

Munich, 16 September 2016

REPORT OF THE SOLE DIRECTOR  
of  
SIEMENS WIND HOLDCO, S.L. (SOCIEDAD UNIPERSONAL)  
on the  
COMMON TERMS OF MERGER  
between  
GAMESA CORPORACIÓN TECNOLÓGICA, S.A.  
(as absorbing company)  
and  
SIEMENS WIND HOLDCO, S.L. (SOCIEDAD UNIPERSONAL)  
(as absorbed company)

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## 1 INTRODUCTION

On 17 June 2016, Gamesa Corporación Tecnológica, S.A. ("**Gamesa**") and Siemens Aktiengesellschaft ("**Siemens**") entered into a merger agreement (the "**Merger Agreement**") whereby both parties agreed on the terms and conditions pursuant to which Gamesa and the Siemens Wind Power Business (as this term is defined in the Common Terms of Merger) would be combined by way of a statutory merger by absorption (*fusión por absorción*) (the "**Merger**" or the "**Transaction**"). In the context of the Merger and prior to its effectiveness, Siemens will implement an internal carve-out process (further described in Section 3.2), as a result of which the Siemens Wind Power Business shall be held, directly or indirectly, by Siemens Wind HoldCo, S.L.U., a wholly-owned subsidiary of Siemens ("**Siemens Wind Power Parent**" and together with Gamesa, the "**Merging Companies**"). As a result of the Merger Siemens Wind Power Parent will be absorbed by Gamesa.

Also as a consequence of the mentioned internal carve-out process within the Siemens group, in addition to Siemens, one or more companies within the Siemens group may become shareholders of Siemens Wind Power Parent (each of Siemens and such shareholders, individually, a "**Siemens Wind Power Parent Shareholder**") and, consequently, may become shareholders of Gamesa. Therefore, all references made herein to the Siemens Wind Power Parent Shareholder shall be deemed to be made to all Siemens Wind Power Parent Shareholders, as the case may be.

On 27 June 2016, the Board of Directors of Gamesa and the sole director of Siemens Wind Power Parent prepared the common terms of merger (*proyecto común de fusión*) (the "**Common Terms of Merger**"), which were signed by the members of Gamesa's Board of Directors (with the exceptions indicated in the Common Terms of Merger) and by the sole director of Siemens Wind Power Parent, in accordance with the provisions of Article 30 *et seq.* of Act 3/2009 of 3 April on structural changes in business corporations (the "**Spanish Structural Changes Act**").

In compliance with the provisions of Article 32 of the Spanish Structural Changes Act, the Common Terms of Merger have been included in Gamesa's corporate website ([www.gamesacorp.com](http://www.gamesacorp.com)) since 27 June 2016 and such insertion was published in the Official Gazette of the Commercial Registry on 7 July 2016, indicating the corporate website of Gamesa and the date on which the Common Terms of Merger had been included in the site. In addition, the Common Terms of Merger have been deposited by Siemens Wind Power Parent with the Commercial Registry of Barcelona on 5 July 2016 and the fact and date of the deposit was published in the Official Gazette of the Commercial Registry on 13 July 2016.

The Common Terms of Merger shall be subject to the approval of the General Shareholders' Meeting of Gamesa and the Siemens Wind Power Parent Shareholder in accordance with Article 40 of the Spanish Structural Changes Act, as well as to the rest of the conditions contained in section 11 of the Common Terms of Merger.

Pursuant to Article 33 of the Spanish Structural Changes Act, Siemens Wind Power Parent's sole director has prepared this report to provide a detailed explanation and justification of the legal and economic terms of the Common Terms of Merger, referring particularly to the share exchange ratio and any special valuation difficulties that may exist (the "**Report**"). The Report also refers to the implications of the Merger for shareholders, creditors and employees.

## 2 RATIONALE FOR THE MERGER

In accordance with section 2 of the Common Terms of Merger, the rationale for the Merger is as follows:

- A. The combination of Siemens Wind Power Business and Gamesa (the "**Combined Business**") is based on a compelling industrial logic and will result in the creation of a strong global player in the wind turbine sector. Siemens Wind Power Business and Gamesa will benefit from highly complementary strengths in terms of global footprint and existing competitive product portfolios, resulting in the Combined Business being well positioned to address the future needs of the sector. In particular, through the respective positioning of the Siemens Wind Power Business and Gamesa the Combined Business will benefit from attractive growth prospects in both the onshore and the offshore businesses.
- B. Once the Merger is approved by the General Shareholders' Meeting of Gamesa and by the Siemens Wind Power Parent Shareholder, the Combined Business will have a global reach across all important regions and manufacturing footprint in all main continents. Siemens Wind Power Business has a foothold in the US and Europe and Gamesa has a position in the fast growing emerging markets such as India and Latin America.
- C. The Combined Business will be further supported by the combined product range:
  - (i) In the onshore business, Gamesa with a competitive cost efficient product portfolio can help further strengthen the onshore business of Siemens Wind Power Business. Siemens Wind Power Business will contribute a wide product platform which is especially competitive in position restricted markets and can complement Gamesa's offering.
  - (ii) In Siemens Wind Power Business' well established offshore business, the Combined Business will be able to increase its global reach in this segment by building upon Gamesa's diverse footprint, complementary regional setup and execution strength.

As a result, the Combined Business will benefit from its high exposure to the two fastest growing segments of the wind turbine manufacturing sector: emerging markets and offshore. In addition, the installed base of the Combined Business of more than 69 GW creates potential for significant operation and maintenance business.

- D. The combination of Siemens Wind Power Business and Gamesa also provides significant potential for synergies. The Combined Business will use its combined resources to optimize its production network, procurement and R&D strategy, to achieve economies of scale and to lead to a further competitive cost structure. Furthermore, cross-selling potential is expected due to complementary geographies and rather limited customer overlap.
- E. Lastly, the Combined Business will be one of the main players globally by installed capacity, order entry and revenue, thus being well positioned to offer global coverage to customers and optimized logistics solutions due to close customer proximity. Comprehensive offerings include: wind turbine supply, both in onshore and offshore, wind farm development, operation and maintenance of wind farms, extended scope in the offshore business and turnkey solutions. Additionally, Gamesa is exploring to expand its offering in renewables to solar activities as well.

### **3 LEGAL ASPECTS OF THE COMMON TERMS OF MERGER AND THE MERGER PROCEDURE**

#### **3.1 Structure of the Transaction: merger by absorption**

The legal structure chosen to integrate the business of Gamesa and the Siemens Wind Power Business is that of a merger, upon the terms set forth in Articles 22 *et seq.* of the Spanish Structural Changes Act.

The Merger shall be accomplished by means of the absorption of Siemens Wind Power Parent (absorbed company) by Gamesa (absorbing company), with the dissolution without liquidation of the former and the *en bloc* transfer of all of its assets and liabilities to the latter, which shall acquire by universal succession all of the rights and obligations of Siemens Wind Power Parent. As explained in section 3.2, as a result of the Siemens Wind Power Carve-Out (as defined below), at the time of the effectiveness of the Merger Siemens Wind Power Parent shall hold, directly or indirectly, the Siemens Wind Power Business.

The Merger shall become effective on the date of registration of the notarial deed formalising the Merger resolutions (*escritura de fusión*) (the “**Public Deed of Merger**”) with the Commercial Registry of Vizcaya (the “**Merger Effective Date**”).

The Siemens Wind Power Parent Shareholder shall receive shares in Gamesa as a result of the Merger, in accordance with the procedure and terms contained in section 3.3.2 below.

#### **3.2 Carve-out of the Siemens Wind Power Business**

At the date of this Report, the Siemens Wind Power Business is not held by a separate sub-group within the Siemens group but by various entities within it.

In order to allow for the integration of the Siemens Wind Power Business with Gamesa’s business through the Merger, Siemens will implement an internal carve-out process, as a result of which the Siemens Wind Power Business shall be held, directly or indirectly, by Siemens Wind Power Parent (the “**Siemens Wind Power Carve-Out**”). The contractual

rights and obligations in connection with the Siemens Wind Power Carve-Out shall be those set out in the Merger Agreement and shall not be deemed as limited, modified or amended by the terms of the Common Terms of Merger or this Report.

The Siemens Wind Power Carve-Out is governed by the terms and conditions set forth in the Merger Agreement, as described in detail in the Common Terms of Merger. What follows is a brief summary of the Siemens Wind Power Carve-Out's key milestones, which are included in this Report for ease of reference:

### **3.2.1 Carve-Out Signing**

As a first step to implement the Siemens Wind Power Carve-Out, on 25 and 26 July 2016 as well as on 1 September 2016 binding legal documentation was executed, as required for the transfer of the Siemens Wind Power Business in Germany, the United States of America, the United Kingdom, Canada and Denmark (including binding legal documentation to carve-out the non-wind business from the perimeter of the Danish Siemens Wind Power Business), to Siemens Wind Power Parent, directly or indirectly (the "**Carve-Out Signing**"). The occurrence of the Carve-Out Signing was duly notified by Siemens to Gamesa on 5 September 2016 in accordance with the terms of the Merger Agreement.

Carve-Out Signing does not entail the effective transfer of the relevant Siemens Wind Power Business to Siemens Wind Power Parent, which will occur on the terms and subject to the conditions set forth in the binding transfer documentation.

### **3.2.2 Carve-Out Completion**

The Siemens Wind Power Carve-Out will be deemed to be completed upon (i) Siemens Wind Power Parent having acquired legal title to the Siemens Wind Power Business in, at least, Germany, the United States of America, the United Kingdom, Canada and Denmark and (ii) Siemens Wind Power Parent having executed binding legal documentation for the transfer of the Siemens Wind Power Business carried out in the remaining countries (the "**Carve-Out Completion**").

If the Siemens Wind Power Business, in one or more countries, has not been legally transferred to Siemens Wind Power Parent at the date of the Carve-Out Completion, then Siemens has agreed to contribute to Siemens Wind Power Parent a cash amount representing the value of the relevant non-transferred assets, liabilities, employees and contractual relationships, which cash shall be used to subsequently purchase the relevant non-transferred business without undue delay after the date on which the legal or operational reasons initially causing the delay have ceased to exist. The Carve-Out Completion shall have occurred by no later than 31 July 2017.

### **3.2.3 Carve-Out Threshold Completion**

Additionally and notwithstanding the Carve-Out Completion described in section 3.2.2 above, Gamesa and Siemens have agreed that prior to the execution of the Public Deed of Merger (see section (iv) below) the order backlog contracts legally or economically transferred to Siemens Wind Power Parent in relation to the

Siemens Wind Power Business in Germany, the United States of America, the United Kingdom, Canada, and Denmark shall represent, at least, 85 % of the aggregated order backlog for such countries as of 31 December 2015 (the “**Carve-Out Threshold Completion**”).

### **3.3 Analysis of the legal aspects of the Common Terms of Merger**

#### **3.3.1 Identification of the entities taking part in the Merger**

In accordance with Article 31.1 of the Spanish Structural Changes Act, section 3 of the Common Terms of Merger identifies the companies participating in the Merger by specifying their names, corporate forms, registered offices, tax identification numbers and respective Commercial Registry details.

Following the execution of the Common Terms of Merger, Siemens Wind Power Parent changed its registered office to Zamudio (Vizcaya), calle Laida, edificio 205, planta 1<sup>a</sup>, 48170, by means of decisions adopted by its sole shareholder on 6 July 2016. Such decisions were raised to public deed (*elevadas a público*) on 8 July 2016 before the Notary Public of Madrid Mr. Antonio de la Esperanza Rodríguez under number 3,760 of his official records and were registered with the Commercial Registry of Vizcaya on 3 August 2016. As a consequence of such registration Siemens Wind Power Parent is no longer registered with the Commercial Registry of Barcelona but instead is now registered with the Commercial Registry of Vizcaya, at Volume 5636, Sheet 94, Page BI-68482.

#### **3.3.2 Merger exchange ratio**

(i) Exchange ratio and basis for calculation

According to the Common Terms of Merger the exchange ratio has been determined based on the real value of the corporate assets and liabilities of the Merging Companies and shall be one share of Gamesa for each share of Siemens Wind Power Parent. Such exchange ratio has been calculated using generally accepted methodologies and subject to certain assumptions.

In application of the foregoing exchange ratio, the Siemens Wind Power Parent Shareholder will have the right to receive shares in Gamesa representing approximately 59 % of Gamesa’s share capital after the Merger Effective Date, whilst the remaining shareholders of Gamesa will hold in aggregate approximately 41 % of such resulting share capital.

The Board of Directors of Gamesa will propose to the General Shareholders’ Meeting that will resolve on the Merger, as part of the Merger resolutions, the approval of a capital increase by a nominal amount of EUR 68,318,681.15 to cover the exchange of the Siemens Wind Power Parent shares with 401,874,595 newly-issued shares.

Section 4 of this Report includes a detailed explanation and justification of the Merger exchange ratio, including reference to the basis for the calculation.

(ii) Methods to cover the exchange ratio

As set forth in section 5.3 of the Common Terms of Merger, Gamesa will cover the exchange of the Siemens Wind Power Parent shares with 401,874,595 newly-issued shares.

The Board of Directors of Gamesa will propose to the General Shareholders' Meeting that will resolve on the Merger, as part of the Merger resolutions, the approval of a capital increase by a nominal amount of EUR 68,318,681.15 to cover the exchange pursuant to the exchange ratio provided in section 5.1 of the Common Terms of Merger. The shares issued and placed in circulation pursuant to such capital increase will be represented by book entries, each with a nominal value of EUR 0.17, of the same and single class and series, with no preferred subscription right, in accordance with Article 304.2 of the Capital Companies Act (*Ley de Sociedades de Capital*). For the avoidance of doubt, the exchange ratio will not render any so-called "*picos*".

The difference between the net book value of the equity received by Gamesa due to the Merger and the nominal value of the new shares shall be allocated to share premium. Both the nominal value of the new shares and the respective share premium shall be fully paid up due to the transfer *en bloc* upon consummation of the Merger of the assets and liabilities of Siemens Wind Power Parent to Gamesa, which will acquire all of the rights and obligations of such company by universal succession.

Gamesa will request the admission to listing of the new shares to cover the exchange on the Madrid, Barcelona, Valencia, and Bilbao Stock Exchanges through the Automated Quotation System (*Sistema de Interconexión Bursátil*) (Continuous Market).

The shares of Siemens Wind Power Parent will be automatically cancelled as a result of the registration with the Commercial Registry of Vizcaya of the Public Deed of Merger.

(iii) Exchange procedure

The exchange of the shares of Siemens Wind Power Parent for the shares of Gamesa and therefore, the delivery to the Siemens Wind Power Parent Shareholder of the shares in Gamesa to which it is entitled will be carried out pursuant to the procedures established in the applicable regulations, and in particular, in Royal Decree 878/2015, of 2 October. Gamesa will bear any costs arising from said exchange. The abovementioned delivery shall be immediately after all of the following events have taken place:

- (a) the Merger has been approved at the General Shareholders' Meeting of Gamesa and by the Siemens Wind Power Parent Shareholder;
- (b) the conditions precedent referred to in section (iv) below have been satisfied (or waived, as the case may be);
- (c) the Public Deed of Merger and consequent increase of capital of Gamesa has been granted before a Notary Public; and
- (d) the Public Deed of Merger has been registered with the Commercial Registry of Vizcaya.

In order for the Siemens Wind Power Parent Shareholder to receive the shares in Gamesa in accordance with the exchange ratio described in section 5.1 of the Common Terms of Merger, an agent participating in Sociedad de Gestión de los Sistemas de Registro, Compensación y Liquidación de Valores, S.A., Sociedad Unipersonal (IBERCLEAR) will be appointed by Gamesa.

The Siemens Wind Power Parent Shareholder shall evidence its ownership of the Siemens Wind Power Parent shares to the agent in the form that will be requested by the agent. Likewise, the Siemens Wind Power Parent Shareholder shall carry out any other actions required for the effectiveness of the exchange, including without limitation, the communication to the agent of the securities account opened at any of the IBERCLEAR participants which will be the depository of the Gamesa shares received by it.

The delivery of Gamesa shares to the Siemens Wind Power Parent Shareholder will be made by recording them in the securities account designated by the Siemens Wind Power Parent Shareholder.

Gamesa will request the admission to trading of the new Gamesa shares to be issued to cover the exchange. Such request for admission will take place immediately after the date of payment of the Extraordinary Merger Dividend (as defined in section 4.3 below).

(iv) Dividends

In accordance with section 5 of the Common Terms of Merger and as described also in section 4.3 of this Report, the Board of Directors of Gamesa will propose to the General Shareholders' Meeting that will resolve on the Merger, as part of the Merger resolutions, the approval of an extraordinary cash dividend.

### **3.3.3 Ancillary benefits and special rights**

As specified in section 7.4 of the Common Terms of Merger, for the purposes of Articles 31.3 and 31.4 of the Spanish Structural Changes Act, neither Gamesa nor Siemens Wind Power Parent have industry contributions, ancillary benefits, privileged special shares, compensations for shareholders or persons who have

special rights other than the mere ownership of the shares. Consequently no special right or any type of option shall be awarded or offered.

The Gamesa shares given to the Siemens Wind Power Parent Shareholder by virtue of the Merger will not award any special rights.

#### **3.3.4 Benefits extended to independent experts and to the directors**

With respect to Article 31.5 of the Spanish Structural Changes Act, section 7.5 of the Common Terms of Merger indicates that no benefits of any type will be extended to the independent expert or to the directors of either of the companies taking part in the Merger, including those whose appointment will be submitted for approval by the General Shareholders' Meeting of Gamesa which will resolve on the Merger.

#### **3.3.5 Date from which the Siemens Wind Power Parent Shareholder will have the right to participate in the profits of Gamesa**

Section 7.2 of the Common Terms of Merger establishes that, as from the Merger Effective Date, the shares issued by Gamesa to the Siemens Wind Power Parent Shareholder in order to cover the exchange resulting from the Merger shall give their holders the right to participate in the profits of Gamesa upon the same terms as the other shares of Gamesa outstanding on such date, except that the Siemens Wind Power Parent Shareholder will not be entitled to receive the Extraordinary Merger Dividend, which shall be resolved by the General Shareholders' Meeting of Gamesa that shall decide on the Merger and which will be distributed after the Merger Effective Date on the terms set forth in section 4.3A of this Report.

#### **3.3.6 Date of accounting effects of the Merger**

Section 7.3 of the Common Terms of Merger sets that the date from which the transactions of the acquired company shall be deemed for accounting purposes to have taken place on behalf of the acquiring company will be that which is determined for in accordance with the Spanish General Accounting Plan (*Plan General de Contabilidad*) approved by Royal Decree 1514/2007 of 16 November, and in particular, its rule 19<sup>th</sup>.

#### **3.3.7 Amendments to Gamesa's by-laws**

For the purposes of Article 31.8 of the Spanish Structural Changes Act, section 8.3 of the Common Terms of Merger indicates that the Merger will not entail any change to the current by-laws of Gamesa, other than (i) the change of Gamesa's share capital figure (Article 7) as a consequence of the capital increase to cover the exchange in accordance with section 4.2.1 below; and (ii) other mechanical and not substantive changes.

Consequently, the Board of Directors of Gamesa will propose to the General Shareholders' Meeting resolving on the Merger, as part of the Merger resolutions, (i) the relevant increase in Gamesa's share capital figure, and (ii) the other mechanical and not substantive changes.

The by-laws of Gamesa as they will read upon the Merger Effective Date will be made available as described in section 3.5 below.

**3.3.8 Implications of the Merger on employment, gender in the governing bodies and corporate social responsibility**

Section 7.6 of the Common Terms of Merger refers to possible implications of the Merger on employment, gender in the governing bodies and corporate social responsibility in the company. Accordingly, the Common Terms of Merger comply with Article 31.11 of the Spanish Structural Changes Act.

Pursuant to Article 33 of the Spanish Structural Changes Act section 5 of this Report focuses on the implications of the Merger for shareholders, creditors and employees.

**3.3.9 Other contents of the Common Terms of Merger**

Besides the minimum mentions required by law, the Common Terms of Merger address other issues (that have been also included herein) in accordance with a criteria of relevance or significance as decided by the Board of Directors of Gamesa and the sole director of Siemens Wind Power Parent. These are the following:

(i) **Tax regime**

Section 9 of the Common Terms of Merger provides that the Merger will be subject to the application of the Vizcaya tax regime provided in Chapter VII, Title VI of Act 11/2013, of 5 December, on Corporate Income Tax Act (or, as the case may be, the equivalent regime provided in the Spanish common Corporate Income Tax Law or other applicable Spanish legislation).

For Spanish tax purposes, Gamesa and Siemens Wind Power Parent will decide whether it is feasible or not to waive (totally or partially) the application of the tax neutral regime.

Provided that it is decided to carry out the Merger under the tax neutral regime described above, the Merger and the application of the tax neutral regime will be communicated to the tax authorities in accordance with the applicable regulations.

(ii) **Appointment of independent expert**

As provided in section 6 of the Common Terms of Merger and in accordance with Article 34.1 of the Spanish Structural Changes Act, Gamesa's Board of Directors and Siemens Wind Power Parent's sole director jointly requested from the Commercial Registry of Vizcaya (where the absorbing company is registered) the appointment of an independent expert to prepare a single report in relation to the Common Terms of Merger and regarding the assets and liabilities contributed by Siemens Wind Power Parent to Gamesa as a result of the Merger.

On 29 June 2016 Deloitte, S.L. was appointed as independent expert and accepted such appointment on 1 July 2016. Pursuant to an extension granted by the Commercial Registry of Vizcaya to Deloitte, S.L. its report shall have been issued by no later than 1 November 2016.

(iii) **Corporate governance of Gamesa upon the Merger Effective Date**

(a) *Organizational structure*

In accordance with section 8.1 of the Common Terms of Merger, the corporate seat of Gamesa and the headquarters for new equipment onshore will be located in Spain while the functional headquarters for new equipment offshore will be located in Vejle (Denmark) and in Hamburg (Germany). The location of the functional headquarters for the service business will be determined by Siemens.

(b) *Board of Directors*

Section 8.2 of the Common Terms of Merger contains a reference to Gamesa's agreed initial composition of the Board of Directors upon the Merger Effective Date.

Thus, as part of the Merger resolutions it has been agreed to propose to the General Shareholders' Meeting of Gamesa which will resolve on the Merger (i) the increase in the number of members of the Board of Directors from 12 to 13 and (ii) the appointments of the seven new directors mentioned below, being the effectiveness of such resolutions conditional on the registration of the Public Deed of Merger with the Commercial Registry of Vizcaya:

<b>Name</b>	<b>Classification</b>
Ms Rosa María García García	Proprietary director
Dr Ralf Thomas	Proprietary director
Ms Lisa Davis	Proprietary director
Mr Klaus Helmrich	Proprietary director
Ms Mariel von Schumann	Proprietary director
Ms Swantje Conrad	Independent director
Mr Klaus Rosenfeld	Independent director

(c) *Relationship between Siemens and Gamesa*

Section 10 of the Common Terms of Merger contains a detailed description of certain contractual arrangements between Gamesa and Siemens, through which the latter will support the former

following the Merger Effective Date. For ease of reference, a brief summary of these arrangements is set out below:

- (I) Gamesa and Siemens executed on 17 June 2016 a strategic alliance agreement to regulate the terms of the strategic partnership upon the Merger Effective Date, as part of which they also agreed to enter into a strategic supply agreement and other agreements supporting such business relationship;
- (II) on 17 June 2016 Gamesa and Siemens have also agreed on the heads of terms of a strategic supply agreement pursuant to which Siemens would be a strategic supplier of Gamesa for gearboxes, segments and other products and services offered by the Siemens group;
- (III) Siemens has undertaken to provide certain guarantees to the Combined Business; and
- (IV) Gamesa and Siemens have agreed that prior to the Merger Effective Date, they will negotiate in good faith (i) the details of the Combined Business' use of commercial designations and trademarks and (ii) a trademark license agreement for the use of any Siemens designation.

(iv) **Conditions precedent**

As provided in section 11 of the Common Terms of Merger the completion and effectiveness of the Merger will be conditional on the satisfaction of the following conditions ("**Conditions Precedent**"):

- (a) any compulsory prior clearance from the competent merger control authorities of Brazil, China, European Union, India, Israel, Mexico, Ukraine and United States of America having been obtained either explicitly or tacitly;
- (b) the granting by the CNMV, pursuant to article 8.g) of Royal Decree 1066/2007, of 27 July, on takeovers, of an exemption to Siemens with respect to its obligation to launch a mandatory takeover bid for all the outstanding shares in Gamesa following completion of the Merger; and
- (c) approval of the Merger and of the Extraordinary Merger Dividend at the same General Shareholders' Meeting of Gamesa.

Notwithstanding the foregoing, Siemens Wind Power Parent may at any time waive, in whole or in part and conditionally or unconditionally, the Condition Precedent set forth in limb (b) above by notice in writing to Gamesa. Gamesa and Siemens may at any time reach an agreement and jointly waive, in whole or in part and conditionally or unconditionally, any of the other Conditions Precedent.

The Board of Directors of Gamesa will propose to the General Shareholders' Meeting which will resolve on the Merger, as part of the Merger resolutions, to delegate to the Board of Directors of Gamesa, which in turn shall be allowed to delegate to Gamesa's Executive Committee, the power to waive, partially or in whole, conditionally or unconditionally, the satisfaction of any Conditions Precedent at any time prior to the execution of the Public Deed of Merger.

The Merging Companies will not grant the Public Deed of Merger until the Carve-Out Completion and the Carve-Out Threshold Completion have taken place, as further explained in section 4.2 of the Common Terms of Merger.

If any of the Conditions Precedent is not satisfied (or waived) by 17:00h CET on 31 October 2017, either Siemens and Gamesa may, in its sole discretion, terminate the Merger Agreement; provided however, that if the non-satisfaction of the relevant Condition Precedent is due to the breach of either party of its obligations under the Merger Agreement, the breaching party shall not be entitled to terminate it.

If the Merger Agreement is terminated in accordance with its terms before the Merger Effective Date, the Merger process will terminate automatically.

(v) **Obligations of the parties prior to the execution of the Public Deed of Merger**

In accordance with section 12 of the Common Terms of Merger, each and all of the following specific obligations shall have been fulfilled prior to the execution of the Public Deed of Merger:

- (a) The Carve-Out Completion and the Carve-Out Threshold Completion shall have taken place.
- (b) Siemens shall have contributed to Siemens Wind Power Parent a cash amount equivalent to the Extraordinary Merger Dividend (for the avoidance of doubt, including, and not deducting, the amount of any Ordinary Dividends, as this term is defined below), including, any cash shortfalls of the amount that is expected to be paid as Extraordinary Merger Dividend.
- (c) The adjustments mentioned in section 4.2.3 below due to any variations of the net debt and working capital of the Gamesa group and the Siemens Wind Power Business shall have been

implemented.

### **3.4 Development of the legal Merger procedure**

To facilitate the understanding of the Transaction process, set out below is an outline of the main milestones in chronological order, comprising not only those forming part of the legal Merger process but also certain additional milestones deriving from the Merger Agreement and as described in the Common Terms of Merger.

#### **3.4.1 Execution of the Merger Agreement**

On 17 June 2016 Gamesa and Siemens executed the Merger Agreement, whereby both parties agreed on the terms and conditions pursuant to which the Merger will be carried out.

#### **3.4.2 Preparation and signing of the Common Terms of Merger**

On 27 June 2016, the Common Terms of Merger were prepared and signed by the Board of Directors of Gamesa and the sole director of Siemens Wind Power Parent in compliance with Articles 30 *et seq.* of the Spanish Structural Changes Act.

#### **3.4.3 Carve-Out Signing**

As mentioned in section 3.2.1 above, the Carve-Out Signing was finalised on 1 September 2016 and such fact was duly notified by Siemens to Gamesa on 5 September 2016 in accordance with the terms of the Merger Agreement.

#### **3.4.4 Directors' report on the Common Terms of Merger**

In compliance with Article 33 of the Spanish Structural Changes Act, Siemens Wind Power Parent's sole director has prepared this Report, for the purposes of giving a detailed explanation and justification of the legal and economic terms of the Common Terms of Merger, referring particularly to the share exchange ratio and any special valuation difficulties that may exist, as well as to the implications of the Merger for shareholders, creditors and employees.

#### **3.4.5 Independent expert's report on the Common Terms of Merger**

As indicated in section (ii) above, Deloitte, S.L. was appointed as independent expert for the purposes of issuing a report in accordance with Article 34 of the Spanish Structural Changes Act and Articles 338 *et seq.* of the Commercial Registry Regulations.

Deloitte, S.L. is anticipated to issue the relevant report on the Common Terms of Merger on or around 19 September 2016.

#### **3.4.6 Calling of Gamesa's general shareholders' meeting**

It is expected that Gamesa's Board of Directors will call an extraordinary general shareholders' meeting to be held in Zamudio (Vizcaya) on or around 24 or 25 October 2016.

#### **3.4.7 Merger resolutions and publication of announcements**

Pursuant to Article 40 of the Spanish Structural Changes Act, the Merger needs to be approved by the General Shareholders' Meeting of Gamesa and the Siemens Wind Power Parent Shareholder in accordance with the Common Terms of Merger.

After the Merger resolutions have been adopted, as the case may be, their text will be published in the Official Gazette of the Commercial Registry and in one of the daily newspapers with the largest circulation in the province of Vizcaya, as required by Article 43 of the Spanish Structural Changes Act.

These announcements will state: (i) the right that corresponds to Gamesa's shareholders and the Siemens Wind Power Parent Shareholder and to the Merging Companies' creditors to obtain the full text of the resolutions that are adopted and the merger balance sheets, as well as (ii) the right of opposition that corresponds to their respective creditors.

In accordance with Article 44 of the Spanish Structural Changes Act, with the publication of the last announcement, the compulsory term of one month will begin for the creditors of Gamesa and Siemens Wind Power Parent whose credit rights arose before the date on which the Common Terms of Merger were published on Gamesa's corporate website and deposited by Siemens Wind Power Parent with the Commercial Registry of Barcelona, as long as said credit rights were not due and payable as of such date, to oppose the Merger until such credit rights are sufficiently secured. Creditors whose credit rights are already sufficiently secured will have no right of opposition.

#### **3.4.8 Satisfaction (or waiver) of the Conditions Precedent, execution and registration of the Public Deed of Merger**

Once the relevant Merger resolutions have been adopted, the announcements have been published and the procedure referred to in Article 44 of the Spanish Structural Changes Act (creditors' opposition right) has been completed and subject to the confirmation of the satisfaction (or waiver, as the case may be) of the Conditions Precedent provided in section 11 of the Common Terms of Merger and section (iv) of this Report and provided that the obligations under section (v) of this Report have been fulfilled, the Public Deed of Merger will be executed by Gamesa and Siemens Wind Power Parent before a Notary Public.

The Public Deed of Merger will be submitted to the Commercial Registry of Vizcaya for registration and an application will be made for the cancellation of the entries in that Registry with respect to Siemens Wind Power Parent.

#### **3.4.9 Issue of the shares and completion of the exchange**

Once the Public Deed of Merger has been registered with the Commercial Registry of Vizcaya, the exchange of the shares of Siemens Wind Power Parent for the shares in Gamesa will take place, on the terms set out in the Common Terms of Merger and described in section 3.3.2 of this Report.

The shares in Gamesa will be delivered to the Siemens Wind Power Parent Shareholder through their registration in the securities account designated by the Siemens Wind Power Parent Shareholder.

#### **3.4.10 Payment of the Extraordinary Merger Dividend**

Once the Public Deed of Merger has been registered, the Extraordinary Merger Dividend will be paid in the manner and on the terms described in section 5.5 of the Common Terms of Merger and set out in section 4.3 of this Report.

#### **3.4.11 Listing of the new shares**

Gamesa will request the admission to listing of the new Gamesa shares on the Madrid, Barcelona, Valencia and Bilbao Stock Exchanges. Such request for admission will take place immediately after the date of payment of the Extraordinary Merger Dividend.

### **3.5 Information about the planned Transaction**

The following documents and information on the Merger will be made available at Siemens Wind Power Parent's registered office (located at Zamudio, Vizcaya, calle Laida, edificio 205, planta 1ª, 48170) in accordance with Article 39 of the Spanish Structural Changes Act:

- (i) The Common Terms of Merger;
- (ii) This Report and the report of Gamesa's Board of Directors on the Common Terms of Merger;
- (iii) The report by the independent expert;
- (iv) The annual accounts and management reports of Gamesa for the last three years, together with the reports issued by the corresponding accounts auditors;
- (v) The annual accounts as at 31 December 2015 of Siemens Wind Power Parent, together with the report issued by the accounts auditor;
- (vi) The balance sheets of Gamesa and Siemens Wind Power Parent corresponding to the annual accounts closed at 31 December 2015 that will be used as merger balance sheets, together with the relevant audit reports (voluntary audit in the case of Siemens Wind Power Parent);
- (vii) The current by-laws of Gamesa and Siemens Wind Power Parent;
- (viii) The proposal for the amendment of Gamesa's by-laws with effects as of the Merger Effective Date, highlighting the proposed amendments; and
- (ix) The identities of (a) the sole director of Siemens Wind Power Parent and (b) the members of the Board of Directors of Gamesa, both current and of those who will be proposed to hold such office after the Merger Effective Date, stating the date as from when they hold their respective offices.

Furthermore, the Siemens Wind Power Business Balance Sheet (as defined in section 4.1.1 below) including the review opinion issued by Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft, will also be made available.

## **4 ECONOMIC ASPECTS OF THE COMMON TERMS OF MERGER**

### **4.1 Merger balance sheets, annual accounts and valuation of the assets and liabilities of Siemens Wind Power Parent that are to be transferred**

#### **4.1.1 Merger balance sheets**

For the purposes of Article 36 of the Spanish Structural Changes Act and according to the Common Terms of Merger, the merger balance sheets of Gamesa and Siemens Wind Power Parent will be those closed on 31 December 2015.

Gamesa's merger balance sheet is that which forms part of its annual accounts for the financial year ended on 31 December 2015 and which were approved at the General Shareholders' Meeting of Gamesa held on 22 June 2016, on second call. Such balance sheet has been audited by the statutory auditor of Gamesa, and will be also submitted for the approval of the shareholders at the General Shareholders' Meeting that will resolve on the Merger, as part of the Merger resolutions.

Siemens Wind Power Parent's merger balance sheet is that which forms part of Siemens Wind Power Parent's annual accounts for the financial year ended on 31 December 2015, which were approved by the Siemens Wind Power Parent Shareholder on 15 July 2016. Although Siemens Wind Power Parent is not under the legal obligation to have its annual accounts verified by an external auditor, such annual accounts, including the balance sheet which shall be used as merger balance sheet, have been subject to a voluntary audit by Ernst & Young, S.L. The merger balance sheet of Siemens Wind Power Parent will be submitted for approval of the Siemens Wind Power Parent Shareholder, as part of the Merger resolutions.

Given that the Siemens Wind Power Carve-Out will take place after the date of the merger balance sheet but before the Merger Effective Date, the sole director of Siemens Wind Power Parent, for information purposes only, has prepared pro forma consolidated financial information of Siemens Wind Power Parent as of 31 December 2015 (the "**Siemens Wind Power Business Balance Sheet**"). The Siemens Wind Power Business Balance Sheet comprises (i) the audited balance sheet of Siemens Wind Power Parent as of 31 December 2015, (ii) the audited combined statement of financial position of the Siemens Wind Power Business as of 31 December 2015, and (iii) other adjustments, including those made with respect to the matters set out in section 4.2.3 below and the amount stipulated in section 4.3. The Siemens Wind Power Business Balance Sheet, which showed a net assets balance of approximately EUR 1,027 million as of 31 December 2015, has been subject to review by Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft and has been prepared for information purposes

only. Thus, it shall not be considered as the merger balance sheet in respect of Siemens Wind Power Parent.

Without prejudice to the above, pursuant to Article 39.3 of the Spanish Structural Changes Act, the management body of Siemens Wind Power Parent, as well as the Board of Directors of Gamesa, will inform the Siemens Wind Power Parent Shareholder and the General Shareholders' Meeting of Gamesa resolving on the Merger of any material changes in the assets and liabilities of Gamesa and/or Siemens Wind Power Parent that may occur from the date of the Common Terms of Merger until the date when the General Shareholders' Meeting of Gamesa and the Siemens Wind Power Parent Shareholder resolve on the Merger.

#### **4.1.2 Annual accounts**

For the purposes of Article 31.10 of the Spanish Structural Changes Act, it is hereby stated that the terms and conditions on which the Merger is to take place have been determined considering the Merging Companies' accounts as at 31 December 2015. In the case of Siemens Wind Power Parent, the Siemens Wind Power Business Balance Sheet referred to in section 4.1.1 has also been considered.

#### **4.1.3 Valuation of the assets and liabilities of Siemens Wind Power Parent that are to be transferred**

The assets and liabilities of the acquired company shall be accounted for in the acquiring company at the value determined in accordance with the Spanish General Accounting Plan (*Plan General de Contabilidad*) approved by means of Royal Decree 1514/2007, of 16 November, and, in particular, with its rule 19<sup>th</sup>, as of the date of the Merger for accounting purposes, as set forth in section 3.3.6 above. The Siemens Wind Power Carve-Out will take place after the date of the merger balance sheet but before the Merger Effective Date. The Siemens Wind Power Business will be contributed primarily on a fair value basis. As a result of the Siemens Wind Power Carve-Out, the net of assets and liabilities of the acquired company would be significantly greater than the share capital of Siemens Wind Power Parent that will amount to EUR 68,318,681.15, divided into 401,874,595 shares (*participaciones sociales*), each with a nominal value of EUR 0.17, fully assumed and paid-up.

## **4.2 Exchange ratio**

### **4.2.1 Exchange ratio**

As specified in section 5 of the Common Terms of Merger, pursuant to the provisions of Article 25 of the Spanish Structural Changes Act, the exchange ratio for the shares of the Merging Companies has been determined based on the real value of their corporate assets and liabilities -which, in the case of Siemens Wind Power Parent will be those held by the company upon occurrence of the Siemens Wind Power Carve-Out- and shall be one share of Gamesa (of EUR 0.17 nominal

value each) for each share of Siemens Wind Power Parent (of EUR 0.17 nominal value each), without provision for any supplemental cash remuneration.

Pursuant to the foregoing exchange ratio, the Siemens Wind Power Parent Shareholder will have the right to receive 401,874,595 shares in Gamesa, each with a nominal value of EUR 0.17, representing approximately 59 % of Gamesa's share capital after the Merger Effective Date, whilst the remaining shareholders of Gamesa will hold in aggregate approximately 41 % of the resulting share capital.

As a result of the Siemens Wind Power Carve-Out as at the Merger Effective Date the share capital of Siemens Wind Power Parent will amount to EUR 68,318,681.15, divided into 401,874,595 shares (*participaciones sociales*), each with a nominal value of EUR 0.17, fully assumed and paid-up, for which purpose the current nominal value of each share (EUR 1) will be amended so that it amounts to EUR 0.17.

#### 4.2.2 Valuation methods used and justification of the exchange ratio

##### (i) Justification of the exchange ratio

The main consideration in the determination of the exchange ratio has been based on the relative historic and forecast EBIT contributions of the Siemens Wind Power Business and Gamesa. The method of using relative EBIT contributions has been considered as the most accurate method to assess the relative value of the Siemens Wind Power Business and Gamesa, given the similarities in the activities as well as their largely comparable long-term growth and margin profiles. As such, it was considered reasonable to also use the same enterprise value ("**Enterprise Value**") valuation multiple on an EBIT basis for both the Siemens Wind Power Business and Gamesa.

The periods used for the analysis of the relative contributions have been (i) the last twelve months ("**LTM**") as of 31 March 2016 for both the Siemens Wind Power Business and Gamesa, (ii) the financial year 2016 and (iii) the financial year 2017. Forecast financials for the financial years 2016 and 2017 have been based on the business plans prepared and provided by the respective management teams of the Siemens Wind Power Business and Gamesa. EBIT figures have been adjusted for non-recurring effects for both, with the Siemens Wind Power Business' EBIT reflecting the cost structure of a stand-alone business outside of the Siemens group.

For the period LTM as of 31 March 2016 and the respective forecast periods 2016 and 2017, the maximum and minimum EBIT contributions of the Siemens Wind Power Business and Gamesa, respectively, were as follows:

	Siemens Wind Power Business	Gamesa
Maximum	59 %	44 %
Minimum	56 %	41 %

<b>Agreed Ratio</b>	59 %	41 %
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As the relative EBIT contributions reflect the relative value contributions of the Siemens Wind Power Business and Gamesa on an Enterprise Value level and as such on a cash and debt free basis, the adjustment mechanism outlined in section 5.2 of the Common Terms of Merger and referred to in section 4.2.3 below (based on the amounts of the net debt and working capital of the Gamesa group and the Siemens Wind Power Business as at 31 December 2016) procures that the ratio of any adjustment items between Enterprise Values and equity values as of the Merger Effective Date is the same as the ratio of the Enterprise Values of the two Merging Companies. The defined net debt and working capital items and levels in the adjustment mechanism are considered customary. The working capital levels assumed for the Gamesa group and the Siemens Wind Power Business (referred to in section 4.2.3 below) have been derived by taking the average of the historical working capital of the eight quarters of the last two financial years, being as of 30 September 2015 for the Siemens Wind Power Business and as of 31 December 2015 for the Gamesa group.

In order to verify the valuation result of both the Siemens Wind Power Business and Gamesa based on EBIT contributions, the discounted cash flow (“**DCF**”) methodology has been performed, which is also an important indicator of their respective fundamental value. The DCF has been based on business plans for the Siemens Wind Power Business and Gamesa prepared by the respective management teams. The result of the DCF method supports that the agreed exchange ratio is fair from a financial point of view to the Siemens Wind Power Parent Shareholder.

The use of the valuation methodologies and the analysis performed, as outlined in section 4.2.5 below, has been supported by Goldman Sachs AG in its capacity as financial advisor to Siemens in the context of the Transaction.

On the basis of the valuations of the Siemens Wind Power Business and Gamesa obtained pursuant to the valuation methods described above, the financial terms of the Transaction and, in particular, the exchange ratio were negotiated and finally determined by the Merging Companies.

(ii) Potential synergy benefits and Extraordinary Merger Dividend

Separately from the determination of the exchange ratio, the Merging Companies have had discussions with regards to expected synergies to be created as a result of the Merger, resulting from the joint use of resources following the Merger Effective Date to optimize the production network, procurement and R&D activities, and to achieve economies of scale and a more competitive cost structure. Furthermore, the Merging Companies

have identified substantial cross-selling potential driven by complementary geographies covered and relatively limited customer overlap.

Expected synergies on an EBIT level as estimated by the Merging Companies for the fourth year post closing amount to circa EUR 230 million. The upside from such synergies is shared by the Siemens Wind Power Parent Shareholder and Gamesa's shareholders based on the agreed exchange ratio.

In light of these estimated synergies to be created as a result of the Merger, the Merging Companies have agreed on the payment by Gamesa of an Extraordinary Merger Dividend to the existing Gamesa shareholders (i.e. the Siemens Wind Power Parent Shareholder will not be entitled to receive the Extraordinary Merger Dividend), which is to be funded with cash contributed by Siemens into Siemens Wind Power Parent no later than the date of execution of the Public Deed of Merger. The intent of such payment is to underpin the attractiveness of the Merger to Gamesa's existing shareholders and to further facilitate the Merger. Section 4.3A below contains a detailed description of the Extraordinary Merger Dividend.

#### **4.2.3 Basis for the calculation of the exchange ratio**

In addition to the valuation methodologies described in section 4.2.2(i) above, the following assumptions, among others, have been taken into consideration in the determination of the exchange ratio:

- (i) Siemens will implement the Siemens Wind Power Carve-Out in accordance with the terms described in section 3.2 above so that, as a result thereof, Siemens Wind Power Parent will hold, directly or indirectly, the Siemens Wind Power Business;
- (ii) the working capital of the Gamesa group as at 31 December 2016 will be equal to a positive amount of EUR 506,000,000 and the net debt of the Gamesa group as at such date will be equal to zero; and
- (iii) the working capital of the Siemens Wind Power Business as at 31 December 2016 will be equal to a negative amount of EUR 127,000,000 and its net debt as at such date will be equal to zero.

If the amounts of the net debt and working capital of the Gamesa group and the Siemens Wind Power Business as at 31 December 2016 differ from those contained in limbs (ii) and (iii) above, such deviations shall be offset (where applicable) and the net deviation shall be corrected by Siemens on a date no later than the date of execution of the Public Deed of Merger by (a) extracting or injecting, as applicable, for no consideration, into the Siemens Wind Power Business and/or Siemens Wind Power Parent a cash amount and/or (b) increasing the net debt of the Siemens Wind Power Business and/or Siemens Wind Power Parent, so that the exchange ratio set forth in section 4.2.1 is not affected by the same.

In addition, in the event of any leakage (as defined in the Merger Agreement) occurring between 31 December 2016 and the Merger Effective Date, Siemens (in case of leakage by Siemens Wind Power Parent or the Siemens Wind Power Business) or Gamesa (in case of leakage by any entity within the Gamesa group) shall on demand by the other party pay to such other party an amount in cash equal to such amount as is required to hold the relevant party harmless from any leakage.

#### **4.2.4 Special valuation difficulties**

As already noted, at the date of the Common Terms of Merger, which was when the exchange ratio was determined, the Siemens Wind Power Business was not held by a separate sub-group within the Siemens group, but by various entities within it.

In order to allow for the integration of the Siemens Wind Power Business with Gamesa's business through the Merger, Siemens will implement the Siemens Wind Power Carve-Out.

This circumstance has caused the main difficulty for the purposes of determining the valuation of the Siemens Wind Power Business underlying the exchange ratio. However, as described above, a number of mechanisms have been put in place to prevent the exchange ratio from changing if the Siemens Wind Power Carve-Out has not been wholly completed when the Public Deed of Merger is executed (see section 3.2.2) or if the basis for the calculation of the exchange ratio are altered (see section 4.2.3).

Additionally, in the context of the negotiations between Gamesa and Siemens with respect to the Merger, Gamesa Energía, S.A. Unipersonal ("**Gamesa Energía**") and Areva Energies Renouvelables SAS ("**Areva**") on 17 June 2016 entered into certain agreements in relation to Adwen Offshore, S.L. ("**Adwen**"), a joint venture in which each of them holds 50%. Pursuant to such agreements, which have been considered for valuation purposes: (i) Areva removed certain exclusivity and non-compete restrictions relating to Adwen; and (ii) Gamesa Energía granted Areva, among other alternatives, a put option with respect to Areva's stake in Adwen as well as a call option with respect to Gamesa Energía's stake. On 14 September 2016 Areva exercised its put option, the completion of which is conditional on Gamesa Energía obtaining clearance from the relevant antitrust authorities.

#### **4.2.5 Fairness opinions**

Morgan Stanley & Co. International plc, as financial advisor of Gamesa for the Merger, delivered on 16 June 2016 to the Board of Directors of such company its fairness opinion that, as of such date and based upon and subject to the factors, limitations and assumptions set forth in such opinion, the total consideration to be contributed by Siemens in exchange for the Gamesa shares to be received by Siemens in accordance with the Merger Agreement is fair from a financial point of view to Gamesa.

Goldman Sachs AG, who has acted as financial advisor for Siemens in the context of the Transaction, delivered to the Management Board and Supervisory Board of Siemens its opinion that, as of 17 June 2016 and based upon and subject to the factors, limitations and assumptions set forth in such opinion, the total consideration to be contributed by Siemens in exchange for the Gamesa shares to be received by Siemens in accordance with the Merger Agreement is fair from a financial point of view to Siemens.

#### 4.2.6 Independent expert report

Pursuant to the provisions of Article 34 of the Spanish Structural Changes Act and as further described in sections (ii) and 3.4.5 above, Deloitte, S.L., as independent expert appointed by the Commercial Registry of Vizcaya, is anticipated to issue the relevant report on the Common Terms of Merger on or around 19 September 2016.

#### 4.2.7 Conclusion

In light of the foregoing, the sole director of Siemens Wind Power Parent is of the view that the agreed exchange ratio based on the EBIT contributions of the Siemens Wind Power Business and Gamesa, implying similar Enterprise Value valuation multiples on an EBIT basis for both, and supported by the DCF valuation method used, is fair from a financial point of view to the Siemens Wind Power Parent Shareholder.

In addition, the value of the ownership stake to be received by the Siemens Wind Power Parent Shareholder in the share capital of Gamesa pursuant to the exchange ratio, including the value of the estimated synergies and considering the Extraordinary Merger Dividend, is fair from a financial point of view to the Siemens Wind Power Parent Shareholder.

As mentioned, the view of the sole director of Siemens Wind Power Parent has been further confirmed by the fairness opinion issued by Goldman Sachs AG, as Siemens' financial advisor in the Transaction.

### 4.3 Dividends

In accordance with section 5 of the Common Terms of Merger, as regards the distribution of any dividends by Gamesa or by Siemens Wind Power Parent between the date of the execution of the Common Terms of Merger and the Merger Effective Date, Gamesa and Siemens have agreed on the following:

- A. The Board of Directors of Gamesa has resolved to propose to the General Shareholders' Meeting that will decide on the Merger, as part of the Merger resolutions, the approval of an extraordinary cash dividend (the "**Extraordinary Merger Dividend**") on the following terms:
  - (i) the gross amount of the Extraordinary Merger Dividend shall be EUR 3.75 per share, will be payable to a maximum of 279,268,787 shares and, consequently, amount to a maximum of EUR 1,047,257,951.25 in aggregate;

- (ii) however, the gross amount of the Extraordinary Merger Dividend shall be reduced by (a) the ordinary dividend effectively paid by Gamesa to its shareholders pursuant to the distribution approved by the General Shareholders' Meeting of Gamesa held on 22 June 2016, on second call, in a gross amount of EUR 0.1524 per share and, consequently, in an aggregate gross amount of EUR 42,191,445.46, and (b) any additional ordinary dividend effectively distributed by Gamesa to its shareholders before the Merger Effective Date, as the case may be, on the terms set forth in section 4.3B below (the dividends distributed by Gamesa pursuant to (a) and (b), jointly, the "**Ordinary Dividends**");
  - (iii) the approval of the distribution of the Extraordinary Merger Dividend will be resolved on, as the case may be, by Gamesa's shareholders at the same General Shareholders' Meeting that will resolve on the Merger;
  - (iv) payment of the Extraordinary Merger Dividend will be conditional on the registration of the Public Deed of Merger with the Commercial Registry of Vizcaya;
  - (v) payment of the Extraordinary Merger Dividend will take place within 12 business days following the Merger Effective Date and will be made to those individuals or entities who (i) are registered as shareholders of Gamesa with the relevant IBERCLEAR member entities (*entidades participantes*) as of close of the fifth trading session of the Spanish Stock Exchanges following the Merger Effective Date and (ii) hold shares already existing as of the day before the Merger Effective Date. Therefore Siemens Wind Power Parent Shareholder will not be entitled to receive the Extraordinary Merger Dividend;
  - (vi) payment of the Extraordinary Merger Dividend by Gamesa will be made against its share premium and other distributable reserves, including those generated as a consequence of the Merger; and
  - (vii) no later than on the date of execution of the Public Deed of Merger, Siemens shall have made a cash contribution into Siemens Wind Power Parent's equity in an amount equal to the Extraordinary Merger Dividend, for the avoidance of doubt, including (i.e. not deducting from such amount), as the case may be, the amount of any Ordinary Dividends.
- B.** In addition to the Ordinary Dividend approved by the General Shareholders' Meeting of Gamesa held on 22 June 2016, on second call, it might be the case that it is proposed to the ordinary General Shareholders' Meeting of Gamesa which shall resolve on the approval of the annual accounts of Gamesa corresponding to the financial year ending on 31 December 2016 a distribution, before the Merger Effective Date, of another Ordinary Dividend to its shareholders, whether against profit achieved during the financial year 2016 or reserves. As set forth in section 4.3A above, should such Ordinary Dividend be approved, the amount of

the Extraordinary Merger Dividend shall be reduced accordingly by the gross amount of the Ordinary Dividend effectively paid by Gamesa to its shareholders.

For the avoidance of doubt, the aggregate gross amount paid as Extraordinary Merger Dividend and as Ordinary Dividends (whether for the amount referred to in section 4.3B above or any other amount as approved by the shareholders) will amount to a maximum of EUR 3.75 per share (and, consequently, a maximum aggregate amount of EUR 1,047,257,951.25).

Other than the Extraordinary Merger Dividend and any Ordinary Dividend referred to in section 4.3B above (whether for the amount referred to therein or any other amount, as approved by the shareholders), neither Gamesa nor Siemens Wind Power Parent will make or declare, any distribution of dividends, reserves, premium or any equivalent form of equity distribution, whether ordinary or extraordinary, to their shareholders, between the date of the Common Terms of Merger and the Merger Effective Date.

## **5 IMPLICATIONS OF THE MERGER FOR SHAREHOLDERS, CREDITORS AND EMPLOYEES**

### **5.1 Implications for shareholders**

As a result of the Merger, the Siemens Wind Power Parent Shareholder will no longer be shareholder of Siemens Wind Power Parent and will become shareholder of Gamesa. This will be structured by awarding newly-issued shares in Gamesa to the Siemens Wind Power Parent Shareholder in proportion to its stake in Siemens Wind Power Parent's capital, in accordance with the exchange ratio that is set out in section 4.2 above. The shares will be exchanged as provided in section 3.3.2(iii) above.

For the Siemens Wind Power Parent Shareholder the Merger implies the award, under the same conditions as Gamesa's current shareholders, of the rights and obligations that correspond to them by law and in accordance with the by-laws as from the Merger Effective Date, save for the right to receive the Extraordinary Merger Dividend to which the Siemens Wind Power Parent Shareholder is not entitled.

### **5.2 Implications for creditors**

The absorption of Siemens Wind Power Parent by Gamesa will imply the transfer to Gamesa, by universal title and in one single act, of all the assets, rights and liabilities that make up Siemens Wind Power Parent's equity. Any liabilities Gamesa may have acquired against its creditors before the Merger will remain unaltered. Siemens Wind Power Parent's legal relations, which include those assumed with its creditors, shall remain in force despite their transfer to Gamesa. Consequently, Gamesa will become debtor in the liabilities assumed by Siemens Wind Power Parent with regard to its creditors.

With the publication of the last announcement of the Merger resolutions, Gamesa and Siemens Wind Power Parent's creditors whose credits meet the requirements provided in Article 44 of the Spanish Structural Changes Act may exercise their right to oppose as provided in said Article 44 within the term of one month.

### **5.3 Implications for employees**

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Section 7.6.1 of the Common Terms of Merger provides that the Merger is not expected to have any direct impact on the employees of Gamesa. In the case of Siemens Wind Power Parent, upon occurrence of the Carve-Out Completion as described in section 3.2.2 above, it will be a holding company only and it is not expected to employ any individual.

The Common Terms of Merger state that the Merging Companies will comply with their obligations in accordance with the provisions of labour regulations, if applicable. Notice of the Merger will also be given to public entities where appropriate, and in particular to the General Social Security Revenue Office (*Tesorería General de la Seguridad Social*).

This Report has been drawn up by the sole director of Siemens Wind Power Parent in accordance with Article 33 of the Spanish Structural Changes Act.