



Gazette

ISSUE ID: 0000/2023/J/30
CROSS BORDER MOBILITY GAZETTE
8 November 2023

CRO GAZETTE, WEDNESDAY, 8 November 2023

CROSS BORDER MOBILITY SUBMISSIONS RECEIVED BETWEEN 01-NOV-23 AND 07-NOV-23							
Company Number	Company Name	Document	Date of Receipt	Company Number	Company Name	Document	Date of Receipt
593152	Fresenius Finance Ireland Public Limited Company	DM2	06/11/2023				



AN OIFIG UM CHLÁRÚ CUIDEACHTAÍ
COMPANIES REGISTRATION OFFICE



DM2

Notice of delivery of

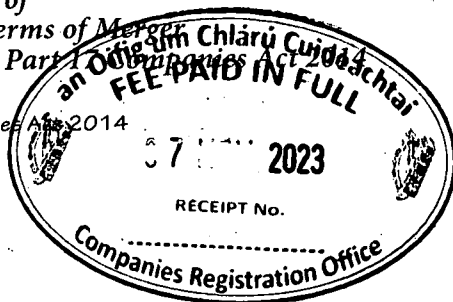
Common Draft Terms of Merger
involving a PLC - Part 1 of Companies Act 2014

CRO Gazette Notice

Section 1135 Companies Act 2014

Company number

5 9 3 1 5 2



7124066



CRO receipt date stamp & barcode

Please complete using black typescript or BOLD CAPITALS, referring to explanatory notes

Company name

in full

Fresenius Finance Ireland Public Limited Company

Type of merger

note one



By acquisition



By formation of a new company



By absorption

Company details

Note one and
note two

A



Copy of the Common Draft Terms of Merger is available from this website:

Or

B



Copy of the Common Draft Terms of Merger is attached

Registered Office of the company:

3A Fingal Bay Business Park, Balbriggan, Dublin

Information relating to the Company is kept by the Registrar under registered number:

5 9 3 1 5 2

Legal form of the company:

Public Limited Company

Copies of the Common Draft Terms of Merger, the Directors' Explanatory Report, the Statutory Financial Statements and the Expert's Report (where relevant), are available for inspection by the members of the company at the registered office.

Certification

I hereby certify that the particulars contained in this form are correct and have been given in accordance with the Notes on Completion of Form DM2.

Signature

Alan McDermott

Name in block letters or typescript

Alan McDermott



Director



Secretary note one

Date

6 November 2023

Presenter details

note three

Name

Address

Telephone number

Email

DX number/Exchange

Person to whom queries can be addressed

A&L Goodbody LLP

3 Dublin Landings, North Wall Quay, IFFSC, Dublin 1

+353 1 649 2000

Fax number +353 1 649 2649

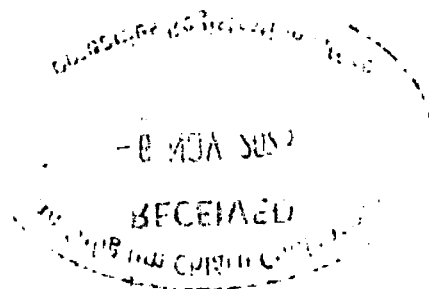
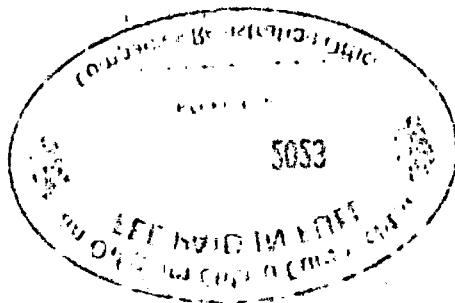
law@algoodbody.com

Contact Person Nicole Jones

29 Dublin

Reference number 01442115

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Section C does not need to be completed where the company has made available the Common Draft Terms of Merger on its website in accordance with Section 1135(3) Companies Act 2014

Particulars of other
merging companies

Note two

C

Name of Company:

Fresenius Finance Ireland Public Limited Company

Legal form of the company

Public Limited Company

Information relating to the Company is kept by the Registrar under registered number:

5 9 3 1 5 2

Registered Office of the company

3A Fingal Bay Business Park, Balbriggan, Dublin

Copies of the Common Draft Terms of Merger, the Directors' Explanatory Report, the Statutory Financial Statements and the Expert's Report (where relevant), are available for inspection by the members of the company at the registered office of the company

Name of Company:

N/A

Legal form of the company

N/A

Information relating to the Company is kept by the Registrar under registered number:

Registered Office of the company

N/A

Copies of the Common Draft Terms of Merger, the Directors' Explanatory Report, the Statutory Financial Statements and the Expert's Report (where relevant), are available for inspection by the members of the company at the registered office of the company

NOTES ON COMPLETION OF FORM DM2

These notes should be read in conjunction with the relevant legislation.

General This form must be completed correctly, in full and in accordance with the following notes. Every section of the form must be completed.

Where "not applicable", "nil" or "none" is appropriate, please state.

Where the space provided on Form DM2 is considered inadequate, the information should be presented on a continuation sheet in the same format as the relevant section in the form. The use of a continuation sheet must be so indicated in the relevant section.

Irish registered company refers to a company incorporated in Ireland under the Companies Acts and does not include a company registered in Northern Ireland.

note one Please tick the relevant box.

note two Any change of registered office must be notified to the CRO. Form B2 ought to be used for this purpose. Form B2 can be filed free of charge at www.core.ie.

note three This section must be completed by the person who is presenting Form DM2 to the CRO. This may be either the applicant or a person on his/her behalf.

PLEASE NOTE: A merger can only occur, under Part 17 of the Companies Act 2014 where one of the companies involved is a public limited company.

Further information

CRO address When you have completed and signed the form, please file with the CRO. The Public Office is at Bloom House, Gloucester Place Lower, Dublin 1. If submitting by post, please send with the prescribed fee to the Registrar of Companies at:

Companies Registration Office, O'Brien Road, Carlow

Payment If paying by cheque, postal order or bank draft, please make the fee payable to the Companies Registration Office. Cheques or bank drafts must be drawn on a bank in the Republic of Ireland.

Please carefully study the explanatory notes above. A Form DM2 that is not completed correctly or is not accompanied by the correct documents or fee is liable to be rejected and returned to the presenter by the CRO pursuant to section 898 Companies Act 2014. Unless the document, duly corrected, is relogged in the CRO within 14 days, it will be deemed to have never been delivered to the CRO.

FURTHER INFORMATION ON COMPLETION OF FORM DM2, INCLUDING THE PRESCRIBED FEE, IS AVAILABLE FROM www.cro.ie OR BY E-MAIL info@cro.ie

23

11

COMMON DRAFT TERMS

of a proposed merger by acquisition of

FRESENIUS FINANCE HOLDINGS LIMITED

AND

FRESENIUS FINANCE IRELAND PUBLIC LIMITED COMPANY

Adopted by the Board of Directors of Fresenius Finance Holdings Limited and Fresenius Finance Ireland Public Limited Company on 3 November 2023.

BETWEEN:

- (1) **FRESENIUS FINANCE HOLDINGS LIMITED**, a private limited company incorporated under the laws of the Republic of Ireland, with company registration number 592779, having its registered office at 3A Fingal Bay Business Park, Balbriggan, Dublin, Ireland (the **Transferor Company**); and
- (2) **FRESENIUS FINANCE IRELAND PUBLIC LIMITED COMPANY**, a public limited company registered in Ireland under company number 593152 and having its registered office at 3A Fingal Bay Business Park, Balbriggan, Dublin, Ireland (the **Successor Company**).

RECITALS

- (A) The definitions set out in clause 1 below are used in these recitals.
- (B) The Merging Companies are members of the same Group, of which FSE is the holding company.
- (C) The Transferor Company is a wholly-owned direct subsidiary of FSE and a sister company of the Successor Company.
- (D) Each of the Merging Companies is a wholly-owned direct subsidiary of FSE.
- (E) The Merging Companies wish to carry out the Merger in connection with an internal group restructuring.
- (F) The purpose of the Merger is to integrate the Assets and Liabilities of the Transferor Company into the Successor Company in order to simplify the legal entity structure which will strengthen the operative position of the Successor Company and achieve cost savings within the Group.

1 DEFINITIONS

- 1.1 The following definitions apply throughout this document unless the context requires otherwise:

Act means the Companies Act 2014;

Assets and Liabilities means, without limitation, all assets and liabilities of the Transferor Company including, for the avoidance of doubt, every contract, agreement and instrument of the Transferor Company as at the Effective Date;

Court Order means the order granted by the Irish Commercial Court pursuant to Section 1144 of the Act following its scrutiny of the legality of the completion of this Merger;

Delegate means any person appointed by the Successor Company pursuant to the provisions of paragraph 5.2;

Effective Date means 31 December 2023 or such other date that is specified in the Court Order as the date on which the Merger is to have effect;

FSE means Fresenius SE & Co. KGaA, a partnership limited by shares registered in Germany with company number HRB 11852, having its registered office at Else-Kroener-Strasse 1 Bad Homburg, 61352 Germany, the sole shareholder of each of the Merging Companies;

Group means the group of companies which is comprised of FSE, the Transferor Company, the Successor Company and Fresenius Finance Ireland II Public Limited Company;

Merger means the proposed merger by acquisition as contemplated by Section 1129, Chapter 16 of Part 17 of the Act between the Transferor Company and the Successor Company, pursuant to which the Transferor Company, as the company being acquired, transfers the Assets and Liabilities to the Successor Company, as the acquiring company, in exchange for the issue of shares in the Successor Company to the member of the Transferor Company, and the Transferor Company is dissolved as of the Effective Date without going into liquidation (the **Merger** and to **Merge** shall mean the act of such Merger);

Merging Companies means the Successor Company and the Transferor Company, each a **Merging Company**; and

New Successor Shares has the meaning given to it as set out in clause 3.2.1.

Terms means these common draft terms of Merger prepared jointly by the Transferor Company and the Successor Company.

1.2 In these Terms, a reference to:

1.2.1 the word "including" will be deemed to be followed by the words "without limitation", and references to the singular include the plural and vice versa;

1.2.2 a time of day is a reference to the time in Dublin, unless a contrary indication appears; and

1.2.3 a Clause, annex or schedule, unless the context otherwise requires, is a reference to a Clause of or annex or schedule to these Terms.

1.3 The headings in these Terms of Merger do not affect their interpretation.

2 THE MERGER PROPOSAL AND CONSEQUENCES OF MERGING THE TRANSFEROR COMPANY INTO THE SUCCESSOR COMPANY

2.1 It has been proposed by the boards of directors of each Merging Company that a merger by acquisition shall be effected as contemplated by Section 1129, Chapter 16 of Part 17 of the Act whereby the Transferor Company will transfer the Assets and Liabilities to the Successor Company, in exchange for the issue of shares in the Successor Company to the sole member of the Transferor Company, being FSE, and the Transferor Company will be dissolved without going into liquidation.

2.2 This document comprises the common draft terms of the Merger referred to in Section 1131 of the Act which have been drawn up and adopted by the boards of directors of the Merging Companies for the purposes of a merger by acquisition between the Transferor Company and the Successor Company under the Act.

2.3 In accordance with Section 1144 of the Act, at the Effective Date, subject to the Court Order having been granted:

2.3.1 all the Assets and Liabilities will transfer to the Successor Company;

2.3.2 the New Successor Shares will be issued to FSE;

2.3.3 all legal proceedings pending by or against the Transferor Company will be continued with the substitution for the Transferor Company of the Successor Company as a party;

2.3.4 every contract, agreement, or instrument to which the Transferor Company is a party will, notwithstanding anything to the contrary contained in that contract, agreement or instrument, be construed and have effect as if:

(a) the Successor Company had been a party thereto instead of the Transferor Company;

(b) any reference (however worded and whether express or implied) to the Transferor Company will be substituted with the Successor Company; and

(c) any reference (however worded and whether express or implied) to the directors, officers, or representatives of the Transferor Company, or any of them, were, respectively, a reference to the directors, officers or representatives of the Successor Company or to such director, officer or representative of the Successor Company as the Successor Company nominates for that purpose or, in default of nomination, to the director, officer or representative of the Successor

Company who corresponds as nearly as may be to the first-mentioned director, officer or representative,

- 2.3.5 every contract, agreement or instrument to which the Transferor Company is a party becomes a contract, agreement or instrument between the Successor Company and the counterparty with the same rights, and subject to the same obligations, liabilities and incidents (including rights of set-off) as would have been applicable thereto if that contract, agreement or instrument had continued in force between the Transferor Company and the counterparty, and any money due and owing (or payable) by or to the Transferor Company under or by virtue of any such contract, agreement or instrument will become due and owing (or payable) by or to the Successor Company instead of the Transferor Company;
- 2.3.6 an offer or invitation to treat made to or by the Transferor Company before the Effective Time will be construed and have effect, respectively as an offer or invitation to treat made to or by the Successor Company;
- 2.3.7 in addition to the application of section 1144(3) of the Act and any other consequences set out in the Act, section 1143 (*preservation of rights of holders of securities*) of the Act, section 1147 (*civil liability of directors and experts*) of the Act and section 1148 (*criminal liability for untrue statements in merger documents*) of the Act shall apply; and
- 2.3.8 the Transferor Company will be dissolved without going into liquidation.

3 LEGAL GROUNDS FOR THE COMMON DRAFT TERMS OF MERGER

3.1 The name, registered office and registered number of the Merging Companies

3.1.1 Transferor Company

Fresenius Finance Holdings Limited, a private limited company incorporated under the laws of the Republic of Ireland, with company registration number 592779, having its registered office at 3A Fingal Bay Business Park, Balbriggan, Dublin, Ireland.

3.1.2 Successor Company

Fresenius Finance Ireland Public Limited Company, a public limited company registered in Ireland under company number 593152 and having its registered office at 3A Fingal Bay Business Park, Balbriggan, Dublin, Ireland.

3.2 The proposed share exchange ratio and the amount of any cash payment

- 3.2.1 In consideration for the transfer of the Assets and Liabilities under the Merger, 25,000 ordinary shares of €1.00 each, comprising the entire issued share capital of the Transferor Company, are hereby exchanged for 25,000 ordinary shares of €1.00 in the Successor Company (the **New Successor Shares**).
- 3.2.2 The share exchange ratio is therefore 1:1.
- 3.2.3 No cash payment will be made.

3.3 The proposed terms relating to the allotment of shares or other securities in the Successor Company

As consideration for the transfer of the Assets and Liabilities, the Successor Company shall allot and issue the New Successor Shares to FSE, subject to completion of the Merger. Once issued, FSE shall have the right to have its details updated on the register of members of the Successor Company as the holder of the New Successor Shares.

3.4 The date from which the holding of shares or other securities in the Successor Company will entitle holders to participate in profits and any special conditions affecting that entitlement

FSE's entitlement to profits of the Successor Company, in so far as that entitlement relates to the New Successor Shares, shall be as and from the Effective Date. There are no special conditions affecting that entitlement.

3.5 The date from which the transactions of the Transferor Company are to be treated for accounting purposes as being those of the Successor Company

The date as of which the Assets and Liabilities and the operations of the Transferor Company will be treated for accounting purposes as being those of the Successor Company will be the Effective Date. From this date onwards, all acts and transactions of the Transferor Company will be deemed for accounting purposes to have been effected by and for the account of the Successor Company.

3.6 Rights to be conferred by the Successor Company on the members of the Transferor Company who enjoy special rights, or on holders of securities other than shares representing the Transferor Company's capital and the measures proposed concerning them

3.6.1 The Transferor Company has not issued shares or other securities to which special rights are attached. The Successor Company will consequently not grant any special rights in the framework of the contemplated Merger.

3.6.2 The Transferor Company does not have any securities other than shares representing the Transferor Company's capital. The Transferor Company therefore has not proposed any measures in relation thereto in the framework of the contemplated Merger.

3.7 Special advantages attributed to the experts examining the proposed Merger (where relevant), or to any director or manager of a Merging Company

No expert who has been involved in the examination of the merger, in accordance with Section 1133, nor any director or manager of Merging Companies has been granted any special advantages and it is not intended to grant any special advantages to such persons on account of the Merger.

3.8 Constitution of the Successor Company

The current constitution of the Successor Company is appended at Schedule 1 hereto and will not be amended in the course of or as a result of the Merger.

3.9 Information on the evaluation of assets and liabilities transferred by the Transferor Company to the Successor Company

The evaluation of assets and liabilities of the Transferor Company which are to be transferred to the Successor Company is set forth in the Transferor Company's management financial statements for the period ending 31 October 2023 as referred to in paragraph 3.10.2 below. Book value has been used as the valuation method.

3.10 Dates of the Merging Companies' financial statements used for the purpose of preparing the Terms

3.10.1 The date of the Successor Company's unaudited management financial statements used for the purpose of preparing the Terms is 31 October 2023.

3.10.2 The date of the Transferor Company's unaudited management financial statements used for the purpose of preparing the Terms is 31 October 2023.

3.11 Approval by the members of the Merging Companies

3.11.1 Notwithstanding that pursuant to section 1137(7) of the Act, it is not necessary for the Successor Company to approve the Terms by means of a special resolution of its members once the Successor Company complies with the conditions under Section 1137(8) of the Act, the Successor Company shall approve the Merger by passing a special resolution of its sole member approving the Merger.

3.11.2 It is noted that the Transferor Company must approve the Merger by passing a special resolution of its sole member approving the Terms.

3.12 Shareholders' Inspection Right

It is hereby confirmed that, pursuant to Section 1136 of the Act, a copy of the Terms (together with such other documents as are required by the said section), will be available from 9.00am (Irish time) to 5.00pm (Irish time) at the registered office address of each Merging Company for inspection by the members of the Merging Companies for a period of at least 30 days before the passing of the shareholder's resolutions required to approve the Merger pursuant to Section 1137 of the Act.

3.13 Directors' Explanatory Report and Independent Expert's Report

3.13.1 Pursuant to Section 1132(2)(5)(a) of the Act a directors' explanatory report is not required, with respect to a merger, if the members of each of the Merging Companies involved in the Merger have so agreed.

3.13.2 Pursuant to Section 1133(14)(a) of the Act an independent expert's report is not required, with respect to a merger, if all members of each of the Merging Companies involved in the Merger have so agreed.

3.13.3 Pursuant to section 1134(8)(a), a merger financial statement is not required, with respect to a merger, if all members of each of the Merging Companies involved in the Merger have so agreed.

3.13.4 Pursuant to a unanimous written resolution of the Transferor Company dated the date hereof and a unanimous written resolution of the Successor Company dated the date hereof, FSE as the sole member of each of the Transferor Company and the Successor Company has in each case respectively resolved that:

(a) a directors' explanatory report is not required and that section 1132 shall not apply;

(b) an independent expert's report is not necessary and that section 1133 shall not apply; and

(c) a merger financial statement is not necessary and that section 1134 shall not apply.

3.13.5 Accordingly, no amount or benefit has been or will be paid to any such independent expert.

4 FURTHER ASSURANCES

4.1 The Transferor Company shall do all things, execute all documents and take whatever action may be required by the Successor Company:

4.1.1 to transfer the Assets and Liabilities and, in particular, each of the assets and liabilities comprised in the Assets and Liabilities to the Successor Company;

4.1.2 as appropriate, (i) to perfect or protect the Successor Company's interest in and/or (ii) to vest in the Successor Company full legal title and the full beneficial interest in, the assets and liabilities comprised in the Assets and Liabilities; and

- 4.1.3 to facilitate and effect the transfer of (i) the legal and beneficial ownership of the Assets and Liabilities including each asset and liability comprised in the Assets and Liabilities to the Successor Company and (ii) the right of the Successor Company to exercise all and any rights, powers and discretions exercisable by the Successor Company in respect of the Assets and Liabilities and/or any such asset or liability,

including the execution, acknowledgement and delivery of all and any agreements, documents, deeds, transfers, assignments, notices or forms and the making of all and any registrations necessary or desirable in connection with any of the foregoing.

5 POWER OF ATTORNEY

5.1 Power of attorney

- 5.1.1 The Transferor Company hereby irrevocably and unconditionally appoints the Successor Company and any of its Delegates, jointly and also severally, to be its attorney:

(a) to do all things, execute all documents and take any action that the Transferor Company is obliged to take under these Terms, including under paragraph 5;

(b) without prejudice to the generality of sub-paragraph 5.1.1(a):

(i) to execute all and any agreements, documents, deeds, transfers, assignments, notices or forms of any kind that the Transferor Company may be required to execute on or following the Effective Date in order to give full effect to the matters provided for at paragraph 4.1 and generally in these Terms;

(ii) to do all such acts or things as may be required by the Successor Company; and

(iii) to secure and effect the performance of any of the Transferor Company's obligations owed to the Successor Company under these Terms or otherwise.

- 5.1.2 The Transferor Company ratifies and confirms all things done by each and every attorney appointed under this paragraph in the exercise or purported exercise of all or any of such attorney's powers; and

- 5.1.3 The power of attorney set out in this paragraph 5.1 is given, inter alia, to secure a proprietary interest (arising from the merger provided for in these Terms) of the Successor Company in the Assets and Liabilities and, in particular, in the assets comprised in the Assets and Liabilities and to secure performance by the Transferor Company of its obligations under these Terms and this power of attorney shall not be revoked by the winding-up or dissolution of the Transferor Company.

5.2 Delegation

The Successor Company may delegate by power of attorney or in any other manner, to any person, any right, power or discretion exercisable by it under these Terms upon any terms (including the power to sub-delegate) as it may deem fit but no such delegation shall preclude the subsequent exercise of such power by the Successor Company itself or preclude the Successor Company from making a subsequent delegation thereof to some other person. Any such delegation may be revoked by the Successor Company at any time.

6 TERMINATION AND AMENDMENTS

- 6.1 These Terms and the transactions contemplated herein may be nullified, and the Merger consequently terminated, at any time, before the approval of the Merger, if the Successor Company and the Transferor Company agree to do so in writing.

- 6.2 These Terms can only be amended by a written decision of the Successor Company and the Transferor Company.

7 COUNTERPARTS

These Terms may be executed in any number of counterparts and by the Merging Companies hereto on separate counterparts.

8 GOVERNING LAW AND JURISDICTION

- 8.1 These Terms and any dispute or claim arising out of or in connection with them or their subject matter, whether of contractual or non-contractual nature, shall be governed by and construed in accordance with the laws of Ireland.
- 8.2 Each party irrevocably agrees that the courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Terms or its subject matter or formation (including non-contractual disputes or claims).

SIGNED by Alan McDermott

duly authorised on behalf of

FRESENIUS FINANCE HOLDINGS LIMITED

DocuSigned by:

Alan McDermott

A031AD2D6A0341D...

Signature

SIGNED by Oonagh Hayes

duly authorised on behalf of

FRESENIUS FINANCE IRELAND PUBLIC LIMITED COMPANY

DocuSigned by:

Oonagh Hayes

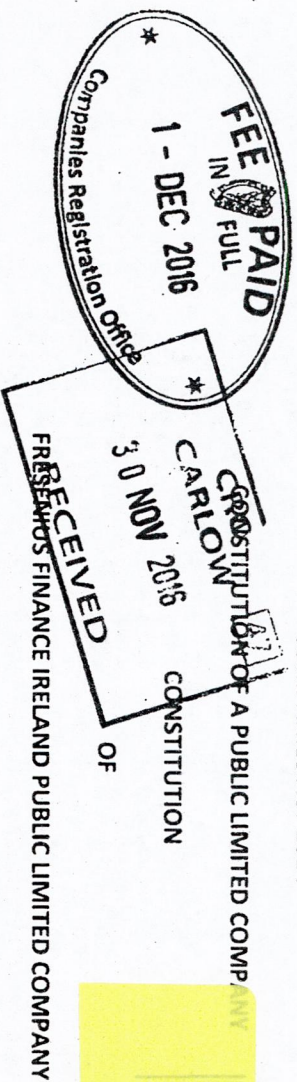
A885345688FB441

Signature

SCHEDULE 1
CONSTITUTION OF SUCCESSOR COMPANY

JA

COMPANIES ACT 2014



MEMORANDUM OF ASSOCIATION

1. The name of the Company is Fresenius Finance Ireland PUBLIC LIMITED COMPANY (the "Company").
2. The Company is a public limited Company, registered under Part 17 of the Companies Act, 2014 ("the Act").
3. The objects for which the Company is established are:
 - A) (i) To carry on the business of a finance Company within the group of Fresenius SE & Co. KGaG together with its subsidiaries (the "Fresenius Group") including the raising and procurement of all kinds of finance for the Fresenius Group, whether on a secured or unsecured basis, in any currency and in any jurisdiction including by way of the issue of debt, including the creation and issue of listed or unlisted notes, bonds, euro bonds, debentures, debt instruments, bonds, promissory notes or other securities, and the borrowing of money to on-lend to other Fresenius Group companies.
 - (ii) To negotiate borrowings and loans, and to borrow moneys on such terms and conditions as may be deemed appropriate and to loan moneys to the Fresenius Group, and to aid the Fresenius Group with capital, credit, means or resources for the prosecution of any works, undertakings, projects or enterprises.
 - (iii) To identify, negotiate, enter into and manage short term investments in consultation with the Fresenius Group treasury function and in accordance with the Fresenius Group's financing strategy, including to acquire and hold either in the name of the Company or in that of any nominee, shares, stocks, gifts, debentures, debenture stock, bonds, notes, obligations, securities and financial instruments of any kind whatsoever issued or guaranteed by any Company wherever incorporated or carrying on business, any government, sovereign ruler, province, region, commissioners, public utility body or authority, supreme, dependent, municipal, local or otherwise in any part of the world, and to exercise and enforce all rights and powers conferred by or incidental to the ownership of any such shares, stock, obligations or other securities.
 - (iv) To engage in foreign currency and interest rate transactions in accordance with the Fresenius Group's financing strategy including but not limited to entering into foreign currency spot and forward rate exchange contracts, futures, options, forward rate agreements, swaps, caps, floors, collars and other foreign exchange and interest rate hedging arrangements and other instruments as are similar to, or derivatives of any of the foregoing and as such instruments may be developed from time to time.

- (v) As an object of the Company and as a pursuit in itself or otherwise, and whether for the purpose of making a profit or avoiding a loss or for any other purpose whatsoever, to engage in currency and interest rate transactions, credit default swaps, hedges or other transactions and any other financial or other transactions of whatever nature, including any transaction for the purpose of, or capable of being for the purposes of, avoiding, reducing, minimising, hedging against or otherwise managing the risk of any loss, cost, expense or liability arising, or which may arise, directly or indirectly, from a change or changes in any interest rate or currency exchange rate or in the price or value of any property, asset, commodity, index or liability or the credit standing of any person or entity or from any other risk or factor affecting the Company's undertaking and business, including but not limited to dealings, whether involving purchases, sales or otherwise in any credit-default contracts, currency, spot and forward exchange rate contracts, forward rate agreements caps, floors and collars, futures, options, swaps, and any other credit default currency interest rate and other hedging arrangements and such other instruments as are similar to, or derivatives of any of the foregoing.
- (vi) To guarantee, grant indemnities in respect of, support or secure, whether by personal covenant or by mortgaging or charging all or any part of the undertaking, property and assets (present and future) and uncalled capital of the Company, or by both such methods, the performance of the contracts or obligations of and the repayment or payment of the principal amounts of and premiums, interest and dividends on any securities or indebtedness of any Company in the Fresenius Group or otherwise associated with the Fresenius Group notwithstanding the fact that the Company may not receive any consideration, advantage or benefit, direct or indirect from entering into such guarantee or other arrangement or transaction contemplated herein.
- (vii) To hold funds for the purpose of engaging in the activities specified in (i), (ii), (iii), (iv), (v) and (vi) above.
- (viii) To supply advice and to render services to enterprises and companies of the Fresenius Group and to third parties.
- (B) To engage in any type of activity in furtherance of any of the activities specified under (A) above.

And it is hereby declared that the word "Company" in this clause, except where used in reference to this Company, shall be deemed to include any person, partnership or other body of persons whether incorporated or not incorporated and whether domiciled in the Ireland or elsewhere.

- 4. The liability of the members is limited.
- 5. The authorized share capital of the Company is € 1,000,000 divided into 1,000,000 ordinary shares of €1.00 each.

ARTICLES OF ASSOCIATION

The following regulations shall apply to the Company:

- 6. The provisions of the 2014 Act which are stated therein to apply to a public limited Company (or a PLC as that term is defined in the 2014 Act), save to the extent that its constitution is permitted to provide or state otherwise, will apply to the Company subject to the alterations contained in these Articles, and will bind the Company and its Members.

7. Without prejudice to Section 1007(4) of the 2014 Act and save as otherwise expressly provided in these Articles, where a provision of these Articles covers substantially the same subject matter as any optional provision of the 2014 Act, and such optional provision of the 2014 Act shall be deemed not to apply to the Company and for the avoidance of doubt, these Articles shall be deemed to have effect and prevail over the terms of such optional provisions of the 2014 Act (and the expression "optional provision" shall take its meaning from Section 1007(2) of the 2014 Act).

8. In these Articles, unless the context otherwise requires:

Act means the Companies Act 2014;

Articles means the Articles of Association;

Director means a director for the time being of the Company or a director present at a meeting of the board of directors and includes any person occupying the position of director by whatever name called, and directors means all such persons;

Chairperson means the director elected by the board of directors of the Company who shall preside over meetings of the board of directors and general meetings;

The seal means the common seal of the Company;

Unless the contrary is clearly stated, references to the Act or to any other enactment (including any subordinate legislation) or any section or provision thereof shall mean the Act or such enactment, subordinate legislation, section or provision (as the case may be), as the same may be consolidated, amended, extended, modified, supplemented or re-enacted (whether before or after the date hereof) from time to time and may be for the time being in force.

SHARES

9. The directors may allot relevant securities to such persons, on such terms and conditions and at such times as they may consider to be in the best interests of the Company and its shareholders within the meaning of section 1021 of the Act up to an amount equal to the authorized but unissued share capital of the Company as at the date of the adoption of this Constitution but this authority shall not extend beyond such date as shall be five years from the date of the adoption of this Constitution provided always that the directors shall have power notwithstanding that the date aforesaid shall have expired, to allot relevant securities in pursuance of an offer or agreement previously made by the Company, if that authorisation enabled the Company to make an offer or agreement which would or might require relevant securities to be allotted after the authorisation's expiry.
- (a) Section 1022(1), (8) and (9) of the Act are hereby excluded in relation to all allotments of shares by the Company.
- (b) The directors may execute and do all such documents, acts and things as in their opinion are necessary or desirable in order to give effect to the authority conferred by this Article.
10. Without prejudice to the powers of the directors under Section 95(2) of the Act, the directors may, in their absolute discretion, and without giving any reason for doing so, decline to register any transfer of any share, whether or not it is a fully paid share.

11. The Company shall have a first and paramount lien on every share (whether fully paid or partly paid) for all moneys (whether immediately payable or not) called, or payable at a fixed time, in respect of that share. The directors may at any time declare any share in the Company to be wholly or in part exempt from this regulation.

GENERAL MEETINGS

12. The provision of notice of general meetings shall be permitted via electronic means.
13. The signature to any notice of any meeting of the Company may be written or printed.
14.
 - (i) The Company shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year and shall specify the meeting as such in the notices calling it and not more than 15 months shall elapse between the date of one annual general meeting of a Company and that of the next.
 - (ii) So long as the Company holds its first annual general meeting within 18 months after the date of its incorporation, it need not hold it in the year of its incorporation or in the following year.
15. The business of the annual general meeting shall include—
 - (a) the consideration of the Company's statutory financial statements, the report of the directors and the report of the statutory auditors on those statements;
 - (b) the review by the member[s] of the Company's affairs;
 - (c) the declaration of a dividend (if any) of an amount not exceeding the amount recommended by the directors;
 - (d) the authorisation of the directors to approve the remuneration of the statutory auditors; and
 - (e) the appointment or re-appointment of statutory auditors.
16. The Company, if, and for so long as it has a single member, need not hold an annual general meeting in any year where the sole member entitled (at the date of the written resolution referred to in this subsection) to attend and vote at such general meeting signs, before the latest date for the holding of that meeting, a written resolution—
 - (a) acknowledging receipt of the financial statements that would have been laid before that meeting;
 - (b) resolving all such matters as would have been resolved at that meeting; and
 - (c) confirming no change is proposed in the appointment of the person (if any) who, at the date of the resolution, stands appointed as statutory auditor of the Company.
17. All general meetings other than annual general meetings shall be called extraordinary general meetings.

18. (i) Subject to subsection (iii) below, any member of the Company entitled to attend and vote at a meeting of the Company shall be entitled to appoint another person (whether a member or not) as his or her proxy to attend and vote instead of him or her.
- (ii) A proxy so appointed shall have the same right as the member to speak at the meeting and to vote on a show of hands and on a poll.
- (iii) The instrument appointing a proxy (the "instrument of proxy") shall be in writing—
- (a) under the hand of the appointer or of his or her attorney duly authorised in writing; or
- (b) if the appointer is a body corporate, either under seal of the body corporate or under the hand of an officer or attorney of it duly authorised in writing.
- (iv) The instrument of proxy and the power of attorney or other authority, if any, under which it is signed, or a notarially certified copy of that power or authority, shall be deposited at the registered office of the Company concerned or at such other place within the State as is specified for that purpose in the notice convening the meeting, and shall be so deposited before the commencement of the meeting.
- (v) The depositing of the instrument of proxy referred to in subsection (iv) may, rather than its being effected by sending or delivering the instrument, be effected by communicating the instrument to the Company by electronic means, and this subsection likewise applies to the depositing of anything else referred to in subsection (iv).
- (vi) A body corporate may, if it is a member of the Company, by resolution of its directors or other governing body authorise such person (in this section referred to as an "authorised person") as it thinks fit to act as its representative at any meeting of the Company or at any meeting of any class of members of the Company.

DIVIDENDS

19. (i) The Company in general meeting may, by ordinary resolution, declare dividends but no dividend shall exceed the amount recommended by the directors of the Company.
- (ii) The directors of the Company may from time to time—
- (a) pay to the members such interim dividends as appear to the directors to be justified by the profits of the Company, subject to the provisions of the Companies Act 2014;
- (b) before recommending any dividend, set aside out of the profits of the Company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for any purpose to which the profits of the Company may be properly applied, and pending such application may, at the like discretion either be employed in the business of the Company or be invested in such investments as the directors may lawfully determine;
- (c) without placing the profits of the Company to reserve, carry forward any profits

which they may think prudent not to distribute.

WRITTEN RESOLUTIONS

20. (i) A resolution in writing signed by all the members of the Company for the time being entitled to attend and vote on such resolution at a general meeting (or being bodies corporate by their duly appointed representatives) shall be as valid and effective for all purposes as if the resolution had been passed at a general meeting of the Company duly convened and held; and
- (ii) if described as a special resolution shall be deemed to be a special resolution within the meaning of this Act.

SINGLE MEMBER COMPANY

21. (i) Subject to subsection (ii), all the powers exercisable by the Company in general meeting or otherwise shall be exercisable, for so long as the Company is a single-member Company, by the sole member without the need to hold a general meeting for that purpose.
- (ii) Subject to subsection (iii), any provision of this Act which—
- (a) enables or requires any matter to be done or to be decided by the Company in general meeting, or
- (b) requires any matter to be decided by a resolution of the Company,
- shall be deemed to be satisfied by a decision of the member which is drawn up in writing and notified to the Company in accordance with this section.
- (iii) Where the sole member takes any decision which has effect, pursuant to subsections (i) and (ii), as if agreed by the Company in general meeting, the member shall provide the Company with a written record of that decision, unless the decision is taken by way of written resolution which the member has already forwarded to the Company.

DIRECTORS

22. (i) If and so long as the Company has a sole member being a body corporate (hereinafter called the Holding Company) who beneficially owns the whole of the issued equity share capital of the Company (within the meaning of Section 7(11) of the Act) the Holding Company shall have power at any time and from time to time to appoint the board of directors of the Company and any such appointment shall be made by notice in writing addressed to the Company signed by a director or secretary of the Holding Company and shall take effect on delivery of such notice to the registered office of the Company or at a meeting of directors of the Company.
- (ii) The directors shall not retire by rotation and no director who has been appointed by the directors, as permitted by the Act, will require to be re-elected at the next following annual general meeting or at any extraordinary general meeting following such appointment.

23. A director of the Company shall—

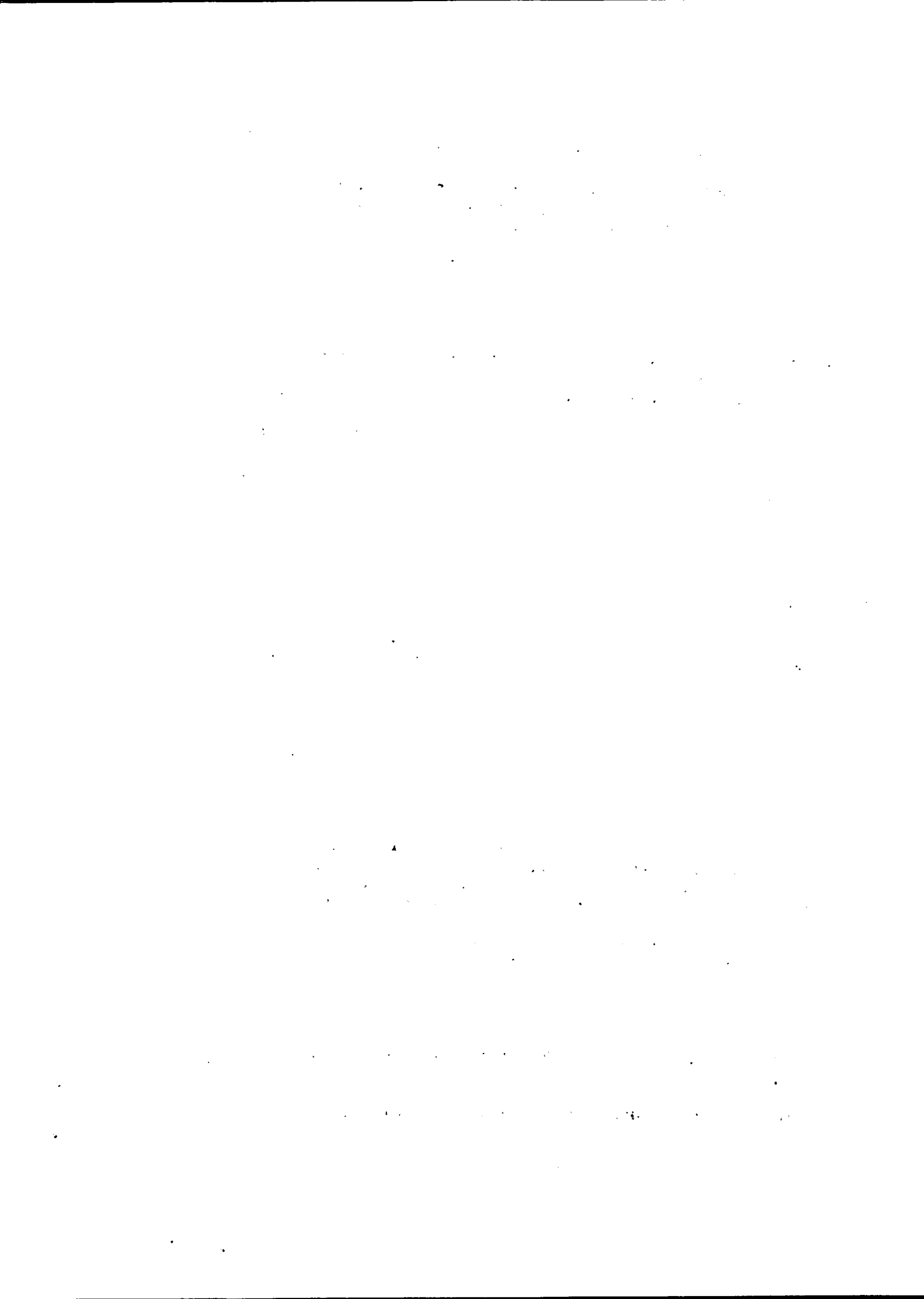
- (a) act in good faith and in the interests of the Company;
- (b) act honestly and responsibly in relation to the conduct of the affairs of the Company;
- (c) act in accordance with this constitution and exercise his or her powers only for the purposes allowed by law;
- (d) not use the Company's property, information or opportunities for his or her own or anyone else's benefit unless—
 - this is expressly permitted by this constitution; or
 - the use has been approved by a resolution of the Company in general meeting;
- (e) not agree to restrict the director's power to exercise an independent judgment unless—
 - this is expressly permitted by this constitution;
 - the case concerned falls within subsection (2); or
 - the director's agreeing to such has been approved by a resolution of the Company in general meeting;
- (f) avoid any conflict between the director's duties to the Company and the director's other (including personal) interests unless the director is released from his or her duty to the Company in relation to the matter concerned, whether in accordance with provisions of this constitution in that behalf or by a resolution of it in general meeting;
- (g) exercise the care, skill and diligence which would be exercised in the same circumstances by a reasonable person having both—
 - the knowledge and experience that may reasonably be expected of a person in the same position as the director; and
 - the knowledge and experience which the director has; and
- (h) in addition to the duty under section 224 (duty to have regard to the interests of its employees in general), have regard to the interests of its members.

24. (i) In accordance with the Act, the directors may elect a Chairperson of their meetings (the "Chairperson") and determine the period for which he or she is to hold office, but if no such Chairperson is elected, or, if at any meeting the Chairperson is not present within 15 minutes after the time appointed for holding it, the directors present may choose one of their number to be Chairperson of the meeting.
- (ii) The Chairperson, if any, of the board of directors shall preside as Chairperson at every general meeting of the Company, or if there is no such Chairperson, or if he or she is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act, the directors present shall elect one of their number to be Chairperson of the meeting.

25. The Chairperson shall at each directors meeting be located in Ireland and all meetings shall take place in Ireland.
26. The office of director shall be vacated if—
- (a) the director resigns his or her office by notice in writing to the Company; or
 - (b) the health of the director is such that he or she can no longer be reasonably regarded as possessing an adequate decision making capacity; or
 - (c) a declaration of restriction is made in relation to the director and the directors, at any time during the currency of the declaration, resolve that his or her office be vacated; or
 - (d) the director is sentenced to a term of imprisonment following conviction of an indictable offence; or
 - (e) the director is for more than 6 months absent, without the permission of the directors, from meetings of the directors held during that period.
27. (i) The business of the Company shall be managed by its directors, who may pay all expenses incurred in promoting and registering the Company and may exercise all such powers of the Company as are not, by the Act or by the constitution, required to be exercised by the Company in general meeting, but subject to—
- (a) any regulations contained in this constitution;
 - (b) the provisions of the Act; and
 - (c) such directions, not being inconsistent with the foregoing regulations or provisions, as the Company in general meeting may give.
- (ii) However, no direction given by the Company in general meeting under subsection (i)(c) shall invalidate any prior act of the directors which would have been valid if that direction had not been given.
- (iii) Without prejudice to the generality of that subsection, subsection (i) operates to enable, subject to a limitation (if any) arising under any of paragraphs (a) to (c) of it, the directors of the Company to exercise all powers of the Company to borrow money and to mortgage or charge its undertaking, property and uncalled capital, or any part thereof.
- (iv) The directors may delegate any of their powers to such person or persons as they think fit, including committees; any such committee shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the directors.
28. (i) The directors of the Company may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.
- (ii) The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall be 2. A person who holds office only as an alternate director shall, if his appointer is not present, be counted in the quorum, but not withstanding that such person may act as alternate director for more than one director

he shall not count as more than one for the purposes of determining whether a quorum is present.

- (iii) Questions arising at any such meeting shall be decided by a majority of votes and where there is an equality of votes, the Chairperson shall have a second or casting vote.
 - (iv) A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.
 - (v) All directors shall be entitled to reasonable notice of any meeting of the directors but, if the directors so resolve, it shall not be necessary to give notice of a meeting of directors to any director who, being resident in the State, is for the time being absent from the State.
 - (vi) Nothing in subsection (iv) or any other provision of the Act enables a person, other than a director of the Company concerned, to object to the notice given for any meeting of the directors.
 - (vii) The continuing directors may act notwithstanding any vacancy in their number but, if and so long as their number is reduced below the number fixed by or pursuant to this Act as the necessary quorum of directors, the continuing directors or director may act for the purpose of increasing the number of directors to that number or of summoning a general meeting of the Company but for no other purpose.
29. (i) A resolution in writing signed by all the directors of the Company, or by all the members of a committee of them, and who are for the time being entitled to receive notice of a meeting of the directors or, as the case may be, of such a committee, shall be as valid as if it had been passed at a meeting of the directors or such a committee duly convened and held.
- (ii) The resolution referred to in subsection (i) may consist of several documents in like form each signed by one or more directors and for all purposes shall take effect from the time that it is signed by the last director.
- (iii) A meeting of the directors or of a committee may consist of a conference between some or all of the directors or, as the case may be, members of the committee who are not all in one place, but each of whom is able (directly or by means of telephonic, video or other electronic communication) to speak to each of the others and to be heard by each of the others and—
- (a) a director or member of the committee taking part in such a conference shall be deemed to be present in person at the meeting and shall be entitled to vote and be counted in a quorum accordingly; and
 - (b) such a meeting shall be deemed to take place—
 - (i) where the Chairperson of the meeting then is;
 - (ii) where the largest group of those participating in the conference is assembled;



- (iii) if neither subparagraph (i) or (ii) applies, in such location as the meeting itself decides.
 - (c) at the commencement of the meeting each director must acknowledge his or her presence and that he or she accepts that the conversation shall be deemed to be a meeting of the directors; and
 - (d) a director may not cease to take part in the meeting by disconnecting his or her telephone or other means of communication unless he or she has previously obtained the consent of the Chairperson of the meeting; and
 - (e) a director shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting unless he or she has previously obtained the express consent of the Chairperson of the meeting to leave the meeting as aforesaid.
 - (iv) The directors of the Company may exercise the voting powers conferred by the shares of any other Company held or owned by the Company in such manner in all respects as they think fit and, in particular, they may exercise the voting powers in favour of any resolution—
 - (a) appointing the directors or any of them as directors or officers of such other Company; or
 - (b) providing for the payment of remuneration or pensions to the directors or officers of such other Company.
30. The Directors, from time to time and at any time by power of attorney under seal may appoint any company, firm or person or fluctuating body of persons, whether nominated director or indirectly by the Directors, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under these Articles) and for such period and subject to such conditions as they may think fit. Any such power of attorney may contain such provisions for the protection of persons dealing with any such attorney as the Directors may think fit and may authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions vested in him.
31. Alternate Directors:
- (b) Any director (the appointer) may at any time and from time to time appoint any other director or, with the approval of a majority of the directors, any other person to act as alternate director in his place, at any meeting of the directors (or committee of the directors of which he is a member) at which he is unable to be present or during his inability to act as such director and on such appointment being made the alternate shall (except as regards the power to appoint an alternate and the requirement, if any, of a share qualification) be subject in all respects to the terms and conditions existing with reference to the other directors of the company.
 - (ii) A person may act as an alternate for more than one director and while he is so acting will be entitled to a separate vote for each director he is representing and, if he is himself a director, his vote or votes as an alternate will be in addition to his own vote.
 - (iii) An alternate will not be counted in reckoning the maximum number of directors (if any)

allowed by these Articles for the time being.

- (iv) An alternate will be entitled, subject to his giving to the company an address to receive notice of all meetings of the directors and of all meetings of committees of which his appointer is a member, to receive notice of all meetings of the directors and of committees of which his appointer is a member and in the absence of the appointer from such meetings of the directors or of such a committee, shall be entitled to attend, speak and vote at such meeting of the directors or of such a committee. An alternate shall not be entitled to be remunerated or paid fees otherwise than out of the remuneration or fees as the case may be paid to the appointer.
 - (v) The alternate will be entitled, in the absence of the appointer, to exercise all the powers, rights, duties and authorities of the appointer as a director (other than the right to appoint an alternate hereunder).
 - (vi) An alternate's appointment will automatically come to an end if for any reason the appointer ceases to be a director, but if a director retires but is re-appointed or deemed to have been re-appointed at the meeting at which he retires, any appointment of an alternate made by him which was in force immediately prior to his retirement will continue after his re-appointment.
 - (vii) An alternate's appointment may be revoked at any time by the appointer or by a majority of the other directors or by the company in general meeting.
 - (viii) Any instrument appointing or removing an alternate shall be posted or delivered to the secretary or the registered office of the company or a meeting of the directors and shall not take effect until so posted or delivered and all such instruments shall be retained by the company. The failure to so post or deliver the instrument shall not affect the validity of the appointment or removal of the alternate.
 - (ix) For the purposes of section 161 (1) of the Act, the signature of an alternate director shall suffice in lieu of the signature of the director appointing him and section 165 (3) of the Act shall apply with the addition of the signing and affixing of the Company seal.
32. (i) The remuneration which shall include benefits in kind and any fees to be paid to the directors of the Company shall be such as is determined, from time to time, by the general meeting and such remuneration shall be deemed to accrue from day to day.
- (ii) The directors may also be paid all travelling, hotel and other expenses properly incurred by them—
- (a) in attending and returning from—
 - (c) meetings of the directors or any committee referred to in section 160(9); or
 - (ii) general meetings of the Company, or
 - (b) otherwise in connection with the business of the Company.
33. For the purposes of section 228 (1)(d) of the Act, the reasonable personal use by a director of any property, information or opportunities of the Company made available for use by the Director in connection with the business or affairs of the Company shall be permitted, subject

to any restrictions imposed by the Company under contract or otherwise.

POWER OF ATTORNEY

34. (i) The Company may empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds or agreements or do any other matter on its behalf in any place whether inside or outside the State.
- (ii) A deed or agreement signed by such attorney on behalf of the Company shall bind the Company and have the same effect as if it were under its common seal.

COMPANY SEAL

35. The Company may have for use in any place abroad an official seal which shall resemble the common seal of the Company with the addition on its face of the name of every place abroad where it is to be used.

