

## PROPUESTA DE ACUERDOS A SOMETER A LA ASAMBLEA GENERAL DEL SINDICATO DE BONISTAS

La Asamblea General del Sindicato de Bonistas (la “**Asamblea General**”) de la emisión de bonos de Fomento de Construcciones y Contratas, S.A. (la “**Sociedad**”) denominada “€450,000,000 6.50 per cent. unsecured convertible notes due 2014” (con código ISIN XS0457172913 y Common Code 045717291) (los “**Bonos**”), de acuerdo con lo previsto en el Reglamento del Sindicato de Bonistas y en el Contrato de Agencia Fiscal (“*Fiscal Agency Agreement*”), por medio de la presente acuerda:

- (1) aprobar la modificación de los términos y condiciones de los Bonos tal como se establecen en el Contrato de Agencia Fiscal (“*Fiscal Agency Agreement*”) y en la Escritura de Emisión como sigue:

- (a) *Condition 1(c) (Status of the Notes and Subordination) shall be deleted in its entirety and replaced with the following:*

*“Status of the Notes*

*The Notes constitute direct and (subject to Condition 2 (Negative Pledge)) unsecured obligations (“créditos ordinarios”) of the Issuer and rank pari passu and rateably, without any preference among themselves, and shall rank at least equally with all other present and future unsecured and unsubordinated obligations of the Issuer, save for such obligations that may be preferred by provisions of law that are mandatory and of general application.”*

- (b) *Condition 3 (Definitions) shall be amended as follows:*

- (i) *The definition of “Final Maturity Date” shall be deleted in its entirety and replaced with the following:*

*““Final Maturity Date” means 30 October 2020.”*

- (ii) *The definitions “Optional Redemption Date”, “Optional Redemption Notice” and “Optional Redemption Price” shall be inserted with the following content:*

*““Optional Redemption Date” has the meaning provided in Condition 7(e).*

*“Optional Redemption Notice” has the meaning provided in Condition 7(e).*

*“Optional Redemption Price” has the meaning provided in Condition 7(e).”*

- (iii) *The definitions of “Senior Creditors”, “Senior Facilities Agreement”, “Senior Liabilities” and “Subordination End Date” shall be deleted in their entirety.*

- (c) *Condition 4(d) (Closed Periods) shall be deleted in its entirety and replaced with the following:*

*“Closed Periods*

*Neither the Issuer nor the Registrar will be required to register the transfer of any Note (or part thereof) (a) during the period of 7 (seven) days immediately prior to the Final Maturity*

*Date or any earlier date fixed for redemption of the Notes pursuant to Condition 7(e); (b) in respect of which a Conversion Notice has been delivered in accordance with Condition 6(g) or where an Issuer Conversion Notice shall have been given pursuant to Condition 6(a)(ii); or (c) in respect of which a holder has exercised its right to require redemption pursuant to Condition 7(b); or (d) during the period of 7 (seven) days ending on (and including) any Record Date (as defined in Condition 8(c)) in respect of any payment of interest on the Notes.”*

(d) Condition 6 (Conversion of Notes) shall be amended as follows:

(i) The third paragraph of Condition 6(a)(i) (Exercise of Conversion Rights by Noteholders) shall be deleted in its entirety and replaced with the following:

*“The Conversion Price is euro 30.00 per Ordinary Share. On the basis of the initial Conversion Price, each euro 50,000 nominal amount of Notes would entitle the holder to receive (subject as provided in these Conditions) 1,666.66 Ordinary Shares. The Conversion Price is subject to adjustment in the circumstances described in Condition 6(b).”*

(ii) The fifth paragraph of Condition 6(a)(i) (Exercise of Conversion Rights by Noteholders) shall be deleted in its entirety and replaced with the following:

*“Subject to, and as provided in these Conditions, the Conversion Right in respect of a Note may be exercised, at the option of the holder thereof, at any time (subject to any applicable fiscal or other laws or regulations and as hereinafter provided) from 15 December 2009 (the **Conversion Commencement Date**) (i) to the close of business (at the place where the relevant Note is delivered for conversion) on the date falling 7 (seven) Trading Days prior to the Final Maturity Date (both days inclusive), or (ii) if the Notes shall have been called for redemption pursuant to Condition 7(e) prior to the Final Maturity Date, then up to (and including) the close of business (at the place aforesaid) on the date falling 7 (seven) Trading Days prior to the Optional Redemption Date or, (iii) if the Issuer shall exercise the Issuer Conversion Right pursuant to Condition 6(a)(ii), up to the close of business on the sixth Trading Day prior to the last possible date on which the Issuer Conversion Settlement Period (as defined in Condition 6(a)(ii) could end, in each case unless there shall be default in making payment in respect of such Note on such date fixed for redemption, in which event the Conversion Right shall extend up to (and including) the close of business (at the place aforesaid) on the date on which the full amount of such payment becomes available for payment and notice of such availability has been duly given in accordance with Condition 15 or, if earlier, the Final Maturity Date; provided that, in each case, if the final such date for the exercise of Conversion Rights is not a business day at the place aforesaid, then the period for exercise of the Conversion Right by Noteholders shall end on the immediately preceding business day at the place aforesaid.”*

(iii) The sixth paragraph of Condition 6(a)(i) (Exercise of Conversion Rights by Noteholders) shall be deleted in its entirety and replaced with the following:

*“Without prejudice to the foregoing paragraph of this Condition 6(a)(i), Conversion Rights may not be exercised (a) in respect of a Note for which the relevant holder has either (i) given notice pursuant to Condition 10, or (ii) exercised its right to require the Issuer to*

redeem pursuant to Condition 7(b), or (b) when the Commissioner, acting upon a Resolution of the Noteholders, has given notice in respect of all Notes pursuant to Condition 10.”

- (iv) The definition of “Threshold Amount” in Condition 6(b)(v) (Extraordinary Distributions) shall be amended by the addition of the following six rows:

Relevant Fiscal Year ending:	Threshold Amount (euros)
31 December 2015	1.20
31 December 2016	1.20
31 December 2017	1.20
31 December 2018	1.20
31 December 2019	1.20
31 December 2020	1.20

- (v) The eighth paragraph of Condition 6(g) (Procedure for exercise of Conversion Rights) shall be deleted in its entirety and replaced with the following:

“Notwithstanding the provisions of the preceding paragraph, (a) in the case of Conversion Notices delivered in respect of which the Conversion Date falls on any date during December 2009 or January 2010, the Issuer shall act upon any such Conversion Notice on the tenth day of February 2010 or, if such day is not a Madrid/Barcelona business day, the following Madrid/Barcelona business day, and (b) in the case of Conversion Notices delivered in respect of which the Conversion Date falls after the seventh Madrid/Barcelona business day prior to the first day of the calendar month in which (or, if such day is not a Madrid/Barcelona business day, the following Madrid/Barcelona business day) the Final Maturity Date or the Optional Redemption Date falls or the last day of the Triggering Event Period (as the case may be), the Issuer shall act upon any such Conversion Notice not later than the Madrid/Barcelona business day prior to the Final Maturity Date, the Optional Redemption Date or the last day of the Triggering Event Period (as the case may be).”

- (vi) Condition 6(k) (Interest on Conversion) shall be inserted with the following content:

“(k) Interest on Conversion

If any notice requiring the redemption of the Notes is given pursuant to Condition 7(e) on or after the fifteenth Madrid/Barcelona business day prior to a Record Date which has occurred since the last Interest Payment Date in respect of any Distribution or dividend payable in respect of the Ordinary Shares where such notice specifies a date for redemption falling on or prior to the date which is 14 (fourteen) days after the Interest Payment Date next following such Record Date, interest shall accrue at the rate provided in Condition 5(a) on Notes in respect of which Conversion Rights shall have been exercised and in respect of which the Conversion Date falls after such Record Date and

on or prior to the Interest Payment Date next following such Record Date in respect of such Distribution or dividend, in each case from and including the preceding Interest Payment Date to but excluding such Conversion Date. The Issuer shall pay any such interest by not later than 14 (fourteen) days after the relevant Conversion Date by transfer to a euro account with a bank in a city in which banks have access to the TARGET System in accordance with instructions given by the relevant Noteholder in the relevant Conversion Notice.”

- (e) Condition 7 (Redemption, Purchase and Triggering Event Protections) shall be amended as follows:

- (i) Condition 7(a) (Final Redemption) shall be deleted in its entirety and replaced with the following:

*“Final Redemption*

*Unless previously purchased and cancelled, redeemed or converted as herein provided, the Notes will be redeemed at their principal amount on the Final Maturity Date. The Notes may only be redeemed at the option of the Issuer prior to the Final Maturity Date in accordance with Condition 7(e).”*

- (ii) The first paragraph of Condition 7(b) (Redemption at the option of the Noteholders following a Triggering Event) shall be deleted in its entirety and replaced with the following:

*“If a Triggering Event shall occur, the holder of each Note will have the right to require the Issuer to redeem that Note on the Put Date at the Put Price, together with accrued interest to (but excluding) the Put Date.”*

- (iii) Condition 7(e) (Redemption at the Option of the Issuer) shall be inserted with the following content:

*“(e) Redemption at the Option of the Issuer*

*The Issuer may, at any time on or after 30 October 2018, on giving not less than 15 (fifteen) and not more than 20 (twenty) days’ notice (the **Optional Redemption Notice**) to the Noteholders, redeem all, but not some only, of the Notes on the date (the **Optional Redemption Date**) specified in the Optional Redemption Notice at their principal amount together with accrued and unpaid interest to (but excluding) such date fixed for redemption (the **Optional Redemption Price**).*

*Any Optional Redemption Notice shall be irrevocable. Any such notice shall specify (i) the Optional Redemption Date, the Optional Redemption Price and the applicable Record Date, (ii) the Conversion Price, the aggregate principal amount of the Notes outstanding and the Closing Price, in each case as at the latest practicable date prior to the publication of the Optional Redemption Notice, and (iii) the last day on which Conversion Rights may be exercised by Noteholders.”*

*Therefore, the alphabetical order of the following sections shall be adjusted as appropriate. Consequentially 7(e), 7(f) and 7(g) should read and are amended to read as, 7(f), 7(g) and 7(h).*

- (iv) Condition 7(f) (as amended above) (Purchase) shall be deleted in its entirety and replaced with the following:

*“Purchase*

*Subject to the requirements (if any) of any stock exchange on which the Notes may be admitted to listing and trading at the relevant time and subject to compliance with applicable laws and regulations, the Issuer or any Subsidiary of the Issuer may at any time purchase Notes in the open market or otherwise at any price. Such Notes shall be surrendered to the Fiscal Agent for cancellation.”*

- (f) Condition 8(c) (Record Date) shall be deleted in its entirety and replaced with the following:

*“Record Date*

***Record Date*** means the seventh business day, in the place of the specified office of the Registrar, before the due date for the relevant payment, except in respect of Notes represented in global form by a global certificate deposited with, and registered in the name of a nominee of, a common depositary for Euroclear Bank SA/NV and/or Clearstream, Luxembourg, société anonyme in which case it means the close of business on the Clearing System Business Day immediately prior to the due date for the relevant payment, where Clearing System Business Day means Monday to Friday inclusive except 25 December and 1 January.”

- (g) Condition 10 (Events of Default) shall be amended as follows:

- (v) The paragraph below the event (j) shall be deleted in its entirety and replaced with the following:

*“then, any Note may, by notice in writing to the Fiscal Agent at its specified office by (i) the Commissioner acting upon a Resolution of Noteholders, in respect of all Notes, or (ii) unless there has been a resolution to the contrary by the Syndicate of Noteholders, any Noteholder in respect of such Note, be declared immediately due and payable whereupon it shall become immediately due and payable at its principal amount together with accrued interest, without further formality.”*

- (h) Condition 11 (Undertakings) shall be amended as follows:

- (i) The word “and” shall be added after “,” on undertaking (j).  
(ii) The word “and” shall be replaced with “.” on undertaking (k).  
(iii) The undertaking (l) shall be deleted in its entirety.

- (i) The reference to “Status and Subordination of the Notes” in the first paragraph of Condition 19 (Governing Law and Jurisdiction) shall be replaced with reference to “Status of the Notes”.

- (2) si los presentes acuerdos son aprobados, requerir y facultar al Comisario, para suscribir un suplemento al Contrato de Agencia Fiscal (*“Fiscal Agency Agreement”*), la escritura pública de modificación de los Términos y Condiciones de los Bonos así como cuantos documentos fuesen necesarios o convenientes para la plena eficacia de la modificación incluida en el apartado (1) anterior.

- (3) exonerar al Comisario de toda responsabilidad en la que pudiera incurrir bajo el Contrato de Agencia Fiscal ("*Fiscal Agency Agreement*") o los Bonos en relación con cualquier acto u omisión relativo a la convocatoria de la Asamblea General, su intervención en dicha Asamblea y las actuaciones que lleve a cabo en uso de las facultades conferidas en virtud del apartado (2) anterior, a las propuestas sometidas a votación o su ejecución, y a la modificación referida en el apartado (1) anterior o la ejecución de dicha modificación.
- (4) sancionar y aprobar cada una de las supresiones, modificaciones, compromisos o acuerdos en relación con los derechos de los bonistas frente a la Sociedad o sus bienes, ya deriven dichos derechos del Contrato de Agencia Fiscal ("*Fiscal Agency Agreement*"), de la convocatoria de la Asamblea General o de la propuesta de acuerdos, los acuerdos que efectivamente se adopten o su ejecución, así como las modificaciones que se realicen en el Contrato de Agencia Fiscal ("*Fiscal Agency Agreement*") o su correspondiente ejecución.
- (5) reconocer que la eficacia de los acuerdos adoptados, en su caso, y el pago de la prima de asistencia y voto ("*Instruction Fee*") está en todo caso condicionada al cumplimiento de las siguientes condiciones suspensivas: la aprobación del presente acuerdo por parte de la Junta General Ordinaria de Accionistas de la Sociedad, la inscripción en el Registro Mercantil de Barcelona de la escritura pública de modificación y el anuncio por parte de la Sociedad de la entrada en vigor de la Refinanciación (conjuntamente, las "*Conditions Precedent*") que será anunciado por parte de la Sociedad. Asimismo, reconoce que el pago de la prima de asistencia y voto en primera convocatoria ("*Structuring Fee*") está condicionado a que se alcance el quorum legalmente necesario y se celebre válidamente la Asamblea General en primera convocatoria.
- (6) redactar y aprobar el Acta de la Asamblea General.

Salvo que el contexto indique lo contrario, los términos y definiciones en mayúsculas que se incluyen en este acuerdo tendrán el significado que a los mismos se atribuye en el Contrato de Agencia Fiscal ("*Fiscal Agency Agreement*") y el Consent Solicitation Memorandum.