

E.ON Zwölfte Verwaltungs GmbH (“E.ON 12”), en cumplimiento de lo establecido en el artículo 82 de la Ley 24/1988, de 28 de julio, del Mercado de Valores, y en relación a la Oferta Pública de Adquisición del 100% de las acciones de Endesa, S.A. (“Endesa”) formulada por E.ON 12 (la “Oferta”), mediante el presente escrito comunica a la CNMV y al público el siguiente

HECHO RELEVANTE

Con fecha 27 de marzo de 2007, E.ON AG y E.ON 12 han presentado ante la *Securities and Exchange Commission* (SEC) de los Estados Unidos de América un *Amendment No. 24 to the Tender Offer Statement* en *Schedule TO*, relativo al *Equity Swap* suscrito con Caja Madrid con fecha 27 de marzo de 2007, que se adjunta para público y general conocimiento. Se adjunta también una traducción del denominado “*Confirmation of Share Swap Transaction*”, que forma parte de dicho *Amendment No. 24*.

Düsseldorf, 28 de marzo de 2007

E.ON Zwölfte Verwaltungs GmbH

Frank Fischer

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

Schedule TO/A

**(Rule 14d-100)
Tender Offer Statement under Section 14(d)(1)
of the Securities Exchange Act of 1934
(Amendment No. 24)**

ENDESA, S.A.

(Name of Subject Company (issuer))

**E.ON Zwölfte Verwaltungs GmbH
E.ON AG**

(Names of Filing Persons (offerors))

**Ordinary shares, par value €1.20 each
American Depositary Shares (each representing one ordinary share)**

(Titles of Classes of Securities)

**Ordinary Shares, ISIN ES0130670112
American Depositary Shares, CUSIP 00029274F1, ISIN US29258N1072**

(CUSIP and ISIN Numbers of Classes of Securities)

**Mr. Karl-Heinz Feldmann
Senior Vice President and General Counsel
E.ON AG
E.ON - Platz
D-40479 Düsseldorf, Germany
011 49-211-45 79-0**

(Name, address and telephone number of
person authorized to receive notices and communications on behalf of filing persons)

**Copy to:
Richard Hall, Mark I. Greene
Cravath, Swaine & Moore LLP
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019
(212) 474-1000**

CALCULATION OF FILING FEE

Transaction Valuation⁽¹⁾
\$8,619,114.649

Amount of Filing Fee⁽²⁾
\$264,607

⁽¹⁾ Estimated solely for the purpose of calculating the filing fee in accordance with Rule 0-11(d) under the Securities Exchange Act of 1934 (the "Exchange Act"), the transaction valuation is calculated by multiplying 161,989,074, which is the estimate of the number of ordinary shares of Endesa (including ordinary shares represented by ADSs) subject to the U.S. Offer, by the offer price of €40 in cash for each ordinary share and each ADS, converted into U.S. dollars based on an exchange rate expressed in U.S. dollars per euro of \$1.3302 = €1.00, the Federal Reserve Bank of New York noon buying rate on March 23, 2007. Terms used and not defined in the preceding sentence are defined below.

⁽²⁾ The amount of the filing fee, calculated in accordance with Rule 0-11(d) of the Exchange Act, is \$30.70 per \$1,000,000.00 of the transaction valuation and was sent via wire transfer on January 23, 2007 and on February 7, 2007.

Check box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid: \$871,059

Form or Registration No.: Schedule TO and Schedule TO/A

Filing Party: E.ON Aktiengesellschaft
E.ON Zwölfte Verwaltungs GmbH

Date Filed: January 26, 2007 and February 8, 2007

Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

third-party tender offer subject to Rule 14d-1.

issuer tender offer subject to Rule 13e-4.

going-private transaction subject to Rule 13e-3

amendment to Schedule 13D under Rule 13d-2

Check the following box if the filing is a final amendment reporting the results of the tender offer:

This Amendment No. 24 (the "**Amendment**") amends and supplements the Tender Offer Statement on Schedule TO filed with the Securities and Exchange Commission on January 26, 2007 (as amended and supplemented prior to the date hereof, the "**Schedule TO**"). The Schedule TO relates to the offer by E.ON Zwölfte Verwaltungs GmbH ("**E.ON 12**"), a German limited liability company and wholly owned subsidiary of E.ON Aktiengesellschaft ("**E.ON**"), to acquire all the outstanding ordinary shares, par value €1.20 per share (the "**ordinary shares**"), and American depositary shares (the "**ADSs**" and, together with the ordinary shares, the "**Endesa securities**") of Endesa, S.A., a Spanish public limited company ("**Endesa**"), at a price of €40.00 in cash for each ordinary share and each ADS, upon the terms and subject to the conditions of the U.S. offer (the "**U.S. Offer**") (including, if the U.S. Offer is extended or amended, the terms and conditions of any such extension or amendment), as described in the U.S. Offer to Purchase dated January 26, 2007, as amended and supplemented by the Supplement to the U.S. Offer to Purchase dated February 14, 2007 (as so amended and supplemented, the "**U.S. Offer to Purchase**"). E.ON 12 is also making a separate, concurrent Spanish offer (the "**Spanish Offer**" and, together with the U.S. Offer, the "**Offers**") for the ordinary shares. Except as specifically provided herein, this Amendment does not modify any of the information previously reported on the Schedule TO.

Item 8. Interest in Securities of the Subject Company.

Item 8 is amended and supplemented to include the following information:

On March 27, 2007, E.ON entered into a equity swap transaction with Caja Madrid which relates to 105,076,259 Endesa ordinary shares ("**Subject Shares**"), representing approximately 9.9% of the outstanding ordinary shares of Endesa ("**Swap Transaction**"). The Swap Transaction is evidenced by the ISDA Master Agreement ("**Master Agreement**"), the Schedule to the Master Agreement ("**Schedule**"), the Confirmation ("**Swap Confirmation**") and the Fee Letter ("**Fee Letter**"), all dated March 27, 2007, between E.ON and Caja Madrid. Copies of the Master Agreement, the Schedule, the Swap Confirmation and the Fee Letter are attached hereto as Exhibits (a)(5)(ZZ), (a)(5)(AAA), (a)(5)(BBB) and (a)(5)(CCC), respectively, and are hereby expressly incorporated by reference to this Item 8 of the Schedule TO. The following summary relating to the Swap Transaction is qualified in its entirety by reference to the copies of the Swap Confirmation, the Master Agreement, the Schedule and the Fee Letter.

Under the Swap Transaction, Caja Madrid agreed to pay E.ON an amount equal to any increase, and E.ON agreed to pay Caja Madrid an amount equal to any decrease, in the official market price of the Subject Shares above or below a reference price of €38.75. If E.ON's proposed new Offer price of €40 is approved by the CNMV, the reference price for the Swap Transaction will be increased to €40. In the event E.ON pays a price per ordinary share in the Offers in excess of €40, such higher price shall be deemed the reference price. The Swap Confirmation also contemplates certain interim payments during the period of the Swap Transaction by E.ON to Caja Madrid based on EURIBOR plus a spread of 27.5 to 37.5 basis points depending on E.ON's credit rating, net of dividends.

The principal rights and obligations of the parties under the Swap Transaction will only become effective upon (i) the minimum tender condition under the Offers being satisfied, or (ii) E.ON waiving the minimum tender condition and accepting for payment the Endesa shares tendered. The Swap Transaction has, subject to certain early termination rights, a term of two years from the date the principal rights and obligations of the parties thereunder become effective. E.ON has the right to terminate the Swap Transaction at any time. Caja Madrid has the right to terminate the Swap Transaction upon the occurrence of specific events.

Upon expiration or termination of the Swap Transaction, E.ON may require Caja Madrid to physically deliver the Subject Shares or settle the Swap Transaction in cash. The Swap Transaction does not grant E.ON the right to acquire (other than in connection with the physical settlement provisions of the Swap Transaction), dispose of or vote any Endesa securities.

During the term of the Swap Transaction, Caja Madrid is under the obligation to retain full legal and unencumbered title to the Subject Shares. The Swap Transaction does not give any party the right to direct or determine any voting rights that the other party may have in respect to ordinary shares. Caja Madrid may not tender the Subject Shares into the Offers without prior written consent of E.ON.

E.ON will pay to Caja Madrid an Arrangement Fee in the amount of 0.25% and a Structuring Fee in the amount of 0.45% of the Equity Notional Amount (the aggregate reference price of the Subject Shares).

Item 11. Additional Information.

Item 11 is amended and supplemented to include the following information:

In the U.S., on March 26, 2007, E.ON and E.ON 12 filed a complaint against Enel, S.p.A. and Enel Energy Europe S.r.L. (collectively, "*Enel*") in the U.S. District Court for the Southern District of New York (the "*Court*") and moved for leave to amend its existing complaint against Acciona in the Court alleging (a) that Enel and Acciona made misleading disclosures of their plans and arrangements, including plans and arrangements with each other, with respect to Endesa and (b) that Enel and Acciona's public announcement of a tender offer violated Section 14(e) of the Exchange Act and the rules promulgated thereunder. In its filings, E.ON and E.ON 12 request the Court to order that Enel and Acciona make corrective disclosures and be barred from purchasing or offering to purchase additional Endesa securities (including through the settlement of Enel's outstanding swap arrangements with various financial institutions). In addition, E.ON and E.ON 12 contend that because of violations of Section 14 under the Exchange Act in its acquisition of 10% of Endesa, Enel should be required to offer rescission to the Endesa shareholders from whom it purchased shares. E.ON and E.ON 12 also contend that Acciona's conduct violated the order of the Court dated February 5, 2007, prohibiting Acciona from any further violation of Section 13(d) under the Exchange Act and any other disclosure provision of the U.S. securities laws.

Item 12. Exhibits.

Item 12 is amended and supplemented to include the following exhibits:

<i>Exhibit</i>	<i>Description</i>
(a)(5)(ZZ)	ISDA Master Agreement dated March 27, 2007
(a)(5)(AAA)	Schedule to the ISDA Master Agreement dated March 27, 2007
(a)(5)(BBB)	Confirmation of Share Swap Transaction dated March 27, 2007
(a)(5)(CCC)	Fee Letter dated March 27, 2007
(a)(5)(DDD)	Press Release dated March 27, 2007
(a)(5)(EEE)	English translation of an advertisement published in Spanish newspapers

SIGNATURES

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Dated: March 27, 2007

E.ON Zwölfte Verwaltungs GmbH

By: /s/ Karl-Heinz Feldmann
Name: Mr. Karl-Heinz Feldmann
Title: Managing Director

By: /s/ Dr. Patrick Wolff
Name: Dr. Patrick Wolff
Title: Managing Director

E.ON Aktiengesellschaft

By: /s/ Dr. Michael Gaul
Name: Dr. Michael Gaul
Title: Member of the Board of Management

By: /s/ Karl-Heinz Feldmann
Name: Mr. Karl-Heinz Feldmann
Title: Senior Vice President and General Counsel

Exhibit Index.

<i>Exhibit</i>	<i>Description</i>
(a)(1)(A)	Offer to Purchase dated January 26, 2007
(a)(1)(B)	Form of Share Form of Acceptance
(a)(1)(C)	Form of ADS Letter of Transmittal
(a)(1)(D)	Form of Notice of Guaranteed Delivery
(a)(1)(E)	Form of Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees
(a)(1)(F)	Form of Letter to Holders of American Depositary Receipts
(a)(1)(G)	Form of Letter to Financial Intermediaries and Custodians
(a)(1)(H)	Form of Letter to Holders of Ordinary Shares
(a)(1)(I)	Guidelines for Certification of Taxpayer Identification Number on Substitute Form W 9
(a)(1)(J)	Limited Due Diligence Information Obtained from Endesa
(a)(1)(K)	Supplement to the U.S. Offer to Purchase dated February 14, 2007
(a)(1)(L)	Revised Form of Share Form of Acceptance
(a)(1)(M)	Revised Form of ADS Letter of Transmittal
(a)(1)(N)	Revised Form of Notice of Guaranteed Delivery
(a)(1)(O)	Revised Form of Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees
(a)(1)(P)	Revised Form of Letter to Holders of American Depositary Receipts
(a)(1)(Q)	Revised Form of Letter to Financial Intermediaries and Custodians
(a)(1)(R)	Revised Form of Letter to Holders of Ordinary Shares
(a)(5)(A)	Press Release dated February 21, 2006, announcing the cash offer for Endesa, incorporated by reference to the pre-commencement Schedule TO filed by E.ON on February 21, 2006
(a)(5)(B)	Press Release dated September 26, 2006, announcing the intention to increase the offer price to at least €35.00, incorporated by reference to the pre-commencement Schedule TO filed by E.ON on September 26, 2006
(a)(5)(C)	English translation of the Relevant Notice filed with the CNMV on January 2, 2007, announcing the intention to reduce the increased offer price to at least €34.50, incorporated by reference to the pre-commencement Schedule TO filed by E.ON on January 3, 2007
(a)(5)(D)	Form of Summary Advertisement, published in The Wall Street Journal on January 26, 2007
(a)(5)(E)	Press Release dated January 26, 2007, announcing the intention to submit E.ON 12's final offer via the Spanish "sealed envelope" procedure
(a)(5)(F)	English translation of an advertisement relating to the Offers published in the Spanish press
(a)(5)(G)	Investor Presentation February 2007
(a)(5)(H)	Press release dated February 2, 2007, announcing E.ON 12's intention to submit its final bid to the CNMV
(a)(5)(I)	English translation of the ad-hoc notice filed with the German BaFin on February 2, 2007, announcing the submission of E.ON 12's final bid to the CNMV

- (a)(5)(J) Press Release dated February 3, 2007, announcing the submission of E.ON 12's final bid to the CNMV
- (a)(5)(K) Transcript of the Press Conference Speech by Dr. Wulf H. Bernotat on February 3, 2007
- (a)(5)(L) Presentation dated February 3, 2007
- (a)(5)(M) Transcript of the Investor Conference Call Speech by Dr. Wulf H. Bernotat on February 3, 2007
- (a)(5)(N) Transcript of the Press Conference held on February 3, 2007
- (a)(5)(O) Press Release dated February 6, 2007
- (a)(5)(P) Transcript of the Investor Conference Call on February 3, 2007
- (a)(5)(Q) Form of Notice published in The Wall Street Journal on February 8, 2007, announcing the increase of the offer price to €38.75
- (a)(5)(R) English translation of an advertisement relating to the Offers published in the Spanish press
- (a)(5)(S) English translation of Spanish advertisements
- (a)(5)(T) English translation of the content of the website www.eonsi.es
- (a)(5)(U) Roadshow Presentation
- (a)(5)(V) Press Release dated February 14, 2007, announcing the extension of the acceptance period
- (a)(5)(W) Transcript of the Press Conference Speech by Dr. Wulf H. Bernotat on February 14, 2007
- (a)(5)(X) Investor Presentation February 2007
- (a)(5)(Y) English translation of the Spanish announcement of the extension of the acceptance period in the Spanish press
- (a)(5)(Z) English translation of a Spanish brochure used by E.ON in connection with the Offers
- (a)(5)(AA) Press Release dated February 28, 2007
- (a)(5)(BB) English translation of Spanish advertisement
- (a)(5)(CC) English translation of the Ad-hoc Notice filed with the German BaFin on March 6, 2007
- (a)(5)(DD) English translation of the Relevant Notice filed with the CNMV on March 6, 2007
- (a)(5)(EE) Transcript of the Press Conference Speech by Dr. Wulf H. Bernotat on March 7, 2007
- (a)(5)(FF) Transcript of the Press Conference Speech by Dr. Marcus Schenck on March 7, 2007
- (a)(5)(GG) Presentation by Dr. Wulf H. Bernotat on March 7, 2007
- (a)(5)(HH) Presentation by Dr. Marcus Schenck on March 7, 2007
- (a)(5)(II) Press Release dated March 7, 2007
- (a)(5)(JJ) Transcript of the Conference Call Speech by Dr. Wulf H. Bernotat on March 7, 2007
- (a)(5)(KK) Transcript of the Conference Call Speech by Dr. Marcus Schenck on March 7, 2007
- (a)(5)(LL) Transcript of the Q&A Session in the Conference Call on March 7, 2007
- (a)(5)(MM) English translation of the updated Questions & Answers on the website consi.es
- (a)(5)(NN) Transcript of the Q&A Session in the Press Conference on March 7, 2007

(a)(5)(OO)	English translation of an advertisement published in Spanish newspapers
(a)(5)(PP)	Letter sent to holders of Endesa ADSs
(a)(5)(QQ)	English translation of advertisements published in Spanish newspapers
(a)(5)(RR)	English translation of Internet banner
(a)(5)(SS)	Advertisement published in the Wall Street Journal on March 22, 2007
(a)(5)(TT)	English translation of the Relevant Notice filed with the CNMV on March 22, 2007
(a)(5)(UU)	English translation of the updated content of the website www.consi.es
(a)(5)(VV)	Investor Presentation March 2007
(a)(5)(WW)	Ad Hoc Notice dated March 26, 2007
(a)(5)(XX)	Press Release dated March 26, 2007
(a)(5)(YY)	English Translation of a Relevant Notice filed with the CNMV on March 26, 2007
(a)(5)(ZZ)	ISDA Master Agreement dated March 27, 2007
(a)(5)(AAA)	Schedule to the ISDA Master Agreement dated March 27, 2007
(a)(5)(BBB)	Confirmation of Share Swap Transaction dated March 27, 2007
(a)(5)(CCC)	Fee Letter dated March 27, 2007
(a)(5)(DDD)	Press Release dated March 27, 2007
(a)(5)(EEE)	English translation of an advertisement published in Spanish newspapers
(b)(1)	Syndicated Term and Guarantee Facility Agreement, dated October 16, 2006, between and among E.ON, as Original Borrower and Guarantor, HSBC Bank plc, Citigroup Global Markets Limited, J.P. Morgan plc, BNP Paribas, The Royal Bank of Scotland plc and Deutsche Bank AG, as mandated lead arrangers and the other parties thereto
(b)(2)	Term Loan and Guarantee Facility Agreement, dated February 2, 2007, between and among E.ON, as Original Borrower and Guarantor, HSBC Bank plc., Citigroup Global Markets Limited, J.P. Morgan plc, BNP Paribas, The Royal Bank of Scotland plc and Deutsche Bank AG, as mandated lead arrangers and the other parties thereto
(d)(1)	Confidentiality Agreement, dated January 16, 2006, between E.ON and Endesa
(g)	Not applicable
(h)	Not applicable

(Multicurrency – Cross Border)

ISDA[®]

International Swap Dealers Association, Inc.

MASTER AGREEMENT

dated as of 27 March 2007

E.ON AG (“Party A”) and Caja de Ahorros y Monte de Piedad de Madrid (“Party B”) have entered and/or anticipate entering into one or more transactions (each a “Transaction”) that are or will be governed by this Master Agreement, which includes the schedule (the “Schedule”), and the documents and other confirming evidence (each a “Confirmation”) exchanged between the parties confirming those Transactions.

Accordingly, the parties agree as follows:

1. Interpretation

- (a) **Definitions.** The terms defined in Section 14 and in the Schedule will have the meanings therein specified for the purpose of this Master Agreement.
- (b) **Inconsistency.** In the event of any inconsistency between the provisions of the Schedule and the other provisions of this Master Agreement, the Schedule will prevail. In the event of any inconsistency between the provisions of any Confirmation and this Master Agreement (including the Schedule), such Confirmation will prevail for the purpose of the relevant Transaction.
- (c) **Single Agreement.** All Transactions are entered into in reliance on the fact that this Master Agreement and all Confirmations form a single agreement between the parties (collectively referred to as this “Agreement”), and the parties would not otherwise enter into any Transactions.

2. Obligations

(a) General Conditions.

- (i) Each party will make each payment or delivery specified in each Confirmation to be made by it, subject to the other provisions of this Agreement.
- (ii) Payments under this Agreement will be made on the due date for value on that date in the place of the account specified in the relevant Confirmation or otherwise pursuant to this Agreement, in freely transferable funds and in the manner customary for payments in the required currency. Where settlement is by delivery (that is, other than by payment), such delivery will be made for receipt on the due date in the manner customary for the relevant obligation unless otherwise specified in the relevant Confirmation or elsewhere in this Agreement.
- (iii) Each obligation of each party under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default or Potential Event of Default with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement.

(b) **Change of Account.** Either party may change its account for receiving a payment or delivery by giving notice to the other party at least five Local Business Days prior to the scheduled date for the payment or delivery to which such change applies unless such other party gives timely notice of a reasonable objection to such change.

(c) **Netting.** If on any date amounts would otherwise be payable:—

- (i) in the same currency; and
- (ii) in respect of the same Transaction,

by each party to the other, then, on such date, each party's obligation to make payment of any such amount will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party, replaced by an obligation upon the party by whom the larger aggregate amount would have been payable to pay to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

The parties may elect in respect of two or more Transactions that a net amount will be determined in respect of all amounts payable on the same date in the same currency in respect of such Transactions, regardless of whether such amounts are payable in respect of the same Transaction. The election may be made in the Schedule or a Confirmation by specifying that subparagraph (ii) above will not apply to the Transactions identified as being subject to the election, together with the starting date (in which case subparagraph (ii) above will not, or will cease to, apply to such Transactions from such date). This election may be made separately for different groups of Transactions and will apply separately to each pairing of Offices through which the parties make and receive payments or deliveries.

(d) **Deduction or Withholding for Tax.**

(i) **Gross-Up.** All payments under this Agreement will be made without any deduction or withholding for or on account of any Tax unless such deduction or withholding is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, then in effect. If a party is so required to deduct or withhold, then that party ("X") will: —

- (1) promptly notify the other party ("Y") of such requirement;
- (2) pay to the relevant authorities the full amount required to be deducted or withheld (including the full amount required to be deducted or withheld from any additional amount paid by X to Y under this Section 2(d)) promptly upon the earlier of determining that such deduction or withholding is required or receiving notice that such amount has been assessed against Y;
- (3) promptly forward to Y an official receipt (or a certified copy), or other documentation reasonably acceptable to Y, evidencing such payment to such authorities; and
- (4) if such Tax is an Indemnifiable Tax, pay to Y, in addition to the payment to which Y is otherwise entitled under this Agreement, such additional amount as is necessary to ensure that the net amount actually received by Y (free and clear of Indemnifiable Taxes, whether assessed against X or Y) will equal the full amount Y would have received had no such deduction or withholding been required. However, X will not be required to pay any additional amount to Y to the extent that it would not be required to be paid but for: —

(A) the failure by Y to comply with or perform any agreement contained in Section 4(a)(i), 4(a)(iii) or 4(d); or

(B) the failure of a representation made by Y pursuant to Section 3(f) to be accurate and true unless such failure would not have occurred but for (I) any action taken by a taxing authority, or brought in a court of competent jurisdiction, on or after the date on which a Transaction is entered into (regardless of whether such action is taken or brought with respect to a party to this Agreement) or (II) a Change in Tax Law.

(ii) **Liability.** If: —

- (1) X is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, to make any deduction or withholding in respect of which X would not be required to pay an additional amount to Y under Section 2(d)(i)(4);
- (2) X does not so deduct or withhold; and
- (3) a liability resulting from such Tax is assessed directly against X, then, except to the extent Y has satisfied or then satisfies the liability resulting from such Tax, Y will promptly pay to X the amount of such liability (including any related liability for interest, but including any related liability for penalties only if Y has failed to comply with or perform any agreement contained in Section 4(a)(i), 4(a)(iii) or 4(d)).

(e) **Default Interest; Other Amounts.** Prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party that defaults in the performance of any payment obligation will, to the extent permitted by law and subject to Section 6(c), be required to pay interest (before as well as after judgment) on the overdue amount to the other party on demand in the same currency as such overdue amount, for the period from (and including) the original due date for payment to (but excluding) the date of actual payment, at the Default Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed. If, prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party defaults in the performance of any obligation required to be settled by delivery, it will compensate the other party on demand if and to the extent provided for in the relevant Confirmation or elsewhere in this Agreement.

3. Representations

Each party represents to the other party (which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into and, in the case of the representations in Section 3(f), at all times until the termination of this Agreement) that:—

(a) **Basic Representations.**

- (i) **Status.** It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation and, if relevant under such laws, in good standing;
- (ii) **Powers.** It has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party and has taken all necessary action to authorise such execution, delivery and performance;
- (iii) **No Violation or Conflict.** Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets;
- (iv) **Consents.** All governmental and other consents that are required to have been obtained by it with respect to this Agreement or any Credit Support Document to which it is a party have been obtained and are in full force and effect and all conditions of any such consents have been complied with; and
- (v) **Obligations Binding.** Its obligations under this Agreement and any Credit Support Document to which it is a party constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(b) **Absence of Certain Events.** No Event of Default or Potential Event of Default or, to its knowledge, Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any Credit Support Document to which it is a party.

(c) **Absence of Litigation.** There is not pending or, to its knowledge, threatened against it or any of its Affiliates any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of this Agreement or any Credit Support Document to which it is a party or its ability to perform its obligations under this Agreement or such Credit Support Document.

(d) **Accuracy of Specified Information.** All applicable information that is furnished in writing by or on behalf of it to the other party and is identified for the purpose of this Section 3(d) in the Schedule is, as of the date of the information, true, accurate and complete in every material respect.

(e) **Payer Tax Representation.** Each representation specified in the Schedule as being made by it for the purpose of this Section 3(e) is accurate and true.

(f) **Payee Tax Representations.** Each representation specified in the Schedule as being made by it for the purpose of this Section 3(f) is accurate and true.

4. **Agreements**

Each party agrees with the other that, so long as either party has or may have any obligation under this Agreement or under any Credit Support Document to which it is a party: —

(a) **Furnish Specified Information.** It will deliver to the other party or, in certain cases under subparagraph (iii) below, to such government or taxing authority as the other party reasonably directs:—

- (i) any forms, documents or certificates relating to taxation specified in the Schedule or any Confirmation;
- (ii) any other documents specified in the Schedule or any Confirmation; and

(iii) upon reasonable demand by such other party, any form or document that may be required or reasonably requested in writing in order to allow such other party or its Credit Support Provider to make a payment under this Agreement or any applicable Credit Support Document without any deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate (so long as the completion, execution or submission of such form or document would not materially prejudice the legal or commercial position of the party in receipt of such demand), with any such form or document to be accurate and completed in a manner reasonably satisfactory to such other party and to be executed and to be delivered with any reasonably required certification,

in each case by the date specified in the Schedule or such Confirmation or, if none is specified, as soon as reasonably practicable.

(b) **Maintain Authorisations.** It will use all reasonable efforts to maintain in full force and effect all consents of any governmental or other authority that are required to be obtained by it with respect to this Agreement or any Credit Support Document to which it is a party and will use all reasonable efforts to obtain any that may become necessary in the future.

(c) **Comply with Laws.** It will comply in all material respects with all applicable laws and orders to which it may be subject if failure so to comply would materially impair its ability to perform its obligations under this Agreement or any Credit Support Document to which it is a party.

(d) **Tax Agreement.** It will give notice of any failure of a representation made by it under Section 3(f) to be accurate and true promptly upon learning of such failure.

(e) **Payment of Stamp Tax.** Subject to Section 11, it will pay any Stamp Tax levied or imposed upon it or in respect of its execution or performance of this Agreement by a jurisdiction in which it is incorporated, organised, managed and controlled, or considered to have its seat, or in which a branch or office through which it is acting for the purpose of this Agreement is located ("Stamp Tax Jurisdiction") and will indemnify the other party against any Stamp Tax levied or imposed upon the other party or in respect of the other party's execution or performance of this Agreement by any such Stamp Tax Jurisdiction which is not also a Stamp Tax Jurisdiction with respect to the other party.

5. *Events of Default and Termination Events*

(a) *Events of Default.* The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any of the following events constitutes an event of default (an "Event of Default") with respect to such party:—

(i) *Failure to Pay or Deliver.* Failure by the party to make, when due, any payment under this Agreement or delivery under Section 2(a)(i) or 2(e) required to be made by it if such failure is not remedied on or before the third Local Business Day after notice of such failure is given to the party;

(ii) *Breach of Agreement.* Failure by the party to comply with or perform any agreement or obligation (other than an obligation to make any payment under this Agreement or delivery under Section 2(a)(i) or 2(e) or to give notice of a Termination Event or any agreement or obligation under Section 4(a)(i), 4(a)(iii) or 4(d)) to be complied with or performed by the party in accordance with this Agreement if such failure is not remedied on or before the thirtieth day after notice of such failure is given to the party;

(iii) *Credit Support Default.*

(1) Failure by the party or any Credit Support Provider of such party to comply with or perform any agreement or obligation to be complied with or performed by it in accordance with any Credit Support Document if such failure is continuing after any applicable grace period has elapsed;

(2) the expiration or termination of such Credit Support Document or the failing or ceasing of such Credit Support Document to be in full force and effect for the purpose of this Agreement (in either case other than in accordance with its terms) prior to the satisfaction of all obligations of such party under each Transaction to which such Credit Support Document relates without the written consent of the other party; or

(3) the party or such Credit Support Provider disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, such Credit Support Document;

(iv) *Misrepresentation.* A representation (other than a representation under Section 3(e) or (f)) made or repeated or deemed to have been made or repeated by the party or any Credit Support Provider of such party in this Agreement or any Credit Support Document proves to have been incorrect or misleading in any material respect when made or repeated or deemed to have been made or repeated;

(v) *Default under Specified Transaction.* The party, any Credit Support Provider of such party or any applicable Specified Entity of such party (1) defaults under a Specified Transaction and, after giving effect to any applicable notice requirement or grace period, there occurs a liquidation of, an acceleration of obligations under, or an early termination of, that Specified Transaction, (2) defaults, after giving effect to any applicable notice requirement or grace period, in making any payment or delivery due on the last payment, delivery or exchange date of, or any payment on early termination of, a Specified Transaction (or such default continues for at least three Local Business Days if there is no applicable notice requirement or grace period) or (3) disaffirms, disclaims, repudiates or rejects, in whole or in part, a Specified Transaction (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf);

(vi) **Cross Default.** If "Cross Default" is specified in the Schedule as applying to the party, the occurrence or existence of (1) a default, event of default or other similar condition or event (however described) in respect of such party, any Credit Support Provider of such party or any applicable Specified Entity of such party under one or more agreements or instruments relating to Specified Indebtedness of any of them (individually or collectively) in an aggregate amount of not less than the applicable Threshold Amount (as specified in the Schedule) which has resulted in such Specified Indebtedness becoming, or becoming capable at such time of being declared, due and payable under such agreements or instruments, before it would otherwise have been due and payable or (2) a default by such party, such Credit Support Provider or such Specified Entity (individually or collectively) in making one or more payments on the due date thereof in an aggregate amount of not less than the applicable Threshold Amount under such agreements or instruments (after giving effect to any applicable notice requirement or grace period);

(vii) **Bankruptcy.** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party:—

(1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (4) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (7) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; (8) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (7) (inclusive); or (9) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts; or

(viii) **Merger Without Assumption.** The party or any Credit Support Provider of such party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer:—

(1) the resulting, surviving or transferee entity fails to assume all the obligations of such party or such Credit Support Provider under this Agreement or any Credit Support Document to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other party to this Agreement; or

(2) the benefits of any Credit Support Document fail to extend (without the consent of the other party) to the performance by such resulting, surviving or transferee entity of its obligations under this Agreement.

(b) **Termination Events.** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any event specified below constitutes an Illegality if the event is specified in (i) below, a Tax Event if the event is specified in (ii) below or a Tax Event Upon Merger if the event is specified in (iii) below, and, if specified to be applicable, a Credit Event Upon Merger if the event is specified pursuant to (iv) below or an Additional Termination Event if the event is specified pursuant to (v) below:—

(i) **Illegality.** Due to the adoption of, or any change in, any applicable law after the date on which a Transaction is entered into, or due to the promulgation of, or any change in, the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law after such date, it becomes unlawful (other than as a result of a breach by the party of Section 4(b)) for such party (which will be the Affected Party):—

(1) to perform any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of such Transaction or to comply with any other material provision of this Agreement relating to such Transaction; or

(2) to perform, or for any Credit Support Provider of such party to perform, any contingent or other obligation which the party (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction;

(ii) **Tax Event.** Due to (x) any action taken by a taxing authority, or brought in a court of competent jurisdiction, on or after the date on which a Transaction is entered into (regardless of whether such action is taken or brought with respect to a party to this Agreement) or (y) a Change in Tax Law, the party (which will be the Affected Party) will, or there is a substantial likelihood that it will, on the next succeeding Scheduled Payment Date (1) be required to pay to the other party an additional amount in respect of an Indemnifiable Tax under Section 2(d)(i)(4) (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) or (2) receive a payment from which an amount is required to be deducted or withheld for or on account of a Tax (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) and no additional amount is required to be paid in respect of such Tax under Section 2(d)(i)(4) (other than by reason of Section 2(d)(i)(4)(A) or (B));

(iii) **Tax Event Upon Merger.** The party (the “Burdened Party”) on the next succeeding Scheduled Payment Date will either (1) be required to pay an additional amount in respect of an Indemnifiable Tax under Section 2(d)(i)(4) (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) or (2) receive a payment from which an amount has been deducted or withheld for or on account of any Indemnifiable Tax in respect of which the other party is not required to pay an additional amount (other than by reason of Section 2(d)(i)(4)(A) or (B)), in either case as a result of a party consolidating or amalgamating with, or merging with or into, or transferring all or substantially all its assets to, another entity (which will be the Affected Party) where such action does not constitute an event described in Section 5(a)(viii);

(iv) **Credit Event Upon Merger.** If “Credit Event Upon Merger” is specified in the Schedule as applying to the party, such party (“X”), any Credit Support Provider of X or any applicable Specified Entity of X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and such action does not constitute an event described in Section 5(a)(viii) but the creditworthiness of the resulting, surviving or transferee entity is materially weaker than that of X, such Credit Support Provider or such Specified Entity, as the case may be, immediately prior to such action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party); or

(v) **Additional Termination Event.** If any “Additional Termination Event” is specified in the Schedule or any Confirmation as applying, the occurrence of such event (and, in such event, the Affected Party or Affected Parties shall be as specified for such Additional Termination Event in the Schedule or such Confirmation).

(c) **Event of Default and Illegality.** If an event or circumstance which would otherwise constitute or give rise to an Event of Default also constitutes an Illegality, it will be treated as an Illegality and will not constitute an Event of Default.

6. *Early Termination*

(a) ***Right to Terminate Following Event of Default.*** If at any time an Event of Default with respect to a party (the "Defaulting Party") has occurred and is then continuing, the other party (the "Non-defaulting Party") may, by not more than 20 days notice to the Defaulting Party specifying the relevant Event of Default, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all outstanding Transactions. If, however, "Automatic Early Termination" is specified in the Schedule as applying to a party, then an Early Termination Date in respect of all outstanding Transactions will occur immediately upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(1), (3), (5), (6) or, to the extent analogous thereto, (8), and as of the time immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(4) or, to the extent analogous thereto, (8).

(b) ***Right to Terminate Following Termination Event.***

(i) ***Notice.*** If a Termination Event occurs, an Affected Party will, promptly upon becoming aware of it, notify the other party, specifying the nature of that Termination Event and each Affected Transaction and will also give such other information about that Termination Event as the other party may reasonably require.

(ii) ***Transfer to Avoid Termination Event.*** If either an Illegality under Section 5(b)(i)(1) or a Tax Event occurs and there is only one Affected Party, or if a Tax Event Upon Merger occurs and the Burdened Party is the Affected Party, the Affected Party will, as a condition to its right to designate an Early Termination Date under Section 6(b)(iv), use all reasonable efforts (which will not require such party to incur a loss, excluding immaterial, incidental expenses) to transfer within 20 days after it gives notice under Section 6(b)(i) all its rights and obligations under this Agreement in respect of the Affected Transactions to another of its Offices or Affiliates so that such Termination Event ceases to exist.

If the Affected Party is not able to make such a transfer it will give notice to the other party to that effect within such 20 day period, whereupon the other party may effect such a transfer within 30 days after the notice is given under Section 6(b)(i).

Any such transfer by a party under this Section 6(b)(ii) will be subject to and conditional upon the prior written consent of the other party, which consent will not be withheld if such other party's policies in effect at such time would permit it to enter into transactions with the transferee on the terms proposed.

(iii) ***Two Affected Parties.*** If an Illegality under Section 5(b)(i)(1) or a Tax Event occurs and there are two Affected Parties, each party will use all reasonable efforts to reach agreement within 30 days after notice thereof is given under Section 6(b)(i) on action to avoid that Termination Event.

(iv) ***Right to Terminate.*** If:—

(1) a transfer under Section 6(b)(ii) or an agreement under Section 6(b)(iii), as the case may be, has not been effected with respect to all Affected Transactions within 30 days after an Affected Party gives notice under Section 6(b)(i); or

(2) an Illegality under Section 5(b)(i)(2), a Credit Event Upon Merger or an Additional Termination Event occurs, or a Tax Event Upon Merger occurs and the Burdened Party is not the Affected Party,

either party in the case of an Illegality, the Burdened Party in the case of a Tax Event Upon Merger, any Affected Party in the case of a Tax Event or an Additional Termination Event if there is more than one Affected Party, or the party which is not the Affected Party in the case of a Credit Event Upon Merger or an Additional Termination Event if there is only one Affected Party may, by not more than 20 days notice to the other party and provided that the relevant Termination Event is then continuing, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all Affected Transactions.

(c) **Effect of Designation.**

(i) If notice designating an Early Termination Date is given under Section 6(a) or (b), the Early Termination Date will occur on the date so designated, whether or not the relevant Event of Default or Termination Event is then continuing.

(ii) Upon the occurrence or effective designation of an Early Termination Date, no further payments or deliveries under Section 2(a)(i) or 2(e) in respect of the Terminated Transactions will be required to be made, but without prejudice to the other provisions of this Agreement. The amount, if any, payable in respect of an Early Termination Date shall be determined pursuant to Section 6(e).

(d) **Calculations.**

(i) **Statement.** On or as soon as reasonably practicable following the occurrence of an Early Termination Date, each party will make the calculations on its part, if any, contemplated by Section 6(e) and will provide to the other party a statement (1) showing, in reasonable detail, such calculations (including all relevant quotations and specifying any amount payable under Section 6(e)) and (2) giving details of the relevant account to which any amount payable to it is to be paid. In the absence of written confirmation from the source of a quotation obtained in determining a Market Quotation, the records of the party obtaining such quotation will be conclusive evidence of the existence and accuracy of such quotation.

(ii) **Payment Date.** An amount calculated as being due in respect of any Early Termination Date under Section 6(e) will be payable on the day that notice of the amount payable is effective (in the case of an Early Termination Date which is designated or occurs as a result of an Event of Default) and on the day which is two Local Business Days after the day on which notice of the amount payable is effective (in the case of an Early Termination Date which is designated as a result of a Termination Event). Such amount will be paid together with (to the extent permitted under applicable law) interest thereon (before as well as after judgment) in the Termination Currency, from (and including) the relevant Early Termination Date to (but excluding) the date such amount is paid, at the Applicable Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed.

(e) **Payments on Early Termination.** If an Early Termination Date occurs, the following provisions shall apply based on the parties' election in the Schedule of a payment measure, either "Market Quotation" or "Loss", and a payment method, either the "First Method" or the "Second Method". If the parties fail to designate a payment measure or payment method in the Schedule, it will be deemed that "Market Quotation" or the "Second Method", as the case may be, shall apply. The amount, if any, payable in respect of an Early Termination Date and determined pursuant to this Section will be subject to any Set-off.

(i) **Events of Default.** If the Early Termination Date results from an Event of Default:—

(1) **First Method and Market Quotation.** If the First Method and Market Quotation apply, the Defaulting Party will pay to the Non-defaulting Party the excess, if a positive number, of (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Termination Currency Equivalent of the Unpaid Amounts owing to the Non-defaulting Party over (B) the Termination Currency Equivalent of the Unpaid Amounts owing to the Defaulting Party.

(2) **First Method and Loss.** If the First Method and Loss apply, the Defaulting Party will pay to the Non-defaulting Party, if a positive number, the Non-defaulting Party's Loss in respect of this Agreement.

(3) *Second Method and Market Quotation.* If the Second Method and Market Quotation apply, an amount will be payable equal to (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Termination Currency Equivalent of the Unpaid Amounts owing to the Non-defaulting Party less (B) the Termination Currency Equivalent of the Unpaid Amounts owing to the Defaulting Party. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(4) *Second Method and Loss.* If the Second Method and Loss apply, an amount will be payable equal to the Non-defaulting Party's Loss in respect of this Agreement. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(ii) **Termination Events.** If the Early Termination Date results from a Termination Event:—

(1) *One Affected Party.* If there is one Affected Party, the amount payable will be determined in accordance with Section 6(e)(i)(3), if Market Quotation applies, or Section 6(e)(i)(4), if Loss applies, except that, in either case, references to the Defaulting Party and to the Non-defaulting Party will be deemed to be references to the Affected Party and the party which is not the Affected Party, respectively, and, if Loss applies and fewer than all the Transactions are being terminated, Loss shall be calculated in respect of all Terminated Transactions.

(2) *Two Affected Parties.* If there are two Affected Parties:—

(A) if Market Quotation applies, each party will determine a Settlement Amount in respect of the Terminated Transactions, and an amount will be payable equal to (I) the sum of (a) one-half of the difference between the Settlement Amount of the party with the higher Settlement Amount ("X") and the Settlement Amount of the party with the lower Settlement Amount ("Y") and (b) the Termination Currency Equivalent of the Unpaid Amounts owing to X less (II) the Termination Currency Equivalent of the Unpaid Amounts owing to Y; and

(B) if Loss applies, each party will determine its Loss in respect of this Agreement (or, if fewer than all the Transactions are being terminated, in respect of all Terminated Transactions) and an amount will be payable equal to one-half of the difference between the Loss of the party with the higher Loss ("X") and the Loss of the party with the lower Loss ("Y").

If the amount payable is a positive number, Y will pay it to X; if it is a negative number, X will pay the absolute value of that amount to Y.

(iii) **Adjustment for Bankruptcy.** In circumstances where an Early Termination Date occurs because "Automatic Early Termination" applies in respect of a party, the amount determined under this Section 6(e) will be subject to such adjustments as are appropriate and permitted by law to reflect any payments or deliveries made by one party to the other under this Agreement (and retained by such other party) during the period from the relevant Early Termination Date to the date for payment determined under Section 6(d)(ii).

(iv) **Pre-Estimate.** The parties agree that if Market Quotation applies an amount recoverable under this Section 6(e) is a reasonable pre-estimate of loss and not a penalty. Such amount is payable for the loss of bargain and the loss of protection against future risks and except as otherwise provided in this Agreement neither party will be entitled to recover any additional damages as a consequence of such losses.

7. *Transfer*

Subject to Section 6(b)(ii), neither this Agreement nor any interest or obligation in or under this Agreement may be transferred (whether by way of security or otherwise) by either party without the prior written consent of the other party, except that:—

(a) a party may make such a transfer of this Agreement pursuant to a consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all its assets to, another entity (but without prejudice to any other right or remedy under this Agreement); and

(b) a party may make such a transfer of all or any part of its interest in any amount payable to it from a Defaulting Party under Section 6(e).

Any purported transfer that is not in compliance with this Section will be void.

8. *Contractual Currency*

(a) **Payment in the Contractual Currency.** Each payment under this Agreement will be made in the relevant currency specified in this Agreement for that payment (the “Contractual Currency”). To the extent permitted by applicable law, any obligation to make payments under this Agreement in the Contractual Currency will not be discharged or satisfied by any tender in any currency other than the Contractual Currency, except to the extent such tender results in the actual receipt by the party to which payment is owed, acting in a reasonable manner and in good faith in converting the currency so tendered into the Contractual Currency, of the full amount in the Contractual Currency of all amounts payable in respect of this Agreement. If for any reason the amount in the Contractual Currency so received falls short of the amount in the Contractual Currency payable in respect of this Agreement, the party required to make the payment will, to the extent permitted by applicable law, immediately pay such additional amount in the Contractual Currency as may be necessary to compensate for the shortfall. If for any reason the amount in the Contractual Currency so received exceeds the amount in the Contractual Currency payable in respect of this Agreement, the party receiving the payment will refund promptly the amount of such excess.

(b) **Judgments.** To the extent permitted by applicable law, if any judgment or order expressed in a currency other than the Contractual Currency is rendered (i) for the payment of any amount owing in respect of this Agreement, (ii) for the payment of any amount relating to any early termination in respect of this Agreement or (iii) in respect of a judgment or order of another court for the payment of any amount described in (i) or (ii) above, the party seeking recovery, after recovery in full of the aggregate amount to which such party is entitled pursuant to the judgment or order, will be entitled to receive immediately from the other party the amount of any shortfall of the Contractual Currency received by such party as a consequence of sums paid in such other currency and will refund promptly to the other party any excess of the Contractual Currency received by such party as a consequence of sums paid in such other currency if such shortfall or such excess arises or results from any variation between the rate of exchange at which the Contractual Currency is converted into the currency of the judgment or order for the purposes of such judgment or order and the rate of exchange at which such party is able, acting in a reasonable manner and in good faith in converting the currency received into the Contractual Currency, to purchase the Contractual Currency with the amount of the currency of the judgment or order actually received by such party. The term “rate of exchange” includes, without limitation, any premiums and costs of exchange payable in connection with the purchase of or conversion into the Contractual Currency.

(c) **Separate Indemnities.** To the extent permitted by applicable law, these indemnities constitute separate and independent obligations from the other obligations in this Agreement, will be enforceable as separate and independent causes of action, will apply notwithstanding any indulgence granted by the party to which any payment is owed and will not be affected by judgment being obtained or claim or proof being made for any other sums payable in respect of this Agreement.

(d) **Evidence of Loss.** For the purpose of this Section 8, it will be sufficient for a party to demonstrate that it would have suffered a loss had an actual exchange or purchase been made.

9. *Miscellaneous*

- (a) **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communication and prior writings with respect thereto.
- (b) **Amendments.** No amendment, modification or waiver in respect of this Agreement will be effective unless in writing (including a writing evidenced by a facsimile transmission) and executed by each of the parties or confirmed by an exchange of telexes or electronic messages on an electronic messaging system.
- (c) **Survival of Obligations.** Without prejudice to Sections 2(a)(iii) and 6(c)(ii), the obligations of the parties under this Agreement will survive the termination of any Transaction.
- (d) **Remedies Cumulative.** Except as provided in this Agreement, the rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law.
- (e) **Counterparts and Confirmations.**
- (i) This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts (including by facsimile transmission), each of which will be deemed an original.
 - (ii) The parties intend that they are legally bound by the terms of each Transaction from the moment they agree to those terms (whether orally or otherwise). A Confirmation shall be entered into as soon as practicable and may be executed and delivered in counterparts (including by facsimile transmission) or be created by an exchange of telexes or by an exchange of electronic messages on an electronic messaging system, which in each case will be sufficient for all purposes to evidence a binding supplement to this Agreement. The parties will specify therein or through another effective means that any such counterpart, telex or electronic message constitutes a Confirmation.
- (f) **No Waiver of Rights.** A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.
- (g) **Headings.** The headings used in this Agreement are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Agreement.

10. *Offices; Multibranch Parties*

- (a) If Section 10(a) is specified in the Schedule as applying, each party that enters into a Transaction through an Office other than its head or home office represents to the other party that, notwithstanding the place of booking office or jurisdiction of incorporation or organisation of such party, the obligations of such party are the same as if it had entered into the Transaction through its head or home office. This representation will be deemed to be repeated by such party on each date on which a Transaction is entered into.
- (b) Neither party may change the Office through which it makes and receives payments or deliveries for the purpose of a Transaction without the prior written consent of the other party.
- (c) If a party is specified as a Multibranch Party in the Schedule, such Multibranch Party may make and receive payments or deliveries under any Transaction through any Office listed in the Schedule, and the Office through which it makes and receives payments or deliveries with respect to a Transaction will be specified in the relevant Confirmation.

11. *Expenses*

A Defaulting Party will, on demand, indemnify and hold harmless the other party for and against all reasonable out-of-pocket expenses, including legal fees and Stamp Tax, incurred by such other party by reason of the enforcement and protection of its rights under this Agreement or any Credit Support Document to which the Defaulting Party is a party or by reason of the early termination of any Transaction, including, but not limited to, costs of collection.

12. Notices

(a) **Effectiveness.** Any notice or other communication in respect of this Agreement may be given in any manner set forth below (except that a notice or other communication under Section 5 or 6 may not be given by facsimile transmission or electronic messaging system) to the address or number or in accordance with the electronic messaging system details provided (see the Schedule) and will be deemed effective as indicated:—

- (i) if in writing and delivered in person or by courier, on the date it is delivered;
- (ii) if sent by telex, on the date the recipient's answerback is received;
- (iii) if sent by facsimile transmission, on the date that transmission is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine);
- (iv) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted; or
- (v) if sent by electronic messaging system, on the date that electronic message is received,

unless the date of that delivery (or attempted delivery) or that receipt, as applicable, is not a Local Business Day or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Local Business Day, in which case that communication shall be deemed given and effective on the first following day that is a Local Business Day.

(b) **Change of Addresses.** Either party may by notice to the other change the address, telex or facsimile number or electronic messaging system details at which notices or other communications are to be given to it.

13. Governing Law and Jurisdiction

(a) **Governing Law.** This Agreement will be governed by and construed in accordance with the law specified in the Schedule.

(b) **Jurisdiction.** With respect to any suit, action or proceedings relating to this Agreement ("Proceedings"), each party irrevocably:—

- (i) submits to the jurisdiction of the English courts, if this Agreement is expressed to be governed by English law, or to the non-exclusive jurisdiction of the courts of the State of New York and the United States District Court located in the Borough of Manhattan in New York City, if this Agreement is expressed to be governed by the laws of the State of New York; and
- (ii) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over such party.

Nothing in this Agreement precludes either party from bringing Proceedings in any other jurisdiction (outside, if this Agreement is expressed to be governed by English law, the Contracting States, as defined in Section 1(3) of the Civil Jurisdiction and Judgments Act 1982 or any modification, extension or re-enactment thereof for the time being in force) nor will the bringing of Proceedings in any one or more jurisdictions preclude the bringing of Proceedings in any other jurisdiction.

(c) **Service of Process.** Each party irrevocably appoints the Process Agent (if any) specified opposite its name in the Schedule to receive, for it and on its behalf, service of process in any Proceedings. If for any reason any party's Process Agent is unable to act as such, such party will promptly notify the other party and within 30 days appoint a substitute process agent acceptable to the other party. The parties irrevocably consent to service of process given in the manner provided for notices in Section 12. Nothing in this Agreement will affect the right of either party to serve process in any other manner permitted by law.

(d) **Waiver of Immunities.** Each party irrevocably waives, to the fullest extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) and (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any such immunity in any Proceedings.

14. Definitions

As used in this Agreement:—

“**Additional Termination Event**” has the meaning specified in Section 5(b).

“**Affected Party**” has the meaning specified in Section 5(b).

“**Affected Transactions**” means (a) with respect to any Termination Event consisting of an Illegality, Tax Event or Tax Event Upon Merger, all Transactions affected by the occurrence of such Termination Event and (b) with respect to any other Termination Event, all Transactions.

“**Affiliate**” means, subject to the Schedule, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, “control” of any entity or person means ownership of a majority of the voting power of the entity or person.

“**Applicable Rate**” means:—

- (a) in respect of obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Defaulting Party, the Default Rate;
- (b) in respect of an obligation to pay an amount under Section 6(e) of either party from and after the date (determined in accordance with Section 6(d)(ii)) on which that amount is payable, the Default Rate;
- (c) in respect of all other obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Non-defaulting Party, the Non-default Rate; and
- (d) in all other cases, the Termination Rate.

“**Burdened Party**” has the meaning specified in Section 5(b).

“**Change in Tax Law**” means the enactment, promulgation, execution or ratification of, or any change in or amendment to, any law (or in the application or official interpretation of any law) that occurs on or after the date on which the relevant Transaction is entered into.

“**consent**” includes a consent, approval, action, authorisation, exemption, notice, filing, registration or exchange control consent.

“**Credit Event Upon Merger**” has the meaning specified in Section 5(b).

“**Credit Support Document**” means any agreement or instrument that is specified as such in this Agreement.

“**Credit Support Provider**” has the meaning specified in the Schedule.

“**Default Rate**” means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the relevant payee (as certified by it) if it were to fund or of funding the relevant amount plus 1% per annum.

“Defaulting Party” has the meaning specified in Section 6(a).

“Early Termination Date” means the date determined in accordance with Section 6(a) or 6(b)(iv).

“Event of Default” has the meaning specified in Section 5(a) and, if applicable, in the Schedule.

“Illegality” has the meaning specified in Section 5(b).

“Indemnifiable Tax” means any Tax other than a Tax that would not be imposed in respect of a payment under this Agreement but for a present or former connection between the jurisdiction of the government or taxation authority imposing such Tax and the recipient of such payment or a person related to such recipient (including, without limitation, a connection arising from such recipient or related person being or having been a citizen or resident of such jurisdiction, or being or having been organised, present or engaged in a trade or business in such jurisdiction, or having or having had a permanent establishment or fixed place of business in such jurisdiction, but excluding a connection arising solely from such recipient or related person having executed, delivered, performed its obligations or received a payment under, or enforced, this Agreement or a Credit Support Document).

“law” includes any treaty, law, rule or regulation (as modified, in the case of tax matters, by the practice of any relevant governmental revenue authority) and **“lawful”** and **“unlawful”** will be construed accordingly.

“Local Business Day” means, subject to the Schedule, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) (a) in relation to any obligation under Section 2(a)(i), in the place(s) specified in the relevant Confirmation or, if not so specified, as otherwise agreed by the parties in writing or determined pursuant to provisions contained, or incorporated by reference, in this Agreement, (b) in relation to any other payment, in the place where the relevant account is located and, if different, in the principal financial centre, if any, of the currency of such payment, (c) in relation to any notice or other communication, including notice contemplated under Section 5(a)(i), in the city specified in the address for notice provided by the recipient and, in the case of a notice contemplated by Section 2(b), in the place where the relevant new account is to be located and (d) in relation to Section 5(a)(v)(2), in the relevant locations for performance with respect to such Specified Transaction.

“Loss” means, with respect to this Agreement or one or more Terminated Transactions, as the case may be, and a party, the Termination Currency Equivalent of an amount that party reasonably determines in good faith to be its total losses and costs (or gain, in which case expressed as a negative number) in connection with this Agreement or that Terminated Transaction or group of Terminated Transactions, as the case may be, including any loss of bargain, cost of funding or, at the election of such party but without duplication, loss or cost incurred as a result of its terminating, liquidating, obtaining or reestablishing any hedge or related trading position (or any gain resulting from any of them). Loss includes losses and costs (or gains) in respect of any payment or delivery required to have been made (assuming satisfaction of each applicable condition precedent) on or before the relevant Early Termination Date and not made, except, so as to avoid duplication, if Section 6(e)(i)(1) or (3) or 6(e)(ii)(2)(A) applies. Loss does not include a party’s legal fees and out-of-pocket expenses referred to under Section 11. A party will determine its Loss as of the relevant Early Termination Date, or, if that is not reasonably practicable, as of the earliest date thereafter as is reasonably practicable. A party may (but need not) determine its Loss by reference to quotations of relevant rates or prices from one or more leading dealers in the relevant markets.

“Market Quotation” means, with respect to one or more Terminated Transactions and a party making the determination, an amount determined on the basis of quotations from Reference Market-makers. Each quotation will be for an amount, if any, that would be paid to such party (expressed as a negative number) or by such party (expressed as a positive number) in consideration of an agreement between such party (taking into account any existing Credit Support Document with respect to the obligations of such party) and the quoting Reference Market-maker to enter into a transaction (the “Replacement Transaction”) that would have the effect of preserving for such party the economic equivalent of any payment or delivery (whether the underlying obligation was absolute or contingent and assuming the satisfaction of each applicable condition precedent) by the parties under Section 2(a)(i) in respect of such Terminated Transaction or group of Terminated Transactions that would, but for the occurrence of the relevant Early Termination Date, have been required after that date. For this purpose, Unpaid Amounts in

respect of the Terminated Transaction or group of Terminated Transactions are to be excluded but, without limitation, any payment or delivery that would, but for the relevant Early Termination Date, have been required (assuming satisfaction of each applicable condition precedent) after that Early Termination Date is to be included. The Replacement Transaction would be subject to such documentation as such party and the Reference Market-maker may, in good faith, agree. The party making the determination (or its agent) will request each Reference Market-maker to provide its quotation to the extent reasonably practicable as of the same day and time (without regard to different time zones) on or as soon as reasonably practicable after the relevant Early Termination Date. The day and time as of which those quotations are to be obtained will be selected in good faith by the party obliged to make a determination under Section 6(e), and, if each party is so obliged, after consultation with the other. If more than three quotations are provided, the Market Quotation will be the arithmetic mean of the quotations, without regard to the quotations having the highest and lowest values. If exactly three such quotations are provided, the Market Quotation will be the quotation remaining after disregarding the highest and lowest quotations. For this purpose, if more than one quotation has the same highest value or lowest value, then one of such quotations shall be disregarded. If fewer than three quotations are provided, it will be deemed that the Market Quotation in respect of such Terminated Transaction or group of Terminated Transactions cannot be determined.

“Non-default Rate” means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the Non-defaulting Party (as certified by it) if it were to fund the relevant amount.

“Non-defaulting Party” has the meaning specified in Section 6(a).

“Office” means a branch or office of a party, which may be such party’s head or home office.

“Potential Event of Default” means any event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

“Reference Market-makers” means four leading dealers in the relevant market selected by the party determining a Market Quotation in good faith (a) from among dealers of the highest credit standing which satisfy all the criteria that such party applies generally at the time in deciding whether to offer or to make an extension of credit and (b) to the extent practicable, from among such dealers having an office in the same city.

“Relevant Jurisdiction” means, with respect to a party, the jurisdictions (a) in which the party is incorporated, organised, managed and controlled or considered to have its seat, (b) where an Office through which the party is acting for purposes of this Agreement is located, (c) in which the party executes this Agreement and (d) in relation to any payment, from or through which such payment is made.

“Scheduled Payment Date” means a date on which a payment or delivery is to be made under Section 2(a)(i) with respect to a Transaction.

“Set-off” means set-off, offset, combination of accounts, right of retention or withholding or similar right or requirement to which the payer of an amount under Section 6 is entitled or subject (whether arising under this Agreement, another contract, applicable law or otherwise) that is exercised by, or imposed on, such payer.

“Settlement Amount” means, with respect to a party and any Early Termination Date, the sum of: —

(a) the Termination Currency Equivalent of the Market Quotations (whether positive or negative) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation is determined; and

(b) such party’s Loss (whether positive or negative and without reference to any Unpaid Amounts) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation cannot be determined or would not (in the reasonable belief of the party making the determination) produce a commercially reasonable result.

“Specified Entity” has the meanings specified in the Schedule.

“Specified Indebtedness” means, subject to the Schedule, any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money.

“Specified Transaction” means, subject to the Schedule, (a) any transaction (including an agreement with respect thereto) now existing or hereafter entered into between one party to this Agreement (or any Credit Support Provider of such party or any applicable Specified Entity of such party) and the other party to this Agreement (or any Credit Support Provider of such other party or any applicable Specified Entity of such other party) which is a rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions), (b) any combination of these transactions and (c) any other transaction identified as a Specified Transaction in this Agreement or the relevant confirmation.

“Stamp Tax” means any stamp, registration, documentation or similar tax.

“Tax” means any present or future tax, levy, impost, duty, charge, assessment or fee of any nature (including interest, penalties and additions thereto) that is imposed by any government or other taxing authority in respect of any payment under this Agreement other than a stamp, registration, documentation or similar tax.

“Tax Event” has the meaning specified in Section 5(b).

“Tax Event Upon Merger” has the meaning specified in Section 5(b).

“Terminated Transactions” means with respect to any Early Termination Date (a) if resulting from a Termination Event, all Affected Transactions and (b) if resulting from an Event of Default, all Transactions (in either case) in effect immediately before the effectiveness of the notice designating that Early Termination Date (or, if “Automatic Early Termination” applies, immediately before that Early Termination Date).

“Termination Currency” has the meaning specified in the Schedule.

“Termination Currency Equivalent” means, in respect of any amount denominated in the Termination Currency, such Termination Currency amount and, in respect of any amount denominated in a currency other than the Termination Currency (the “Other Currency”), the amount in the Termination Currency determined by the party making the relevant determination as being required to purchase such amount of such Other Currency as at the relevant Early Termination Date, or, if the relevant Market Quotation or Loss (as the case may be), is determined as of a later date, that later date, with the Termination Currency at the rate equal to the spot exchange rate of the foreign exchange agent (selected as provided below) for the purchase of such Other Currency with the Termination Currency at or about 11:00 a.m. (in the city in which such foreign exchange agent is located) on such date as would be customary for the determination of such a rate for the purchase of such Other Currency for value on the relevant Early Termination Date or that later date. The foreign exchange agent will, if only one party is obliged to make a determination under Section 6(e), be selected in good faith by that party and otherwise will be agreed by the parties.

“Termination Event” means an Illegality, a Tax Event or a Tax Event Upon Merger or, if specified to be applicable, a Credit Event Upon Merger or an Additional Termination Event.

“Termination Rate” means a rate per annum equal to the arithmetic mean of the cost (without proof or evidence of any actual cost) to each party (as certified by such party) if it were to fund or of funding such amounts.

“Unpaid Amounts” owing to any party means, with respect to an Early Termination Date, the aggregate of (a) in respect of all Terminated Transactions, the amounts that became payable (or that would have become payable but for Section 2(a)(iii)) to such party under Section 2(a)(i) on or prior to such Early Termination Date and which remain unpaid as at such Early Termination Date and (b) in respect of each Terminated Transaction, for each obligation under Section 2(a)(i) which was (or would have been but for Section 2(a)(iii)) required to be settled by delivery to such party on or prior to such Early Termination Date and which has not been so settled as at such Early Termination Date, an amount equal to the fair market value of that which was (or would have been) required to be delivered as of the originally scheduled date for delivery, in each case together with (to the extent permitted under applicable law) interest, in the currency of such amounts, from (and including) the date such amounts or obligations were or would have been required to have been paid or performed to (but excluding) such Early Termination Date, at the Applicable Rate. Such amounts of interest will be calculated on the basis of daily compounding and the actual number of days elapsed. The fair market value of any obligation referred to in clause (b) above shall be reasonably determined by the party obliged to make the determination under Section 6(e) or, if each party is so obliged, it shall be the average of the Termination Currency Equivalents of the fair market values reasonably determined by both parties.

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.

E.ON AG
(Name of Party)

Caja de Ahorros y Monte de Piedad de Madrid
(Name of Party)

By:
Name:
Title:
Date:

By:
Name:
Title:
Date:

ISDA[®]

International Swap Dealers Association, Inc.

SCHEDULE
to the
1992 Master Agreement

dated as of 27 March 2007

between

E.ON AG

and

**CAJA DE AHORROS Y MONTE DE PIEDAD
DE MADRID**

(“Party A”)

*established as a Aktiengesellschaft
under the laws of Germany*

(“Party B”)

*established as a CAJA DE AHORROS
under the laws of Spain*

Part 1. Termination Provisions.

(a) **“Specified Entity”** means in relation to Party A for the purpose of:

Section 5(a)(v), None

Section 5(a)(vi), None

Section 5(a)(vii), None

Section 5(b)(iv), None

and in relation to Party B for the purpose of:

Section 5(a)(v), None

Section 5(a)(vi), None

Section 5(a)(vii), None

Section 5(b)(iv), None

- (b) **“Specified Transaction”** will have the meaning specified in Section 14 of this Agreement.
- (c) The **“Cross-Default”** provisions of Section 5(a)(vi) will apply to Party A and to Party B but shall exclude any payment default that results solely from wire transfer difficulties or an error or omission of an administrative or operational nature, provided that (i) sufficient funds were available for such party to fulfill its obligations hereunder on the relevant date and (ii) such default does not subsist for more than three Local Business Days.

If such provisions apply:–

“Specified Indebtedness” will have the meaning specified in Section 14 of this Agreement except that indebtedness or obligations in respect of deposits received in the ordinary course of the banking business of such party shall not constitute Specified Indebtedness.

“Threshold Amount” means in relation to a party, an amount equal to 3% of such party’s shareholders’ equity (determined in accordance with generally accepted accounting principles in such party’s jurisdiction of incorporation or organization) as at the end of such party’s most recently completed fiscal year.

- (d) The **“Credit Event Upon Merger”** provisions of Section 5(b)(iv) will apply to Party A and to Party B.
- (e) The **“Automatic Early Termination”** provision of Section 6(a) will apply to Party A and will not apply to Party B.
- (f) **Payments on Early Termination.** For the purpose of Section 6(e) of this Agreement:–
 - (i) Market Quotation will apply.
 - (ii) The Second Method will apply.
- (g) **“Termination Currency”** means Euro.
- (h) **Additional Termination Event** will not apply.

Part 2. Tax Representations.

- (a) **Payer Tax Representations.** For the purpose of Section 3(e), Party A will make the following representation and Party B will make the following representation:–

It is not required by any applicable law, as modified by the practice of any relevant governmental revenue authority, of any Relevant Jurisdiction to make any deduction or withholding for or on account of any Tax from any payment (other than interest under Section 2(e), 6(d)(ii) or 6(e) of this Agreement) to be made by it to the other party under this Agreement. In making this representation, it may rely on:

- (i) the accuracy of any representation made by the other party pursuant to Section 3(f) of this Agreement;
- (ii) the satisfaction of the agreement of the other party contained in Section 4(a)(i) or 4(a)(iii) of this Agreement and the accuracy and effectiveness of any document provided by the other party pursuant to Section 4(a)(i) or 4(a)(iii) of this Agreement; and
- (iii) the satisfaction of the agreement of the other party contained in Section 4(d) of this Agreement, provided that it shall not be a breach of this representation where reliance is placed on clause (ii)

and the other party does not deliver a form or document under Section 4(a)(iii) by reason of material prejudice to its legal or commercial position.

(b) **Payee Representations.** For the purpose of Section 3(f) of this Agreement, Party A and Party B make the representations specified below, if any:

(i) The following representation will apply to Party A and will apply to Party B:–

It is fully eligible for the benefits of the “Business Profits” or “Industrial and Commercial Profits” provision, as the case may be, the “interest” provision or the “Other Income” provision, if any, of the Specified Treaty with respect to any payment described in such provisions and received or to be received by it in connection with this Agreement and no such payment is attributable to a trade or business carried on by it through a permanent establishment in the Specified Jurisdiction.

If such representation applies, then:–

“*Specified Treaty*” means with respect to Party A: the Double Tax Agreement between Germany and Spain

“*Specified Jurisdiction*” means with respect to Party A: Spain

“*Specified Treaty*” means with respect to Party B: the Double Tax Agreement between Germany and Spain

“*Specified Jurisdiction*” means with respect to Party B: Germany

(ii) The following representation will apply to Party A and will apply to Party B:–

Each payment received or to be received by it in connection with this Agreement will be effectively connected with its conduct of a trade or business in the Specified Jurisdiction.

If such representation applies, then:–

“*Specified Jurisdiction*” means with respect to Party A: Germany

“*Specified Jurisdiction*” means with respect to Party B: Spain

Part 3. Agreement to Deliver Documents.

For the purpose of Sections 4(a)(i) and 4(a)(ii) of this Agreement, each party agrees to deliver the following documents, as applicable:

(a) Tax forms, documents or certificates to be delivered are:

<i>Party required to deliver document</i>	<i>Form/Document/ Certificate</i>	<i>Date by which to be delivered</i>
Party A and Party B	Any form or document accurately completed and in a manner reasonably satisfactory to the other party that may be required or reasonably requested in order to allow the other party to make a payment under a Transaction without any deduction or withholding for or on account of any Tax or with deduction or withholding at a reduced rate.	Upon execution of this Agreement, and thereafter promptly upon reasonable demand by the other Party.

(b) Other documents to be delivered are:

<i>Party required to deliver document</i>	<i>Form/Document/ Certificate</i>	<i>Date by which to be delivered</i>	<i>Covered by Section 3(d) Representation</i>
Party A and Party B	A certificate or other proof, reasonably satisfactory to the other party evidencing the name(s), position(s), authority and specimen signature(s) of the person or persons that execute and deliver this Agreement and each Confirmation.	Upon execution of this Agreement and, if requested, each Confirmation.	Yes
Party A and Party B	Copy of the annual report of such party, containing annual audited consolidated financial statements, for its most recently ended fiscal year; in each case prepared in accordance with generally accepted accounting principles in the country in which such party is organized and certified by independent certified public accountants or chartered accountants.	Where such financial statement is not reasonably publicly available on such party's internet home page, promptly upon reasonable request and in any event no later than 120 days after the end of each fiscal year of such party.	Yes
Party A and Party B	A letter or other certified document from the relevant Party's Process Agent stating its agreement to act as Process Agent.	Upon execution of this Agreement	Yes
Party B	A 'Certificado de Legitimación' from IBERCLEAR in relation to the Number of Shares as defined in the Share Swap Transaction (as defined below), in the form agreed between Party A and Party B.	Within 3 days of execution of this Agreement, and every six months thereafter.	Yes

Party A	A legal opinion of Hengeler Mueller in form and substance satisfactory to Party B covering the capacity and authority of Party A to enter into the Share Swap Transaction.	Upon execution of this Agreement	No
Party B	A legal opinion of Lupicinio Eversheds in form and substance satisfactory to Party A covering the capacity and authority of Party B to enter into the Share Swap Transaction.	Upon execution of this Agreement	No

Part 4. Miscellaneous.

- (a) **Addresses for Notices.** For the purpose of Section 12(a) of this Agreement:

Address for notices or communications to Party A:

Address: E.ON-Platz 1, D-40479 Düsseldorf, Germany

Attention: Treasury

Facsimile No.: +49 (0)211 4579 669

Telephone No.: +49 (0)211 4579 659

E-mail:

Address for notices or communications to Party B:

Address: Paseo de la Castellana 189, 28046 Madrid

Attention: Gestión Operativa, Martin Alonso Sanchez / Ana del Pozo

Facsimile No.: +34 91 423 9727

Telephone No.: +34 91 423 9627

E-mail: malons02@cajamadrid.es

- (b) **Process Agent.** For the purpose of Section 13(c) of this Agreement:

Party A appoints as its Process Agent: E.ON UK Plc

Party B appoints as its Process Agent: Confederación Española de Cajas de Ahorros

- (c) **Offices.** The provisions of Section 10(a) will apply to this Agreement.

- (d) **Multibranch Party.** For the purpose of Section 10(c) of this Agreement:

Party A is not a Multibranch Party

Party B is not a Multibranch Party

- (e) **Calculation Agent.** Unless otherwise specified in a confirmation in relation to the relevant transaction Party B shall be the Calculation Agent with all calculations and determinations being subject to the review of Party A. Party A and Party B agree to use their best endeavors to resolve expeditiously all and any disagreements concerning such calculations and determinations. If Party A and Party B cannot agree on such calculation or determination they agree to appoint expeditiously and jointly an independent dealer in the instrument or other obligations the subject of the particular transaction, to make such calculation or determination, with the calculation or determination made by such independent dealer to be binding and conclusive in the absence of manifest error.

- (f) **Credit Support Document.** Details of any Credit Support Document:
none

- (g) **Credit Support Provider.** Credit Support Provider means in relation to Party A, none

Credit Support Provider means in relation to Party B, none

- (h) **Governing Law.** This Agreement will be governed by and construed in accordance with English law.
- (i) **Netting of Payments.** Subparagraph (ii) of Section 2 (c) of this Agreement will apply to all Transactions.
- (j) **"Affiliate"** will have the meaning specified in Section 14 of this Agreement.

Part 5. Other Provisions.

- (a) **Right of Set off.** Section 6 of the Agreement is amended by the inclusion of the following new subsection 6(f):

"Right of Set off. In addition to any rights of set-off a party may have as a matter of law or otherwise, upon the occurrence of an Event of Default with respect to a party or an Illegality, Credit Event Upon Merger or Additional Termination Event where such party is the only Affected Party (in each case, "Party X"), the other party ("Party Y") will have the right (but not the obligation) without prior notice to Party X or any other person to set-off any obligation of Party X owing to Party Y or any of Party Y's Affiliates, branches or offices under this Agreement (whether or not matured, whether or not contingent, and regardless of the currency, place of payment or booking office of the obligation) against any obligation of Party Y or any of Party Y's Affiliates, branches or offices owing to Party X under this Agreement (whether or not matured, whether or not contingent, and regardless of the currency, place of payment or booking office of the obligation).

In order to enable Party Y to exercise its rights of set off, (i) Party Y may in good faith convert any obligation to another currency at a market rate determined by Party Y and set-off in respect of that converted amount and/or (ii) if an obligation is unascertained, Party Y may in good faith estimate that obligation and set-off in respect of the estimate, subject to the relevant party accounting to the other when the obligation is ascertained.

Nothing in this paragraph will be deemed to constitute or create a charge or other security interest.

This Section 6(f) shall be without prejudice and in addition to any right of set-off, combination of accounts, lien or other right to which any party is at any time otherwise entitled (whether by operation of law, contract or otherwise)."

- (b) **Consent to Recording.** Each party (i) consents to the monitoring or recording, at any time and from time to time, by the other party of any and all communications between officers or employees of the parties in connection with this Agreement or any Transaction (or potential Transaction), (ii) waives any further notice of such monitoring or recording, and (iii) agrees to notify (and, if required by law, obtain the consent of) its officers and employees with respect to such monitoring or recording. Any such recording may be submitted in evidence to any court or in any Proceeding for the purpose of establishing any matters pertinent to this Agreement or any Transaction (or Potential Transaction).

- (c) **Modified Representation.** For purposes of Section 3(d) of this Agreement, the following shall be added immediately prior to the period at the end thereof:
- “; provided, however, that in the case of financial statements delivered by either party, the only representation being made by either party is that such financial statements give a fair view of the state of affairs of the relevant entity to which they relate as at the date of such financial statements.”
- (d) **Relationship Between the Parties.** Each party will be deemed to represent to the other party on the date on which it enters into a Transaction that (absent a written agreement between the parties that expressly imposes affirmative obligations to the contrary for that Transaction):
- (i) **Non-Reliance.** It is acting for its own account, and it has made its own independent decisions to enter into that Transaction and as to whether that Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisors as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into that Transaction; it being understood that information and explanations related to the terms and conditions of a Transaction shall not be considered investment advice or as a recommendation to enter into that Transaction. No communication (written or oral) received from the other party shall be deemed to be an assurance or guarantee as to the expected results of that Transaction.
 - (ii) **Assessment and Understanding.** It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of that Transaction. It is also capable of assuming, and assumes, the financial and other risks of that Transaction.
 - (iii) **Status of Parties.** The other party is not acting as a fiduciary or an advisor for it in respect of that Transaction.
 - (iv) **No Agency.** It is entering into this Agreement and each Transaction as principal and not as agent of any person.
- (e) **Consent to Disclosure.** Each party hereby agrees that any information in respect of, or relating to, this Agreement and any Transaction, to the extent that such information is not known to the public or disclosed to the public in the future by third parties (the “**Information**”) is confidential and shall be treated as such, and that each party consents to the communication and disclosure by the other party of the Information to the other party’s branches, subsidiaries, Affiliates and advisors and their respective employees, on a need-to-know basis for the purposes of performing this Agreement and the Transactions and to the extent required by law, any government or regulatory authority.
- (f) **No Third Party Rights.** No person shall have any right to enforce any provision of this Agreement under the Contracts (Rights of Third Parties) Act 1999.
- (g) **Severability.** Should any term provision, covenant or condition of this Agreement or the application thereof to any party or circumstance be held invalid or unenforceable (in whole or in part) for any reason, the remaining terms, provisions, covenants and conditions hereof, shall continue in full force and effect as if this Agreement had been executed with the invalid or unenforceable portion eliminated, so long as this Agreement as so modified continues to express, without material change the original intentions of the parties as to the subject matter of this Agreement and the deletion of such portion of this Agreement will not substantially impair the respective benefits or expectations of the parties to this Agreement. The parties expressly confirm that this Severability clause shall not affect the “Single Agreement” principal of section 1(c) of this Agreement.

- (h) Each party agrees that the transaction evidenced by the Confirmation of share swap transaction dated 27 March 2007 shall be the only Transaction to be entered into under this Agreement (the "*Share Swap Transaction*").

E.ON AG

CAJA DE AHORROS Y MONTE DE PIEDAD DE MADRID

By:

Name:
Title:
Date:

By:

Name:
Title:
Date:

By:

Name:
Title:
Date:

By:

Name:
Title:
Date:

To:
E.ON AG
E.ON-Platz 1
D-40479 Düsseldorf
Germany

27 March 2007

Confirmation of Share Swap Transaction

Dear Sirs,

The purpose of this letter agreement (this "**Confirmation**") is to confirm the terms and conditions of the transaction entered into between us on the Trade Date specified below (the "**Transaction**"). This Confirmation constitutes a "Confirmation" as referred to in the ISDA Master Agreement specified below and supersedes any prior written or oral agreements in relation to the Transaction.

The definitions and provisions contained in the 2002 ISDA Equity Derivatives Definitions (the "**Equity Definitions**") and in the 2000 ISDA Definitions (the "**Swap Definitions**") and, together with the Equity Definitions, the "**Definitions**") in each case as published by the International Swap and Derivatives Association, Inc., are incorporated into this Confirmation. In the event of any inconsistency between the Definitions and this Confirmation, this Confirmation will govern. In the event of any inconsistency between the Equity Definitions and Swap Definitions, the Equity Definitions will govern.

This Confirmation supplements, forms part of, and is subject to, the ISDA Master Agreement dated as of 27 March 2007 as amended and supplemented from time to time (the "**Agreement**") between **E.ON AG** ("**Party A**") and **CAJA DE AHORROS Y MONTE DE PIEDAD DE MADRID** ("**Party B**"). All provisions contained in the Agreement govern this Confirmation except as expressly modified below. We have traded as principal for this Transaction.

1. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms:

Trade Date:	27 March 2007, or, if such day is not an Exchange Business Day, the first Exchange Business Day thereafter.
Effective Date:	For all rights and obligations of both Parties, except for those obligations of Party B set forth in Paragraphs 2.3 and 2.4 below and those rights of Party A and Party B set forth in Paragraph 2.2.6 below, and all other purposes relating to the Transaction, the second Exchange Business Day after the condition precedent set forth in Paragraph 2.1 has been satisfied. For the obligations of Party B set forth in Paragraphs 2.3 and 2.4 below and those rights of Party A and Party B set forth in Paragraph 2.2.6 below only, the Effective Date shall be the Trade Date.
Termination Date:	The earliest of (i) the second anniversary of the Effective Date and (ii) an Optional Termination Date or Tender Termination Date in respect of the entire remaining Equity Notional Amount declared pursuant to Paragraph 2.2 below; provided that the date in (i) hereof shall at the option of Party A and Party B acting jointly (by agreement no later than 21 Exchange Business days prior to the second anniversary of the Effective Date) be extended to the fourth anniversary of the Effective Date.

Shares: Shares of Endesa, S.A (“*Endesa*”)
ISIN: ESO130670112

Exchange: Madrid, Bilbao, Barcelona and Valencia
Exchanges
(Sistema de Interconexión Bursátil)

Related Exchange(s): Meff Renta Variable (MEFF RV)

Equity Amounts payable by Party B

Equity Amount Payer: Party B

Equity Amount Receiver: Party A

Equity Notional Amount: (a) if the Initial Price is €38.75,
€4,071,705,036.25;
or
(b) if the Initial Price is €40.00,
€4,203,050,360.00; in each case being on the
Trade Date the Number of Shares multiplied
by the applicable Initial Price and in each case
subject to any reduction in accordance with
Paragraphs 2.2.5 or 2.2.6.

Number of Shares: 105,076,259

Equity Notional Reset: Not Applicable

Type of Return: Total Return

Initial Price: €38.75 provided that (a) the Initial Price shall
be €40.00 if such price is approved by the
CNMV in relation to the Bid (as defined
below) and (b) in the event that any further
higher price per share is paid under the Bid (as
defined in Paragraph 2.1 below), the Initial
Price shall be, and shall be deemed to be,
varied such that such price shall be substituted
for such higher price, such substitution to take
effect from and including the date such higher
price is paid.

Valuation Time: Scheduled Closing Time

Valuation Date(s): In respect of a Physical Settlement, 2
Exchange Business Days, or in respect of a
Cash Settlement, 2 Currency Business Days,
before (a) the Termination Date (other than a
Tender Termination Date) or (b) (if applicable)
each Optional Termination Date that is not a
Termination Date.

Floating Amounts payable by Party A

Floating Amount Payer: Party A

Notional Amount: The Equity Notional Amount.

Payment Dates: The last day of each calendar month beginning on and including the last day of the month following the month in which the Effective Date falls up to and including the Termination Date (whether or not such Termination Date is the last day of a calendar month), subject to adjustment in accordance with the Modified Following Business Day Convention.

Floating Rate Option: EUR–EURIBOR–Telerate

Designated Maturity: One month

Spread: The Spread shall be calculated as follows:

Rating of Party A's long term, unsecured, unsubordinated debt obligations by Standard and Poor's Ratings Group:	Spread (per annum)
A+ and above	Plus 27.5bps
A and up to (but not including) A+	Plus 32.5bps
Less than A	Plus 37.5bps

Floating Rate Day Count Fraction: Actual / 360

Reset Dates: The first day of each Calculation Period.

Compounding: Inapplicable

Business Days: TARGET Settlement Day and Madrid

Settlement Terms:

Settlement Method Election: Applicable for each Valuation Date separately (whether arising out of a Party A Termination Right, or a Party B Termination Right and Section 7.1 of the Equity Definitions shall be construed accordingly) subject to Physical Settlement of the Transaction being in compliance with all applicable laws and regulations.

Electing Party: Party A (including for the avoidance of doubt where the Valuation Date has arisen out of a Party B Optional Termination Date.)

Settlement Method Election Date: 3 Exchange Business Days prior to the Valuation Date.

Default Settlement Method: Cash Settlement

Physical Settlement: Applicable (subject to Settlement Method Election)

Settlement Date: The fifth Exchange Business Day following each Valuation Date

Settlement Currency: EUR

Section 9.3 of the Equity Definitions shall be deleted in its entirety and replaced in its entirety with the following:

“Physical Settlement of Equity Swap Transactions. In respect of each Settlement Date for which “Physical Settlement” is applicable, on the relevant Settlement Date the Equity Amount Payer will deliver to the Equity Amount Receiver (or to such other person as the Equity Amount Receiver may nominate by written notice to the Equity Amount Payer) the Number of Shares to be Delivered and will pay to the Equity Amount Receiver the Fractional Share Amount, if any, and the Equity Amount Receiver will pay to the Equity Amount Payer (a) in respect of a termination resulting from the exercise of an Optional Termination Right, the Equity Notional Reduction Amount (net of reasonable disposal fees and costs) or (b) in all other cases, the Equity Notional Amount (net of reasonable disposal

fees and costs). Such payment and such delivery will be made on the relevant Settlement Date through the relevant Clearance System(s) at the accounts specified in the related Confirmation or as otherwise specified by notice from one Party to the other.”

Section 9.5 of the Equity Definitions shall be deleted in its entirety and replaced in its entirety with the following:

“Number of Shares to be Delivered. “Number of Shares to be Delivered” means the number of Shares calculated as set out below:

- (a) in respect of a termination resulting from the exercise of an Optional Termination Right, the Terminated Shares; or
- (b) in all other cases, the Number of Shares.

In the event that the number of Shares calculated as set out above comprises any fractional Share, the Number of Shares to be Delivered will include only whole Shares and a Fractional Share Amount will be payable by the Equity Amount Payer in lieu of such fractional Share.”

Cash Settlement:	Applicable (subject to Settlement Method Election)
Cash Settlement Payment Date:	The second Currency Business Day following each Valuation Date.
Final Price:	In respect of a Valuation Date, the average price per Share received by Party B (net of reasonable disposal fees and costs) for a disposal on the Exchange of (a), if the termination results from the exercise of an Optional Termination Right, the Terminated Shares or (b), in all other cases, the Number of Shares, during the Final Period (and for the avoidance of doubt but without prejudice to Party B’s obligations hereunder to effect a disposal of the Terminated Shares or Number of Shares (as appropriate) on the Cash Settlement Payment Date, the Final Price shall be zero if no price is received by Party B in respect thereof).

Section 8.7 of the Equity Definitions shall be deleted in its entirety and replaced in its entirety with the following:

“Equity Amount. “Equity Amount” means, in respect of each Cash Settlement Payment Date and the Equity Amount Payer, an amount equal to (the Final Price – the Initial Price) multiplied by (a) if the termination results from the exercise of an Optional Termination Right, the Terminated Shares or (b) in all other cases, the Number of Shares.”

For the purposes of this Confirmation, **“Final Period”** shall mean the period from and including the Settlement Method Election Date to and including the Valuation Date or any such period and disposal mechanism mutually agreed between Party A and Party B.

Dividends:

Dividend Period:	The period from but excluding the Effective Date to and including the Termination Date.
Dividend Amount:	Paid Amount (including Extraordinary Dividends, and any amounts paid by Endesa to its shareholders as an inducement for their presence and/or voting at any shareholders' meeting except for the shareholders' meeting dated 20 March 2007) multiplied by Number of Shares, net of all taxes applicable to Party B in relation thereto.
Dividend Payment Dates:	3 Currency Business Day after payment by Endesa.
Re-investment of Dividends:	Not Applicable

Adjustments:

Method of Adjustment:	Calculation Agent Adjustment.
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Extraordinary Events:

Consequences of Merger Events:

Share-for-Share:	Modified Calculation Agent Adjustment
Share-for-Other:	Modified Calculation Agent Adjustment
Share-for-Combined:	Modified Calculation Agent Adjustment

Tender Offer:

Not Applicable

Composition of Combined Consideration:

Applicable

Nationalization or Insolvency:

Cancellation and Payment, provided that Physical Settlement shall apply and the Equity Amount shall be the full Equity Notional Amount then applicable.

Delisting:

Cancellation and Payment, provided that Physical Settlement shall apply, the Settlement Date shall be no earlier than the date that the Delisting takes effect and the Equity Amount shall be the full Equity Notional Amount then applicable.

Determining Party:

Party B

Additional Disruption Events:

Change in Law:	Not Applicable
Failure to Deliver:	Not Applicable
Insolvency Filing:	Applicable
Hedging Disruption:	Not Applicable
Increased Cost of Hedging:	Not Applicable
Loss of Stock Borrow:	Not Applicable
Increased Cost of Stock Borrow:	Not Applicable
Determining Party:	Party A and Party B jointly by Agreement.

Agreements and Acknowledgments

Non-Reliance:	Applicable
Regarding Hedging Activities:	Applicable
Additional Acknowledgments:	Applicable

2 Other Provisions

2.1 *Conditions Precedent*

The condition precedent referred to in the definition of Effective Date above is that in relation to the bid for Endesa by Party A's subsidiary E.ON Zwölfte Verwaltungs GmbH ("**EZV**") originally approved by the CNMV on 16 November 2006, as amended (the "**Bid**") EZV either (A) obtains acceptances and/or irrevocable undertakings to accept the Bid in respect of not less than 50.01% of the issued share capital of Endesa such that the bid becomes unconditional in accordance with its terms or (B) declares (through an announcement to the public), pursuant to its rights under the Bid, the Bid to be wholly unconditional notwithstanding EZV has acceptances and/or irrevocable undertakings to accept the bid of less than 50.01% of the then issued share capital of Endesa

If the condition precedent above has not been satisfied by the date falling one month after the Trade Date, then either Party may give notice to the other, to terminate the Agreement in full. 3 Currency Business Days after issuing such notice, all rights, obligations and liabilities (whether actual or contingent) of each Party under the Agreement shall be released and discharged in full and the Agreement shall be terminated.

2.2 *Optional Termination Rights.*

Exercise of Party A Termination Right

2.2.1 Party A shall have the right to close-out this Transaction, in whole or in part, in accordance with Paragraph 2.2.2 during the period from the Effective Date until the Termination Date (the "**Party A Termination Right**").

2.2.2 The Party A Termination Right may be exercised by Party A to take effect on any Exchange Business Day before the Termination Date provided that Party A has, 5 Exchange Business Days prior to the Exchange Business Day on which the Party A Termination Right is to take effect, given Party B irrevocable written notice specifying the amount by which it wishes to reduce the Equity Notional Amount (such reduction amount, the "**Party A Equity Notional Reduction Amount**"), and the date on which this is to take effect (the "**Party A Optional Termination Date**").

Exercise of Party B Termination Right

2.2.3 Party B shall have the right (the "**Party B Termination Right**" and together with the Party A Termination Right, an "**Optional Termination Right**") to close-out this Transaction, in whole or in part, in accordance with Paragraph 2.2.4 during the period from the Effective Date until the Termination Date at any time when:

- (i) EZV, Party A and any other subsidiary of Party A own in aggregate directly or indirectly, 50.01% or more of the issued share capital of Endesa, and the voting rights attaching to such share capital are not restricted in any fashion which (a) deems the holder of the same to have fewer votes than one vote for every share held or (b) otherwise materially prejudices the holder of such shares; and
 - (ii) any regulatory approvals (including, without limitation, any approvals or consents required from any competition, energy or securities regulators) that it would be necessary or desirable for Party A or EZV to obtain in order to enable it lawfully to purchase the Terminated Shares (as defined below) have been obtained to the reasonable satisfaction of Party A; and
-

- (iii) EZV, Party A and/or any other subsidiary of Party A would not incur as a result of purchasing the Terminated Shares (as defined below) any obligation to make an offer for or purchase any Endesa shares not already held by it from any other parties pursuant to the laws or regulation of any applicable jurisdiction.

2.2.4 The Party B Termination Right may be exercised by Party B to take effect on any Exchange Business Day before the Termination Date provided that Party B has, 14 Exchange Business Days prior to the Exchange Business Day on which the Party B Termination Right is to take effect, given Party A irrevocable written notice specifying the amount by which it wishes to reduce the Equity Notional Amount (such reduction amount, the "**Party B Equity Notional Reduction Amount**" and together with the Party A Equity Notional Reduction Amount, an "**Equity Notional Reduction Amount**"), and the date on which this is to take effect (the "**Party B Optional Termination Date**" which together with a Party A Optional Termination Date is an "**Optional Termination Date**").

Effect of Optional Termination Right

2.2.5 On each Optional Termination Date, the Optional Termination Amount shall be paid by Party A to Party B, the Number of Shares shall be reduced by the number of shares equal to the Equity Notional Reduction Amount divided by the Initial Price (such number being the "**Terminated Shares**"), the Equity Notional Amount shall be reduced by the Equity Notional Reduction Amount and Party A shall procure that any relevant Certificado de Legitimación held by Party A in respect of the Terminated Shares is given to Party B.

Optional Termination Amount. The "Optional Termination Amount" means the sum of:

- (a) the Floating Amount due and payable in respect of the Equity Notional Reduction Amount for the period from the previous Payment Date to and including that Optional Termination Date; and
- (b) (if that Optional Termination Date is a Party A Optional Termination Date) any applicable Break Funding Costs and where Party B has hedged its position in relation to this Transaction, the reasonable costs properly incurred by Party B in terminating in whole or in part any such hedge.

Break Funding Costs. The "Break Funding Costs" are

- (a) zero if the Floating Rate for the Calculation Period in which the Party A Optional Termination Date occurred is less than or equal to the Inter-bank Rate (as defined below); or
- (b) if the Floating Rate for the Calculation Period in which the Party A Optional Termination Date occurred is greater than the Inter-bank Rate, an amount equal to the Break Cost Rate multiplied by (i) the Equity Notional Reduction Amount and (ii) the Break Cost Day Count Fraction.

Break Cost Rate: The rate determined by the Calculation Agent to be

- (a) the Floating Rate for the Calculation Period in which the Party A Optional Termination Date occurred; less
- (b) the rate (the "**Inter-bank Rate**") at which Party B can deposit a sum equal to the Equity Notional Reduction Amount in an account held with a financial institution with a long-term, unsecured and unsubordinated debt rating of at least "AA" by Standard & Poor's Rating Services, a division of The McGraw-Hill Companies Inc. for a period equal to the number of days which will elapse from and including the Party A Optional Termination Date up to and including the last day of the Calculation Period in which the Party A Optional Termination Date occurred (the "**Break Cost Period**").
-

Break Cost Day Count Fraction: the actual number of days in the Break Cost Period divided by 360.

2.2.6 **Tender Termination Right**

2.2.6.1 Party A shall have the option to close-out this Transaction with Party B's written consent, in whole or in part, in accordance with Paragraph 2.2.6.2 during the period from the Trade Date until the last date for acceptances of the Bid (the "Acceptance Date") (the "Tender Termination Right").

2.2.6.2 The Tender Termination Right may be exercised by Party A to take effect on any Exchange Business Day up to and including the Acceptance Date provided that Party A and Party B have agreed the amount by which the Equity Notional Amount is to be reduced (such reduction amount, the "Tender Notional Reduction Amount"), and the date on which this is to take effect (the "Tender Termination Date"), which date cannot be after the Acceptance Date.

2.2.6.3 On the Tender Termination Date:

- (a) the Number of Shares shall be reduced by the number of shares equal to the Tender Notional Reduction Amount divided by the Initial Price (such number being the "Tender Shares");
- (b) the Equity Notional Amount shall be reduced by the Tender Notional Reduction Amount;
- (c) the Equity Amount Payer will deliver the Tender Shares to EZV by irrevocably and unconditionally accepting or procuring the acceptance of the Bid in respect of the Tender Shares and taking or procuring such actions as shall be specified in the formal document containing the Bid (the "Offer Document") to accept the Bid;
- (d) the Equity Amount Receiver will become obliged to pay the Equity Amount Payer the Tender Notional Reduction Amount in accordance with and on the day provided for under, the terms of the Offer Document (and for the avoidance of doubt not in accordance with the provisions of Section 1 above); and
- (e) Party A shall procure that any relevant Certificado de Legitimación held by Party A in respect of the Tender Shares is given to Party B.

2.3 **Hedging**

2.3.1 At all times during the term of the Transaction, Party B shall hedge its position by having legal and, save as provided by Paragraph 2.3.2 below, unencumbered title to an amount of Shares equal to the Number of Shares.

2.3.2 Notwithstanding Paragraph 2.3.1 above, Party B may, solely in connection with an assignment permitted under Paragraph 5 below, grant a charge or equivalent security interest over all or any part of the Number of Shares (the "Hedging Shares") to a third party (a "Chargee") (and in respect of which Party A shall procure that any relevant Certificado de Legitimación held by Party A in respect of the Hedging Shares is given to Party B, if required for the purposes of granting such charge or equivalent security interest), provided that:

- (i) Party B retains legal title to the Hedging Shares;
 - (ii) Party B notifies Party A of the terms of such charge or equivalent security interest as soon as it becomes aware of the same;
 - (iii) on any Physical Settlement of the Transaction, whether in whole or in part, Party A or EZV receives (without needing to take any action to accomplish the same other than pursuant to the Agreement) the Terminated Shares or Number of Shares (as appropriate) free of any encumbrances, security interests and/or other contractual rights held by any other person;
-

(iv) Party B may not transfer, permanently or temporarily, whether pursuant to any encumbrance, security interest, contractual right or otherwise, any of its rights in respect of the Hedging Shares; and

(v) in any event, the rights of the Chargee in respect of the Hedging Shares shall at all times be subordinated to and subject to the rights of Party A under the Agreement.

2.4 *Tendering into Bid*

At all times during the term of the Transaction Party B may not, without Party A's prior written consent or pursuant to Paragraph 2.2.6, tender or agree to tender the Number of Shares into the Bid or otherwise accept the offer constituted by the Bid.

2.5 *Voting*

For the avoidance of doubt, as from the Trade Date, neither Party shall have any entitlement as a result of entering into the Transaction to direct or determine any voting rights that the other Party may have in respect of the Shares.

2.6 *Termination Date – Certificado de Legitimación*

On the Termination Date, Party A shall procure that any relevant Certificado de Legitimación held by Party A in respect of the Number of Shares is given to Party B.

3. Calculation Agent: As specified in Part 4(e) of the Schedule to the Agreement.

4. Additional Representations

Each party represents to the other that:

- (a) it is not aware of any material change or any development involving a material change in the condition (financial or otherwise) of Endesa S.A., its Affiliates and/or its subsidiaries or any other material information in the context of the Transaction, including any unpublished price-sensitive information;
- (b) all internal consents and authorizations required by it in connection with the Transaction have been obtained and all policies and procedures complied with;
- (c) it intends to, and will, make any and all required disclosures regarding any exposure it obtains to Shares under the Transaction.

5. **Assignment by Party B.** Notwithstanding Section 7 of the Agreement, Party B shall be entitled, upon the serving of notice to Party A to assign in whole or in part its rights to receive (i) Floating Amounts hereunder and/or (ii) in the case of any Cash Settlement any Equity Amount owed to it as Equity Amount Payer and/or (iii) in the case of any Physical Settlement, any Equity Notional Amount or Equity Notional Reduction Amount (as the case may be) owed to it as Equity Amount Payer, provided that following any such assignment (i) Party B shall continue as sole counterparty to Party A in relation to this Transaction, (ii) Party A shall continue to make any payments due from it under the Agreement to the account for payments to Party B set down in Paragraph 7 below and (iii) no such assignment shall be permitted if such an assignment would (a) make Party A incur any additional liabilities on account of withholding tax or require Party A to make additional payments under the Agreement in respect of any withholding tax, or (b) cause either Party to no longer be capable of giving any other representation in the Agreement or this Confirmation. Save as expressly varied in this Confirmation, the provisions of Section 7 of the Agreement shall otherwise continue in full force and effect.

6. Governing law: English law

7. Account Details:

Account for payments to Party A: Deutsche Bank, Düsseldorf
Account number 3941770
Swift Code DEUTDEDD

Account for payments to Party B: Caja Madrid, Madrid
IBAN ES8190000001200014203806
Swift CAHMESMM

8. Notices:

Contact Details for Purpose of Giving Notice:

Party A: E.ON AG
E.ON-Platz 1
D-40479 Düsseldorf
Germany
Attn: Treasury
Tel: +49 (0)211 4579 659
Fax: +49 (0)211 4579 669

Party B: Caja Madrid
Paseo de la Castellana 189
28046 Madrid
Attn: Gestión Operativa, Martin Alonso Sanchez / Ana del Pozo
Tel: +34 91 423 9627
Fax: +34 91 423 9727
E-mail: malons02@cajamadrid.es

9. Offices:

(a) The Office for Party A for the Transaction is:

Düsseldorf

(b) The Office for Party B for the Transaction is:

Madrid

Please confirm that the foregoing correctly sets forth the terms of our agreement by executing the copy of this Confirmation enclosed for that purpose and returning it to us.

Your sincerely,
**CAJA DE AHORROS Y MONTE DE PIEDAD
DE MADRID**

By:

Name:

Title:

Date:

Confirmed as of the date first above written:
E.ON AG

By:

Name:

Title:

Date:

To: E.ON AG
E.ON-Platz 1
D-40479 Düsseldorf
Germany

For the attention of:

Tuesday, March 27, 2007

Dear Sirs,

Project Taurus – Fees Letter

We refer to various arrangements to be entered into in connection with the Project Taurus transaction. Unless otherwise defined herein terms defined in the 1992 ISDA Master Agreement, the confirmation of Share Swap Transaction (the “Confirmation”) and the market flex letter (the “Flex Letter”) in each case between you and us and dated on or about the date hereof, have the same meanings when used herein.

1. Fees

In consideration for us (or our affiliates) assisting in the Project Taurus transaction, you must pay to us to such account as we may specify to you the following fees:

- (a) an arrangement fee (the “Arrangement Fee”) calculated as 0.25% of the Equity Notional Amount on the Effective Date and
- (b) a structuring fee (the “Structuring Fee”) calculated as 0.45% of the Equity Notional Amount on the Effective Date ,

(together, the “Fees”)

2. Payment

- (a) The Fees are payable on the Effective Date. As agreed a fee of at least an aggregate amount equal to 50% of the Arrangement Fee is going to be paid to the participating banks if and when the syndication process as described in the Flex Letter is completed.
- (b) Any payment made under this letter must (unless otherwise agreed) be made in euro in immediately available freely transferable funds.
- (c) Any payment due from you under this letter must be made without set-off or counter-claim.

3. Refunds

All Fees once paid are non-refundable and non-creditable against other fees or amounts payable in connection with the Project Taurus transaction.

4. Confidentiality

This letter must not be disclosed by either party to any person or entity except as may be required by law or regulation or to your employees and legal and financial advisers who have a need to know the information and who are aware of the confidentiality obligation in this paragraph.

5. Jurisdiction

You agree that the courts of England and Wales have jurisdiction to settle any dispute in connection with this letter and accordingly submit to the non-exclusive jurisdiction of the English courts and waive any defence of inconvenient forum which may otherwise be available.

7. Governing law

This letter is governed by English law.

If you agree to the above, please sign where indicated below.

Yours faithfully,

For Caja Madrid
Name
Title

For E.ON AG
Name
Title



Press Release

March 27, 2007

E.ON secures 9.9 percent in Endesa

Agreement with Caja Madrid signed

E.ON has secured Caja Madrid's 9.9% stake of Endesa's shares through a swap agreement with the Spanish bank. According to the agreement, Caja Madrid will not sell its shares to E.ON during the ongoing bid process. Instead, Caja Madrid will keep the shares for two years. E.ON will gain the full economic benefits of the shareholding. The exercise of the voting rights is not affected by the agreement.

At the end of the term, the swap agreement will be ended either by a cash settlement or by physical transfer of the shares to E.ON.

Media Contacts

E.ON AG, Corporate Communications

Dr. Peter Blau +49 (0)211 45 79 627
Josef Nelles +49 (0)211 45 79 544

Spain

Deva +34 91 360 1720
Gonzalo Lacalle +34 677 405 341
Juan Torres +34 666 582 837

UK / International

Finsbury Group +44 (0)20 7251 3801
Rollo Head +44 (0)7768 994 987

On the 26 of January 2007, E.ON Aktiengesellschaft ("E.ON"), through its wholly owned subsidiary E.ON Zwölfte Verwaltungs GmbH, filed a tender offer statement on Schedule TO regarding its tender offer for ordinary shares and ADSs of Endesa S.A. ("Endesa") with the U.S. Securities and Exchange Commission ("SEC"). Endesa investors and security holders are urged to read the U.S. tender offer statement (as updated and amended), because it contains important information. Furthermore, Endesa investors and security holders are urged to read the Spanish prospectus from E.ON regarding the Spanish tender offer for Endesa because it contains important information. The Spanish prospectus and certain complementary documentation were authorized in Spain by the Spanish *Comisión Nacional del Mercado de Valores* (the "CNMV"). Investors and security holders may obtain a free copy of the Spanish prospectus and its complementary documentation from E.ON, Endesa, the four Spanish Stock Exchanges, Santander Investment Bolsa SV SA, Santander Investment SA, Corredores de Bolsa, and elsewhere. The Spanish prospectus is also available on the web sites of the CNMV (www.cnmv.es), E.ON

E.ON AG
E.ON Platz 1
D-40479
Düsseldorf
For information
please contact:
Dr. Peter Blau
Phone: +49-211
-45 79-628
Fax: +49-211
-45 79-629
Josef Nelles
Phone: +49-211
-45 79-544
Fax: +49-211
-45 79-566
www.eon.com
Presse@eon.com

(www.eon.com), and elsewhere. Likewise, Endesa investors and security holders may obtain a free copy of the U.S. tender offer statement and other documents filed by E.ON with the SEC on the SEC's web site at www.sec.gov. The U.S. tender offer statement and these other documents may also be obtained for free from E.ON by directing a request to E.ON AG, External Communications, Tel.: 0211-45 79-4 53.

This press release may contain forward-looking statements. Various known and unknown risks, uncertainties and other factors could lead to material differences between the actual future results, financial situation, development or performance of E.ON and Endesa and the estimates given here. These factors include the inability to obtain necessary regulatory approvals or to obtain them on acceptable terms; the inability to integrate successfully Endesa within the E.ON Group or to realize synergies from such integration; costs related to the acquisition of Endesa; the economic environment of the industries in which E.ON and Endesa operate; and other risk factors discussed in E.ON's public reports filed with the Frankfurt Stock Exchange and with the SEC (including E.ON's Annual Report on Form 20-F) and in Endesa's public reports filed with the CNMV and with the SEC (including Endesa's Annual Report on Form 20-F). E.ON assumes no liability whatsoever to update these forward-looking statements or to conform them to future events or developments.

Exhibit (a) (5)(EEE)

7 days remain
New term, April 3rd

Let's talk clear.

The only real offer for Endesa is E.ON's. The only one aimed at retail and institutional shareholders, now at 40 €* per share and in cash.

Legally, neither Acciona nor Enel can launch another tender offer for Endesa, at least, in the next 6 months. At least.

The reality is this: if you want to sell at 40 €* do it now. You do not know when you will be able to find an offer like this one.

If you want more information, please see the prospectus, call the free number 00800 7710 9971, go to www.eonsi.com or go to your bank.

*This amount may be reduced by any dividend paid out by Endesa until the publication of the result of the offer.

e-on
New energy

An explanatory prospectus of the offer registered with the CNMV exists and is available to the shareholders in the corporate addresses of E.ON, Endesa, Santander Investment and the Stock Exchanges of Madrid, Barcelona, Bilbao and Valencia, as well as at the CNMV itself and on the web pages of Endesa and E.ON.

On January 26, 2007, E.ON Aktiengesellschaft ("E.ON"), through its wholly owned subsidiary E.ON Zwölfte Verwaltungs GmbH, filed a tender offer statement on Schedule TO regarding its tender offer for ordinary shares and ADSs of Endesa S.A. ("Endesa") with the U.S. Securities and Exchange Commission ("SEC"). Endesa investors and security holders are urged to read the U.S. tender offer statement (as updated and amended), because it contains important information. Furthermore, Endesa investors and security holders are urged to read the Spanish prospectus from E.ON regarding the Spanish tender offer for Endesa because it contains important information. The Spanish prospectus and certain complementary documentation were authorized in Spain by the Spanish Comisión Nacional del Mercado de Valores (the "CNMV"). Investors and security holders may obtain a free copy of the Spanish prospectus and its complementary documentation from E.ON, Endesa, the four Spanish Stock Exchanges, Santander Investment Bolsa SV SA, Santander Investment SA, Corredores de Bolsa, and elsewhere. The Spanish prospectus is also available on the web sites of the CNMV (www.cnmv.es), E.ON (www.eon.com), and elsewhere. Likewise, Endesa investors and security holders may obtain a free copy of the U.S. tender offer statement and other documents filed by E.ON with the SEC on the SEC's web site at www.sec.gov. The U.S. tender offer statement and these other documents may also be obtained for free from E.ON by directing a request to E.ON AG, External Communications, Tel.: 0211- 45 79 - 4 53.

Para:
E.ON AG
E.ON-Platz 1
D-40479
Düsseldorf
Alemania
27 de marzo de 2007

Confirmación de transacción de intercambio de acciones

Estimados Sres.:

El objetivo de esta carta contrato (esta "**Confirmación**") es confirmar los términos y condiciones de la transacción formalizada por nosotros en la Fecha de Negociación especificada más abajo (la "**Transacción**"). Esta Confirmación constituye una "Confirmación" según el significado dado en el Contrato Maestro ISDA al que se hace referencia más abajo y sustituye todos los acuerdos escritos o verbales anteriores referidos a la Transacción.

Las definiciones y las disposiciones contenidas en las Definiciones de derivados sobre acciones de ISDA 2002 (las "**Definiciones de Acciones**") y las Definiciones de ISDA 2000 (las "**Definiciones de swaps**" y, junto con las Definiciones de Acciones, las "**Definiciones**") en cada caso publicadas por la International Swap and Derivatives Association, Inc., quedan incorporadas a esta Confirmación. En el caso de que exista alguna incoherencia entre las Definiciones y esta Confirmación, prevalecerá esta Confirmación. En el caso de que exista alguna incoherencia entre las Definiciones de Acciones y las Definiciones de Swaps, prevalecerán las Definiciones de Acciones.

Esta Confirmación complementa, forma parte de, y está sujeta a el Contrato Maestro ISDA de fecha del 27 de marzo de 2007, incluidas las enmiendas y los añadidos que se le puedan hacer cada cierto tiempo (el "**Contrato**") entre **E.ON AG** ("**Parte A**") y **CAJA DE AHORROS Y MONTE DE PIEDAD DE MADRID** ("**Parte B**"). Todas las disposiciones contenidas en el Contrato gobiernan esta Confirmación excepto por las modificaciones expresas establecidas más abajo. Nosotros hemos negociado como parte principal en esta Transacción.

1. Los términos de la Transacción concreta a la que hace referencia esta Confirmación son los siguientes:

Términos generales:

Fecha de Negociación:	27 de marzo de 2007, o, si ese día no fuera hábil a efectos de cotización bursátil, el primer Día de Cotización Bursátil tras dicha fecha.
Fecha Efectiva	A efectos de todos los derechos y obligaciones de ambas Partes, excepto por lo que se refiere a las obligaciones de la Parte B estipuladas en los Párrafos 2.3 y 2.4 siguientes y a los derechos de la Parte A y de la Parte B establecidos en el Párrafo 2.2.6 siguiente, y todos los demás efectos relacionados con la Transacción, el segundo Día de Cotización Bursátil una vez se haya satisfecho la condición precedente establecida en el Párrafo 2.1. A efectos únicamente de las obligaciones de la Parte B establecidas en los Párrafos 2.3 y 2.4 siguientes y de los derechos de la Parte A y de la Parte B establecidos en el Párrafo 2.2.6 siguientes, La Fecha Efectiva será la Fecha de Negociación.
Fecha de Resolución:	La anterior entre (i) el Segundo aniversario de la Fecha Efectiva y (ii) una Fecha de Resolución Opcional o Fecha de Resolución de la Licitación respecto de la totalidad de la Cantidad Nominal de Acciones restantes declaradas en virtud del Párrafo 2.2 siguiente; con la salvedad de que la fecha de (i) del presente podrá, a iniciativa de la Parte A y de la Parte B conjuntamente (mediante acuerdo celebrado con una antelación no inferior a 21 días de Cotización Bursátil antes del segundo aniversario de la Fecha Efectiva) prorrogarse hasta el cuarto aniversario de la Fecha Efectiva
Acciones	Acciones de Endesa, S.A (" Endesa ") ISIN: ESO130670112
Bolsa:	Bolsas de Madrid, Bilbao, Barcelona y Valencia

Bolsa(s) relacionada(s):

(Sistema de Interconexión Bursátil)
Meff Renta Variable (MEFF RV)

Cantidades de acciones pagaderas por Parte B

Pagador de la cantidad de acciones:
Perceptor de la cantidad de acciones:
Cantidad nominal de acciones:

La Parte B

La Parte A

(a) Si el Precio Inicial es 38,75 €, 4.071.705.036,25 €;

o

(b) Si el Precio Inicial es de 40,00€, 4.203.050.360,00 €; siendo en cada caso en la Fecha de Negociación el Número de Acciones multiplicado por el Precio Inicial aplicable y estando en cada caso sujeto a cualquier reducción efectuada de acuerdo con los Párrafos 2.2.5 o 2.2.6.

Número de Acciones:

105,076,259

Reajuste Nominal de Acciones:

No pertinente

Tipo de Rendimiento:

Total

Precio Inicial

38,75 € siempre que (a) el Precio Inicial sea de 40,00 € si dicho precio es aprobado por la CNMV en relación con la Oferta (según se define más abajo) y (b) en el caso de que se pague un precio más alto por acción en virtud de la Oferta (según se define en el Párrafo 2.1 siguiente), el Precio Inicial será, y se considerará que es, modificado de tal forma que dicho precio será sustituido por dicho precio más alto y dicha sustitución será efectiva en y a partir de la fecha en la que se pague dicho precio más alto.

Hora de Valoración:

Hora de Cierre Programada

Fecha(s) de Valoración:

En el caso de una Liquidación Física, 2 Días de Cotización Bursátil, o en el caso de una Liquidación Monetaria, 2 Días de Cotización Bursátil, antes de (a) la Fecha de Resolución (distinta de la Fecha de Resolución de la Licitación) o (b) (si corresponde) cada Fecha de Resolución Opcional que no sea una Fecha de Resolución.

Cantidades Flotantes pagaderas por la Parte A

Pagador de la Cantidad Flotante:

Parte A

Cantidad nominal:

La Cantidad Nominal de Acciones.

Fechas de Pago

El último día de cada mes natural empezando e incluido el último día del mes siguiente al mes en el que caiga la Fecha Efectiva hasta la Fecha de Resolución incluida (tanto si dicha Fecha de Resolución es el último día del mes), sin perjuicio de los ajustes efectuados de acuerdo con la Convención modificada sobre el siguiente día hábil.

Opción de tipo flotante:

EUR-EURIBOR-Telerate

Vencimiento Designado:

Un mes

Spread:

El Spread se calculará de la manera siguiente:

Clasificación de las obligaciones a largo plazo no garantizadas de deuda no subordinada de la Parte A según el Grupo de Clasificaciones de Standard and Poor's	Spread (por año)
A+ y superior	Más 27,5bps

Fracción Contable de Día de Tipo Flotante	Real / 360
Fechas de Reajuste:	El primer día de cada Periodo de Cálculo.
Capitalización:	No aplicable
Días Hábiles:	Fecha de Liquidación OBJETIVO y Madrid
<u>Condiciones de Liquidación:</u>	
Elección del Método de Liquidación:	Aplicable a cada Fecha de Valoración por separado (tanto si su origen es un Derecho de Resolución de la Parte A o un Derecho de Resolución de la Parte B y el Artículo 7.1 de las Definiciones de Acciones deberá interpretarse en consecuencia) siempre que la Liquidación Física de la Transacción cumpla todas las leyes y normativas vigentes.
Parte Electora:	La Parte A (incluidos, para evitar dudas, aquellos casos en los que la Fecha de Valoración tenga su origen en una Fecha de Resolución Opcional de la Parte B.)
Fecha de Elección del Método de Liquidación:	3 Días de Cotización Bursátil antes de la Fecha de Valoración.
Método de Liquidación Predeterminado:	Liquidación Monetaria
Liquidación Física:	Aplicable (dependiendo de la Elección del Método de Liquidación)
Fecha de Liquidación	El quinto Día de Cotización Bursátil desde la Fecha de Valoración
Moneda de Liquidación:	EUR

“Liquidación física de operaciones de permutas financieras de renta variable. Respecto a cada Fecha de Liquidación en la sea aplicable la “Liquidación Física”, en la Fecha de Liquidación correspondiente, el Pagador del Importe en Renta Variable entregará al Receptor del Importe en Renta Variable (o a cualquier otra persona que pueda designar el Receptor del Importe en Renta Variable mediante notificación escrita al Pagador del Importe en Renta Variable) el Número de Acciones a Entregar y pagará al Receptor del Importe en Renta Variable el Importe de Acción Fraccional, si lo hubiera, y el Receptor del Importe en Renta Variable pagará al Pagador del Importe en Renta Variable (a) respecto a la liquidación resultante del ejercicio de un Derecho de Liquidación Opcional, el Importe de Reducción Nocional en Renta Variable (neto de las comisiones y costes de enajenación razonables) o (b) en el resto de los casos, el Importe Nocional en Renta Variable (neto de las comisiones y costes de enajenación razonables). Dicho pago y dicha entrega se realizarán en la Fecha de Liquidación correspondiente a través del Sistema o Sistemas de Compensación correspondientes en las cuentas especificadas en la Confirmación relacionada o, de otro modo, según especifique mediante notificación una Parte a la otra.”

El Artículo 9.5 de las Definiciones de Renta Variable se eliminará en su totalidad se reemplazará en su integridad por lo siguiente:

“Número de Acciones a Entregar. El “Número de Acciones a Entregar” se refiere al número de Acciones calculado según se especifica abajo:
(a) respecto a la liquidación resultante del ejercicio de un Derecho de Liquidación Opcional, las Acciones Liquidadas; o
(b) en el resto de los casos, el Número de Acciones.
En el caso de que el número de Acciones calculado según lo establecido anteriormente comprenda cualquier Acción fraccional, el Número de Acciones a Entregar incluirá solamente Acciones completas y un Importe de Acción Fraccional se pagará por el Pagador del Importe en Renta Variable en lugar de dicha Acción fraccional.”

Liquidación de Efectivo:	Aplicable (sujeto a la Elección del Método de Liquidación)
Fecha de Pago de la Liquidación de Efectivo:	El segundo Día Hábil de Intercambio de Divisa posterior a cada Fecha de Valoración.
Precio Final:	En relación con una Fecha de Valoración, el precio medio por Acción recibido por la Parte B (neto de las comisiones y costes de enajenación razonables) para

una enajenación en el mercado bursátil de (a), en el caso de que la liquidación resulte del ejercicio de un Derecho de Liquidación Opcional, las Acciones Liquidadas, o (b), en el resto de los casos, el Número de Acciones, durante el Periodo Final (y para la evasión de duda pero sin perjuicio de las obligaciones de la Parte B establecidas a continuación para efectuar una enajenación de las Acciones Liquidadas o el Número de Acciones (según sea apropiado) respecto a la Fecha de Pago de Liquidación de Efectivo, el Precio Final será cero en caso de que la Parte B no reciba un precio en este sentido).

El Artículo 8.7 de las Definiciones de Renta Variable se eliminará en su totalidad se reemplazará en su integridad por lo siguiente:

“Importe en Renta Variable. El "Importe en Renta Variable" se refiere, en relación con cada Fecha de Pago de Liquidación de Efectivo y del Pagador del Importe en Renta Variable, a un importe igual a (el Precio Final – el Precio Inicial) multiplicado por (a) en el caso de que la liquidación resulte del ejercicio de un Derecho de Liquidación Opcional, las Acciones Liquidadas, o (b) en el resto de los casos, el Número de Acciones.”

A los efectos de esta Confirmación, el **“Periodo Final”** se referirá al periodo que abarca desde e incluyendo la Fecha de Elección del Método de Liquidación hasta e incluyendo la Fecha de Valoración o cualquier periodo de este tipo y mecanismo de enajenación acordado mutuamente entre la Parte A y la Parte B.

Dividendos:

Periodo de Dividendo:	El periodo desde, excluyendo la Fecha Efectiva, hasta e incluyendo la Fecha de Resolución.
Importe de Dividendo:	Importe Pagado (incluyendo los Dividendos Extraordinarios, y cualquier importe pagado por Endesa a sus accionistas como inducción de su presencia y/o emisión de voto en cualquier junta de accionistas a excepción de la junta de accionistas con fecha del 20 de marzo de 2007) multiplicado por el Número de Acciones, neto de todos los impuestos aplicables a la Parte B relacionados.
Fechas de Pago de Dividendo:	3 Días Hábiles de Intercambio de Divisa tras el pago por Endesa.
Reinversión de Dividendos:	No Aplicable

Ajustes:

Método de Ajuste:

Eventos Extraordinarios:

Consecuencias de Eventos de Fusión:	
Acción–por–Acción:	Ajuste Modificado del Agente de Cálculo
Acción–por–Otra:	Ajuste Modificado del Agente de Cálculo
Acción–por–Combinada:	Ajuste Modificado del Agente de Cálculo
Oferta de Licitación:	No Aplicable
Composición de la Consideración Combinada:	Aplicable
Nacionalización o Insolvencia:	Cancelación y Pago, salvo que se aplique la Liquidación Física y el Importe en Renta Variable sea el Importe Ncional en Renta Variable aplicable entonces.
Exclusión de cotización	Cancelación y Pago, salvo que se aplique la Liquidación Física, la Fecha de Liquidación no será anterior a la fecha en la que la Exclusión de Cotización entre en vigor y el Importe en Renta Variable sea todo el Importe Ncional en Renta Variable aplicable entonces.

Parte Determinante:

Parte B

Eventos de Interrupción Adicionales:

Cambio en la Legislación:	No Aplicable
Incumplimiento de Entrega:	No Aplicable
Presentación de Insolvencia:	Aplicable
Interrupción de Cobertura:	No Aplicable
Aumento del Coste de Cobertura:	No Aplicable
Aumento del Coste de Préstamo de Acción:	No Aplicable
Acciones: Parte Determinante:	Parte A y Parte B conjuntamente por Contrato.
<u>Acuerdos y Reconocimientos:</u>	
No-Dependencia:	Aplicable
Relativo a las Actividades de Cobertura:	Aplicable
Reconocimientos Adicionales:	Aplicable

2 Otras Disposiciones

2.1 Condiciones previas

La condición previa a la que se refiere la definición de Fecha Efectiva anterior está relacionada con la oferta por Endesa por la filial de la Parte A E.ON Zwölftte Verwaltungs GmbH ("**EZV**") aprobada originalmente por la CNMV el 16 de noviembre de 2006, modificada (la "**Oferta**") en la que EZV u (A) obtiene las aceptaciones y/o los compromisos irrevocables de aceptación de la Oferta en relación con no menos del 50,01% del capital social emitido de Endesa de modo que la oferta se convierta en incondicional según sus términos o (B) declara (a través de un anuncio público), según sus derechos bajo la Oferta, que la Oferta es completamente incondicional independientemente de que EZV disponga de aceptaciones y/o compromisos irrevocables para aceptar la oferta de menos del 50,01% del capital social emitido de Endesa entonces.

Si la condición previa anterior no se ha cumplido en la fecha posterior a un mes tras la Fecha de Negociación, entonces cualquier Parte podrá notificar a la otra para liquidar el Contrato completamente. 3 Días Hábiles de Intercambio de Divisa tras la emisión de dicha notificación, todos los derechos, obligaciones y responsabilidades (ya sea actuales o contingentes) de cada Parte según el Contrato quedarán liberadas y descargadas totalmente y el Contrato será liquidado.

2.2 Derechos de Liquidación Opcionales. Ejercicio del Derecho de Liquidación de la Parte A

2.2.1 La Parte A tendrá derecho a cerrar esta Operación, total o parcialmente, según el Párrafo 2.2.2 durante el periodo que abarca desde la Fecha Efectiva hasta la Fecha de resolución (el "**Derecho de Liquidación de la Parte A**").

2.2.2 El Derecho de Liquidación de la Parte A puede ejercitarse por la Parte A para que entre en vigor en cualquier Día Hábil Bursátil antes de la Fecha de resolución con tal de que la Parte A disponga de 5 Días Hábiles Bursátiles anteriores a la Fecha Hábil Bursátil en la que el Derecho a Liquidación de la Parte A entre en vigor, dada la notificación escrita irrevocable de la Parte B especificando el importe por el cual desea reducir el Importe Nocional en Renta Variable (dicho importe de reducción, el "**Importe de Reducción Nocional en Renta Variable de la Parte A**"), y la fecha en la que esto entre en vigor (la "**Fecha de Resolución Opcional de la Parte A**").

Ejercicio del Derecho de Resolución de la Parte B

2.2.3 La Parte B tendrá el derecho (el "***Derecho de Resolución de la Parte B***") y, conjuntamente con el Derecho de Resolución de la Parte A, un "***Derecho de Resolución Optativa***") a cerrar la presente Transacción, parcial o totalmente y de conformidad con lo dispuesto en el Párrafo 2.2.4, en cualquier momento durante el periodo comprendido entre la Fecha Efectiva y la Fecha de Resolución, siempre que:

- (i) EZV, la Parte A y cualquier otra filial de la Parte A posean conjuntamente, de modo directo o indirecto, un 50,01% o más del capital social emitido de Endesa, y los derechos de voto adscritos a dicho capital no se hallen restringidos en cualquier modo que (a) haga que el titular del capital disponga de un número de votos inferior al de un voto por acción, o (b) perjudique sustancialmente de cualquier otra forma al titular de las acciones, y que
- (ii) las autorizaciones de las autoridades reguladoras (incluyendo, entre otras, cualesquiera autorizaciones o consentimientos exigidos por autoridades reguladoras de la competencia, la energía o el mercado de valores) cuya obtención por parte de EZV o la Parte A resulte necesaria o conveniente para poder llevar a cabo la adquisición legítima de las Acciones Revocadas (en los términos que más adelante se definen) hubieran sido otorgadas de forma satisfactoria para la Parte A, y que

(iii) EZV, la Parte A y/o cualquier otra filial de la Parte A no incurran, a consecuencia de la adquisición de las Acciones Revocadas (según más adelante se define), en la obligación de adquirir o de presentar una oferta a otra de las partes por acciones de Endesa de las que aquellas no sean titulares, de conformidad con las disposiciones legales de cualquier jurisdicción competente..

2.2.4 La Parte B podrá ejercer su Derecho de Resolución de forma que se haga efectivo en un Día Hábil de Negociación anterior a la Fecha de Resolución siempre que la Parte B, en los 14 Días Hábiles de Negociación anteriores al Día Hábil de Negociación en el que el Derecho de Resolución de la Parte B vaya a hacerse efectivo, haya dado a la Parte A notificación escrita e irrevocable en la que especifique el importe en el que desea reducir el Importe Nocional del Capital (siendo el importe de tal reducción el **“Importe de la Reducción Nocional del Capital de la Parte B”**) y, conjuntamente con el Importe de la Reducción Nocional del Capital de la Parte A, un **“Importe de la Reducción Nocional del Capital”**), y la fecha en la que el mismo vaya a hacerse efectivo (la **“Fecha de Resolución Optativa de la Parte B”** que, junto con la Fecha de Resolución Optativa de la Parte A conforma la **“Fecha de Resolución Optativa”**).

Efecto del Derecho Resolución Optativa

2.2.5. En cada Fecha de Resolución Optativa, la Parte A abonará a la Parte B el Importe de la Resolución Optativa, el Número de Acciones se reducirá en un número igual al Importe de la Reducción Nocional del Capital dividido por el Precio Inicial (siendo el número resultante las **“Acciones Revocadas”**), el Importe Nocional del Capital se reducirá en el Importe de la Reducción Nocional del Capital y la Parte A se encargará de que se haga llegar a la Parte B el Certificado de Legitimación pertinente que se halle en poder de la Parte A y que haga referencia a las Acciones Revocadas.

Importe de la Resolución Optativa. Por “Importe de la Resolución Optativa” se entenderá la suma de:

a) el Importe Flotante debido y exigible con relación al Importe de la Reducción Nocional del Capital correspondiente al periodo transcurrido desde la anterior Fecha de Pago hasta la Fecha (inclusive) de Resolución Optativa, y

(b) (en caso de que la Fecha de Resolución Optativa sea la Fecha de Resolución Optativa de la Parte A) los Costes de Financiación de Pérdidas aplicables y, en caso de que la Parte B hubiera asegurado frente a fluctuaciones su posición con relación a la presente Transacción, los costes en los que razonablemente hubiese incurrido la Parte B a la hora de extinguir parcial o totalmente dicho aseguramiento.

Costes de Financiación de Pérdidas. Los “Costes de Financiación de Pérdidas” serán:

(a) cero, si el Tipo de Interés Flotante del Periodo de Cálculo en el que transcurrió la Fecha de Resolución Optativa de la Parte A fuera igual o menor que el Tipo Interbancario (según se define más adelante); o

(b) si el Tipo de Interés Flotante del Periodo de Cálculo en el que transcurrió la Fecha de Resolución Optativa de la Parte A es mayor que el Tipo Interbancario, una cantidad igual al Tipo de Coste de Ruptura multiplicado por (i) el Importe de la Reducción Nocional del Capital y (ii) la Fracción Diaria del Coste de Ruptura.

Tipo de Coste de Ruptura: Es el tipo que el Agente de Cálculo determine que sea

(a) el Tipo de Interés Flotante del Periodo de Cálculo en el que se produjo la Fecha de Resolución Optativa de la Parte A, menos

(b) el tipo (el **“Tipo Interbancario”**) al que la Parte B pueda poner en depósito una suma equivalente al Importe de la Reducción Nocional del Capital en una cuenta abierta en una entidad financiera que ostente una calificación crediticia a largo plazo de, como mínimo, “AA” según los Servicios de Calificación de Standard & Poor’s, una división de The McGraw–Hill Companies Inc., durante un periodo igual al número de días que transcurrirán desde la Fecha de Resolución Optativa de la Parte A (inclusive) hasta el último día (inclusive) del Periodo de Cálculo en el que se produzca la Fecha de Resolución Optativa de la Parte A (el **“Periodo de Coste de Ruptura”**).

B Fracción Diaria del Coste de Ruptura: número real de días del Periodo del Coste de Ruptura dividido por 360.

2.2.6 Derecho de Resolución de la Oferta

2.2.6.1 La Parte A tendrá la facultad de cerrar total o parcialmente la presente Transacción, con el consentimiento por escrito de la Parte B, de conformidad con lo dispuesto en el Párrafo 2.2.6.2, durante el periodo que comprende desde la Fecha de Negociación hasta el último día de aceptación de la Oferta (la "**Fecha de Aceptación**") (el "**Derecho de Resolución de la Oferta**").

2.2.6.2 La Parte A podrá ejercer el Derecho de Resolución de la Oferta de modo que tenga efecto en cualquier Día Hábil de Negociación hasta la Fecha de Aceptación (inclusive), siempre que tanto la Parte A como la Parte B hayan acordado la cantidad en que se haya de reducir el Importe Nocial del Capital (siendo el importe de dicha reducción el "**Importe de la Reducción Nocial de la Oferta**"), y la fecha en la que vaya a tener efecto (la "**Fecha de Resolución de la Oferta**"), la cual no podrá ser posterior a la Fecha de Aceptación.

2.2.6.3 En la Fecha de Resolución de la Oferta:

(a) se reducirá en un número igual al Importe de la Reducción Nocial de la Oferta dividido por el Precio Inicial (siendo dicho número "**las Acciones de la Oferta**");

(b) el pagador de la cantidad nominal de acciones se reducirá en el Importe de la Reducción de la Oferta;

(c) el Pagador de la cantidad de acciones hará entrega a EZV de las Acciones de la Oferta aceptando de forma irrevocable e incondicional de la Oferta, o procurando dicha aceptación con respecto a las Acciones de la Oferta y emprendiendo, o procurando que se emprendan las acciones legales especificadas en el documento formal que contenga los términos de la Oferta (el "**Documento de la Oferta**") necesarias para dicha aceptación;

(d) el Receptor del Importe del Capital quedará obligado a pagar al Pagador del Importe del Capital el Importe de la Reducción Nocial de la Oferta de conformidad con la fecha y los términos fijados en el Documento de la Oferta (y, a fin de evitar dudas, sin hallarse sujeto a lo dispuesto en el Apartado 1 anterior); y

(e) la Parte A se encargará de que la Parte A haga llegar a la Parte B el Certificado de Legitimación pertinente relativo a las Acciones de la Oferta.

2.3 Cobertura

2.3.1 En todo momento durante la vigencia de la Transacción, la Parte B mantendrá cubierta su posición conservando la titularidad legal y libre de cargas, salvo en lo previsto en el Apartado 2.3.2 adjunto, sobre una cantidad de Acciones equivalente al número de Acciones.

2.3.2 Sin perjuicio del Apartado 2.3.1 anterior, la Parte B podrá transmitir, únicamente en relación a una subrogación permitida en virtud del Apartado 5 siguiente, una carga o derecho de garantía equivalente respecto a todo o parte del número de Acciones (las "**Acciones de cobertura**") a un tercero (un "**Acreedor hipotecario**") (respecto al cual la Parte A se encargará de que se entregue a la Parte B el correspondiente Certificado de Legitimación que obre en su poder respecto a dichas Acciones, si se requiere a efectos de conceder dicha carga o derecho de garantía equivalente), siempre que:

(i) la Parte B conserve la titularidad legal de las Acciones de cobertura;

(ii) la Parte B notifique a la Parte A los términos y condiciones de dicha carga o derecho de garantía equivalente en cuanto tenga conocimientos de los mismos;

(iii) en caso de una liquidación física de la Transacción, ya sea de forma total o parcial, la Parte A o EZV reciba (sin necesidad de emprender ninguna medida para su realización, salvo las previstas en el Contrato) las Acciones rescindidas o el número de Acciones (según corresponda) libre de gravámenes, derechos de garantía y/u otros derechos contractuales en poder de alguna otra persona;

- (iv) la Parte B no pueda transferir, de forma permanente o temporal, ya sea en virtud de un gravamen, derecho de garantía, derecho contractual u otro, ninguno de sus derechos adscritos a las Acciones de cobertura; y
- (v) en cualquier caso, los derechos del Acreedor hipotecario respecto a las Acciones de cobertura quedarán subordinados y supeditados en todo momento a los derechos de la Parte A, de conformidad con lo dispuesto en el Contrato.

2.4 **Licitación sobre la OPA**

En todo momento durante la vigencia de la Transacción la Parte B, sin el consentimiento previo por escrito de la Parte A o excepto en lo previsto en el Apartado 2.2.6, no podrá licitar o llegar a un acuerdo para licitar el número de Acciones en la OPA o, en su defecto, aceptar la oferta constituida por la OPA.

2.5 **Votación**

Para no dar lugar a dudas, a partir de la Fecha de Negociación, ninguna Parte estará facultada, por el hecho de haber celebrado la Transacción, a ordenar o establecer derechos de voto que la otra Parte puede tener con respecto a las Acciones.

2.6 **Fecha de resolución – Certificado de Legitimación**

En la fecha de resolución, la Parte A se encargará de que se entregue a la Parte B el correspondiente Certificado de Legitimación que mantenga en su poder respecto al número de Acciones.

3. Agente de cálculo: El indicado en la Parte 4(e) del Anexo del Contrato.

4. Manifestaciones adicionales

Las partes manifiestan una a la otra que:

- (a) no tienen constancia de ningún cambio sustancial o novedad que implique un cambio sustancial en las condiciones (financieras u otras) establecidas por Endesa S.A, sus Afiliados o filiales, o alguna otra información relevante en el contexto de la Transacción, incluyendo información no publicada que pueda afectar al precio;
- (b) han obtenido todos los consentimientos y autorizaciones internas exigidas por ellas en lo que respecta a la Transacción y que se han cumplido todas las políticas y procedimientos;
- (c) pretenden realizar y realizarán todas las declaraciones exigidas referentes a cualquier acceso que obtenga a las Acciones en virtud de la Transacción.

5. **Cesión por la Parte B.** Sin perjuicio de la Sección 7 del Contrato, la Parte B tendrá derecho, una vez entregada la correspondiente notificación a la Parte A, a ceder total o parcialmente su derecho a recibir (i) Importes variables según lo aquí estipulado y/o (ii) en caso de una Liquidación en efectivo, un importe en acciones que se le deba como Pagador del importe en acciones y/o (iii) en caso de una Liquidación física, un Importe teórico en acciones o Importe teórico de reducción en acciones (según el caso) que se le deba como Pagador; no obstante, después de efectuarse la citada cesión (i) la Parte B continuará siendo la única contraparte de la Parte A respecto a esta Transacción, (ii) la Parte A continuará satisfaciendo los pagos debidos originados de la misma en virtud del Contrato a la cuenta de abono de la Parte B establecida en el Apartado 7 siguiente y (iii) no se permitirá dicha cesión si (a) ésta hace que la Parte A incurra en obligaciones adicionales tras practicar una retención fiscal o exige a dicha Parte efectuar pagos adicionales en virtud del Contrato por causa de una retención fiscal, o (b) hace que una Parte deje de ser capaz de realizar alguna otra manifestación en el Contrato o la presente Confirmación. Excepto si se modifica expresamente en esta Confirmación, las disposiciones de la Sección 7 del Contrato continuarán en vigor a todos los efectos.

6. Legislación aplicable: Ley inglesa
7. Datos de la cuenta:
Cuenta de abono de la Parte A: Deutsche Bank, Düsseldorf
Número de cuenta: 3941770
Código Swift: DEUTDEDD
Cuenta de abono de la Parte B: Caja Madrid, Madrid IBAN
ES8190000001200014203806 Swift
CAHMESMM
8. Notificaciones: Datos de contacto a efectos de notificaciones:
Parte A: E.ON AG
E.ON-Platz 1
D-40479 Düsseldorf
Germany
Atn: Treasury
Tel: +49 (0)211 4579 659
Fax: +49 (0)211 4579 669
Parte B: Caja Madrid
Paseo de la Castellana 189
28046 Madrid
Atn: Gestión Operativa, Martin Alonso Sanchez / Ana del Pozo
Tel: +34 91 423 9627
Fax: +34 91 423 9727
E-mail: malons02@cajamadrid.es
9. Sedes:
(a) La Sede de la Parte A a efectos de la Transacción es: Düsseldorf
(b) La Sede de la Parte B a efectos de la Transacción es: Madrid

En caso de conformidad con las estipulaciones precedentes, rogamos nos devuelva una copia firmada de la presente Confirmación que se adjunta al efecto.

Atentamente,
**CAJA DE AHORROS Y MONTE DE PIEDAD
DE MADRID**

Fdo:

Nombre:

Cargo:

Fecha:

Confirmado en la fecha señalada en el encabezamiento: **E.ON AG**

Fdo:

Nombre:

Cargo:

Fecha: