



**Merkanti Holding p.l.c.**  
**Aragon House Business Centre**  
**Dragonara Road**  
**St. Julians, STJ 3140**  
**Malta**

## **COMPANY ANNOUNCEMENT**

*Reference: (04/2024)*

This is a company announcement issued by Merkanti Holding p.l.c. (C 70823) (the “**Company**”) pursuant to the Capital Markets Rules of the Malta Financial Services Authority.

### **Proposed amendments to Bond Terms & Conditions**

Reference is made to the company announcement issued by the Company on 17 May 2024 (reference 03/2024) pursuant to which the Company informed the market of its intention to call a meeting of bondholders for the purpose of considering and approving certain amendments to the terms and conditions of the Company’s secured bonds due 2026 (ISIN: MT0002291202) (the “**Bonds**”).

The proposed amendments consist primarily of: (1) an increase in the interest rate payable on the Bonds from 4.00% to 5.70% per annum (reflecting the current interest rate climate); and (2) a 7-year extension of the term (maturity date) of the Bonds (the “**Proposed Amendments**”).

All Bondholders will also receive an additional bonus interest payment of 0.8% of the nominal (face) value of the Bonds held by them if the Proposed Amendments are approved and concluded.

The Company now wishes to inform that market that it will be holding the meeting of bondholders at Hyatt Regency, 77 Sqaq Lourdes, San Giljan STJ 3311, Malta, Malta on 3 July 2024 at 10:00hrs (the “**Bondholder Meeting**”). Bondholders on the Company’s register of Bonds as at 11 June 2024 (trading session dated 6 June 2024) will be eligible to receive notice, attend and vote at the Bondholder Meeting. In the coming days, the Company will be mailing notice of the Bondholder Meeting to bondholders at their respective addresses contained in the Company’s register of Bonds (the “**Notice**”).

The Notice, a copy of which is attached to this company announcement, contains all information relating to the Proposed Amendments and the calling of the Bondholder Meeting, including the possibility of the bondholders appointing proxies. The Notice, together with all other relevant documentation, will also be available on the Company’s website at <https://merkantiholding.com/bond-update/>.

Bondholders are invited to contact the Company by telephone on +356 23 286 000 during office hours or by email on [info@merkantiholding.com](mailto:info@merkantiholding.com) to obtain an understanding of and details relating to accessibility and attendance at the Bondholder Meeting, or in relation to any other matter connected with Proposed Amendments.

By order of the Board.

Dr. Matthew Bianchi  
For and on behalf of  
Ganado Services Limited  
Company Secretary

4 June 2024



Merkanti Holding p.l.c.

## NOTICE TO BONDHOLDERS

### BONDHOLDER MEETING – 03 July 2024

<b>MSE No.</b>	
<b>No. of Bonds</b>	
<b>I.D. Card No./ Co. Reg. No.</b>	

Merkanti Holding plc (the “Company”) hereby gives notice that a Bondholder Meeting will be held at Hyatt Regency, 77 Sqaq Lourdes, San Giljan STJ 3311, Malta, Malta on 3 July 2024 at 10:00hrs (the “Bondholder Meeting”) for the sole purpose of considering a resolution to amend the terms and conditions of the €25,000,000 4% Secured Bonds Due 2026 (ISIN: MT0002291202) issued by the Company (the “Bonds”) pursuant to the Prospectus for the Bonds dated 18 July 2019 (the “Prospectus”).

This notice of the Bondholder Meeting (this “Notice”) contains an overview of the proposed amendments to the terms and conditions of the Bonds as set out in the Prospectus, including an explanation of the purpose and benefits of the amendments. Enclosed with this Notice is a Proxy Form which bondholders can use to appoint a proxy and, should they wish, also submit their voting instructions in advance of the Bondholder Meeting.

A copy of this Notice and all Bondholder Meeting related documentation (including a company presentation describing the proposals, a marked-up copy of the terms and conditions of the Bonds indicating the proposed amendments in full and the cover letter to this Notice) can be viewed and downloaded from the Company’s website at: <https://merkantiholding.com/bond-update/>.

All capitalised terms used but not defined in this Notice shall have the meanings assigned to them in the Prospectus.

04 June 2024

*By order of the Board*



Merkanti Holding p.l.c.

**PROPOSED AMENDMENTS TO THE TERMS AND CONDITIONS OF THE  
Merkanti Holding P.L.C. €25,000,000 4% SECURED BONDS DUE 2026  
(ISIN: MT0002291202)**

## **INTRODUCTION**

Pursuant to a Prospectus dated 18 July 2019 (the “**Prospectus**”) the Company made an offer of €25,000,000 4% Secured Bonds due 2026 (ISIN: MT0002291202) (the “**Bonds**”). The Bonds were subsequently subscribed in full and were admitted to the Official List of the Malta Stock Exchange. Section 8.14 of the terms and conditions of the Bonds (as set out in the Prospectus) permits the Company to amend the terms and conditions of the Bonds (the “**Terms and Conditions**”) subject to obtaining the approval of a majority of holders of the Bonds (the “**Bondholders**”) holding not less than 66 2/3% in nominal value of the Bonds held by those Bondholders present at a meeting of the Bondholders specifically called for such purpose.

As previously announced to the market the Company wishes to propose that certain amendments be made to the Terms and Conditions and that a meeting of Bondholders be called for this purpose. Accordingly, the Company is calling upon Bondholders holding Bonds as at close of business 11 June 2024 (the “**Record Date**”) for a bondholders’ meeting to be held at Hyatt Regency, 77 Sqaq Lourdes, San Giljan STJ 3311, Malta on 3 July 2024 at 10:00hrs (the “**Bondholder Meeting**”) for the purpose of considering, and approving the proposed amendments to the Terms and Conditions that are set out and described in detail below under the heading ‘*THE PROPOSED AMENDMENTS (IN DETAIL)*’ (the “**Proposed Amendments**”).

Bondholders on the register as at the Record Date shall be eligible to receive notice, attend and vote on the Proposed Amendments at the Bondholder Meeting.

### **1. THE PROPOSED RESOLUTION**

Bondholders are being requested to consider, and if deemed fit, approve the following resolution at the Bondholders Meeting: *“To consider and approve the Proposed Amendments to the terms and conditions of the Bonds as set out in detail in the Notice to the Bondholder Meeting, consisting primarily of (1) an increase in the interest rate payable on the Bonds from 4.00% to 5.70% per annum and (2) a 7-year extension of the term (maturity date) of the Bonds to 12 August 2033”* (the “**Resolution**”).

### **2. PURPOSE AND BENEFITS**

The purpose of the Proposed Amendments is to give Bondholders the opportunity to retain their long-term participation in the Company at an interest rate in line with current market conditions, while presenting the Company with the ability to re-diversify its balance sheet with long-term debt in a significantly more cost and time efficient manner than a traditional refinancing (which, among other costs associated with a new issuance of bonds, would also involve an expensive and complicated process for the re-registration of new security in Germany). Indeed, the Proposed Amendments will have no effect on the security interests currently securing the Bonds, namely the Pledges and the German Law Mortgages (each as defined in the Prospectus). The Bonds shall remain fully secured throughout their extended term.



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Following the approval of the Proposed Amendments, Bondholders will benefit from (a) an increase in the interest rate payable on the Bonds from 4.00% to 5.70% per annum for the extended term of the Bonds commencing from 12 August 2024 and (b) a one-time bonus interest payment of 0.8% of the nominal value of Bonds held by each of them (the “**Bonus Interest Payment**”).

All Bondholders on the register of Bondholders as at the close of business on Friday 26 July 2024 will be entitled to the Bonus Interest Payment, which will be paid to them on 12 August 2024 together with accrued interest due (at 4%) for the immediately preceding interest period.

The Company operates as a holding and finance company, focused on the raising of capital and advancing the same to its group of companies. Principal subsidiaries include Merkanti Bank Ltd., Merkanti (A) International Limited and Merkanti (D) International Limited. Since the issuance of the Bonds, the Company has made substantial progress on its goals, as demonstrated by its historic track record. Profit for the year ending 31 December amounted to €1.9 million on a consolidated basis, whilst the Group's total assets reached €110 million and Group equity is now standing at almost €57 million.

Full details of the Company’s financial condition can be found in the Company’s 2023 Annual Report, as well as additional details on the Proposed Amendments can be found at: <https://merkantiholding.com/Investor%20Relations/#companyannouncements>.

The objective of the Proposed Amendments is to optimise the Company’s balance sheet in a cost effective manner, whilst providing Bondholders with a rate of interest income that is more reflective of current market conditions. On this basis, the Company’s rationale for the Proposed Amendments is not driven by any concern related to the financial performance of the Company, or to the financial sustainability of the Bonds.

The Company has also included a 2-year high-level financial forecast (that assume and take into account approval of the Proposed Amendments) in the presentation to bondholders dated 17 May 2024 that was previously made available to Bondholders and which can be found at: <https://merkantiholding.com/bond-update/>.

### **3. THE PROPOSED AMENDMENTS (IN DETAIL)**

This section only sets out the material amendments being proposed to the Terms and Conditions. The Company is however taking the opportunity to update the Terms and Conditions through the removal of information which is no longer applicable and to correct the tense of certain paragraphs (due to the passage of time since the issuance of the Bonds). Bondholders shall be voting on the entirety of the Proposed Amendments and should therefore review and consider the full marked-up version of Terms and Conditions that is attached to this notice and shall be available for viewing on the Company’s website in the coming days at <https://merkantiholding.com/bond-update/>.

#### ***i. Amendments to Section 8.1 – General:***

Reference is made to Section 8.1 of the Prospectus which currently reads as follows:

*“The Bonds (ISIN: MT0002291202) will be issued on the Terms and Conditions as set out below, and all subscribers (or purchasers from time to time) of the Bonds are deemed to have knowledge, accept and be bound by the Terms and Conditions.”*



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This section will be supplemented by the inclusion of the below immediately prior to this paragraph: “For the purposes of these Terms and Conditions the following words and expressions shall bear the following meanings:

<i>Bonds</i>	<i>the 5.70% secured bonds due 2033 (ISIN: MT0002291202) originally issued by the Issuer in terms of the Prospectus;</i>
<i>Interest Payment Date</i>	<i>12 August of each year (including 12 August 2025) and the Maturity Date (or if any such date is not a Business Day, the next following day that is a Business Day);</i>
<i>Maturity Date</i>	<i>12 August 2033;</i>
<i>Prospectus</i>	<i>the Prospectus dated 18 July 2019 originally published by Merkanti Holding p.l.c. in respect of the €25,000,000 4% Secured Bonds Due 2026 (ISIN: MT0002291202).</i>

All other capitalised terms used but not defined herein shall bear the meanings originally assigned to them in Prospectus.”

**ii. Amendments to Section 8.6 - Interest**

This section shall generally be amended to correct the reference from the current interest rate of 4% to the revised interest rate of 5.70%. Section 8.6.1 currently reads:

“Each Bond shall bear interest on its outstanding principal amount at a rate of four percent (4%) per annum from (and including) the Interest Commencement Date up to (but excluding) the Maturity Date. Interest shall be payable in arrears in Euro on each Interest Payment Date and on the Maturity Date. The first payment of interest shall be made on the first Interest Payment Date. In the event that any Interest Payment Date falls on a day other than a Business Day, the relevant Interest Payment Date will be the first following day which is a Business Day.”

This section shall be revised as follows:

“Each Bond shall bear interest on its outstanding principal amount at a rate of (a) four percent (4%) per annum up to (but excluding) 12 August 2024 and (b) five point seven percent (5.70%) per annum from (and including) the 12 August 2024 up to (but excluding) the Maturity Date. Interest shall be payable in arrears in Euro on each Interest Payment Date and on the Maturity Date.”

**iii. Amendments to Section 8.7 – Yield**

Reference is made to Section 8.7 which currently reads:

“The gross yield, calculated on the basis of the interest rate of the Bonds, the Issue Price, and the redemption value (at Nominal Value) of the Bonds on the Maturity Date, is four percent (4%).”

This section shall be amended as follows:

“As from 12 August 2024, the gross yield, calculated on the basis of the interest rate of the Bonds, the Issue Price, and the redemption value (at Nominal Value) of the Bonds on the Maturity Date, is five point seven percent (5.70%).”



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#### **iv. Amendments to Section 8.10 – Purchase and Cancellation**

Section 8.10 which currently reads:

*“To the extent allowed by law, the Issuer may at any time purchase Bonds in the open market or otherwise and at any price. All Bonds purchased by or on behalf of the Issuer will be cancelled and may not be re-issued or re-sold. Any Bonds so surrendered for cancellation may not be reissued or resold and the obligations of the Issuer in respect of any such Bonds shall be discharged.”*

This section shall be amended as follows:

*“To the extent allowed by law, the Issuer may at any time purchase Bonds in the open market or otherwise and at any price. All Bonds purchased by or on behalf of the Issuer may be re-sold by the Issuer within a period of sixty (60) days and, if they are not re-sold within such period, they will be cancelled and the obligations of the Issuer in respect of any such Bonds shall be discharged.”*

#### **4. RECOMMENDATION**

THE COMPANY’S BOARD OF DIRECTORS, HAVING CAREFULLY CONSIDERED THE MATTER, IS OF THE VIEW THAT THE PROPOSED AMENDMENTS ARE FAIR AND THAT A FAVOURABLE VOTE WOULD BE BENEFICIAL TO BONDHOLDERS AND THE COMPANY ALIKE. THE BOARD THEREFORE RECOMMENDS THAT THE BONDHOLDERS VOTE IN FAVOUR OF THE RESOLUTION AT THE BONDHOLDER MEETING.

Nevertheless, the Board strongly recommends that each Bondholder seeks independent advice and guidance from its own professional advisors in order to decide whether or not to vote in favour of the proposed Resolution in the light of the Bondholder’s individual circumstances.

#### **5. PROCEEDINGS AT THE BONDHOLDERS MEETING**

Bondholders shall be required to vote on the Resolution and confirm whether they agree with or dissent to the proposed amendments to the Terms and Conditions. Bondholders are reminded that in terms of Section 8.13.18 of the Terms and Conditions *“Any resolution passed with the required majority at any meeting shall be binding on all Bondholders, whether or not present at the meeting, and whether or not voting, and each of the shall be bound to give effect to it accordingly.”*

For information on attending and participating at the Bondholder meeting, either in person or by proxy, please refer to *“Notes on Attendance & Participation (in Person or by Proxy)”* below.

Bondholders holding their Bonds through a nominee may (1) ask the nominee holding the Bonds on their behalf to vote in its own name as instructed by the Bondholder or (2) should the Bondholder wish to attend the Bondholder Meeting in person, ask the nominee to appoint the Bondholder as its proxy for the Bondholder Meeting (in respect of the number of Bonds held on behalf of such Bondholder) using the Proxy Form appended to this Notice.

For any business to be transacted at a meeting of the Bondholders a quorum, whether in person or by proxy, is required to be present. In terms of the Prospectus a valid quorum is constituted by 3 or



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more Bondholders present in person or by proxy and holding or representing not less than 50% of the aggregate principal amount of the Bonds outstanding at the time (the “**Quorum**”).

If the Quorum is not present within thirty minutes from the time appointed for the commencement of the Bondholder Meeting the meeting shall stand adjourned to the same day in the next week (10 July 2024) at the same time and place scheduled for the original meeting. Provided that the chairman of the Bondholder Meeting may decide to adjourn said meeting to another time and place, of which the Bondholders would be duly informed by way of Company Announcement. If at the adjourned meeting a Quorum is not present within 30 minutes from the time appointed for the meeting, the Bondholders present shall constitute a quorum.

For the purposes of passing the Resolution the Company shall be required to attain the approval of a majority of Bondholders holding not less than 66 2/3% in nominal value of the Bonds held by those Bondholders present at the meeting or at any adjourned meeting thereof, as the case may be.

For the purpose of identifying dissenting Bondholders (in connection with the Dissenting Bondholder Offer described below), voting at the Bondholder Meeting shall take place by way of a written poll / ballot. Each Bondholder shall have one vote for each Bond held.

## 6. DISSENTING BONDHOLDERS

Bondholders who do not wish to retain their Bonds under the amended terms and conditions have the option to sell their bonds on the market at any time prior or subsequent to the Bondholder Meeting. As indicated above, voting on the Resolution shall take place by way of poll for the purpose of identifying those Bondholders who voted against the Resolution (the “**Dissenting Bondholders**”).

Should the Proposed Amendments be approved, Dissenting Bondholders shall, in addition to being able to sell their Bonds on the open market, be offered the right to sell their Bonds to the Company (“**Dissenting Bondholder Offer**”), on business days between the 4 July 2024 and the 11 July 2024, both days included (the “**Offer Period**”), at a price of €98.98 per Bond, being the volume-weighted-average price for the one hundred eighty trading days prior to the initial announcement about the Proposed Amendments (the “**Offer Price**”).

Dissenting Bondholders wishing to sell their Bonds to the Company during the Offer Period will need to visit the offices of Curmi & Partners Ltd, at Finance House, Triq Principessa Elizabetta, Ta' Xbiex XBX 1102, Malta (“**Curmi & Partners**”) between 9:00 and 13:00 to indicate in person their intention of availing themselves of the Dissenting Bondholder Offer by the Company. Dissenting Bondholders will be required to provide Curmi & Partners with a valid proof of identification document (whether Passport or Identity Card) and complete the appropriate form relating to the Dissenting Bondholder Offer, which will be available from Curmi & Partners.

**Dissenting Bondholders who exercise their rights under the Dissenting Bondholder Offer will not be entitled to the Bonus Interest Payment.**

## 7. TIMETABLE OF EVENTS

Last day of trading to be on register to receive Notice of Bondholder Meeting	06/06/2024
Record Date for Bondholders to receive Notice of Bondholder Meeting	11/06/2024
Bondholder Meeting	03/07/2024



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Commencement of Offer Period	04/07/2024
Closure Offer Period	11/07/2024
Changes to T&Cs come into effect	12/07/2024
Date of Execution of Dissenting Bondholder Offer	15/07/2024
Record Date for Bonus Interest Payment	26/07/2024
Payment of Bonus Interest Payment (and accrued annual interest)	12/08/2024
Commencement of interest on Bonds at revised rate	12/08/2024

The Company reserves the right to cancel the Bondholder Meeting at any time for any reason, including for reasons beyond its control, such as extraordinary events, substantial change of the political, financial, economic, legal, monetary or market conditions at national or international level and/or adverse events regarding the financial or commercial position of the Company and/or other relevant events that in the reasonable discretion of the Company may be prejudicial to the Company proceeding with the Proposed Amendments. Any cancellation of the Bondholder Meeting would be notified to the Bondholders by way of Company Announcement.





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## Notes on Attendance & Participation (in Person or by Proxy)

- i. *This Notice has been mailed to the Bondholders on the Company's register of Bondholders at the Central Securities Depository ("CSD") of the Malta Stock Exchange as at close of business on the 11 June 2024, this being the 'Record Date' and only these Bondholders shall have the right to participate and vote at the Bondholder Meeting.*
- ii. *Every Bondholder shall have the right to ask questions which are pertinent and related to the resolution being proposed for approval at the Bondholder Meeting and to have such questions answered by the Directors or persons delegated by the Directors for this purpose subject to any reasonable measures that the Company may take to ensure the identification of the Bondholder. This right shall also be enjoyed by a proxy holder appointed by the Bondholder.*
- iii. *Admission to the Bondholder Meeting is subject to presentation of this Notice to Bondholders, together with the Identity Card of the Bondholder. The front page of this notice will be retained by a Company representative upon registration. Kindly note that only the Bondholder to whom this notice is addressed will be admitted to the Bondholder Meeting, unless otherwise provided hereunder.*
- iv. *A Bondholder entitled to attend and vote at the Bondholder Meeting may appoint a proxy to attend and vote in his/her stead. A proxy need not be a Bondholder. A Proxy Form is enclosed with this Notice.*
- v. *A duly signed and completed Proxy Form is to be (a) scanned and sent to the Company by electronic mail to [info@merkantiholding.com](mailto:info@merkantiholding.com), (b) deposited at the registered office of the Company, or (c) mailed to the Company using the postage paid and self addressed envelope also included herein. In each case the Proxy Form must be received by the Company not less than 72 hours before the appointed time for the holding of the Bondholder Meeting (or if applicable, any adjourned meeting). If the Proxy Form is not submitted in time it shall not be valid unless the chairman of the Bondholder Meeting decides otherwise before the meeting proceeds to business.*
- vi. *Where the Bondholder is an individual, this Proxy Form must be signed by him/her.*
- vii. *In the case of Bonds held jointly by several persons, except in the case of Bonds held jointly by husband and wife, the first named joint holder on the Register held at the CSD of the Malta Stock Exchange, shall be eligible to attend and vote at the Bondholder Meeting. A representative of a joint bondholding, who is not the first named on the Register, will only be eligible to attend and vote at the Bondholder Meeting, if a Proxy Form has been duly executed in his or her favour by all other joint holders.*
- viii. *In the case of Bonds held jointly by husband and wife, both the husband and the wife or either of them, may attend the Bondholder Meeting, provided that: (i) irrespective of whether both the husband the wife, or either of them, attend the Bondholder Meeting, only one voting document will be issued and only one of them shall be entitled to vote and (ii) if they wish to appoint a proxy, the Proxy Form must be signed by both husband and wife.*
- ix. *When a Bondholder is a body corporate, including a company, a partnership, an association of persons, a foundation or other entity, a representative thereof will only be eligible to attend and vote at the Bondholder Meeting if the Proxy Form has been duly executed in his/her favour by the competent organ of the entity which he represents in accordance with its Memorandum and Articles or other similar constitutional documents of the entity. The Company reserves the right to request evidence of the aforesaid appointment, including the signatory right/s of the person/s signing the Proxy Form.*
- x. *A Bondholder who is a minor may be represented at the Bondholder Meeting by his/her parent or legal guardian who will be required to present his/her identity card and the Notice to Bondholders. Minors (persons under 18 years of age) will not be allowed to attend the Bondholder Meeting.*
- xi. *Admission to the Bondholder Meeting and registration of Bondholders attending will commence at 9:30hrs. After the Bondholder Meeting has proceeded to business, voting documents will continue to be issued until such time as the meeting proceeds to vote on the the proposed resolution. Thereafter, no further voting documents will be issued and admission to the Bondholder Meeting shall be closed.*



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## PROXY FORM

The Company Secretary  
Merkanti Holding p.l.c.  
Aragon House Business Centre,  
Dragonara Road,  
St. Julians STJ3140,  
Malta

MSE No.	
No. of Bonds	
I.D. Card No./ Co. Reg. No.	

I/we, the undersigned, being a Bondholder/s of Merkanti Holding p.l.c. (the “**Company**”), hereby appoint  
**(check the appropriate box as necessary):**

1. The Chairman of the Bondholder Meeting;  
or  
 2. \_\_\_\_\_ holder of Identity card number \_\_\_\_\_  
residing at \_\_\_\_\_

as my/our proxy (the “**Proxy**”) to attend and vote for \_\_\_\_\_ Bonds **(please insert number of Bonds covered by this Proxy Form)** in the Company on my/our behalf at the Bondholder Meeting of the Company to be held at Hyatt Regency, 77 Sqaq Lourdes, San Giljan STJ 3311, Malta, Malta at 10:00hrs on 3 July 2024 and at any adjournment thereof (the “**Bondholder Meeting**”).

My/Our Proxy is authorized to vote:

- as he/she wishes  
 as indicated on the “Voting Instructions” overleaf **(in which case please refer to, complete and submit the separate ‘Voting Instructions’ sheet)**

\_\_\_\_\_  
Signature of Bondholder/s

\_\_\_\_\_  
Date

### **How to fill in the Proxy Form:**

- 1) *If a Proxy other than the Chairman of the Bondholder Meeting is preferred, please check the second box above and insert the details of the Proxy so chosen. If no box is checked and no Proxy details are inserted, the Proxy Form shall be invalid.*
- 2) *The person appointed as Proxy shall vote as you have directed (by checking the appropriate box above and, if applicable, by completing the “Voting Instructions” overleaf) in respect of the proposed resolution being put to the Bondholder Meeting. If this form is returned without any indication as to how the Proxy shall vote, the Proxy shall exercise their discretion as to how to vote or whether to abstain from voting.*
- 3) *Bondholders are strongly encouraged to submit their Proxy Form/s by e-mail to [info@merkantiholding.com](mailto:info@merkantiholding.com) well in advance of, and not less than, 72 hours before the appointed time for the Bondholder Meeting.*



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## **VOTING INSTRUCTIONS**

Please indicate with use of a mark 'X' in the relevant box (either 'For', 'Abstain', or "Against") for the Resolution below how you wish your votes to be cast by your Proxy, in which case the cross or mark will be interpreted that you have assigned all of your votes accordingly. If a cross or mark is placed under more than one option for the same resolution, the Bondholder's vote on that particular resolution will be invalid.

For any accounts that are held in nominee form that have multiple underlying clients that have voted in different ways, the votes can be allocated to different voting options, in which case the nominee may do so by inserting the number of votes (Bonds held) in each of the relevant boxes. In no circumstance may a Bondholder use more votes than they are entitled to.

You need not complete this section if your Proxy is authorised to vote as the Proxy wishes. **The Company encourages Bondholders to vote in favour of the adoption and approval of the Resolution.**

## **PROPOSED RESOLUTION**

*To consider and approve the Proposed Amendments to the terms and conditions of the Bonds as set out in detail in the Notice to the Bondholder Meeting, consisting primarily of (1) an increase in the interest rate payable on the Bonds from 4.00% to 5.70% per annum and (2) a 7-year extension of the term (maturity date) of the Bonds to 12 August 2033.*

If the Proposed Amendments are approved all Bondholders as at the relevant record date (26 July 2024) will receive a one-time bonus interest payment of 0.8% of the nominal value of Bonds held by each of them.

<p><b>FOR:</b></p>          <p><b>AS RECOMMENDED BY THE BOARD OF DIRECTORS AND THE COMPANY</b></p>
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<p>ABSTAIN:</p>
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<p>AGAINST:</p>
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**PROPOSED AMENDMENTS TO THE TERMS AND CONDITIONS OF THE  
Merkanti Holding P.L.C. €25,000,000 4% Secured Bonds Due 2026  
(ISIN: MT0002291202)**

These are the proposed amendments to the Terms and Conditions of the €25,000,000 4% Secured Bonds due 2026 (ISIN: MT0002291202) which are being proposed for approval by the bondholders at the meeting of bondholders which shall be held at The Ballroom, Hyatt Regency, 77 Sqaq Lourdes, San Ġiljan STJ 3311, Malta on 3 July 2023 at 10:00hrs. Notice has been mailed to the Bondholders on the Company's bondholder register at the Central Securities Depository of the Malta Stock Exchange as at close of business on the 11 June 2024, this being the 'Record Date' and only these Bondholders shall have the right to participate and vote at the Bondholders' Meeting on the proposed amendments outlined below.

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## **8. TERMS AND CONDITIONS OF THE BONDS**

### **8.1 General**

For the purposes of these Terms and Conditions the following words and expressions shall bear the following meanings:

<u>Bonds</u>	<u>the 5.70% secured bonds due 2033 (ISIN: MT0002291202) originally issued by the Issuer in terms of the Prospectus;</u>
<u>Interest Payment Date</u>	<u>12 August of each year (including 12 August 2025) and the Maturity Date (or if any such date is not a Business Day, the next following day that is a Business Day);</u>
<u>Maturity Date</u>	<u>12 August 2033;</u>
<u>Prospectus</u>	<u>the Prospectus dated 18 July 2019 originally published by Merkanti Holding p.l.c. in respect of the €25,000,000 4% Secured Bonds Due 2026 (ISIN: MT0002291202).</u>

All other capitalised terms used but not defined herein shall bear the meanings originally assigned to them in Prospectus.

The Bonds ~~(ISIN: MT0002291202) will be issued on~~ are subject to the Terms and Conditions as set out below, and all subscribers (or purchasers from time to time) of the Bonds are deemed to have knowledge, accept and be bound by the Terms and Conditions.

### **8.2 Currency and Denomination, Form and Title**

#### **8.2.1 Currency and Denomination**

The Bonds ~~will be~~ issued in Euro. The Nominal Value of each Bond (denomination per unit) will be €100. The aggregate principal amount of Bonds that the Issuer may issue pursuant to this Prospectus is €25,000,000, divided into 250,000 Bonds of €100 each.

#### **8.2.2 Form and Title**

The Bonds ~~are to be~~ issued in fully registered and dematerialised form without coupons and are represented in uncertificated form by the appropriate entry in the CSD Register. There ~~will be~~ entered in the CSD Register, the names, addresses, identity card numbers (or details of some other

official document in the case of natural persons), registration numbers (or details of some other official document in the case of companies), and account details of the Bondholders and the particulars of the Bonds held by them respectively. Bondholders will ~~also~~ have, at all reasonable times during business hours, access to the CSD Register for purposes of inspecting information held on their respective accounts. Each Bondholder consents to the Issuer having a right to obtain, from the CSD Register, any available information on the Bondholders including contact details and their holdings of Bonds.

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

### **8.3 Status**

The Bonds (their repayment and the payment of interest thereon) ~~shall~~ constitute the general, direct, unconditional obligations of the Issuer to the Bondholders, secured in the manner described in Section 8.4 below, and shall at all times rank *pari passu*, without any priority or preference among themselves. The Bonds shall rank subsequent to any other prior ranking indebtedness of the Issuer.

### **8.4 Security**

#### **8.4.1 Pledges and German Law Mortgages**

The obligations of the Issuer to the Bondholders under the Bonds will be secured by means of the Security in favour of the Trustee for the benefit of the Bondholders, in accordance with the terms of the Trust Deed and the relevant Security Documents. Specifically, the Bonds will be secured by means of the Pledges and the German Law Mortgages. ~~Until the German Law Mortgages are registered in the German land register, the Bondholders will instead be secured by the Interim Pledge of Bond Proceeds. Provided that the Trustee receives confirmation in writing issued by its German legal counsel that the German Law Mortgages have been properly perfected in accordance with German law (by no later than the Longstop Date), the Trustee shall release the Interim Pledge of Bond Proceeds.~~

#### **8.4.2 Release of Security**

In accordance with the terms of the Trust Deed, each of the Property Companies shall have the right, upon a written request to the Trustee, to have all or part/s of the German Real Estate released from the effects of the relevant German Law Mortgage and/or to have all or part of the Deposited Monies pledged under the relevant Pledge of Deposited Monies Agreement/s released to them, in the specific circumstances set out in the Trust Deed (as described in Section 6.5.2 ~~above of the Prospectus~~).

#### **8.4.3 Enforcement of Security**

The Security may be enforced by the Trustee upon the Bonds becoming immediately due and payable upon an Event of Default as described in Section 8.15 below.

### **8.5 Restrictive Covenants**

#### **8.5.1 Restriction on Dividends**

The Issuer covenants not to declare or pay any dividend, purchase or redeem any of its own shares except if from the proceeds of a new issue of shares made for such purpose (each, a “**Restricted Payments**”), unless:

- (a) The 'Interest Cover Ratio' (i.e. the Issuer's profit before tax income and before interest expense divided by the Issuer's interest expenses for the same period) calculated on the basis of the Issuer's most recent financial statements, after adjusting to take into consideration the impact of the proposed Restricted Payment, is above 3.0x; and
- (b) Debt-to-Total Capital Ratio' (i.e. the Issuer's interest-bearing borrowings by the Issuer's total capital, with total capital being the sum of interest-bearing borrowings plus total equity) calculated on the basis of the Issuer's most recent financial statements, after adjusting to take into consideration the impact of the proposed Restricted Payment, is below 60%.

### 8.5.2 Negative Pledge by the Property Companies

The Property Companies have, pursuant to the Trust Deed, covenanted to the Trustee (for the benefit of the Bondholders) that neither of them shall, for as long as any principal or interest under the Bonds or any of them remains outstanding, create any other mortgage or security interest ranking *pari passu* with or subsequent to the German Law Mortgages on all or any part of the German Real Estate, except where (a) such mortgage or security interest arises in virtue of any law or (b) a release of security has occurred in accordance with Section 8.4.2 above, with respect to the part of the German Real Estate so released from the German Law Mortgage.

## 8.6 Interest

### 8.6.1 Interest Rate and Interest Payment Dates

Each Bond shall bear interest on its outstanding principal amount at a rate of (a) four percent (4%) per annum up to (but excluding) 12 August 2024 and (b) five point seven percent (5.70%) per annum from (and including) the ~~Interest Commencement Date~~ 12 August 2024 up to (but excluding) the Maturity Date. Interest shall be payable in arrears in Euro on each Interest Payment Date and on the Maturity Date. ~~The first payment of interest shall be made on the first Interest Payment Date. In the event that any Interest Payment Date falls on a day other than a Business Day, the relevant Interest Payment Date will be the first following day which is a Business Day.~~

### 8.6.2 Accrual of Interest

Interest on the Bonds will accrue on a daily basis ~~from the date of issue~~ on the basis of a three hundred and sixty (360) day year divided into twelve (12) months of thirty (30) days each, and in the case of an incomplete month, the number of days elapsed. Interest shall cease to accrue on each Bond on the day preceding the Maturity Date unless payment of principal is improperly withheld or refused or unless the Issuer defaults in respect of payment, in which event, interest shall continue to accrue at a rate of ~~four~~ five point seven percent (4%)(5.70%) per annum until the date of payment thereof.

## 8.7 Yield

~~The~~ As from 12 August 2024, the gross yield, calculated on the basis of the interest rate of the Bonds, the Issue Price, and the redemption value (at Nominal Value) of the Bonds on the Maturity Date, is ~~four~~ five point seven percent (4%)(5.7%).

## 8.8 Payments

- 8.8.1 The Issuer will discharge all of its payment obligations under the Bonds by making payments to the accounts of the respective Bondholders indicated in the CSD Register. The Issuer has no responsibility or liability for the records relating to, or payments made in respect of, holdings of Bonds through the CSD.

- 8.8.2 Repayment of the principal amount of the Bonds will be made in Euro on the Maturity Date by the Issuer to the person in whose name such Bonds are registered as at the close of business on the Maturity Date, together with interest accrued up to (but excluding) the Maturity Date. The Issuer shall not be responsible for any loss or delay in transmission. Upon repayment of the principal the Bonds shall be redeemed and the appropriate entry made in the CSD Register.
- 8.8.3 In the case of Bonds held subject to usufruct, payment will be made against the joint instructions of all bare owners and usufructuaries. Before effecting payment, the CSD shall be entitled to request any legal documents deemed necessary concerning the entitlement of the bare owner/s and the usufructuary/ies to payment of the Bonds.
- 8.8.4 Payment of interest on a Bond will be made to the person in whose name such Bond is registered at the close of business on the relevant Interest Payment Date.
- 8.8.5 All payments with respect to the Bonds are subject in all cases to any pledge (duly constituted) of the Bonds and to any applicable fiscal or other laws and regulations. In particular, but without limitation, all payments by the Issuer in respect of the Bonds may be made gross of any amount to be deducted or withheld for or on account of any present or future taxes, duties, assessments or other government charges of whatsoever nature imposed or levied by or on behalf of the Government of Malta or any other authority thereof or therein having power to tax.
- 8.8.6 No commissions or expenses shall be charged by the Issuer to Bondholders in respect of such payments. The Issuer shall not be liable for charges, expenses and commissions levied by parties other than the Issuer.
- 8.8.7 Any claim against the Issuer by Bondholders in connection with all payments due to them in respect of the Bonds shall be prescribed (time-barred) upon the lapse of five (5) years from the day on which an action in relation to the same can be exercised.

## 8.9 Redemption

~~8.9.1~~ Unless previously redeemed in accordance with the terms of this Section (or purchased and cancelled in accordance with Section 8.10 below), the Bonds shall be redeemed at their Nominal Value on the Maturity Date.

~~8.9.2~~ If the German Law Mortgages are not registered by the Longstop Date, this will constitute an Event of Default and (in accordance with Section 8.15 below) the Bonds shall automatically be redeemed as of the Longstop Date and the Trustee shall notify the Issuer of the Event of Default in accordance with the provisions of the Interim Pledge of Bond Proceeds Agreement without the need for a meeting of the Bondholders or any other action to be taken by the Trustee or the Bondholders. The Issuer shall, promptly following any such notice from the Trustee, pay to Bondholders the Nominal Value of their Bonds together with interest accrued and unpaid on the Bonds until the Longstop Date, and the funds held in the Interim Bank Account (in addition to any further amounts required to be paid by the Issuer in order to meet its obligations to Bondholders in full) shall be applied by Merkanti Bank (on the instructions of the Trustee) for this purpose.

## 8.10 Purchase and Cancellation

To the extent allowed by law, the Issuer may at any time purchase Bonds in the open market or otherwise and at any price. All Bonds purchased by or on behalf of the Issuer ~~will be cancelled and may not be re-issued or re-sold. Any Bonds so surrendered for cancellation may not be reissued or resold~~ may be

re-sold by the Issuer within a period of sixty (60) days and, if they are not re-sold within such period, they will be cancelled and the obligations of the Issuer in respect of any such Bonds shall be discharged.

## **8.11 Transferability**

- 8.11.1 The Bonds are freely transferable in accordance with applicable laws and the rules and regulations of the MSE.
- 8.11.2 Any person becoming entitled to a Bond in consequence of the death or bankruptcy of a Bondholder may, upon such evidence being produced as may from time to time properly be required by the CSD, elect either to be registered himself as holder of the Bond or to have some person nominated by him registered as the transferee thereof. If the person so becoming entitled shall elect to be registered himself, he shall deliver or send to the CSD a notice in writing signed by him stating that he so elects. If he shall elect to have another person registered he shall testify his election by executing to that person a transfer of the Bond.
- 8.11.3 All transfers and transmissions are subject in all cases to any pledge (duly constituted) of the Bonds and to any applicable laws and regulations.
- 8.11.4 The cost and expenses of effecting any trading or transfer in the Bonds on the MSE shall be at the charge of the Bondholder or at the charge of such person as the rules and regulations of the MSE may from time to time determine.
- 8.11.5 As the Bonds will be held at the CSD, investors will have to rely on its procedures for transfers. The CSD will not register the transfer or transmission of Bonds for a period of fifteen (15) days preceding the due date for any payment of principal or interest on the Bonds.

## **8.12 Further Issues**

~~The Issuer may from time to time, without the consent of the Bondholders, incur further debt or issue further bonds or other securities. Although the amount of Bonds that may be issued under this Prospectus is limited to €25,000,000, there is no other restriction on the amount of debt that the Issuer may incur (whether through the issuance of securities or otherwise). Accordingly, the Issuer may incur additional indebtedness (other than the indebtedness incurred in relation to the issue of the Bonds) without the consent of the Bondholders.~~

## **8.13 Meetings of the Bondholders**

For all intents and purposes any meeting of Bondholders, including but not limited to meetings held for the purposes set out in Section 8.14 below, shall be held in accordance with the provisions of the Trust Deed (as described in this Section 8.13). In the event of any inconsistency between the provisions of these Terms and Conditions and the Trust Deed (whether in relation to Meetings of Bondholders or otherwise), the provisions of the Trust Deed shall prevail.

- 8.13.1 The Trustee, in accordance with the provisions set out in the Trust Deed, may at any time and at the cost of the Issuer, prior to exercising any power or discretion hereunder, may:
- (a) call a meeting of the Bondholders; or
  - (b) write to all Bondholders requesting their instructions or directions;

Provided that the Trustee shall not be liable for any action it may deem necessary to take prior to acting in accordance with this paragraph 8.13.1 and the Trustee shall not be bound to act on behalf of the Bondholders under the Trust Deed unless it receives duly authorised instructions or directions as stipulated in the Trust Deed.



- 8.13.2 A meeting of the bondholders may also be convened, at any time, by the Issuer.
- 8.13.3 A meeting of the Bondholders shall also be convened by the Trustee on the requisition of one (1) or more Bondholders holding in aggregate, at the date of the deposit of the requisition, not less than ten percent (10%) of the Nominal Value of Bonds, for the time being outstanding.
- 8.13.4 In case of a requisition of a meeting, the requisition shall state the objects of the meeting and shall be signed by the requisitioner/s and deposited at the registered office of the Trustee and may consist of several documents in like form each signed by the requisitioner, or if there is more than one (1) requisitioner, in any one document by all of them.
- 8.13.5 If the Trustee does not, within twenty-one (21) days from the date of the deposit of the requisition, proceed duly to convene a meeting, the requisitioner/s may convene a meeting in the same manner, as nearly as possible, as that in which meetings are to be convened by the Trustee, but a meeting so convened shall not be held after the expiration of three (3) months from the date of the deposit of the requisition.
- 8.13.6 At least fourteen (14) days' notice (exclusive of the day on which the notice is given and of the day of the meeting) of the meeting shall be given to the Bondholders. The notice shall specify the date, time and place of the meeting as well as the general nature of the resolution/s being proposed and to be tabled at the meeting. The notice shall also explain how Bondholders may appoint proxies.
- 8.13.7 Notice of every meeting of the Bondholders shall be given to:
- (a) every Bondholder;
  - (b) the Issuer;
  - (c) each of the Property Companies;
  - (d) the Trustee; and
  - (e) the auditor/s for the time being of the Issuer.
- 8.13.8 No person other than those listed in paragraph 8.13.7 shall be entitled to receive notice.
- 8.13.9 The accidental omission to give notice of a meeting to or the non-receipt of notice of a meeting, by any person entitled to receive notice shall not invalidate the proceedings of a meeting.
- 8.13.10 A meeting of the Bondholders shall have power, with the approval of a majority of Bondholders, holding not less than sixty-six and two-thirds percent (66 2/3%) in Nominal Value of the Bonds held by those Bondholders present at the meeting or at any adjourned meeting thereof, as the case may be, to do any of the following:
- (a) to assent to any proposal for modification of the Trust Deed and/or any of the Security Documents and/or the Terms and Conditions, as put forward by the Issuer and/or the Trustee;
  - (b) to authorise any person or persons to concur in and execute all such documents and do all such acts and things as may be necessary to carry out and give effect to any resolution passed with the approval of a majority of Bondholders, holding not less than sixty-six and two-thirds percent (66 2/3%) in Nominal Value of the Bonds held by those Bondholders present at the meeting or at the adjourned meeting, as the case may be;
  - (c) to remove the Trustee or any subsequent trustee and to approve a person to be appointed as trustee in its stead;

- (d) to authorise the Trustee and/or any of its directors, officers, delegates or appointees to concur in and execute and do all such documents, instruments, acts and things as may be necessary to carry out and give effect to any resolution passed with the approval of a majority of Bondholders, holding not less than sixty-six and two-thirds percent (66 2/3%) in Nominal Value of the Bonds held by those Bondholders present at the meeting or at the adjourned meeting, as the case may be;
- (e) to discharge or exonerate the Trustee and/or any of its directors, officers, delegates or appointees from all liability in respect of any act or omission for which the Trustee and/or any of its directors, officers, delegate or appointees may have become responsible under the Trust Deed provided that it shall not be permissible for the Trustee and/or any of its directors, officers, delegates or appointees to be exonerated from the effects of their own fraud, wilful misconduct or gross negligence; and
- (f) to appoint any persons (whether or not Bondholders) as a committee/s to represent the interest of the Bondholders and to confer upon such committee/s any powers or discretions which the Bondholders could themselves exercise.

8.13.11 No business shall be transacted at a meeting of the Bondholders unless a quorum is present, in person or by proxy, at the commencement of the meeting.

8.13.12 At any such meeting, three (3) or more Bondholders present in person or by proxy and holding or representing not less than fifty percent (50%) of the aggregate principal amount of the Bonds outstanding at the time will form a quorum for the transaction of business. If within half an hour (30 minutes) from the time appointed for the commencement of the meeting, a quorum is not present, the meeting, howsoever called, shall stand adjourned to the same day in the next week, at the same time and place or to such other day and place as the chairman of the meeting may decide and if at the adjourned meeting a quorum is not yet present within half an hour (30 minutes) from the time appointed for the meeting, the Bondholders present shall constitute a quorum.

8.13.13 For the purpose of an adjourned meeting, it shall not be required to send notices anew, provided that all persons entitled to receive notice for the original meeting shall be informed of the adjournment and the time and place of the adjourned meeting.

8.13.14 The chairman of a meeting of the Bondholders shall be a director of the Trustee or such other person as the Trustee may nominate in writing from time to time. The chairman of an adjourned meeting need not be the same person as the chairman of the original meeting. At the commencement of any meeting, the chairman may lay down the procedures which shall be adopted for the proceedings of that meeting. Such procedure shall be binding on the meeting.

8.13.15 Each matter submitted to a meeting shall be decided by a show of hands unless a poll is (before or following the result of the show of hands) demanded by the chairman or three (3) Bondholders in person or by proxy. On a show of hands, every Bondholder shall have one (1) vote and on a poll every Bondholder shall have one (1) vote for each Bond held and any fractional interests shall be disregarded. Voting, whether on a show of hands or on a poll, shall be taken in such manner as the chairman of the meeting shall direct.

8.13.16 Unless a poll be so demanded, a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost and an entry to that effect in the minute book is made, it shall be conclusive evidence of the fact without need for the proof of the number or proportion of the votes recorded in favour of or against such resolution.

8.13.17 Any vote to be taken at a meeting (except for choosing a chairman) shall only be decided upon

by means of an resolution passed with the approval of a majority of Bondholders holding not less than sixty-six and two-thirds percent (66 2/3%) in Nominal Value of the Bonds held by those Bondholders present at the meeting or at any adjourned meeting thereof, as the case may be.

8.13.18 Any resolution passed with the required majority at any meeting shall be binding on all ~~Beneficiaries~~**Bondholders**, whether or not present at the meeting, and whether or not voting, and each of them shall be bound to give effect to it accordingly.

8.13.19 Minutes shall be made of all resolutions and proceedings at every meeting and, if purporting to be signed by the chairman of that meeting or of the next succeeding meeting, shall be conclusive evidence of the matters in them.

8.13.20 A resolution in writing signed by or on behalf of all the Bondholders who for the time being are entitled to receive notice of a meeting, which resolution in writing may be contained in one document or in several documents in like form each signed by or on behalf of one (1) or more of the Bondholders, shall be valid and effectual as if it had been passed at a meeting of the Bondholders duly convened and held.

8.13.21 The instrument appointing a proxy shall be deposited at least seventy-two (72) hours before the time fixed for the meeting at such place as the Trustee shall designate or approve and, in default it shall not be valid unless the chairman of the meeting decides otherwise before the meeting proceeds to business. The instrument appointing a proxy must be in writing signed by the appointer or the appointer's attorney. A proxy holder need not be a Bondholder.

## **8.14 Amendments to Terms and Conditions**

8.14.1 The provisions of the Terms and Conditions of the Bonds may be amended by the Issuer with the approval of a majority of Bondholders, holding not less than sixty-six and two-thirds percent (66 2/3%) in Nominal Value of the Bonds held by those Bondholders present at a meeting of the Bondholders called for that purpose or at any adjourned meeting thereof, as the case may be.

8.14.2 In the event that the Issuer wishes to amend any of the provisions set out in these Terms and Conditions, it must call a meeting of the Bondholders for this purpose. Subject to having obtained the necessary approval by the said Bondholders at a meeting of the Bondholders as set out above, any such proposed amendment or amendments to the provisions of the Terms and Conditions shall subsequently be given effect to by the Issuer.

## **8.15 Events of Default and Enforcement**

8.15.1 Without prejudice to Section 8.15.2 below, the Trustee may, in its discretion, and shall, upon the request by Bondholders holding not less than sixty-six and two-thirds percent (66 2/3%) in Nominal Value of the Bonds held by those Bondholders present at a meeting of the Bondholders or at any adjourned meeting thereof, as the case may be, give notice to the Issuer that the Bonds are, and shall accordingly immediately become, due and payable at their Nominal Value together with interest accrued on the occurrence of any of the following events (each, an '**Event of Default**') and without the need of any authorisation and/or confirmation from a competent court in the event that:

- (a) the Issuer fails to pay any interest on any Bond when due and such failure shall continue for sixty (60) days after written notice thereof shall have been given to the Issuer by the Bondholders; or

- (b) the Issuer fails to repay any principal on any Bond when due and such failure shall continue for sixty (60) days after written notice thereof shall have been given to the Issuer by the Bondholders; or
- (c) the Issuer and/or any of the Property Companies, as applicable, fail to perform or observe any material covenant, material condition or material obligation contained in these Terms and Conditions, the Prospectus, the Trust Deed or any of the Security Documents (other than any obligation for the payment of principal or interest in respect of the Bonds) and such failure is incapable of remedy or is not remedied within sixty (60) days after notice of such default shall have been given to the Issuer; or
- (d) the Issuer and/or any of the Property Companies is deemed unable or admits its inability to pay its debts as they fall due or otherwise becomes insolvent; or
- (e) the Issuer and/or any of the Property Companies stops or suspends payments (whether of principal or interest) with respect to all or any class of its debts or announces an intention to do so or ceases or threatens to cease to carry on its business or a substantial part of its business; or
- (f) the Issuer and/or any of the Property Companies is adjudicated or found bankrupt or insolvent, or an order is made by any competent court, or a resolution is passed by the Issuer or any other action is taken for the dissolution, liquidation, or winding-up of the Issuer; ~~or.~~

~~(g) the German Law Mortgages are not duly registered in the German land register by the Longstop Date.~~

~~8.15.2 Notwithstanding the provisions of Section 18.5.1 above, should an Event of Default arise under paragraph (g) of Section 8.15.1, the Bonds shall (in accordance with Section 8.9 above) automatically be redeemed as of the Longstop Date and the Trustee shall notify the Issuer of the Event of Default in accordance with the provisions of the Interim Pledge of Bond Proceeds Agreement without the need for a meeting of the Bondholders or any other action to be taken by the Trustee or the Bondholders. The Issuer shall, promptly following any such notice from the Trustee, pay to Bondholders the Nominal Value of their Bonds together with interest accrued and unpaid on the Bonds until the Longstop Date, and the funds held in the Interim Bank Account (in addition to any further amounts required to be paid by the Issuer in order to meet its obligations to Bondholders in full) shall be applied by Merkanti Bank (on the instructions of the Trustee) for this purpose.~~

8.15.38.15.2 Any notice, including any notice declaring Bonds due shall be made by means of a written declaration delivered by hand or registered mail to the registered office of the Issuer.

8.15.48.15.3 At any time after notice has been given to the Issuer by the Trustee that the Bonds shall have become immediately due and payable in accordance with Section 8.15.1 above, the Trustee may, in its sole discretion, institute such proceedings as it may think fit against the Issuer to enforce repayment of the principal together with accrued but unpaid interest, including the enforcement of any or all of the Security, provided that the Trustee shall not be bound to do so unless it shall have been (a) so requested by Bondholders holding not less than sixty-six and two-thirds percent (66 2/3%) in Nominal Value of the Bonds held by those Bondholders present at a meeting of the Bondholders called for that purpose or at any adjourned meeting thereof, as the case may be, and (b) indemnified by the Bondholders to its satisfaction.

8.15.58.15.4 Only the Trustee may enforce the provisions of the Trust Deed and of the Terms and Conditions set out in this Prospectus, and no Bondholder shall be entitled to enforce performance of any such provisions unless the Trustee, having become bound to proceed as

described in Section 8.15.32 above, fails to do so within a period of sixty (60) days after becoming so bound.

## **8.16 Notices**

Notices to the Bondholder shall be mailed to them at their respective addresses contained in the CSD Register and shall be deemed to have been served at the expiration of three (3) calendar days after the date of mailing. In proving such service it shall be sufficient to prove that a prepaid letter containing such notice was properly addressed to such Bondholder at the address contained in the CSD Register.

## **8.17 Governing Law and Jurisdiction**

### **8.17.1 Governing Law**

The Bonds, all the rights and obligations of the Bondholder and the Issuer, and any non-contractual obligations arising out of or in connection with the Bonds, ~~shall be~~ governed by and are to be construed in accordance with Maltese law.

### **8.17.2 Jurisdiction**

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

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

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