relevant percentage of the participation of the Issuer in the share capital of that Subsidiary) plus the book value of any advanced payments already made by the Group in respect of assets to be acquired by it and where there is already in place a binding commitment for the relevant seller to sell such asset to the Group, as shown in the Financial Statements published by the Issuer as at the relevant Reporting Date;

**“Group”** means the Issuer and its Subsidiaries for the time being;

**“Hedging Agreement”** means the master agreement, confirmation, schedule or other agreement in agreed form entered into or to be entered into by the Issuer for the purpose of hedging interest payable under the Facility Agreement;

**“IFRS-EU”** means International Financial Reporting Standards as adopted by the European Union;

**“Independent Auditors”** means the Issuer’s independent auditors, currently Deloitte, S.L.;

**“Initial Valuation”** means the valuation of all real estate assets of the Group prepared by independent appraisers as of 31 December 2016;

**“Interest Cover”** means, for any Relevant Period, the ratio of net operating income to finance costs for that Relevant Period. For the purposes of this definition:

- (a) **“finance costs”** means the aggregate amount of interest and periodic fees, including periodic payments under the Hedging Agreements or other derivative transactions, payable in relation to the Financial Indebtedness of members of the Group (adjusted, for finance costs of a non-wholly-owned Subsidiary of the Issuer (other than Testa), by the relevant percentage of the participation of the Issuer in the share capital of that Subsidiary); and
- (b) **“net operating income”** means in relation to any Relevant Period, the net consolidated operating income of the Group for that Relevant Period (adjusted, for net operating income of a non-wholly-owned Subsidiary of the Issuer (other than Testa), by the relevant percentage of the participation of the Issuer in the share capital of that Subsidiary);

**“Loan to Value Ratio”** means the ratio, expressed as a percentage, of Total Net Debt to Gross Assets Value;

**“Material Subsidiary”** means Testa and any other Subsidiary wholly owned by the Issuer (other than the Excluded Subsidiaries) which has earnings before interest, tax, depreciation and amortisation calculated on the same basis as EBITDA representing 10 per cent. or more of EBITDA or has gross assets or turnover (excluding intra-Group items) representing 10 per cent. or more of the gross assets or turnover of the Group, calculated on a consolidated basis of the Restricted Group;

**“Reporting Date”** means an accounts date for which audited annual consolidated financial statements of the Issuer, prepared in accordance with IFRS-EU, have been published by the Issuer or unaudited consolidated semi-annual financial statements of the Issuer, prepared in accordance with International Accounting Standard 34, Interim Financial Reporting, as adopted by the European Union, have been published by the Issuer, being on the date of this Base Prospectus, 30 June and 31 December in each year;

**“Relevant Period”** means (i) the 12-month period prior to each Reporting Date that is the accounts date for which annual consolidated financial statements of the Issuer have been published and (ii) the 6-month period prior to each Reporting Date that is the accounts date for which unaudited consolidated semi-annual financial statements have been published by the Issuer, save that no Relevant Period shall be deemed to have commenced prior to 1 January 2017;

**“Restricted Group”** means the Group excluding the Excluded Subsidiaries;

**“Security”** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;

**“Testa”** means Testa Inmuebles en Renta, SOCIMI, S.A.;



**“Total Net Debt”** means any outstanding amounts in respect of the Financial Indebtedness of the Group (adjusted, for the Financial Indebtedness of any non-wholly-owned Subsidiaries of the Issuer (other than Testa), by the relevant percentage of the participation of the Issuer in the share capital of that Subsidiary) deducting an amount of cash (at bank or at hand) or cash equivalents held by the Group (adjusted, for the amount of cash (at bank or at hand) or cash equivalents of any non-wholly-owned Subsidiaries of the Issuer (other than Testa), by the relevant percentage of the participation of the Issuer in the share capital of that Subsidiary) as of the relevant date;

**“Unencumbered Total Assets”** means the value of the real estate assets owned by the Restricted Group (adjusted, for assets owned by a non-wholly-owned Subsidiary of the Issuer (other than Testa), by the relevant percentage of the participation of the Issuer in the share capital of that Subsidiary) from time to time in accordance with the most recent Valuation delivered by the Valuer which are not subject to a Security;

**“Unsecured Debt”** means the Financial Indebtedness of the Restricted Group (adjusted, for the Financial Indebtedness of any non-wholly-owned Subsidiaries of the Issuer (other than Testa), by the relevant percentage of the participation of the Issuer in the share capital of that Subsidiary) that is not secured by a Security over any assets of the Restricted Group; and

**“Unencumbered Ratio”** means the ratio, expressed as a percentage, of Unencumbered Total Assets to Unsecured Debt;

**“Valuation”** means the Initial Valuation and any other valuation of all real estate assets of the Group showing the relevant market value of such assets, as of the relevant Reporting Date, prepared by a Valuer; and

**“Valuer”** means Savills, CBRE, Jones Lang Lasalle, Aguirre Newman, Knight Frank, Cushman & Wakefield, BNP Paribas Real Estate and Colliers or any other valuer appointed by the Issuer.

## **6 Interest and other Calculations**

- (a) **Interest on Fixed Rate Notes:** Each Fixed Rate Note bears interest on its outstanding principal amount from and including the Interest Commencement Date at the rate per annum (expressed as a percentage) equal to the Rate of Interest, such interest being payable in arrear on each Interest Payment Date. The amount of interest payable shall be determined in accordance with Condition 6(f).
- (b) **Interest on Floating Rate Notes:**
  - (i) *Interest Payment Dates:* Each Floating Rate Note bears interest on its outstanding principal amount from and including the Interest Commencement Date at the rate per annum (expressed as a percentage) equal to the Rate of Interest, such interest being payable in arrear on each Interest Payment Date. The amount of interest payable shall be determined in accordance with Condition 6(f). Such Interest Payment Date(s) is/are either shown in the relevant Final Terms as Specified Interest Payment Dates or, if no Specified Interest Payment Date(s) is/are shown in the relevant Final Terms, Interest Payment Date shall mean each date which falls the number of months or other period shown in the relevant Final Terms as the Interest Period after the preceding Interest Payment Date or,

in the case of the first Interest Payment Date, after the Interest Commencement Date.

(ii) *Business Day Convention*: If any date referred to in these Conditions that is specified to be subject to adjustment in accordance with a Business Day Convention would otherwise fall on a day that is not a Business Day, then, if the Business Day Convention specified is (A) the Floating Rate Business Day Convention, such date shall be postponed to the next day that is a Business Day unless it would thereby fall into the next calendar month, in which event (x) such date shall be brought forward to the immediately preceding Business Day and (y) each subsequent such date shall be the last Business Day of the month in which such date would have fallen had it not been subject to adjustment, (B) the Following Business Day Convention, such date shall be postponed to the next day that is a Business Day, (C) the Modified Following Business Day Convention, such date shall be postponed to the next day that is a Business Day unless it would thereby fall into the next calendar month, in which event such date shall be brought forward to the immediately preceding Business Day or (D) the Preceding Business Day Convention, such date shall be brought forward to the immediately preceding Business Day.

(iii) *Rate of Interest for Floating Rate Notes*: The Rate of Interest in respect of Floating Rate Notes for each Interest Accrual Period shall be determined in the manner specified in the relevant Final Terms and the provisions below relating to either ISDA Determination or Screen Rate Determination shall apply, depending upon which is specified in the relevant Final Terms.

A. ISDA Determination for Floating Rate Notes

Where ISDA Determination is specified in the relevant Final Terms as the manner in which the Rate of Interest is to be determined, the Rate of Interest for each Interest Accrual Period shall be determined by the Calculation Agent as a rate equal to the relevant ISDA Rate. For the purposes of this sub-paragraph A., “**ISDA Rate**” for an Interest Accrual Period means a rate equal to the Floating Rate that would be determined by the Calculation Agent under a Swap Transaction under the terms of an agreement incorporating the ISDA Definitions and under which:

- (a) the Floating Rate Option is as specified in the relevant Final Terms;
- (b) the Designated Maturity is a period specified in the relevant Final Terms; and
- (c) the relevant Reset Date is the first day of that Interest Accrual Period unless otherwise specified in the relevant Final Terms.

For the purposes of this sub-paragraph A., “**Floating Rate**”, “**Calculation Agent**”, “**Swap Transaction**”, “**Floating Rate Option**”, “**Designated Maturity**” and “**Reset Date**” have the meanings given to those terms in the ISDA Definitions.

B. Screen Rate Determination for Floating Rate Notes

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

(1) the offered quotation; or

(2) the arithmetic mean of the offered quotations,

(expressed as a percentage rate per annum) for the Reference Rate which appears or appear, as the case may be, on the Relevant Screen Page as at either 11.00 a.m. (London time in the case of LIBOR or Brussels time in the case of EURIBOR) on the Interest Determination Date in question as determined by the Calculation Agent. If five or more of such offered quotations are available on the Relevant Screen Page, the highest (or, if there is more than one such highest quotation, one only of such quotations) and the lowest (or, if there is more than one such lowest quotation, only one of such quotations) shall be disregarded by the Calculation Agent for the purpose of determining the arithmetic mean of such offered quotations.

If the Reference Rate from time to time in respect of Floating Rate Notes is specified in the relevant Final Terms as being other than LIBOR or EURIBOR, the Rate of Interest in respect of such Notes will be determined as provided in the relevant Final Terms.

(y) If the Relevant Screen Page is not available or, if sub-paragraph (x)(1) applies and no such offered quotation appears on the Relevant Screen Page, or, if sub-paragraph (x)(2) applies and fewer than three such offered quotations appear on the Relevant Screen Page, in each case as at the time specified above, subject as provided below, the Calculation Agent shall request, if the Reference Rate is LIBOR, the principal London office of each of the Reference Banks or, if the Reference Rate is EURIBOR, the principal Euro-zone office of each of the Reference Banks, to provide the Calculation Agent with its offered quotation (expressed as a percentage rate per annum) for the Reference Rate if the Reference Rate is LIBOR, at approximately 11.00 a.m. (London time), or if the Reference Rate is EURIBOR, at approximately 11.00 a.m. (Brussels time) on the Interest Determination Date in question. If two or more of the Reference Banks provide the Calculation Agent with such offered quotations, the Rate of Interest for such Interest Accrual Period shall be the arithmetic mean of such offered quotations as determined by the Calculation Agent; and

(z) If paragraph (y) above applies and the Calculation Agent determines that fewer than two Reference Banks are

providing offered quotations, subject as provided below, the Rate of Interest shall be the arithmetic mean of the rates per annum (expressed as a percentage) as communicated to (and at the request of) the Calculation Agent by the Reference Banks or any two or more of them, at which such banks were offered, if the Reference Rate is LIBOR, at approximately 11.00 a.m. (London time) or, if the Reference Rate is EURIBOR, at approximately 11.00 a.m. (Brussels time) on the relevant Interest Determination Date, deposits in the Specified Currency for a period equal to that which would have been used for the Reference Rate by leading banks in, if the Reference Rate is LIBOR, the London inter-bank market or, if the Reference Rate is EURIBOR, the Euro-zone inter-bank market, as the case may be, or, if fewer than two of the Reference Banks provide the Calculation Agent with such offered rates, the offered rate for deposits in the Specified Currency for a period equal to that which would have been used for the Reference Rate, or the arithmetic mean of the offered rates for deposits in the Specified Currency for a period equal to that which would have been used for the Reference Rate, at which, if the Reference Rate is LIBOR, at approximately 11.00 a.m. (London time) or, if the Reference Rate is EURIBOR, at approximately 11.00 a.m. (Brussels time), on the relevant Interest Determination Date, any one or more banks (which bank or banks is or are in the opinion of the Issuer suitable for such purpose) informs the Calculation Agent it is quoting to leading banks in, if the Reference Rate is LIBOR, the London inter-bank market or, if the Reference Rate is EURIBOR, the Euro-zone inter-bank market, as the case may be, provided that, if the Rate of Interest cannot be determined in accordance with the foregoing provisions of this paragraph, the Rate of Interest shall be determined as at the last preceding Interest Determination Date (though substituting, where a different Margin or Maximum or Minimum Rate of Interest is to be applied to the relevant Interest Accrual Period from that which applied to the last preceding Interest Accrual Period, the Margin or Maximum or Minimum Rate of Interest relating to the relevant Interest Accrual Period, in place of the Margin or Maximum or Minimum Rate of Interest relating to that last preceding Interest Accrual Period).

C. Linear Interpolation

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

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

**“Applicable Maturity”** means: (a) in relation to Screen Rate Determination, the period of time designated in the Reference Rate, and (b) in relation to ISDA Determination, the Designated Maturity.

- (c) **Zero Coupon Notes:** Where a Note the Interest Basis of which is specified to be Zero Coupon is repayable prior to the Maturity Date and is not paid when due, the amount due and payable prior to the Maturity Date shall be the Early Redemption Amount of such Note. As from the Maturity Date, the Rate of Interest for any overdue principal of such a Note shall be a rate per annum (expressed as a percentage) equal to the Amortisation Yield (as described in Condition 7(b)(i)).
- (d) **Accrual of Interest:** Interest shall cease to accrue on each Note on the due date for redemption unless, upon due presentation, payment is improperly withheld or refused, in which event interest shall continue to accrue (both before and after judgement) at the Rate of Interest in the manner provided in this Condition 6 to the Relevant Date (as defined in Condition 9).
- (e) **Margin, Maximum/Minimum Rates of Interest, Redemption Amounts and Rounding:**
  - (i) If any Margin is specified in the relevant Final Terms (either (x) generally, or (y) in relation to one or more Interest Accrual Periods), an adjustment shall be made to all Rates of Interest, in the case of (x), or the Rates of Interest for the specified Interest Accrual Periods, in the case of (y), calculated in accordance with Condition 6(b) above by adding (if a positive number) or subtracting the absolute value (if a negative number) of such Margin subject always to the next paragraph;
  - (ii) If any Maximum or Minimum Rate of Interest or Redemption Amount is specified in the relevant Final Terms, then any Rate of Interest or Redemption Amount shall be subject to such maximum or minimum, as the case may be; or
  - (iii) For the purposes of any calculations required pursuant to these Conditions (unless otherwise specified), (x) all percentages resulting from such calculations shall be rounded, if necessary, to the nearest one hundred-thousandth of a percentage point (with 0.000005 of a percentage point being rounded up), (y) all figures shall be rounded to seven significant figures (with 0.000005 of a percentage point being rounded up) and (z) all currency amounts that fall due and payable shall be rounded to the nearest

unit of such currency (with half a unit being rounded up), save in the case of yen, which shall be rounded down to the nearest yen. For these purposes “unit” means the lowest amount of such currency that is available as legal tender in the countries of such currency.

- (f) **Calculations:** The amount of interest payable per Calculation Amount in respect of any Note for any Interest Accrual Period shall be equal to the product of the Rate of Interest, the Calculation Amount specified in the relevant Final Terms, and the Day Count Fraction for such Interest Accrual Period, unless an Interest Amount (or a formula for its calculation) is applicable to such Interest Accrual Period, in which case the amount of interest payable per Calculation Amount in respect of such Note for such Interest Accrual Period shall equal such Interest Amount (or be calculated in accordance with such formula). Where any Interest Period comprises two or more Interest Accrual Periods, the amount of interest payable per Calculation Amount in respect of such Interest Period shall be the sum of the Interest Amounts payable in respect of each of those Interest Accrual Periods. In respect of any other period for which interest is required to be calculated, the provisions above shall apply save that the Day Count Fraction shall be for the period for which interest is required to be calculated.
- (g) **Determination and Publication of Rates of Interest, Interest Amounts, Final Redemption Amounts, Early Redemption Amounts, Optional Redemption Amounts and Acquisition Call Redemption Amounts:** The Calculation Agent shall, as soon as practicable on such date as the Calculation Agent may be required to calculate any rate or amount, obtain any quotation or make any determination or calculation, determine such rate and calculate the Interest Amounts for the relevant Interest Accrual Period, calculate the Final Redemption Amount, Early Redemption Amount, Optional Redemption Amount or Acquisition Call Redemption Amount, obtain such quotation or make such determination or calculation, as the case may be, and cause the Rate of Interest and the Interest Amounts for each Interest Accrual Period and the relevant Interest Payment Date and, if required to be calculated, the Final Redemption Amount, Early Redemption Amount, Optional Redemption Amount or Acquisition Call Redemption Amount to be notified to the Fiscal Agent, the Issuer, each of the Paying Agents, the Noteholders, any other Calculation Agent appointed in respect of the Notes that is to make a further calculation upon receipt of such information and, if the Notes are listed on a stock exchange and the rules of such exchange or other relevant authority so require, such exchange or other relevant authority as soon as possible after their determination but in no event later than (i) the commencement of the relevant Interest Period, if determined prior to such time, in the case of notification to such exchange of a Rate of Interest and Interest Amount, or (ii) in all other cases, the fourth Business Day after such determination. Where any Interest Payment Date or Interest Period Date is subject to adjustment pursuant to Condition 6(b)(ii), the Interest Amounts and the Interest Payment Date so published may subsequently be amended (or appropriate alternative arrangements made by way of adjustment) without notice in the event of an extension or shortening of the Interest Period. If the Notes become due and payable under Condition 11, the accrued interest and the Rate of Interest payable in respect of the Notes shall nevertheless continue to be calculated as previously in accordance with this Condition but no publication of the Rate of Interest or the Interest Amount

so calculated need be made. The determination of any rate or amount, the obtaining of each quotation and the making of each determination or calculation by the Calculation Agent(s) shall (in the absence of manifest error) be final and binding upon all parties.

- (h) **Definitions:** In these Conditions, unless the context otherwise requires, the following defined terms shall have the meanings set out below:

**“Business Day”** means:

- (i) in the case of a currency other than euro, a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets settle payments in the principal financial centre for such currency; and/or
- (ii) in the case of euro, a day on which the TARGET System is operating (a **“TARGET Business Day”**); and/or
- (iii) in the case of a currency and/or one or more Business Centres, a day (other than a Saturday or a Sunday) on which commercial banks and foreign exchange markets settle payments in such currency in the Business Centre(s) or, if no currency is indicated, generally in each of the Business Centres;

**“Day Count Fraction”** means, in respect of the calculation of an amount of interest on any Note for any period of time (from and including the first day of such period to but excluding the last) (whether or not constituting an Interest Period or an Interest Accrual Period, the **“Calculation Period”**):

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

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

where:

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

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

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

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

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

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

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

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

where:

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

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

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

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

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

“D<sub>2</sub>” is the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless such number would be 31, in which case D<sub>2</sub> will be 30.

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

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

where:



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

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

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

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

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

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

- (viii) if “**Actual/Actual-ICMA**” is specified in the relevant Final Terms,
- A. if the Calculation Period is equal to or shorter than the Determination Period during which it falls, the number of days in the Calculation Period divided by the product of (x) the number of days in such Determination Period and (y) the number of Determination Periods normally ending in any year; and
  - B. if the Calculation Period is longer than one Determination Period, the sum of:
    - (aa) the number of days in such Calculation Period falling in the Determination Period in which it begins divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Periods normally ending in any year; and
    - (bb) the number of days in such Calculation Period falling in the next Determination Period divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Periods normally ending in any year,

where:

“**Determination Period**” means the period from and including a Determination Date in any year to but excluding the next Determination Date; and

“**Determination Date**” means the date(s) specified as such in the relevant Final Terms or, if none is so specified, the Interest Payment Date(s);

“**EURIBOR**” means, in respect of any specified currency and any specified period, the interest rate benchmark known as the Euro-zone interbank offered rate which is

calculated and published by a designated distributor in accordance with the requirements from time to time of the European Banking Federation based on estimated interbank borrowing rates for a number of designated currencies and maturities which are provided, in respect of each such currency, by a panel of contributor banks (details of historic EURIBOR rates can be obtained from the designated distributor);

**“Euro-zone”** means the region comprised of member states of the European Union that adopt the single currency in accordance with the Treaty establishing the European Community, as amended;

**“Interest Accrual Period”** means the period beginning on and including the Interest Commencement Date and ending on but excluding the first Interest Period Date and each successive period beginning on and including an Interest Period Date and ending on but excluding the next succeeding Interest Period Date;

**“Interest Amount”** means:

- (i) in respect of an Interest Accrual Period, the amount of interest payable per Calculation Amount for that Interest Accrual Period and which, in the case of Fixed Rate Notes, and unless otherwise specified in the relevant Final Terms, shall mean the Fixed Coupon Amount or Broken Amount specified in the relevant Final Terms as being payable on the Interest Payment Date ending the Interest Period of which such Interest Accrual Period forms part; and
- (ii) in respect of any other period, the amount of interest payable per Calculation Amount for that period;

**“Interest Commencement Date”** means the Issue Date or such other date as may be specified in the relevant Final Terms;

**“Interest Determination Date”** means, with respect to a Rate of Interest and Interest Accrual Period, the date specified as such in the relevant Final Terms or, if none is so specified, (i) the first day of such Interest Accrual Period if the Specified Currency is Sterling or (ii) the day falling two Business Days in London for the Specified Currency prior to the first day of such Interest Accrual Period if the Specified Currency is neither Sterling nor euro or (iii) the day falling two TARGET Business Days prior to the first day of such Interest Accrual Period if the Specified Currency is euro;

**“Interest Period”** means the period beginning on and including the Interest Commencement Date and ending on but excluding the first Interest Payment Date and each successive period beginning on and including an Interest Payment Date and ending on but excluding the next succeeding Interest Payment Date unless otherwise specified in the relevant Final Terms;

**“Interest Period Date”** means each Interest Payment Date unless otherwise specified in the relevant Final Terms;

**“ISDA Definitions”** means the 2006 ISDA Definitions, as published by the International Swaps and Derivatives Association, Inc., unless otherwise specified in the relevant Final Terms;

“**LIBOR**” means, in respect of any specified currency and any specified period, the interest rate benchmark known as the London interbank offered rate which is calculated and published by a designated distributor in accordance with the requirements from time to time of ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) based on estimated interbank borrowing rates for a number of designated currencies and maturities which are provided, in respect of each such currency, by a panel of contributor banks (details of historic LIBOR rates can be obtained from the designated distributor);

“**Rate of Interest**” means the rate of interest payable from time to time in respect of this Note and that is either specified or calculated in accordance with the provisions in the relevant Final Terms;

“**Reference Banks**” means, in the case of a determination of LIBOR, the principal London office of four major banks in the London inter-bank market and, in the case of a determination of EURIBOR, the principal Euro-zone office of four major banks in the Euro-zone interbank market, in each case selected by the Calculation Agent or as specified in the relevant Final Terms;

“**Reference Rate**” means the rate specified as such in the relevant Final Terms;

“**Relevant Screen Page**” means such page, section, caption, column or other part of a particular information service as may be specified in the relevant Final Terms (or any successor or replacement page, section, caption, column or other part of a particular information service);

“**Specified Currency**” means the currency specified as such in the relevant Final Terms or, if none is specified, the currency in which the Notes are denominated; and

“**TARGET System**” means the Trans-European Automated Real-Time Gross Settlement Express Transfer (known as TARGET2) System which was launched on 19 November 2007 or any successor thereto.

- (i) **Change of Interest Basis:** If Change of Interest Basis is specified in the relevant Final Terms as being applicable, the Final Terms will indicate the relevant Interest Periods to which the Fixed Rate Note provisions, Floating Rate Note provisions and/or Zero Coupon Note provisions shall apply.
- (j) **Calculation Agent:** The Issuer shall procure that there shall at all times be one or more Calculation Agents if provision is made for them in the relevant Final Terms and for so long as any Note is outstanding (as defined in the Agency Agreement). Where more than one Calculation Agent is appointed in respect of the Notes, references in these Conditions to the Calculation Agent shall be construed as each Calculation Agent performing its respective duties under the Conditions. If the Calculation Agent is unable or unwilling to act as such or if the Calculation Agent fails duly to establish the Rate of Interest for an Interest Accrual Period or to calculate any Interest Amount, Final Redemption Amount, Early Redemption Amount or Optional Redemption Amount, as the case may be, or to comply with any other requirement, the Issuer shall appoint a leading bank or financial institution engaged in the interbank market (or, if appropriate, money, swap or over-the-counter index options market) that is most closely connected with the

calculation or determination to be made by the Calculation Agent (acting through its principal London office or any other office actively involved in such market) to act as such in its place. The Calculation Agent may not resign its duties without a successor having been appointed as aforesaid.

## **7 Redemption, Purchase and Options**

### **(a) Final Redemption:**

Unless previously redeemed, purchased and cancelled as provided below, each Note shall be finally redeemed on the Maturity Date specified in the relevant Final Terms at its Final Redemption Amount (which, unless otherwise provided, shall be its principal amount and in any event shall be at a price equal to or greater than 100 per cent. of the principal amount of the Note).

### **(b) Early Redemption:**

#### **(i) *Zero Coupon Notes:***

- A. The Early Redemption Amount payable in respect of any Zero Coupon Note, upon redemption of such Note pursuant to Condition 7(c), Condition 7(d) or Condition 7(e) or upon it becoming due and payable as provided in Condition 11 shall be the Amortised Face Amount (calculated as provided below) of such Note unless otherwise specified in the relevant Final Terms
- B. Subject to the provisions of sub-paragraph C. below, the Amortised Face Amount of any such Note shall be the scheduled Final Redemption Amount of such Note on the Maturity Date discounted at a rate per annum (expressed as a percentage) equal to the Amortisation Yield (which, if none is shown in the relevant Final Terms, shall be such rate as would produce an Amortised Face Amount equal to the issue price of the Notes if they were discounted back to their issue price on the Issue Date) compounded annually.
- C. If the Early Redemption Amount payable in respect of any such Note upon its redemption pursuant to Condition 7(c), Condition 7(d) or Condition 7(e) or upon it becoming due and payable as provided in Condition 11 is not paid when due, the Early Redemption Amount due and payable in respect of such Note shall be the Amortised Face Amount of such Note as defined in sub-paragraph B. above, except that such sub-paragraph shall have effect as though the date on which the Note becomes due and payable were the Relevant Date. The calculation of the Amortised Face Amount in accordance with this sub-paragraph shall continue to be made (both before and after judgement) until the Relevant Date, unless the Relevant Date falls on or after the Maturity Date, in which case the amount due and payable shall be the scheduled Final Redemption Amount of such Note on the Maturity Date together with any interest that may accrue in accordance with Condition 6(c).

Where such calculation is to be made for a period of less than one year, it shall be made on the basis of the Day Count Fraction shown in the relevant Final Terms.

- (ii) **Other Notes:** The Early Redemption Amount payable in respect of any Note (other than Notes described in (i) above), upon redemption of such Note pursuant to Condition 7(c), Condition 7(d) or Condition 7(e) or upon it becoming due and payable as provided in Condition 11, shall be the Final Redemption Amount unless otherwise specified in the relevant Final Terms.
- (c) **Redemption for Taxation Reasons:** The Notes may be redeemed at the option of the Issuer in whole, but not in part, on any Interest Payment Date (if this Note is a Floating Rate Note) or, at any time, (if this Note is not a Floating Rate Note), on giving not less than 30 nor more than 60 days' notice to the Noteholders (which notice shall be irrevocable), at their Early Redemption Amount (as described in Condition 7(b) above) (together with interest accrued to the date fixed for redemption), if (i) the Issuer has or will become obliged to pay additional amounts as provided or referred to in Condition 9 as a result of any change in, or amendment to, the laws or regulations of Spain or any political subdivision or any authority thereof or therein having power to tax, or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the date on which agreement is reached to issue the first Tranche of the Notes, and (ii) such obligation cannot be avoided by the Issuer taking reasonable measures available to it, provided that no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Issuer would be obliged to pay such additional amounts were a payment in respect of the Notes then due. Prior to the publication of any notice of redemption pursuant to this Condition 7(c), the Issuer shall deliver to the Fiscal Agent a certificate signed by two directors of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred, and an opinion of independent legal advisers of recognised standing to the effect that the Issuer has or will become obliged to pay such additional amounts as a result of such change or amendment.
- (d) **Redemption at the Option of the Issuer:** If Call Option is specified in the relevant Final Terms, the Issuer may, on giving not less than 15 nor more than 30 days' irrevocable notice to the Noteholders (or such other notice period as may be specified in the relevant Final Terms) redeem, all or, if so provided, some, of the Notes on any Optional Redemption Date. Any such redemption of Notes shall be at their Optional Redemption Amount specified in the relevant Final Terms (which may be the Early Redemption Amount (as described in Condition 7(b) above)), together with interest accrued to the date fixed for redemption. Any such redemption or exercise must relate to Notes of a principal amount at least equal to the Minimum Redemption Amount to be redeemed specified in the relevant Final Terms and no greater than the Maximum Redemption Amount to be redeemed specified in the relevant Final Terms.

The Optional Redemption Amount will either be the Early Redemption Amount (as described in Condition 7(b) above) or, if Make-whole Amount is specified in the relevant Final Terms, will be the higher of (a) 100 per cent. of the principal amount

outstanding of the Notes to be redeemed and (b) the sum of the present values of the principal amount outstanding of the Notes to be redeemed and the Remaining Term Interest on such Notes (exclusive of interest accrued to the date of redemption) discounted to the date of redemption on an annual basis at (i) the Reference Note Rate plus the Redemption Margin or (ii) the Discount Rate, in each case as specified in the relevant Final Terms. If the Make-whole Exemption Period is specified as applicable and the Issuer gives notice to redeem the Notes during the Make-whole Exemption Period, the Optional Redemption Amount will be 100 per cent. of the principal amount outstanding of the Notes to be redeemed.

All Notes in respect of which any such notice is given shall be redeemed on the date specified in such notice in accordance with this Condition 7(d).

In the case of a partial redemption the notice to Noteholders shall also contain the certificate numbers of the Notes to be redeemed, which shall have been drawn in such place and in such manner as may be fair and reasonable in the circumstances, taking account of prevailing market practices, subject to compliance with any applicable laws and stock exchange or other relevant authority requirements.

In these Conditions:

**“Discount Rate”** will be as set out in the relevant Final Terms.

**“FA Selected Note”** means a government security or securities selected by the Financial Adviser as having an actual or interpolated maturity comparable with the remaining term of the Notes that would be utilised, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities denominated in the same currency as the Notes and of a comparable maturity to the remaining term of the Notes.

**“Financial Adviser”** means the entity so specified in the relevant Final Terms or, if not so specified or if such entity is unable or unwilling to act, any financial adviser selected by the Issuer.

**“Make-whole Exemption Period”** will be as set out in the relevant Final Terms.

**“Redemption Margin”** will be as set out in the relevant Final Terms.

**“Reference Note”** shall be the note so specified in the relevant Final Terms or, if not so specified or if no longer available, the FA Selected Note.

**“Reference Note Price”** means, with respect to any date of redemption: (a) the arithmetic average of the Reference Government Note Dealer Quotations for such date of redemption, after excluding the highest and lowest such Reference Government Note Dealer Quotations or (b) if the Financial Adviser obtains fewer than four such Reference Government Note Dealer Quotations, the arithmetic average of all such quotations.

**“Reference Note Rate”** means, with respect to any date of redemption, the rate per annum equal to the annual or semi-annual yield (as the case may be) to maturity or interpolated yield to maturity (on the relevant day count basis) of the Reference Note, assuming a price for the Reference Note (expressed as a percentage of its principal amount) equal to the Reference Note Price for such date of redemption.

**“Reference Date”** will be set out in the relevant notice of redemption, such date to fall no earlier than the date falling 30 days prior to the date of such notice.

**“Reference Government Note Dealer”** means each of five banks selected by the Issuer which are (a) primary government securities dealers, and their respective successors, or (b) market makers in pricing corporate note issues.

**“Reference Government Note Dealer Quotations”** means, with respect to each Reference Government Note Dealer and any date for redemption, the arithmetic average, as determined by the Calculation Agent, of the bid and offered prices for the Reference Note (expressed in each case as a percentage of its principal amount) at the Quotation Time specified in the relevant Final Terms on the Reference Date quoted in writing to the Calculation Agent by such Reference Government Note Dealer.

**“Remaining Term Interest”** means with respect to any Note, the aggregate amount of scheduled payment(s) of interest on such Note for the remaining term of such Note determined on the basis of the rate of interest applicable to such Note from and including the date on which such Note is to be redeemed by the Issuer in accordance with this Condition 7(d).

- (e) **Redemption at the Option of Noteholders:** If Put Option is specified in the relevant Final Terms, the Issuer shall, at the option of the holder of any such Note, upon the holder of such Note giving not less than 15 nor more than 30 days’ notice to the Issuer (or such other notice period as may be specified in the relevant Final Terms) redeem such Note on the Optional Redemption Date(s) at its Optional Redemption Amount specified in the relevant Final Terms (which may be the Early Redemption Amount (as described in Condition 7(b) above)), together with interest accrued to the date fixed for redemption.

To exercise such option the holder must deposit such Note (together with all unmatured Coupons and unexchanged Talons) with any Paying Agent, together with a duly completed option exercise notice (**“Exercise Notice”**) in the form obtainable from any Paying Agent within the notice period. No Note so deposited and option exercised may be withdrawn (except as provided in the Agency Agreement) without the prior consent of the Issuer.

- (f) **Redemption at the Option of Noteholders on a Change of Control Put Event:** If Change of Control Put Event is specified in the relevant Final Terms and a Change of Control Put Event occurs, the holder of any such Note will have the option (a **“Change of Control Put Option”**) (unless prior to the giving of the relevant Change of Control Put Event Notice (as defined below) the Issuer has given notice of redemption under Condition 7(c) or 7(d) above) to require the Issuer to redeem or, at the Issuer’s option, purchase (or procure the purchase of) that Note on the Change of Control Put Date (as defined below) at its principal amount together with interest accrued to (but excluding) the Change of Control Put Date.

A **“Change of Control Put Event”** will be deemed to occur if:

- (i) any person or any persons acting in concert acquires Control of the Issuer; (each such event being, a **“Change of Control”**); and
- (ii) on the date (the **“Relevant Announcement Date”**) that is the earlier of (1) the date of the first public announcement of the relevant Change of Control

and (2) the date of the earliest Relevant Potential Change of Control Announcement (if any), the Notes carry:

- A. an investment grade credit rating (*Baa3/BBB-*, or *their respective equivalents, or better*), from any Rating Agency whether provided by such Rating Agency at the invitation of the Issuer or by its own volition and such rating is, within the Change of Control Period, either downgraded to a non-investment grade credit rating (*Ba1/BB+*, or *their respective equivalents, or worse*) (a **“Non-Investment Grade Rating”**) or withdrawn and is not, within the Change of Control Period, subsequently (in the case of a downgrade) upgraded to an investment grade credit rating by such Rating Agency; or
- B. a Non-Investment Grade Rating from any Rating Agency whether provided by such Rating Agency at the invitation of the Issuer or by its own volition and such rating is, within the Change of Control Period, either downgraded by one or more rating categories (*from Ba1 to Ba2 or such similar lowering*) or withdrawn and is not, within the Change of Control Period, subsequently (in the case of a downgrade) upgraded to its earlier credit rating or better by such Rating Agency,

provided that if at the time of the occurrence of the Change of Control the Notes carry a credit rating from more than one Rating Agency, at least one of which is investment grade, then only sub paragraph A. will apply; and

- (iii) in making any decision to downgrade or withdraw a credit rating pursuant to paragraphs A. and B. above, the relevant Rating Agency announces publicly or confirms in writing to the Issuer that such decision(s) resulted, in whole or in part, from the occurrence of the Change of Control or the Relevant Potential Change of Control Announcement.

Further, if at the time of the occurrence of the Change of Control the Notes carry no credit rating, a Change of Control Put Event will be deemed to occur upon the occurrence of a Change of Control alone.

Promptly upon the Issuer becoming aware that a Change of Control Put Event has occurred the Issuer shall give notice (a **“Change of Control Put Event Notice”**) to the Noteholders in accordance with Condition 15 specifying the nature of the Change of Control Put Event and the procedure for exercising the Change of Control Put Option.

To exercise the Change of Control Put Option, the holder of a Note must deliver such Note to the specified office of any Paying Agent at any time during normal business hours of such Paying Agent falling within the period (the **“Change of Control Put Period”**) of 30 days after a Change of Control Put Event Notice is given, accompanied by a duly signed and completed notice of exercise in the form (for the time being current) obtainable from the specified office of any Paying Agent (a **“Change of Control Put Notice”**). The Note should be delivered together with all Coupons appertaining thereto maturing after the date which is seven days after the expiration of the Change of Control Put Period (the **“Change of Control Put Date”**), failing which the Paying Agent will require payment from or on behalf of the Noteholder of an amount equal to the face value of any missing such Coupon. Any



amount so paid will be reimbursed to the Noteholder against presentation and surrender of the relevant missing Coupon (or any replacement therefor issued pursuant to Condition 13) at any time after such payment, but before the expiry of the period of five years from the date on which such Coupon would have become due, but not thereafter. The Paying Agent to which such Note and Change of Control Put Notice are delivered will issue to the Noteholder concerned a non-transferable receipt in respect of the Note so delivered. Payment in respect of any Note so delivered will be made, if the holder duly specified a bank account in the Change of Control Put Notice to which payment is to be made, on the Change of Control Put Date by transfer to that bank account and, in every other case, on or after the Change of Control Put Date against presentation and surrender or (as the case may be) endorsement of such receipt at the specified office of any Paying Agent. A Change of Control Put Notice, once given, shall be irrevocable. For the purposes of these Conditions, receipts issued pursuant to this Condition 7(f) shall be treated as if they were Notes.

The Issuer shall redeem or purchase (or procure the purchase of) the relevant Notes on the Change of Control Put Date unless previously redeemed (or purchased) and cancelled.

If 85 per cent. or more in principal amount of the Notes then outstanding have been redeemed or purchased pursuant to this Condition 7(f), the Issuer may, on giving not less than 30 nor more than 60 days' notice to the Noteholders (such notice being given within 30 days after the Change of Control Put Date), redeem or purchase (or procure the purchase of), at its option, all but not some only of the remaining outstanding Notes at their principal amount, together with interest accrued to (but excluding) the date fixed for such redemption or purchase.

If the rating designations employed by any of Moody's, Fitch or S&P are changed from those which are described in paragraph (ii) of the definition of "Change of Control Put Event" above, or if a rating is procured from a Substitute Rating Agency, the Issuer shall determine the rating designations of Moody's, Fitch or S&P or such Substitute Rating Agency (as appropriate) as are most equivalent to the prior rating designations of Moody's, Fitch or S&P and this Condition 7(f) shall be construed accordingly.

In these Conditions:

**"Change of Control Period"** means the period commencing on the Relevant Announcement Date and ending 90 days after the Change of Control (or such longer period for which the Notes are under consideration (such consideration having been announced publicly within the period ending 90 days after the Change of Control) for rating review or, as the case may be, rating by a Rating Agency, such period not to exceed 60 days after the public announcement of such consideration);

**"Control"** means (i) the acquisition or control of more than 30 per cent. of the voting rights or (ii) the right to appoint and/or remove all or the majority of the members of the board of directors or other governing body, whether obtained directly or indirectly, and whether obtained by ownership of share capital, the possession of voting rights, contract or otherwise and **"controlled"** shall be construed accordingly;

“**Rating Agency**” means Moody’s Investors Service, Inc. (“**Moody’s**”), Fitch Ratings Ltd. (“**Fitch**”) or Standard & Poor’s Rating Services, a division of The McGraw-Hill Companies Inc. (“**S&P**”) or any of their respective successors or any rating agency (a “**Substitute Rating Agency**”) substituted for any of them by the Issuer from time to time; and

“**Relevant Potential Change of Control Announcement**” means any public announcement or statement by the Issuer, any actual or potential bidder or any adviser acting on behalf of any actual or potential bidder relating to any potential Change of Control where within 180 days following the date of such announcement or statement, a Change of Control occurs.

- (g) **Residual Maturity Call Option:** If a Residual Maturity Call Option is specified in the relevant Final Terms as being applicable, the Issuer may, on giving not less than 15 nor more than 30 days’ irrevocable notice to the Noteholders in accordance with Condition 15 (which notice shall specify the date fixed for redemption (the “**Residual Maturity Call Option Redemption Date**”)), redeem all (but not some only) of the outstanding Notes comprising the relevant Series at their principal amount together with interest accrued to, but excluding, the date fixed for redemption, which shall be no earlier than three months before the Maturity Date.

All Notes in respect of which any such notice is given shall be redeemed on the date specified in such notice in accordance with this Condition 7(g).

- (h) **Redemption following a Substantial Purchase Event:** If a Substantial Purchase Event is specified in the Final Terms as being applicable and a Substantial Purchase Event has occurred and is continuing, then the Issuer may, subject to having given not less than 15 nor more than 30 days’ irrevocable notice to the Noteholders in accordance with Condition 15 (which notice shall specify the date fixed for redemption), redeem the Notes comprising the relevant Series in whole, but not in part, in accordance with these Conditions at any time, in each case at their principal amount, together with any accrued and unpaid interest up to (but excluding) the date fixed for redemption.

All Notes in respect of which any such notice is given shall be redeemed on the date specified in such notice in accordance with this Condition.

For the purposes of this Condition, a “**Substantial Purchase Event**” shall be deemed to have occurred if at least 80 per cent. of the aggregate principal amount of the Notes of the relevant Series originally issued (which for these purposes shall include any further Notes of the same Series issued subsequently) is purchased by the Issuer or any Subsidiary of the Issuer (and in each case is cancelled in accordance with Condition 7(k)).

- (i) **Redemption following an Acquisition Event:** If an Acquisition Event is specified in the Final Terms as being applicable and an Acquisition Event has occurred, then the Issuer may, subject to having given not less than 15 nor more than 30 days’ irrevocable notice to the Noteholders within the Acquisition Notice Period (as specified in the Final Terms) in accordance with Condition 15 (which notice shall specify the date fixed for redemption), redeem the Notes comprising the relevant Series in whole, but not in part, in accordance with these Conditions at any time, in each case at their Acquisition Call Redemption Amount (as specified in the Final

Terms), together with any accrued and unpaid interest up to (but excluding) the date fixed for redemption.

All Notes in respect of which any such notice is given shall be redeemed on the date specified in such notice in accordance with this Condition.

Prior to the publication of any notice of redemption pursuant to this Condition 7(i), the Issuer shall deliver to the Fiscal Agent a certificate signed by two directors of the Issuer stating that the Issuer is entitled to effect such redemption and certifying that an Acquisition Event has occurred.

For the purposes of this Condition:

an “**Acquisition Event**” shall be deemed to have occurred if the Issuer (i) has not, on or prior to the Acquisition Completion Date (as specified in the Final Terms), completed and closed the acquisition of the Acquisition Target (as specified in the Final Terms) or (ii) has publicly announced that it no longer intends to pursue the acquisition of the Acquisition Target.

- (j) **Purchases:** The Issuer and its Subsidiaries may at any time purchase Notes (provided that all unmatured Coupons and unexchanged Talons relating thereto are attached thereto or surrendered therewith) in the open market or otherwise at any price.
- (k) **Cancellation:** All Notes purchased by or on behalf of the Issuer or any of its Subsidiaries may be surrendered for cancellation by surrendering each such Note together with all unmatured Coupons and all unexchanged Talons to the Fiscal Agent and, if so surrendered, shall, together with all Notes redeemed by the Issuer, be cancelled forthwith (together with all unmatured Coupons and unexchanged Talons attached thereto or surrendered therewith). Any Notes so surrendered for cancellation may not be reissued or resold and the obligations of the Issuer in respect of any such Notes shall be discharged.

## 8 Payments and Talons

- (a) **Method of Payment:** Payments of principal and interest in respect of Notes shall, subject as mentioned below, be made against presentation and surrender of the relevant Notes (in the case of payments of principal and, in the case of interest, as specified in Condition 8(e)(v)) or Coupons (in the case of payments of interest, save as specified in Condition 8(e)(v)), as the case may be, at the specified office of any Paying Agent outside the United States by a cheque payable in the relevant currency drawn on, or, at the option of the holder, by transfer to an account denominated in such currency with, a Bank. “**Bank**” means a bank in the principal financial centre for such currency or, in the case of euro, in a city in which banks have access to the TARGET System.
- (b) **Payments in the United States:** Notwithstanding the foregoing, if any Notes are denominated in U.S. dollars, payments in respect thereof may be made at the specified office of any Paying Agent in New York City in the same manner as aforesaid if (i) the Issuer shall have appointed Paying Agents with specified offices outside the United States with the reasonable expectation that such Paying Agents would be able to make payment of the amounts on the Notes in the manner provided above when due, (ii) payment in full of such amounts at all such offices is

illegal or effectively precluded by exchange controls or other similar restrictions on payment or receipt of such amounts and (iii) such payment is then permitted by United States law, without involving, in the opinion of the Issuer, any adverse tax consequence to the Issuer.

- (c) **Payments Subject to Laws:** Save as provided in Condition 9, payments will be subject in all cases to any applicable fiscal or other laws, regulations and directives in the place of payment or other laws and regulations to which the Issuer, or its Paying or Fiscal Agents agree to be subject and the Issuer will not be liable for any taxes or duties of whatever nature imposed or levied by such laws, regulations, directives, or agreements. No commission or expenses shall be charged to the Noteholders or Couponholders in respect of such payments.
- (d) **Appointment of Agents:** The Fiscal Agent, the Paying Agents and the Calculation Agent initially appointed by the Issuer and their respective specified offices are listed below. The Fiscal Agent, the Paying Agents and the Calculation Agent(s) act solely as agents of the Issuer and do not assume any obligation or relationship of agency or trust for or with any Noteholder or Couponholder. The Issuer reserves the right at any time to vary or terminate the appointment of the Fiscal Agent, any other Paying Agent or the Calculation Agent(s) and to appoint additional or other Paying Agents, provided that the Issuer shall at all times maintain (i) a Fiscal Agent, (ii) one or more Calculation Agent(s) where the Conditions so require, (iii) Paying Agents having specified offices in at least one major European city and (iv) such other agents as may be required by any other stock exchange on which the Notes may be listed.

In addition, the Issuer shall forthwith appoint a Paying Agent in New York City in respect of any Notes denominated in U.S. dollars in the circumstances described in paragraph (b) above.

Notice of any such change or any change of any specified office shall promptly be given to the Noteholders.

- (e) **Unmatured Coupons and unexchanged Talons:**
- (i) Upon the due date for redemption of Notes which comprise Fixed Rate Notes, those Notes should be surrendered for payment together with all unexpired Coupons (if any) relating thereto, failing which an amount equal to the face value of each missing unexpired Coupon (or, in the case of payment not being made in full, that proportion of the amount of such missing unexpired Coupon that the sum of principal so paid bears to the total principal due) shall be deducted from the Final Redemption Amount, Early Redemption Amount or Optional Redemption Amount, as the case may be, due for payment. Any amount so deducted shall be paid in the manner mentioned above against surrender of such missing Coupon within a period of 10 years from the Relevant Date for the payment of such principal (whether or not such Coupon has become void pursuant to Condition 10).
- (ii) Upon the due date for redemption of any Note comprising a Floating Rate Note, unexpired Coupons relating to such Note (whether or not attached) shall become void and no payment shall be made in respect of them.

- (iii) Upon the due date for redemption of any Note, any unexchanged Talon relating to such Note (whether or not attached) shall become void and no Coupon shall be delivered in respect of such Talon.
  - (iv) Where any Note that provides that the relative unmatured Coupons are to become void upon the due date for redemption of those Notes is presented for redemption without all unmatured Coupons, and where any Note is presented for redemption without any unexchanged Talon relating to it, redemption shall be made only against the provision of such indemnity as the Issuer may require.
  - (v) If the due date for redemption of any Note is not a due date for payment of interest, interest accrued from the preceding due date for payment of interest or the Interest Commencement Date, as the case may be, shall only be payable against presentation (and surrender if appropriate) of the relevant Note. Interest accrued on a Note that only bears interest after its Maturity Date shall be payable on redemption of such Note against presentation of the relevant Note.
- (f) **Talons:** On or after the Interest Payment Date for the final Coupon forming part of a Coupon sheet issued in respect of any Note, the Talon forming part of such Coupon sheet may be surrendered at the specified office of the Fiscal Agent in exchange for a further Coupon sheet (and if necessary another Talon for a further Coupon sheet) (but excluding any Coupons that may have become void pursuant to Condition 10).
- (g) **Non-Business Days:** If any date for payment in respect of any Note or Coupon is not a business day, the holder shall not be entitled to payment until the next following business day nor to any interest or other sum in respect of such postponed payment. In this paragraph, “**business day**” means a day (other than a Saturday or a Sunday) on which banks and foreign exchange markets are open for business in the relevant place of presentation, in such jurisdictions as shall be specified as “**Financial Centres**” in the relevant Final Terms and:
- (i) (in the case of a payment in a currency other than euro) where payment is to be made by transfer to an account maintained with a bank in the relevant currency, on which foreign exchange transactions may be carried on in the relevant currency in the principal financial centre of the country of such currency; or
  - (ii) (in the case of a payment in euro) which is a TARGET Business Day.

## 9 Taxation

All payments of principal and interest by or on behalf of the Issuer in respect of the Notes and the Coupons shall be made free and clear of, and without withholding or deduction for, any taxes, duties, assessments or governmental charges of whatever nature (collectively, “**Taxes**”) imposed, levied, collected, withheld or assessed by or within Spain or any authority therein or thereof having power to tax (the “**Spanish Tax Authorities**”), unless such withholding or deduction is required by law. In that event, the Issuer shall pay such additional amounts as shall result in receipt by the Noteholders and the Couponholders of such amounts as would have been received by them had no such withholding or deduction

been required, except that no such additional amounts shall be payable with respect to any Note or Coupon:

- (a) **Other connection:** to, or to a third party on behalf of, a holder who is liable to such taxes, duties, assessments or governmental charges in respect of such Note or Coupon by reason of his having some connection with Spain other than the mere holding of the Note or Coupon; or
- (b) **Presentation more than 30 days after the Relevant Date:** presented for payment more than 30 days after the Relevant Date except to the extent that the holder of it would have been entitled to such additional amounts on presenting it for payment on the thirtieth such day; or
- (c) **Information requested by Spanish Tax Authorities:** while the Notes are represented by a global Note, to, or to a third party on behalf of, a Noteholder or a Couponholder who does not provide to the Issuer or an agent acting on behalf of the Issuer the information concerning such Noteholder or Couponholder as may be required in order to comply with the procedures that may be implemented to comply with the interpretation of Royal Decree 1065/2007, of 27 July (in the version set out by Royal Decree 1145/2011, of 29 July) as eventually made by the Spanish Tax Authorities; or
- (d) **Information requested by Spanish Tax Authorities:** while the Notes are represented by definitive Notes, to, or to a third party on behalf of, a Noteholder or Couponholder who does not comply with the Issuer's request to provide a valid certificate of tax residence duly issued by the tax authorities of the country of tax residence of the beneficial owner of the Notes or the Coupons, which the Noteholder or Couponholder or the beneficial owner is required to provide by the applicable tax laws and regulations of the relevant taxing authority as a precondition to exemption from, or reduction in the rate of deduction or withholding of, Taxes imposed by such relevant taxing authority; or
- (e) **FATCA Taxes:** where such withholding or deduction is imposed under Sections 1471 and 1472 of the United States Internal Revenue Code (the "**Code**"), including, pursuant to an agreement described in section 1471(b)(1) of the Code, under any intergovernmental agreement implementing such provisions of the Code or any laws implementing any of the foregoing; or
- (f) any combinations of items (a) through (e) above.

As used in these Conditions, "**Relevant Date**" in respect of any Note or Coupon means the date on which payment in respect of it first becomes due or (if any amount of the money payable is improperly withheld or refused) the date on which payment in full of the amount outstanding is made or (if earlier) the date seven days after that on which notice is duly given to the Noteholders that, upon further presentation of the Note or Coupon being made in accordance with the Conditions, such payment will be made, provided that payment is in fact made upon such presentation. References in these Conditions to (i) "principal" shall be deemed to include any premium payable in respect of the Notes, Final Redemption Amounts, Early Redemption Amounts, Optional Redemption Amounts, Amortised Face Amounts and all other amounts in the nature of principal payable pursuant to Condition 7 or any amendment or supplement to it, (ii) "**interest**" shall be deemed to include all Interest Amounts and all other amounts payable pursuant to Condition 6 or any amendment or supplement to it and (iii)

“principal” and/or “interest” shall be deemed to include any additional amounts that may be payable under this Condition.

## 10 Prescription

Claims against the Issuer for payment in respect of the Notes and Coupons (which for this purpose shall not include Talons) shall be prescribed and become void unless made within 10 years (in the case of principal) or five years (in the case of interest) from the appropriate Relevant Date in respect of them.

## 11 Events of Default

If any of the following events (“**Events of Default**”) occurs and is continuing, the holder of any Note may give written notice to the Fiscal Agent at its specified office that such Note is immediately repayable, whereupon the Early Redemption Amount of such Note together (if applicable) with accrued interest to the date of payment shall become immediately due and payable:

- (a) **Non-Payment:** default is made for more than 14 days (in the case of interest) or seven days (in the case of principal) in the payment on the due date of interest or principal in respect of any of the Notes; or
- (b) **Breach of Other Obligations:** the Issuer does not perform or comply with any one or more of its other obligations in the Notes which default is incapable of remedy or is not remedied within 30 days after notice of such default shall have been given to the Fiscal Agent at its specified office by any Noteholder; or
- (c) **Cross-Default:** (A) any other present or future indebtedness of the Issuer or any of its Material Subsidiaries for or in respect of moneys borrowed or raised becomes (or becomes capable of being declared) due and payable prior to its stated maturity by reason of any actual or potential default, event of default or the like (howsoever described) (but subject to any applicable grace periods), or (B) any such indebtedness is not paid when due or, as the case may be, within any originally applicable grace period, or (C) the Issuer or any of its Material Subsidiaries fails to pay when due any amount payable by it under any present or future guarantee for, or indemnity in respect of, any moneys borrowed or raised provided that the aggregate amount of the relevant indebtedness, guarantees and indemnities in respect of which one or more of the events mentioned above in this paragraph (c) have occurred equals or exceeds €50,000,000 or its equivalent in any other currency (on the basis of the middle spot rate for the relevant currency against the Euro as quoted by any leading bank on the day on which this paragraph operates); or
- (d) **Enforcement Proceedings:** a distress, attachment, execution or other legal process is levied, enforced or sued out on or against any part of the property, assets or revenues of the Issuer or any of its Material Subsidiaries and is not discharged or stayed within 90 days, provided that the amount levied, enforced or sued on such distress, attachment or execution, individually or in the aggregate with any other amount levied, enforced or sued, exceeds €50,000,000; or
- (e) **Unsatisfied judgement:** one or more judgement(s) or order(s) for the payment of any amount is rendered against the Issuer or any of its Material Subsidiaries and continue(s) unsatisfied and unstayed for a period of 30 days after the date(s)

thereof or, if later, the date therein specified for payment, provided that the amount subject of such judgement(s) or order(s), individually or in the aggregate, exceeds €50,000,000; or

- (f) **Security Enforced:** any mortgage, charge, pledge, lien or other encumbrance, present or future, created or assumed by the Issuer or any of its Material Subsidiaries becomes enforceable and any step is taken to enforce it (including the taking of possession or the appointment of a receiver, manager or other similar person), provided that the individual or aggregate value of all assets subject to such enforcement exceeds €50,000,000; or
- (g) **Insolvency:** the Issuer or any of its Material Subsidiaries is (or is, or could be, deemed by law or a court to be) insolvent or bankrupt (*concurso*, in the case of Spanish companies) or unable to pay its debts, stops, suspends or threatens to stop or suspend payment of all or a material part of (or of a particular type of) its debts, proposes or makes a general assignment or an arrangement or composition with or for the benefit of the relevant creditors in respect of any of such debts or a moratorium is agreed or declared in respect of or affecting all or a material part of (or of a particular type of) the debts of the Issuer or any of its Material Subsidiaries; or
- (h) **Winding-up:** an order is made or an effective resolution passed for the winding-up or dissolution of the Issuer or any of its Material Subsidiaries, or the Issuer or any of its Material Subsidiaries ceases or threaten to cease to carry on all or substantially all of its business or operations, in each case except for the purpose of and followed by a reconstruction, amalgamation, reorganisation, merger or consolidation (i) pursuant to which the surviving entity shall be the transferee of or successor to all or substantially all of the business of the Issuer and assumes all of the obligations of the Issuer with respect to the Notes or (ii) on terms approved by an Extraordinary Resolution of the Noteholders or (iii) in the case of a Material Subsidiary, whereby the undertaking and assets of the Material Subsidiary are transferred to or otherwise vested in the Issuer or another of its Material Subsidiaries; or
- (i) **Authorisation and Consents:** any action, condition or thing (including the obtaining or effecting of any necessary consent, approval, authorisation, exemption, filing, licence, order, recording or registration) at any time required to be taken, fulfilled or done in order (i) to enable the Issuer lawfully to enter into, exercise its rights and perform and comply with its obligations under the Notes, (ii) to ensure that those obligations are legal, valid, binding and enforceable and (iii) to make the Notes and the Coupons admissible in evidence in the courts of England and of the Kingdom of Spain is not taken, fulfilled or done; or
- (j) **Illegality:** it is or will become unlawful for the Issuer to perform or comply with any one or more of its obligations under any of the Notes; or
- (k) **Analogous Events:** any event occurs that under the laws of any relevant jurisdiction has an analogous effect to any of the events referred to in (d), (e), (f), (g), (h) and (i) of this Condition 11.



## 12 Meeting of Noteholders and Modifications

- (a) **Meetings of Noteholders:** The Agency Agreement contains provisions for convening meetings of Noteholders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of any of these Conditions. Such a meeting may be convened by Noteholders holding not less than 10 per cent. in principal amount of the Notes for the time being outstanding. The quorum for any meeting convened to consider an Extraordinary Resolution shall be one or more persons holding or representing a clear majority in principal amount of the Notes for the time being outstanding, or at any adjourned meeting one or more persons being or representing Noteholders whatever the principal amount of the Notes held or represented, unless the business of such meeting includes consideration of proposals, *inter alia*, (i) to amend the dates of maturity or redemption of the Notes or any date for payment of interest or Interest Amounts on the Notes, (ii) to reduce or cancel the principal amount of, or any premium payable on redemption of, the Notes, (iii) to reduce the rate or rates of interest in respect of the Notes or to vary the method or basis of calculating the rate or rates or amount of interest or the basis for calculating any Interest Amount in respect of the Notes, (iv) if a Minimum and/or a Maximum Rate of Interest or Redemption Amount is shown in the relevant Final Terms, to reduce any such Minimum and/or Maximum, (v) to vary any method of, or basis for, calculating the Final Redemption Amount, the Early Redemption Amount or the Optional Redemption Amount, including the method of calculating the Amortised Face Amount, (vi) to vary the currency or currencies of payment or denomination of the Notes, or (vii) to modify the provisions concerning the quorum required at any meeting of Noteholders or the majority required to pass the Extraordinary Resolution, in which case the necessary quorum shall be two or more persons holding or representing not less than 75 per cent. or at any adjourned meeting not less than 25 per cent. in principal amount of the Notes for the time being outstanding. Any Extraordinary Resolution duly passed shall be binding on Noteholders (whether or not they were present at the meeting at which such resolution was passed) and on all Couponholders.

The Agency Agreement provides that a resolution in writing signed by or on behalf of the holders of not less than 75 per cent. in principal amount of the Notes outstanding shall for all purposes be as valid and effective as an Extraordinary Resolution passed at a meeting of Noteholders duly convened and held. Such a resolution in writing may be contained in one document or several documents in the same form, each signed by or on behalf of one or more Noteholders.

*These Conditions may be completed in relation to any Series of Notes by the terms of the relevant Final Terms in relation to such Series.*

- (b) **Modification of Agency Agreement:** The Issuer shall only permit any modification of, or any waiver or authorisation of any breach or proposed breach of or any failure to comply with, the Agency Agreement, if to do so could not reasonably be expected to be prejudicial to the interests of the Noteholders.
- (c) **Notification to the Noteholders:** Any modification, waiver or authorisation in accordance with this Condition 12 shall be binding on the Noteholders and the Couponholders and shall be notified by the Issuer to the Noteholders as soon as practicable thereafter in accordance with Condition 15.

### **13 Replacement of Notes, Coupons and Talons**

If a Note, Coupon or Talon is lost, stolen, mutilated, defaced or destroyed, it may be replaced, subject to applicable laws, regulations and stock exchange or other relevant authority regulations, at the specified office of the Paying Agent in Luxembourg (in the case of Notes, Coupons or Talons) or such other Paying Agent, as the case may be, as may from time to time be designated by the Issuer for the purpose and notice of whose designation is given to Noteholders, in each case on payment by the claimant of the fees and costs incurred in connection therewith and on such terms as to evidence, security and indemnity (which may provide, *inter alia*, that if the allegedly lost, stolen or destroyed Note, Coupon or Talon is subsequently presented for payment or, as the case may be, for exchange for further Coupons, there shall be paid to the Issuer on demand the amount payable by the Issuer in respect of such Notes, Coupons or further Coupons) and otherwise as the Issuer may require. Mutilated or defaced Notes, Coupons or Talons must be surrendered before replacements will be issued.

### **14 Further Issues**

The Issuer may from time to time without the consent of the Noteholders or Couponholders create and issue further notes having the same terms and conditions as the Notes (in all respects except for the first payment of interest thereon) and so that the same shall be consolidated and form a single series with such Notes, and references in these Conditions to "Notes" shall be construed accordingly.

### **15 Notices**

Notices to the holders of Notes shall be valid if published in a daily newspaper of general circulation in London (which is expected to be the *Financial Times*). So long as the Notes are listed on the Luxembourg Stock Exchange, notices to holders of the Notes shall also be published either on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)) or in a daily newspaper with general circulation in Luxembourg (which is expected to be the *Luxemburger Wort*). If any such publication is not practicable, notice shall be validly given if published in another leading daily English language newspaper with general circulation in Europe. Any such notice shall be deemed to have been given on the date of such publication or, if published more than once or on different dates, on the date of the first publication as provided above.

Until such time as any definitive Notes are issued, there may, so long as any global Note is held in its entirety on behalf of Euroclear and/or Clearstream, Luxembourg be substituted for such publication as aforesaid the delivery of the relevant notice to Euroclear and/or Clearstream, Luxembourg for communication by them to the Noteholders in accordance with their respective rules and operating procedures. Any such notice shall be deemed to have been given to the Noteholders on the day on which the notice was given to Euroclear and/or Clearstream, Luxembourg, as appropriate.

Couponholders shall be deemed for all purposes to have notice of the contents of any notice given to the holders of Notes in accordance with this Condition 15.

### **16 Currency Indemnity**

Any amount received or recovered in a currency other than the currency in which payment under the relevant Note or Coupon is due (whether as a result of, or of the enforcement of,

a judgement or order of a court of any jurisdiction, in the insolvency, winding-up or dissolution of the Issuer or otherwise) by any Noteholder or Couponholder in respect of any sum expressed to be due to it from the Issuer shall only constitute a discharge to the Issuer to the extent of the amount in the currency of payment under the relevant Note or Coupon that the recipient is able to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If the amount received or recovered is less than the amount expressed to be due to the recipient under any Note or Coupon, the Issuer shall indemnify it against any loss sustained by it as a result. In any event, the Issuer shall indemnify the recipient against the cost of making any such purchase. For the purposes of this Condition 16, it shall be sufficient for the Noteholder or Couponholder, as the case may be, to demonstrate that it would have suffered a loss had an actual purchase been made. These indemnities constitute a separate and independent obligation from the Issuer's other obligations, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by any Noteholder or Couponholder and shall continue in full force and effect despite any other judgement, order, claim or proof for a liquidated amount in respect of any sum due under any Note or Coupon or any other judgement or order.

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

No person shall have any right to enforce any term or condition of the Notes under the Contracts (Rights of Third Parties) Act 1999.

## **18 Governing Law and Jurisdiction**

- (a) **Governing Law:** Save as described below, the Notes, the Coupons and the Talons and any non-contractual obligations arising out of or in connection with them are governed by, and shall be construed in accordance with, English law. Condition 3 shall be governed by, and shall be construed in accordance with, Spanish law.
- (b) **Jurisdiction:** The Courts of England are to have jurisdiction to settle any disputes that may arise out of or in connection with any Notes, Coupons or Talons and accordingly any legal action or proceedings arising out of or in connection with any Notes, Coupons or Talons ("**Proceedings**") may be brought in such courts. The Issuer irrevocably submits to the jurisdiction of the courts of England and waives any objection to Proceedings in such courts 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 each of the holders of the Notes, Coupons and Talons and shall not affect 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).
- (c) **Service of Process:** The Issuer irrevocably appoints Law Debenture Corporate Services Limited of fifth floor, 100 Wood Street, London EC2V 7EX as its agent in England to receive, for it and on its behalf, service of process in any Proceedings in England. Such service shall be deemed completed on delivery to such process agent (whether or not, it is forwarded to and received by the Issuer). If for any reason such process agent ceases to be able to act as such or no longer has an address in London, the Issuer irrevocably agrees to appoint a substitute process

agent and shall immediately notify Noteholders of such appointment in accordance with Condition 15. Nothing shall affect the right to serve process in any manner permitted by law.

**Schedule 2**  
**Part C**  
**Form of Coupon**

On the front:

**MERLIN PROPERTIES, SOCIMI, S.A.**

**Euro Medium Term Note Programme**

Series No. [●]

[Title of issue]

Coupon for [[set out amount due, if known]/the amount] due on [the Interest Payment Date falling in]\* [●], [●].

[Coupon relating to Note in the principal amount of [●]]\*\*

This Coupon is payable to bearer (subject to the Conditions endorsed on the Note to which this Coupon relates, which shall be binding upon the holder of this Coupon whether or not it is for the time being attached to such Note) at the specified offices of the Fiscal Agent and the Paying Agents set out on the reverse hereof (or any other Fiscal Agent or further or other Paying Agents or specified offices duly appointed or nominated and notified to the Noteholders).

[If the Note to which this Coupon relates shall have become due and payable before the maturity date of this Coupon, this Coupon shall become void and no payment shall be made in respect of it.]\*\*\*

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

**MERLIN PROPERTIES, SOCIMI, S.A.**

By:

[Cp. No.]

[Denomination]

[ISIN]

[Series]

[Certif. No.]

On the back:

**Fiscal Agent**

**SOCIÉTÉ GÉNÉRALE BANK & TRUST S.A.**

[\*Only necessary where Interest Payment Dates are subject to adjustment in accordance with a Business Day Convention otherwise the particular Interest Payment Date should be specified.]

[\*\*Only required for Coupons relating to Floating Rate Notes that are issued in more than one denomination.]

[\*\*\*Delete if Coupons are not to become void upon early redemption of Note.]

**Schedule 2**  
**Part D**  
**Form of Talon**

On the front:

**MERLIN PROPERTIES, SOCIMI, S.A.**

**Euro Medium Term Note Programme**

Series No. [●]

[Title of issue]

Talon for further Coupons falling due on [the Interest Payment Dates falling in]\*[●] [●].

[Talon relating to Note in the principal amount of [●]]\*\*

After all the Coupons relating to the Note to which this Talon relates have matured, further Coupons (including if appropriate a Talon for further Coupons) shall be issued at the specified office of the Fiscal Agent set out on the reverse hereof (or any other Fiscal Agent or specified office duly appointed or nominated and notified to the Noteholders) upon production and surrender of this Talon.

If the Note to which this Talon relates shall have become due and payable before the original due date for exchange of this Talon, this Talon shall become void and no exchange shall be made in respect of it.

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

**MERLIN PROPERTIES, SOCIMI, S.A.**

By:

[Talon No.]

[ISIN]

[Series]

[Certif. No.]

On the back:

**Fiscal Agent**

**SOCIÉTÉ GÉNÉRALE BANK & TRUST S.A.**, 11 Avenue Emile Reuter, L-2420 Luxembourg

[\* The maturity dates of the relevant Coupons should be set out if known, otherwise reference should be made to the months and years in which the Interest Payment Dates fall due.]

[\*\* Only required where the Series comprises Notes of more than one denomination.]

## Schedule 3

### Provisions for Meetings of Noteholders

#### Interpretation

- 1** In this Schedule:
- 1.1** references to a meeting are to a meeting of Noteholders of a single Series of Notes and include, unless the context otherwise requires, any adjournment;
- 1.2** references to “**Notes**” and “**Noteholders**” are only to the Notes of the Series in respect of which a meeting has been, or is to be, called and to the holders of those Notes, respectively;
- 1.3** “**agent**” means a holder of a voting certificate or a proxy for, or representative of, a Noteholder;
- 1.4** “**Alternative Clearing System**” means any clearing system other than Euroclear or Clearstream, Luxembourg;
- 1.5** “**block voting instruction**” means an instruction issued in accordance with paragraphs 9 to 15;
- 1.6** “**Electronic Consent**” has the meaning set out in paragraph 30;
- 1.7** “**Extraordinary Resolution**” means a resolution passed (a) at a meeting duly convened and held in accordance with this Agreement by a majority of at least 75 per cent. of the votes cast, (b) by a Written Resolution or (c) by an Electronic Consent;
- 1.8** “**voting certificate**” means a certificate issued in accordance with paragraphs 6 to 8;
- 1.9** “**Written Resolution**” means a resolution in writing signed by the holders of not less than 75 per cent. in principal amount of the Notes outstanding;
- 1.10** references to persons representing a proportion of the Notes are to Noteholders or agents holding or representing in the aggregate at least that proportion in principal amount of the Notes for the time being outstanding; and
- 1.11** where Bonds are held in Euroclear or Clearstream, Luxembourg or an Alternative Clearing System, references herein to the deposit or release or surrender of Bonds shall be construed in accordance with the usual practices (including in relation to the blocking of the relevant account) of Euroclear or Clearstream, Luxembourg or such Alternative Clearing System.

#### Powers of meetings

- 2** A meeting shall, subject to the Conditions and without prejudice to any powers conferred on other persons by this Agreement, have power by Extraordinary Resolution:
- 2.1** to sanction any proposal by the Issuer or any modification, abrogation, variation or compromise of, or arrangement in respect of, the rights of the Noteholders and/or the Couponholders against the Issuer whether or not those rights arise under the Notes;
- 2.2** to sanction the exchange or substitution for the Notes of, or the conversion of the Notes into, shares, bonds or other obligations or securities of the Issuer or any other entity;



- 2.3** to assent to any modification of this Agreement, the Notes, the Talons or the Coupons proposed by the Issuer or the Fiscal Agent;
- 2.4** to authorise anyone to concur in and do anything necessary to carry out and give effect to an Extraordinary Resolution;
- 2.5** to give any authority, direction or sanction required to be given by Extraordinary Resolution;
- 2.6** to appoint any persons (whether Noteholders or not) as a committee or committees to represent the Noteholders' interests and to confer on them any powers or discretions which the Noteholders could themselves exercise by Extraordinary Resolution; and
- 2.7** to approve the substitution of any entity for the Issuer (or any previous substitute) as principal debtor under this Agreement;

provided that the special quorum provisions in paragraph 19 shall apply to any Extraordinary Resolution (a "**special quorum resolution**") for the purpose of sub-paragraph 2.2 or 2.7 or for the purpose of making a modification to this Agency Agreement or the Notes which would have the effect of:

- (i) amending the dates of maturity or redemption of the Notes or any date for payment of interest or Interest Amounts on the Notes;
- (ii) reducing or cancelling the principal amount of, or any premium payable on redemption of, the Notes;
- (iii) reducing the rate or rates of interest in respect of the Notes or varying the method or basis of calculating the rate or rates or amount of interest or the basis for calculating any Interest Amount in respect of the Notes;
- (iv) if a Minimum and/or a Maximum Rate of Interest or Redemption Amount is shown hereon, reducing any such Minimum and/or Maximum;
- (v) varying any method of, or basis for, calculating the Final Redemption Amount, the Early Redemption Amount or the Optional Redemption Amount, including the method of calculating the Amortised Face Amount;
- (vi) varying the currency or currencies of payment or denomination of the Notes;
- (vii) modifying the provisions concerning the quorum required at any meeting of Noteholders or the majority required to pass the Extraordinary Resolution; or
- (viii) amending this proviso.

### **Convening a meeting**

**3** The Issuer may at any time convene a meeting. If it receives a written request by Noteholders holding at least 10 per cent in principal amount of the Notes of any Series for the time being outstanding and is indemnified to its satisfaction against all costs and expenses, the Issuer shall convene a meeting of the Noteholders of that Series. Every meeting shall be held at a time and place approved by the Fiscal Agent.

### **Notice of meeting**

**4** At least 21 days' notice (exclusive of the day on which the notice is given or deemed to be given and of the day of the meeting) shall be given to the Noteholders. A copy of the notice shall be given by the party convening the meeting to the other parties. The notice shall

specify the day, time and place of meeting and the nature of the resolutions to be proposed and shall explain how Noteholders may appoint proxies or representatives, obtain voting certificates and use block voting instructions and the details of the time limits applicable.

### **Cancellation of meeting**

- 5** A meeting that has been validly convened in accordance with paragraph 3 above, may be cancelled by the person who convened such meeting by giving at least 7 days' notice (exclusive of the day on which the notice is given or deemed to be given and of the day of the meeting) to the Noteholders. Any meeting cancelled in accordance with this paragraph 5 shall be deemed not to have been convened.

### **Arrangements for voting on Notes (whether in definitive form or represented by a Global Note and whether held within or outside a Clearing System) – Voting Certificates**

- 6** If a holder of a Note wishes to obtain a voting certificate in respect of it for a meeting, he must deposit such Note for that purpose at least 48 hours before the time fixed for the meeting with a Paying Agent or to the order of a Paying Agent with a bank or other depository nominated by the Paying Agent for the purpose. The Paying Agent shall then issue a voting certificate in respect of it.

- 7** A voting certificate shall:

**7.1** be a document in the English language;

**7.2** be dated;

**7.3** specify the meeting concerned and (if applicable) the serial numbers of the Notes deposited;

**7.4** entitle, and state that it entitles, its bearer to attend and vote at that meeting in respect of those Notes; and

**7.5** specify details of evidence of the identity of the bearer of such voting certificate.

- 8** Once a Paying Agent has issued a voting certificate for a meeting in respect of a Note, it shall not release the Note until either:

**8.1** the meeting has been concluded; or

**8.2** the voting certificate has been surrendered to the Paying Agent.

### **Arrangements for voting on Notes (whether in definitive form or represented by a Global Note and whether held within or outside a Clearing System) – Block Voting Instructions**

- 9** If a holder of a Note wishes the votes attributable to it to be included in a block voting instruction for a meeting, then, at least 48 hours before the time fixed for the meeting, (i) he must deposit the Note for that purpose with a Paying Agent or to the order of a Paying Agent with a bank or other depository nominated by the Paying Agent for the purpose and (ii) he or a duly authorised person on his behalf must direct the Paying Agent how those votes are to be cast. The Paying Agent shall issue a block voting instruction in respect of the votes attributable to all Notes so deposited.

- 10** A block voting instruction shall:

**10.1** be a document in the English language;

- 10.2** be dated;
- 10.3** specify the meeting concerned;
- 10.4** list the total number and serial numbers (if applicable) of the Notes deposited, distinguishing with regard to each resolution between those voting for and those voting against it;
- 10.5** certify that such list is in accordance with Notes deposited and directions received as provided in paragraphs 9, 12 and 15; and
- 10.6** appoint one or more named persons (each a “**proxy**”) to vote at that meeting in respect of those Notes and in accordance with that list.

A proxy need not be a Noteholder.

- 11** Once a Paying Agent has issued a block voting instruction for a meeting in respect of the votes attributable to any Notes:
  - 11.1** it shall not release the Notes, except as provided in paragraph 12, until the meeting has been concluded; and
  - 11.2** the directions to which it gives effect may not be revoked or altered during the 48 hours before the time fixed for the meeting.
- 12** If the receipt for a Note deposited with or to the order of a Paying Agent in accordance with paragraph 9 is surrendered to the Paying Agent at least 48 hours before the time fixed for the meeting, the Paying Agent shall release the Note and exclude the votes attributable to it from the block voting instruction.
- 13** Each block voting instruction shall be deposited at least 24 hours before the time fixed for the meeting at the specified office of the Fiscal Agent or such other place as the Issuer shall designate or approve, and in default the block voting instruction shall not be valid unless the chairman of the meeting decides otherwise before the meeting proceeds to business.
- 14** A vote cast in accordance with a block voting instruction shall be valid even if it or any of the Noteholders’ instructions pursuant to which it was executed has previously been revoked or amended, unless written intimation of such revocation or amendment is received from the relevant Paying Agent by the Fiscal Agent at its specified office (or such other place as may have been specified by the Issuer for the purpose) or by the chairman of the meeting in each case at least 24 hours before the time fixed for the meeting.
- 15** No Note may be deposited with or to the order of a Paying Agent at the same time for the purposes of both paragraph 6 and paragraph 9 for the same meeting.

#### **Chairman**

- 16** The chairman of a meeting shall be such person as the Issuer may nominate in writing, but if no such nomination is made or if the person nominated is not present within 15 minutes after the time fixed for the meeting the Noteholders or agents present shall choose one of their number to be chairman, failing which the Issuer may appoint a chairman. The chairman need not be a Noteholder or agent. The chairman of an adjourned meeting need not be the same person as the chairman of the original meeting.

## Attendance

**17** The following may attend and speak at a meeting:

**17.1** Noteholders and agents

**17.2** the chairman

**17.3** the Issuer and the Fiscal Agent (through their respective representatives) and their respective financial and legal advisers

**17.4** the Dealers and their advisers.

No-one else may attend or speak.

## Quorum and Adjournment

**18** No business (except choosing a chairman) shall be transacted at a meeting unless a quorum is present at the commencement of business. If a quorum is not present within 15 minutes from the time initially fixed for the meeting, it shall, if convened on the requisition of Noteholders, be dissolved. In any other case it shall be adjourned until such date, not less than 14 nor more than 42 days later, and time and place as the chairman may decide. If a quorum is not present within 15 minutes from the time fixed for a meeting so adjourned, the meeting shall be dissolved.

**19** One or more Noteholders or agents present in person shall be a quorum:

**19.1** in the cases marked “**No minimum proportion**” in the table below, whatever the proportion of the Notes which they represent

**19.2** in any other case, only if they represent the proportion of the Notes shown by the table below.

<b>COLUMN 1</b>	<b>COLUMN 2</b>	<b>COLUMN 3</b>
Purpose of meeting	Any meeting except one referred to in column 3	Meeting previously adjourned through want of a quorum
	Required proportion	Required proportion
To pass a special quorum resolution	75 per cent	25 per cent
To pass any other Extraordinary Resolution	A clear majority	No minimum proportion
Any other purpose	10 per cent	No minimum proportion

**20** The chairman may with the consent of (and shall if directed by) a meeting adjourn the meeting from time to time and from place to place. Only business which could have been transacted at the original meeting may be transacted at a meeting adjourned in accordance with this paragraph or paragraph 18.

**21** At least 10 days' notice (exclusive of the day on which the notice is given or deemed to be given and of the day of the adjourned meeting) of a meeting adjourned through want of a

quorum shall be given in the same manner as for an original meeting and that notice shall state the quorum required at the adjourned meeting. No notice need, however, otherwise be given of an adjourned meeting.

### **Voting**

- 22** Each question submitted to a meeting shall be decided by a show of hands unless a poll is (before, or on the declaration of the result of, the show of hands) demanded by the chairman, the Issuer or one or more persons representing not less than 2 per cent of the Notes.
- 23** Unless a poll is demanded a declaration by the chairman that a resolution has or has not been passed shall be conclusive evidence of the fact without proof of the number or proportion of the votes cast in favour of or against it.
- 24** If a poll is demanded, it shall be taken in such manner and (subject as provided below) either at once or after such adjournment as the chairman directs. The result of the poll shall be deemed to be the resolution of the meeting at which it was demanded as at the date it was taken. A demand for a poll shall not prevent the meeting continuing for the transaction of business other than the question on which it has been demanded.
- 25** A poll demanded on the election of a chairman or on a question of adjournment shall be taken at once.
- 26** On a show of hands every person who is present in person and who produces a Note or a voting certificate or is a proxy or representative has one vote. On a poll every such person has one vote in respect of each integral currency unit of the Specified Currency of such Series of Notes so produced or represented by the voting certificate so produced or for which he is a proxy or representative. Without prejudice to the obligations of proxies, a person entitled to more than one vote need not use them all or cast them all in the same way.
- 27** In case of equality of votes the chairman shall both on a show of hands and on a poll have a casting vote in addition to any other votes which he may have.

### **Effect and Publication of an Extraordinary Resolution**

- 28** An Extraordinary Resolution shall be binding on all the Noteholders, whether or not present at the meeting, and on all the Couponholders and each of them shall be bound to give effect to it accordingly. The passing of such a resolution shall be conclusive evidence that the circumstances justify its being passed. The Issuer shall give notice of the passing of an Extraordinary Resolution to Noteholders within 14 days but failure to do so shall not invalidate the resolution.

### **Minutes**

- 29** Minutes shall be made of all resolutions and proceedings at every meeting and, if purporting to be signed by the chairman of that meeting or of the next succeeding meeting, shall be conclusive evidence of the matters in them. Until the contrary is proved every meeting for which minutes have been so made and signed shall be deemed to have been duly convened and held and all resolutions passed or proceedings transacted at it to have been duly passed and transacted.

## Written Resolution and Electronic Consent

**30** Subject to the following sentence, a Written Resolution may be contained in one document or in several documents in like form, each signed by or on behalf of one or more of the Noteholders.

For so long as the Notes are in the form of a Global Note held on behalf of one or more of Euroclear, Clearstream, Luxembourg or an Alternative Clearing System, then, in respect of any resolution proposed by the Issuer:

**30.1** *Electronic Consent:* where the terms of the resolution proposed by the Issuer have been notified to the Noteholders through the relevant clearing system(s), as provided in subparagraphs (i) and/or (ii) below, the Issuer shall be entitled to rely upon approval of such resolution given by way of electronic consents communicated through the electronic communications systems of the relevant clearing system(s) in accordance with their operating rules and procedures by or on behalf of the holders of not less than 75 per cent. in principal amount of the Notes outstanding (the “**Required Proportion**”) (“**Electronic Consent**”) by close of business on the Relevant Date. Any resolution passed in such manner shall be binding on all Noteholders and Couponholders, even if the relevant consent or instruction proves to be defective. The Issuer shall not be liable or responsible to anyone for such reliance;

- (i) When a proposal for a resolution to be passed as an Electronic Consent has been made, at least 10 days’ notice (exclusive of the day on which the notice is given and of the day on which affirmative consents will be counted) shall be given to the Noteholders through the relevant clearing system(s). The notice shall specify, in sufficient detail to enable Noteholders to give their consents in relation to the proposed resolution, the method by which their consents may be given (including, where applicable, blocking of their accounts in the relevant clearing system(s)) and the time and date (the “**Relevant Date**”) by which they must be received in order for such consents to be validly given, in each case subject to and in accordance with the operating rules and procedures of the relevant clearing system(s).
- (ii) If, on the Relevant Date on which the consents in respect of an Electronic Consent are first counted, such consents do not represent the Required Proportion, the resolution shall, if the party proposing such resolution (the “**Proposer**”) so determines, be deemed to be defeated. Alternatively, the Proposer may give a further notice to Noteholders that the resolution will be proposed again on such date and for such period as shall be agreed with the Issuer (unless the Issuer is the Proposer). Such notice must inform Noteholders that insufficient consents were received in relation to the original resolution and the information specified in subparagraph (i) above. For the purpose of such further notice, references to “Relevant Date” shall be construed accordingly.

For the avoidance of doubt, an Electronic Consent may only be used in relation to a resolution proposed by the Issuer which is not then the subject of a meeting that has been validly convened in accordance with paragraph 3 above, unless that meeting is or shall be cancelled or dissolved; and

**30.2** *Written Resolution:* where Electronic Consent is not being sought, for the purpose of determining whether a Written Resolution has been validly passed, the Issuer shall be entitled to rely on consent or instructions given in writing directly to the Issuer (a) by accountholders in the clearing system(s) with entitlements to such Global Note and/or, (b)

where the accountholders hold any such entitlement on behalf of another person, on written consent from or written instruction by the person identified by that accountholder as the person for whom such entitlement is held. For the purpose of establishing the entitlement to give any such consent or instruction, the Issuer shall be entitled to rely on any certificate or other document issued by, in the case of (a) above, Euroclear, Clearstream, Luxembourg or any other relevant alternative clearing system (the “**relevant clearing system**”) and in the case of (b) above, the relevant clearing system and the accountholder identified by the relevant clearing system for the purposes of (b) above. Any resolution passed in such manner shall be binding on all Noteholders and Couponholders, even if the relevant consent or instruction proves to be defective. Any such certificate or other document shall be conclusive and binding for all purposes. Any such certificate or other document may comprise any form of statement or print out of electronic records provided by the relevant clearing system (including Euroclear’s EUCLID or Clearstream, Luxembourg’s CreationOnline system) in accordance with its usual procedures and in which the accountholder of a particular principal or principal amount of the Notes is clearly identified together with the amount of such holding. The Issuer shall not be liable to any person by reason of having accepted as valid or not having rejected any certificate or other document to such effect purporting to be issued by any such person and subsequently found to be forged or not authentic.

A Written Resolution and/or Electronic Consent shall take effect as an Extraordinary Resolution. A Written Resolution and/or Electronic Consent will be binding on all Noteholders and holders of Coupons and Talons, whether or not they participated in such Written Resolution and/or Electronic Consent.

**Schedule 4**  
**Form of Exercise Notice for Redemption Option**

**MERLIN PROPERTIES, SOCIMI, S.A.**  
**Euro Medium Term Note Programme**  
**Series No. [●]**

By depositing this duly completed Notice with any Paying Agent for the Notes of the above Series (the "**Notes**") the undersigned holder of such of the Notes as are surrendered with this Notice and referred to below irrevocably exercises its option to have such Notes, or the principal amount of Notes specified below redeemed on [●] under Condition 7(e) of the Notes.

This Notice relates to Notes in the aggregate principal amount of [●], bearing the following certificate numbers:

If the Notes to which this Notice relates are to be returned to their holder, they should be returned by post to<sup>(1)</sup>:



## Payment Instructions

Please make payment in respect of the above Notes as follows:

\*(a) by [currency] cheque drawn on a bank in [the principal financial centre of the currency] and mailed to the \*[above address].

\*(b) by transfer to the following [currency] account:

Bank: [●]

Branch Address: [●]

Branch Code: [●]

Account Number: [●]

Account Name: [●]

\*Delete as appropriate

Signature of holder:

[To be completed by recipient Paying Agent]

Received by:

[Signature and stamp of Paying Agent]

At its office at: [●]

On: [●]

### Notes:

- 1 The Agency Agreement provides that Notes so returned will be sent by post, uninsured and at the risk of the Noteholder, unless the Noteholder otherwise requests and pays the costs of such insurance in advance to the relevant Agent.
- 2 This Exercise Notice is not valid unless all of the paragraphs requiring completion are duly completed.
- 3 The Agent with whom the above Notes are deposited shall not in any circumstances be liable to the depositing Noteholder or any other person for any loss or damage arising from any act, default or omission of such Agent in relation to the Notes unless such loss or damage was caused by the fraud or negligence of such Agent or its directors, officers or employees.

## Schedule 5 Procedures for Compliance with Spanish Tax Legislation

### Procedures to be performed by the Issuer and the Paying Agent in connection with Spanish Law 10/2014, of 26 June, and Royal Decree 1065/2007, of July 27, as amended by Royal Decree 1145/2011, of July 29

These procedures, as applicable to listed securities in global form, set forth the steps to be followed by the Issuer and Société Générale Bank & Trust S.A. as paying agent (the “**Paying Agent**”). All terms used in this Schedule 5 which are not otherwise defined herein shall have the meanings assigned to them in the Agency Agreement.

The Paying Agent and the Issuer accept and acknowledge that these procedures are applicable as of the date of this Agreement. Please note however that the procedures may at a future date be modified or adapted as a result of any legal or regulatory amendment or the enactment of any secondary legislation to implement the current or future laws or regulations, or any administrative interpretation thereof, in which case, the Issuer and the Fiscal Agent will implement such procedures as may be required to enable the Issuer to comply with its obligations under applicable legislation. The Issuer undertakes to ensure that the Noteholders are informed of such new procedures and their implications.

In this Schedule, the following terms have the following meanings:

“**Payment Date**” means any Interest Payment Date and any other date on which income (i.e. interest) is, in accordance with the Conditions of the Notes, due and payable.

“**Payment Amount**” means with respect to an Interest Payment Date, the aggregate amount of interest payable on such date.

“**Payment Statement**” means the statement to be delivered to the Issuer by the Paying Agent, substantially in the form set forth in the Annex to this Schedule 5.

References to the net amount shall be to the amount due in respect of interest on any Payment Date after deduction of Spanish withholding tax at the applicable rate (as at the date of this Agreement, 19 per cent.), and references to the withheld amount shall be to the remaining amount due in respect of interest on any Payment Date.

- 1** No later than 10:00 p.m. CET on the business day immediately preceding the relevant Payment Date (“**PD-1**”), the Paying Agent shall deliver an executed Payment Statement to the Issuer, which the Paying Agent shall reasonably believe to be duly completed, substantially in the form set forth in the Annex hereto, setting forth certain details relating to the Notes, including the relevant Payment Date, the Payment Amount to be paid by the Issuer on such Payment Date, and the portion of the Payment Amount corresponding to each clearing agency located outside Spain (including Euroclear and Clearstream, Luxembourg).
- 2** The Issuer shall review the Payment Statement submitted by the Paying Agent as soon as practicable. If the Issuer believes that the information contained in the Payment Statement is incomplete or inaccurate or that the Payment Statement is otherwise not in compliance with the applicable regulation, the Issuer will notify the Paying Agent and state the reasons for such belief. Following such notification, the Paying Agent shall deliver to the Issuer a further executed Payment Statement, revised, if necessary, as reasonably determined by the Paying Agent and which the Paying Agent shall reasonably believe to be duly

completed, as soon as possible but in any event no later than 9:30 a.m. CET on the relevant Payment Date (the “**First Statement Deadline**”).

- 3 Upon receipt of a duly executed and completed Payment Statement no later than the First Statement Deadline, the Issuer shall, no later than 10:00 a.m. CET on the relevant Payment Date, instruct the Paying Agent to pay the Payment Amount free and clear of Spanish withholding tax.
- 4 Without prejudice to the rights and obligations of the Issuer provided in Clause 13, if the Paying Agent fails or for any reason is unable to deliver a duly executed and completed Payment Statement to the Issuer by the First Statement Deadline, the Issuer shall pay any additional amounts as will result in the receipt by all Noteholders (whether they are resident in Spain or not) of all amounts that would otherwise have been receivable by them had no withholdings been required.

**Procedures applicable if the Paying Agent does not deliver a duly executed and completed Payment Statement to the Issuer by the First Statement Deadline**

- 5 Without prejudice to the rights and obligations of the Issuer provided in Clause 13, if the Paying Agent fails or for any reason is unable to deliver a duly executed and completed Payment Statement to the Issuer by the First Statement Deadline, the Paying Agent undertakes to provide an executed Payment Statement to the Issuer, which the Paying Agent shall reasonably believe to be duly completed, as soon as possible but no later than 4:00 p.m. CET on the 10th calendar day of the month immediately following the relevant Payment Date. The Payment Statement shall be dated as of PD-1 and shall set forth information as of the close of business of PD-1.
- 6 The Issuer shall review the Payment Statement submitted by the Paying Agent as soon as practicable. If the Issuer believes that the information contained in the Payment Statement is incomplete or inaccurate or that the Payment Statement is otherwise not in compliance with the applicable regulation, the Issuer will notify the Paying Agent and state the reasons for such belief. Following such notification, the Paying Agent shall deliver to the Issuer a further executed Payment Statement, revised, if necessary, as reasonably determined by the Paying Agent and which the Paying Agent shall reasonably believe to be duly completed, as soon as possible but in any event no later than 5:00 p.m. CET on the 10th calendar day of the month immediately following the relevant Payment Date (the “**Second Statement Deadline**”).
- 7 Without prejudice to the rights and obligations of the Issuer provided in Clause 13, if the Paying Agent fails or for any reason is unable to deliver a duly executed and completed Payment Statement to the Issuer by the Second Statement Deadline, and thus paragraph 4 applies, the Issuer shall make such payments as may be required to the Spanish tax authorities.

**Original copies**

- 8 The Paying Agent must deliver an original copy of a duly executed and completed Payment Statement to the Issuer no later than the 15th calendar day of the month immediately following the relevant Payment Date.

Set out below is the Annex provided in Royal Decree 1065/2007 as amended by Royal Decree 1145/2011. Section in English have been translated from the original Spanish. In the event of any discrepancy, the Spanish version will prevail.

## Annex

### Form of Payment Statement to be Delivered by the Paying Agent

[English translation provided for informational purposes only]

**Modelo de declaración a que se refieren los apartados 3, 4 y 5 del artículo 44 del Reglamento General de las actuaciones y los procedimientos de gestión e inspección tributaria y de desarrollo de las normas comunes de los procedimientos de aplicación de los tributos**

Model declaration form referred to in paragraphs 3, 4 and 5 of section 44 of the General Regulations of conduct and procedures relating to tax administration and inspection and the development of general rules of procedures for the enforcement of taxes

**Don (nombre), con número de identificación fiscal (1) (...), en nombre y representación de (entidad declarante), con número de identificación fiscal (1) (...) y domicilio en (...) en calidad de (marcar la letra que proceda):**

Mr. (name), with tax identification number (1) (...), in the name and on behalf of (declaring entity), with tax identification number (1) (...), with domicile in (address) acting in its capacity as (check as appropriate)

**(a) Entidad Gestora del Mercado de Deuda Pública en Anotaciones**

(a) Managing Entity of the Public Debt Book-Entry Market

**(b) Entidad que gestiona el sistema de compensación y liquidación de valores con sede en el extranjero**

(b) Clearing and settlement entity located outside Spain

**(c) Otras entidades que mantienen valores por cuenta de terceros en entidades de compensación y liquidación de valores domiciliadas en territorio español**

(c) Other entities that hold securities on behalf of third parties in clearing and settlement systems domiciled in Spain

**(d) Agente de pagos designado por el emisor**

(d) Paying Agent appointed by the Issuer

**Formula la siguiente declaración, de acuerdo con lo que consta en sus propios registros:**

Files the following statement, in accordance with the information set forth in its own registers:

**1. En relación con los apartados 3 y 4 del artículo 44:**

1. Regarding sections 3 and 4 of section 44:

**1.1 Identificación de los valores**

1.1. Identification of the securities

**1.2 Fecha de pago de los rendimientos (o de reembolso si son valores emitidos al descuento o segregados)**

1.2. Date on which payment will be made (or reimbursement date in case of securities issued at a discount or segregated securities)

**1.3 Importe total de los rendimientos (o importe total a reembolsar, en todo caso, si son valores emitidos al descuento o segregados)**

1.3. Total amount of payment (or total amount to be reimbursed, in any event, in case of securities issued at a discount or segregated securities)

**1.4 Importe de los rendimientos correspondiente a contribuyentes del Impuesto sobre la Renta de las Personas Físicas, excepto cupones segregados y principales segregados en cuyo reembolso intervenga una Entidad Gestora**

1.4. Amount of payment corresponding to Spanish Individual Income Tax taxpayers, except with respect to segregated coupons and segregated principal the payment of which is handled by a Managing Entity

**1.5 Importe de los rendimientos que conforme al apartado 2 del artículo 44 debe abonarse por su importe íntegro (o importe total a reembolsar si son valores emitidos al descuento o segregados)**

1.5. Amount of payment that, pursuant to section 2 of section 44, must be paid in full (or the total amount to be reimbursed in the case of securities issued at a discount or segregated securities)

**2. En relación con el apartado 5 del artículo 44:**

2. Regarding section 5 of section 44:

**2.1 Identificación de los valores**

2.1. Identification of the securities

**2.2 Fecha de pago de los rendimientos (o de reembolso si son valores emitidos al descuento o segregados)**

2.2. Date on which payment will be made (or reimbursement date in case of securities issued at a discount or segregated securities)

**2.3 Importe total de los rendimientos (o importe total a reembolsar si son valores emitidos al descuento o segregados)**

2.3. Total amount of payment (or total amount to be reimbursed, in any event, in case of securities issued at a discount or segregated securities)

**2.4 Importe correspondiente a la entidad que gestiona el sistema de compensación y liquidación de valores con sede en el extranjero A**

2.4. Amount of payment corresponding to clearing and settlement entity "A" located outside Spain

**2.5 Importe correspondiente a la entidad que gestiona el sistema de compensación y liquidación de valores con sede en el extranjero B**

2.5. Amount of payment corresponding to clearing and settlement entity "B" located outside Spain

**2.6 Importe correspondiente a la entidad que gestiona el sistema de compensación y liquidación de valores con sede en el extranjero C**

2.6. Amount of payment corresponding to clearing and settlement entity "C" located outside Spain

**Lo que declaro en .....a .... de .....de ....**

I declare the above in [location] on the [day] of [month] of [year].

(1) En caso de personas, físicas o jurídicas, no residentes sin establecimiento permanente se hará constar el número o código de identificación que corresponda de conformidad con su país de residencia.

(1) In case of individuals or corporations that are not resident in Spain and do not act through a permanent establishment in Spain, please include the identification number or code that corresponds in accordance with the laws of their country of residence.

**Schedule 6**  
**Accountholder Certificate of Non-U.S. Citizenship and Residency**

**MERLIN PROPERTIES, SOCIMI, S.A.**  
**Euro Medium Term Note Programme**  
**Series No. [●] Tranche No. [●]**  
**(the “Securities”)**

This is to certify that as of the date hereof, and except as set forth below, the above-captioned Securities held by you for our account (i) are owned by person(s) that are not citizens or residents of the United States, domestic partnerships, domestic corporations or any estate or trust the income of which is subject to United States Federal income taxation regardless of its source (“**United States person(s)**”), (ii) are owned by United States person(s) that (A) are the foreign branches of United States financial institutions (as defined in U.S. Treasury Regulations Section 1.165-12(c)(1)(iv)) (“**financial institutions**”) purchasing for their own account or for resale, or (B) acquired the Securities through foreign branches of financial institutions and who hold the Securities through such financial institution on the date hereof (and in either case (A) or (B), each such financial institution hereby agrees, on its own behalf or through its agent, that you may advise the Issuer or the Issuer’s agent that it will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder), or (iii) are owned by United States or foreign financial institution(s) for purposes of resale during the restricted period (as defined in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(7)), and in addition if the owner of the Securities is a United States or foreign financial institution described in clause (iii) above (whether or not also described in clause (i) or (ii)) this is further to certify that such financial institution has not acquired the Securities for purposes of resale directly or indirectly to a United States person or to a person within the United States or its possessions.

If the Securities are of the category contemplated in Section 903(b)(3) of Regulation S under the Securities Act of 1933, as amended (the “**Act**”) then this is also to certify that, except as set forth below (i) in the case of debt securities, the Securities are beneficially owned by (a) non-U.S. person(s) or (b) U.S. person(s) who purchased the Securities in transactions which did not require registration under the Act; or (ii) in the case of equity securities, the Securities are owned by (x) non-U.S. person(s) (and such person(s) are not acquiring the Securities for the account or benefit of U.S. person(s)) or (y) U.S. person(s) who purchased the Securities in a transaction which did not require registration under the Act. If this certification is being delivered in connection with the exercise of warrants pursuant to Section 903(b)(5) of Regulation S under the Act, then this is further to certify that, except as set forth below, the Securities are being exercised by and on behalf of non-U.S. person(s). As used in this paragraph the term “**U.S. person**” has the meaning given to it by Regulation S under the Act.

As used herein, “**United States**” means the United States of America (including the States and the District of Columbia); and its “possessions” include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

We undertake to advise you promptly by fax on or prior to the date on which you intend to submit your certification relating to the Securities held by you for our account in accordance with your Operating Procedures if any applicable statement herein is not correct on such date, and in the absence of any such notification it may be assumed that this certification applies as of such date.

This certification excepts and does not relate to [●] in principal amount of such Securities in respect of which we are not able to certify and as to which we understand exchange and delivery of definitive Securities (or, if relevant, exercise of any rights or collection of any interest) cannot be made until we do so certify.

We understand that this certificate is required in connection with certain tax laws and, if applicable, certain securities laws, of the United States. In connection therewith, if administrative or legal proceedings are commenced or threatened in connection with which this certificate is or would be relevant, we irrevocably authorise you to produce this certificate to any interested party in such proceedings.

Dated:

\_\_\_\_\_

\_\_\_\_\_

The account holder, as, or as agent for, the  
beneficial owner(s) of the Securities to which this  
Certificate applies.

**Schedule 7**  
**Clearing System Certificate of Non-U.S. Citizenship and Residency**

**MERLIN PROPERTIES, SOCIMI, S.A.**  
**Euro Medium Term Note Programme**  
**Series No. [●] Tranche No. [●]**  
**(the “Securities”)**

This is to certify that, based solely on certifications we have received in writing or by electronic transmission from member organisations appearing in our records as persons being entitled to a portion of the principal amount set forth below (our **“Member Organisations”**) substantially to the effect set forth in the Agency Agreement, as of the date hereof, [●] principal amount of the above-captioned Securities (i) is owned by persons that are not citizens or residents of the United States, domestic partnerships, domestic corporations or any estate or trust the income of which is subject to United States Federal income taxation regardless of its source (**“United States persons”**), (ii) is owned by United States persons that (a) are foreign branches of United States financial institutions (as defined in U.S. Treasury Regulations Section 1.165-12(c)(1)(iv) (**“financial institutions”**) purchasing for their own account or for resale, or (b) acquired the Securities through foreign branches of United States financial institutions and who hold the Securities through such United States financial institutions on the date hereof (and in either case (a) or (b), each such United States financial institution has agreed, on its own behalf or through its agent, that we may advise the Issuer or the Issuer’s agent that it will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder), or (iii) is owned by United States or foreign financial institutions for purposes of resale during the restricted period (as defined in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(7)), and to the further effect that United States or foreign financial institutions described in clause (iii) above (whether or not also described in clause (i) or (ii)) have certified that they have not acquired the Securities for purposes of resale directly or indirectly to a United States person or to a person within the United States or its possessions.

If the Securities are of a category contemplated in Section 903(b)(3) of Regulation S under the Securities Act of 1933, as amended (the **“Act”**) then this is also to certify with respect to such principal amount of Securities set forth above that, except as set forth below, we have received in writing or by electronic transmission, from our Member Organisations entitled to a portion of such principal amount, certifications with respect to such portion, substantially to the effect set forth in the Agency Agreement.

We further certify (i) that we are not making available herewith for exchange (or, if relevant, exercise of any rights or collection of any interest in respect of) the Global Security excepted in such certifications and (ii) that as of the date hereof we have not received any notification from any of our Member Organisations to the effect that the statements made by such Member Organisations with respect to any portion of the part submitted herewith for exchange (or, if relevant, exercise of any rights or collection of any interest) are no longer true and cannot be relied upon as at the date hereof.

We understand that this certification is required in connection with certain tax laws and, if applicable, certain securities laws of the United States. In connection therewith, if administrative or legal proceedings are commenced or threatened in connection with which this certification is or would be relevant, we irrevocably authorise you to produce this certification to any interested party in such proceedings.



Dated: [●] \*

Yours faithfully

**[EUROCLEAR BANK S.A./N.V.]**

or

**[CLEARSTREAM BANKING, SOCIÉTÉ ANONYME]**

By:

\*[Not earlier than the Exchange Date as defined in the temporary Global Note.]

## **Schedule 8**

### **Obligations regarding Notes in NGN form**

In relation to each Series of Notes that is represented by a NGN, the Fiscal Agent will comply with the following provisions:

- 1** The Fiscal Agent will inform each of Euroclear and Clearstream, Luxembourg through the Common Service Provider of the initial issue outstanding amount for the Notes on or prior to the relevant Issue Date.
- 2** If any event occurs that requires a mark up or mark down of the records which either Euroclear or Clearstream, Luxembourg holds for its customers to reflect such customers' interest in the Notes, the Fiscal Agent will (to the extent known to it) promptly provide details of the amount of such mark up or mark down, together with a description of the event that requires it, to Euroclear and Clearstream, Luxembourg (through the Common Service Provider) to ensure that the issue outstanding amount of any Notes which are in NGN form, as set out in the records of Euroclear and Clearstream, Luxembourg remains accurate at all times.
- 3** The Fiscal Agent will at least monthly perform a reconciliation process with Euroclear and Clearstream, Luxembourg (through the Common Service Provider) with respect to the issue outstanding amount for the Notes and will promptly inform Euroclear and Clearstream, Luxembourg (through the Common Service Provider) of any discrepancies.
- 4** The Fiscal Agent will promptly assist Euroclear and Clearstream, Luxembourg (through the Common Service Provider) in resolving any discrepancy identified in the issue outstanding amount of any Notes in NGN form.
- 5** The Fiscal Agent will promptly provide to Euroclear and Clearstream, Luxembourg (through the Common Service Provider) details of all amounts paid by it under the Notes (or, where the Notes provide for delivery of assets other than cash, of the assets so delivered).
- 6** The Fiscal Agent will (to the extent known to it) promptly provide to Euroclear and Clearstream, Luxembourg (through the Common Service Provider) notice of any changes to the Notes that will affect the amount of, or date for, any payment due under the Notes.
- 7** The Fiscal Agent will (to the extent known to it) promptly provide to Euroclear and Clearstream, Luxembourg (through the Common Service Provider) copies of all information that is given to the holders of the Notes.
- 8** The Fiscal Agent will promptly pass on to the Issuer all communications it receives from Euroclear and Clearstream, Luxembourg directly or through the Common Service Provider relating to the Notes.
- 9** The Fiscal Agent will (to the extent known to it) promptly notify Euroclear and Clearstream, Luxembourg (through the Common Service Provider) of any failure by the Issuer to make any payment due under the Notes when due.