

THIS DOCUMENT AND ACCOMPANYING FORM OF PROXY ARE IMPORTANT AND REQUIRE YOUR IMMEDIATE ATTENTION. THIS DOCUMENT AND THE ACCOMPANYING FORM OF PROXY MAY NOT BE DISTRIBUTED, FORWARDED TO OR TRANSMITTED IN OR INTO ANY JURISDICTION IN WHICH THE DISTRIBUTION OR RELEASE OF THIS DOCUMENT AND THE ACCOMPANYING FORM OF PROXY WOULD BE UNLAWFUL.

If you are in any doubt as to the action you should take, you are recommended to seek your own personal financial and legal advice immediately from your stockbroker, bank manager, solicitor, accountant or other independent professional adviser who (if you are resident in Ireland) is duly authorised under the European Union (Markets in Financial Instruments) (Amendment) Regulations 2017 or the Investment Intermediaries Act 1995 (as amended) or, if you are not so resident, from another appropriately authorised independent professional adviser.

If you sell or have sold or otherwise transferred or disposed of all of your ordinary shares in Mainstay Medical Holdings plc (“Mainstay” or the “Company”), please forward this document, together with the accompanying Form of Proxy, at once, to the purchaser or transferee or to the person through which the sale, transfer or disposal was effected, for onward transmission to the purchaser or transferee.

---

## Mainstay Medical Holdings plc

### Creation of a new class of preferred shares and related matters

#### Notice of Extraordinary General Meeting

---

Notice of the extraordinary general meeting (the “EGM” or the “Meeting”), which will be held at McCann FitzGerald, Riverside One, Sir John Rogerson’s Quay, Dublin 2 at 10.00 a.m. on 9 February 2021, is set out at the end of this document.

Shareholders will find enclosed with this document a Form of Proxy for the EGM. The Directors note the measures currently in force in Ireland due to the ongoing COVID-19 pandemic. At the time of publication of this document, the Irish Government has prohibited public gatherings, save in certain limited circumstances. In light of these measures, together with the uncertainty as to any additional and/or alternative measures that may be put in place by the Irish Government, and in order to protect the health and safety of the shareholders and Directors, it is not currently expected that shareholders or any other persons will be permitted to attend the meeting in person, save for the Chairman of the Meeting, the Company’s legal advisers and any other persons whose attendance is necessary to enable the meeting to proceed. We therefore strongly encourage you to submit your Form of Proxy no later than 48 hours before the EGM or, in the case of an adjourned EGM, no later than 48 hours prior to the time and date set for the adjourned EGM and to appoint the Chairman of the EGM as your proxy.

To facilitate shareholder communication, the EGM will be broadcast by conference call (details of which are set out in this document). Shareholders may submit questions relating to the business of the meeting in advance (so as to be received by no later than 48 hours before the commencement of the EGM) by email to [matt.onaitis@mainstay-medical.com](mailto:matt.onaitis@mainstay-medical.com).

Shareholders are asked to complete the enclosed Form of Proxy in accordance with the instructions printed on the form and return it, together with any authority under which it is executed or a copy of such authority certified notarially or by a solicitor practicing in Ireland, either by post to the Registrars, Computershare Investor Services (Ireland) Limited, 3100 Lake Drive, Citywest Business Campus, Dublin 24, D24 AK82, Ireland or (during normal business hours) by hand to the Registrars, Computershare Investor Services (Ireland) Limited, 3100 Lake Drive, Citywest Business Campus, Dublin 24, D24 AK82, Ireland as soon as possible and, in any event, so as to be received no later than 48 hours before the EGM. If the Form of Proxy is not lodged so as to be received by the relevant time mentioned above for return of the Form of Proxy, it will be invalid.

If you would like to submit your proxy via the Internet, you may do so by utilising the Registrars’ online proxy appointment service at [www.eproxyappointment.com](http://www.eproxyappointment.com) and following the instructions thereon. CREST members may also submit their proxy by utilising the CREST electronic proxy appointment service.

## IMPORTANT NOTICES TO PERSONS OUTSIDE IRELAND

The distribution of this document and the availability of the shares of Mainstay to persons in certain jurisdictions may be restricted by the laws of those jurisdictions and therefore any person into whose possession this document and/or the accompanying form of proxy come, should inform themselves about, and observe, any such restrictions. Failure to comply with any such restrictions may constitute a violation of the securities law of any such jurisdiction.

This document does not constitute a prospectus or prospectus equivalent document. This document does not constitute an offer or an invitation to any person to subscribe for or to purchase any securities in Mainstay. No shares of Mainstay have been marketed to, nor are any such shares available for purchase by, the public in Ireland or elsewhere in connection with the Proposed Transaction.

Neither the U.S. Securities and Exchange Commission nor any U.S. state securities regulatory agency has approved or disapproved of the transactions described in this document, passed upon the merits or fairness of such transactions or passed upon the adequacy or accuracy of the disclosure in this document. Any representation to the contrary is a criminal offence.

## FORWARD-LOOKING STATEMENTS

This document may contain certain forward-looking statements with respect to the financial condition, results of operations and business of Mainstay and certain plans and objectives of the Board of Directors of the Company (the "**Board**"). These forward-looking statements can be identified by the fact that they do not relate only to historical or current facts. Forward-looking statements often use words such as "anticipate", "target", "expect", "estimate", "intend", "plan", "goal", "believe", "will", "may", "should", "would", "could", their negative or other variations or other words of similar meaning. These statements are based on assumptions and assessments made by the Board in light of their respective experiences and its perceptions of historical trends, current conditions, expected future developments and other factors they believe appropriate. By their nature, forward-looking statements involve risk and uncertainty and the factors described in the context of such forward-looking statements in this document could cause actual results or developments to differ materially from those expressed in, reflected or contemplated in, or implied by, such forward-looking statements. As a result, investors should not rely on such forward-looking statements in making their investment decisions. No representation or warranty is made as to the achievement or reasonableness of, and no reliance should be placed on, such forward-looking statements.

Should one or more of these risks or uncertainties materialise, or should underlying assumptions prove incorrect, actual results may vary materially from those described in this document. Neither Mainstay nor the Board assume any obligation to update or correct the information contained in this document, whether as a result of new information, future events or otherwise, except to the extent legally required.

The statements contained in this document are made as at the date of this document, unless some other time is specified in relation to them, and publication of this document shall not give rise to any implication that there has been no change in the facts set out in this document since such date. Nothing contained in this document shall be deemed to be a forecast, projection or estimate of the future financial performance of the Mainstay Group except where expressly stated.

# LETTER FROM THE CHAIRMAN OF MAINSTAY MEDICAL HOLDINGS PLC

## Mainstay Medical Holdings plc

*(Registered in Ireland under the Companies Act 2014 with registered number 667520)*

*Directors:*

Oern Stuge – *Chairman*  
Jason Hannon – *Chief Executive Officer*  
Antoine Papiernik – *Non-Executive Director*  
David Brabazon – *Non-Executive Director*  
James Reinstein – *Non-Executive Director*  
Dan Sachs MD – *Non-Executive Director*  
Greg Garfield – *Non-Executive Director*

*Registered Office:*

77 Sir John Rogerson's Quay  
Block C  
Grand Canal Docklands  
Dublin 2  
Ireland

14 January 2021

Dear Ordinary Shareholder

### Creation of a new class of Preferred Shares and related matters

#### 1. Introduction

On 23 December 2020, Mainstay Medical Holdings plc (the “**Company**” or “**Mainstay**”) entered into a non-binding term sheet (the “**Term Sheet**”) with a potential lead investor (the “**Lead Investor**”) with respect to a potential fundraising by the Company of approximately US\$106 million (including the conversion of existing debt) involving the Lead Investor and certain new and existing investors (the “**Proposed Transaction**”). The new investments envisaged by the Proposed Transaction are expected to occur by way of subscription for a new class of preferred shares, being preferred shares of €0.01 each in the capital of the Company (the “**Preferred Shares**”). The Company is working with the Lead Investor and the other investors in the Proposed Transaction with a view to finalising, executing and completing legally binding documentation as soon as reasonably practicable, but in any event by 26 February 2021. The creation and issuance of the Preferred Shares, and accordingly, completion of the Proposed Transaction requires the prior approval by the Ordinary Shareholders of the Company.

The purpose of this letter is to explain why the directors of the Company consider that the Proposed Transaction is in the best interests of the Company and shareholders as a whole. In addition, the purpose of this document is to bring to your attention certain important rights that are expected to attach to the Preferred Shares or otherwise to be conferred on the holders of the Preferred Shares. These are described in more detail below. The notice of extraordinary general meeting (“**EGM**”) is also attached.

The Board considers the Resolutions to be proposed at the EGM to be in the best interests of the Company and shareholders as a whole. The Board unanimously recommends that Ordinary Shareholders vote in favour of the Resolutions at the EGM, as the members of the Board intend to do in respect of their own shareholdings.

#### 2. Background to and reasons for the Proposed Transaction

In June 2020, the Mainstay Group completed a corporate reorganisation whereby the Company became the holding company of the Mainstay Group and the ordinary shares of Mainstay Medical International plc were delisted from Euronext Growth and Euronext Paris.

On 22 June 2020, the Company announced that the FDA had approved the Company's Premarket Approval application for ReActiv8. The FDA approval grants Mainstay the right to market ReActiv8 in the United States as an aid in the management of intractable chronic low back pain associated with multifidus muscle dysfunction, as evidenced by imaging or physiological testing in adults who have failed therapy, including pain medications and physical therapy, and are not candidates for spine surgery. Based on the FDA approval, Mainstay has developed and begun to implement its commercial launch plans for ReActiv8 in the U.S., including the build out of the commercial team, inventory procurement and related matters.

In the circular issued by Mainstay Medical International plc on 14 April 2020 in connection with the reorganisation transaction, its board explained that it expected to require significant additional funds in the future in order to meet the capital and expenditure needs associated with its business, including commercialisation activities in the US and elsewhere. This continues to be the case. Over the past few months, the Company's management has undertaken a comprehensive process with the oversight of the Board to seek the funding necessary to finance the business moving forward and to evaluate related alternatives available to the Company. After due consideration and deliberation, the Board believes that the Proposed Transaction is the best financing alternative available to the Company at the current time, and that the Proposed Transaction (assuming that it is finalised and completed as currently envisaged) would be in the best interests of the Company and its shareholders as a whole.

On 28 December 2020, the Company completed a bridging financing transaction that involved the issuance by it of convertible promissory notes for an aggregate amount of US\$6.44 million to certain current investors of the Company (the "Notes"). The Notes do not carry interest and are due and payable by the Company on demand to the holder on 31 December 2023. The outstanding amounts under the Notes (the "Outstanding Amounts") will, effective upon the closing of an equity financing by the Company under which it receives gross proceeds of at least US\$40 million (including the proceeds of the Notes and any other indebtedness of the Company that converts into equity in such financing) (a "Qualified Financing"), automatically be converted into shares of the same class of share capital of the Company issued to other investors in the Qualified Financing at a conversion price equal to (i) in the event a Qualified Financing is consummated on or prior to 28 February 2021, the price paid per share for the equity securities by the other investors in the Qualified Financing multiplied by 0.95, and (ii) in the event a Qualified Financing is consummated after 28 February 2021 and prior to the Company's repayment of the Outstanding Amounts, the price paid per share for the equity securities by the other investors in the Qualified Financing multiplied by 0.90, with any resulting fraction of a share rounded down to the nearest whole share.

### 3. Summary of the Proposed Transaction

The key terms of the Proposed Transaction as envisaged by the Term Sheet are as follows:

- (a) subject to approval of the Resolutions at the EGM and those Resolutions becoming effective, the authorised share capital of the Company will be increased by the creation of 50 million new Preferred Shares (having the rights set out in the Revised Articles, as defined below) and 25 million new Ordinary Shares (and the Directors will be authorised for a period of 5 years from the date of passing of the Resolutions to issue all authorised but unissued shares of the Company without regard to statutory pre-emption rights for the purposes of the Proposed Transaction or otherwise);
- (b) the Lead Investor, certain existing Ordinary Shareholders and new investors (together the "Preferred Share Investors") will subscribe (including by way of conversion of the Outstanding Amounts under the Notes) for new Preferred Shares for an aggregate amount of approximately US\$106 million, at a price of US\$2.96 per Preferred Share (the "Preferred Share Subscription Price");
- (c) the Articles of Association will be revised (subject to approval by Ordinary Shareholders) in the manner described in this document, including to provide for the terms of the new Preferred Shares (the "Revised Articles");
- (d) on Completion, the Board will be reconstituted such that it shall consist of five persons, expected initially to be the Company's Chief Executive Officer (Jason Hannon), two persons nominated by the Preferred Shareholder and two other existing Directors and, at future annual general meetings of the Company, Directors will be subject to re-election in the manner described at paragraphs 4.4 and 5.3 below; and
- (e) the Preferred Share Investors and certain other persons will enter into a number of new agreements with the Company as described at paragraph 5 below.

In addition, the Company has agreed with IPF, separate from the Proposed Transaction, that the (1) warrants to subscribe for Ordinary Shares held by IPF; and (2) provisions of the IPF Facility Agreement providing for automatic or voluntary conversion of amounts owing thereunder into Ordinary Shares, will each be amended so that subject to and with effect from Completion they



relate to Preferred Shares rather than Ordinary Shares. The maximum aggregate number of Preferred Shares that would be expected to be issued to IPF from the exercise of the warrants and conversion of the debt is approximately 3.4 million.

As at the date of this document, legally binding agreements to give effect to the Proposed Transaction have not been finalised or executed and there can be no assurance that such legally binding agreements will be so finalised or executed. Even if legal binding agreements are entered into, the terms of those agreements may differ from those described in this document and/ or the parties may agree to alter the terms of the Proposed Transaction as described in this document. Even if passed at the EGM, the Resolutions will not become effective until such time as the Board adopts a resolution to implement the Proposed Transaction. If no such resolution is adopted, the Board will advise shareholders as appropriate. The size of the Proposed Transaction may be increased or decreased at the sole discretion of the Board, subject always to the maximum amounts prescribed by the Resolutions.

#### 4. Rights attaching to the Preferred Shares

If the Resolutions are approved at the EGM, the Board adopts a resolution to implement the Proposed Transaction and legally binding agreements relating to the Proposed Transaction are entered into and become effective, a new class of Preferred Shares in the capital of the Company will be created. The rights attaching to the Preferred Shares are set out in the Revised Articles and the principal terms are described below:

##### 4.1 Liquidation Preference

In the event of any liquidation, dissolution or winding up of the Company, the proceeds from such transaction will be paid in the following order of priority:

- (a) holders of each Preferred Share (a “**Preferred Shareholder**”) shall be entitled to receive, prior and in preference to any distribution of any of the assets or surplus funds of the Company to the holders of Ordinary Shares, an amount equal to the Preferred Share Subscription Price plus all dividends accrued or declared but unpaid on such share; and
- (b) the remaining proceeds shall be distributed on a pro rata basis among the holders of Preferred Shares and Ordinary Shares, treating all Preferred Shares as if they had been converted to Ordinary Shares immediately prior to such distribution.

The following events shall be treated in the same manner as a liquidation, dissolution or winding up of the Company (being a “**Deemed Liquidation Event**”):

- (i) a merger or consolidation involving the Company or a subsidiary, except where the Ordinary Shares in issue immediately prior to such merger or consolidation (treating all Preferred Shares as having been converted into Ordinary Shares in accordance with the Revised Articles) continue to represent, or are converted into or exchanged for equity interests that represent, immediately following such merger or consolidation, a majority, by voting power, of the issued equity interests of: (1) the surviving or resulting company; or (2) if the surviving or resulting company is a wholly owned subsidiary of another company immediately following such merger or consolidation, the parent company of such surviving or resulting company; and
- (ii) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Company or any subsidiary of the Company of all or substantially all the assets of the Company and its subsidiaries taken as a whole, or the sale or disposition (whether by merger, consolidation or otherwise, and whether in a single transaction or a series of related transactions) of one or more subsidiaries of the Company if substantially all of the assets of the Company and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Company.

##### 4.2 Dividends

The Company shall not pay any dividends on shares of any class of shares other than the Preferred Shares unless the holders of the Preferred Shares then in issue shall first receive, or

simultaneously receive, a dividend on each issued Preferred Share in an amount at least equal to, in the case of a dividend on Ordinary Shares or any class of shares that is convertible into Ordinary Shares, that dividend per Preferred Share as would equal the product of (i) the dividend payable on each share of such class determined, if applicable, as if all shares of such class had been converted into Ordinary Shares and (ii) the number of Ordinary Shares arising upon conversion of one Preferred Share, in each case calculated on the record date for determination of holders entitled to receive such dividend.

#### 4.3 Voting Rights

The holders of Preferred Shares will be entitled to that number of votes on all matters presented to shareholders equal to the number of Ordinary Shares then arising upon conversion of such Preferred Shares, and shall vote together with the Ordinary Shares, on an as-converted basis, on all matters except as provided for in paragraph 4.4 below.

#### 4.4 Election of Directors

The Preferred Shareholders, exclusively and voting together as a single class, shall be entitled to elect two Directors (the “**Preferred Share Directors**”) for so long as there are 6,800,000 Preferred Shares in issue. The holders of Ordinary Shares, exclusively and as a separate class, shall be entitled to elect two Directors. The holders of Ordinary Shares and the Preferred Shares shall be entitled to elect the balance of the total number of directors of the Company.

#### 4.5 Voluntary Conversion

All Preferred Shares initially convert 1:1 to Ordinary Shares at any time at option of holder, subject to customary adjustments.

#### 4.6 Automatic Conversion

All Preferred Shares will automatically be converted into Ordinary Shares, at the then-applicable conversion rate in the event of (i) in the event of a qualifying IPO (if the IPO price is no lower than 150% of Preferred Share Subscription Price, subject to adjustments for dividends, splits, combinations and similar events, and resulting in gross proceeds to the Company of not less than US\$30 million), or (ii) upon the written consent of at least 55% of the then issued Preferred Shares (on an as-converted basis) (the “**Requisite Holders**”).

#### 4.7 Anti-Dilution Adjustment

In the event that the Company issues additional securities at a purchase price less than the Preferred Share Subscription Price, excluding certain standard issuances as carve-outs, such applicable conversion price will be adjusted in accordance with a broad-based weighted average adjustment.

#### 4.8 Protective provisions

For so long as at least 10 million Preferred Shares (subject to appropriate adjustment in the event of any share dividend, share subdivisions, consolidations or other similar recapitalization with respect to the Preferred Shares) are in issue, the Company shall not do any of the following without the written consent or affirmative vote of the holders of at least 55% of the issued Preferred Shares:

- (a) create or authorize the creation of any security of the Company (other than shares) convertible into or exercisable for any equity security having rights, preferences or privileges senior to or on parity with the Preferred Shares;
- (b) purchase or redeem or pay any dividend on any Ordinary Shares prior to the Preferred Shares subject to certain limited exceptions;
- (c) exercise the Board’s power to increase or decrease the Board size from the number to be set out in the Revised Articles, being 5 Directors initially;

- (d) create, adopt, amend, terminate or repeal any equity (or equity-linked) compensation plan or other incentive or profit-sharing program;
- (e) set or amend a comprehensive operating budget forecasting the Company's revenues, expenses and cash position on a month-to-month basis for the current and upcoming financial year where the budget is approved by the Board, but with the affirmative vote of none or only one of the Preferred Share Directors;
- (f) create, or authorise the creation of, or issue, or authorise the issuance of any debt security or create any lien or security interest, subject to certain exceptions, incur other indebtedness for borrowed money, or permit any subsidiary to take any such action with respect to any debt security lien, security interest or other indebtedness for borrowed money, if the aggregate indebtedness of the Company and its subsidiaries for borrowed money following such action would exceed US\$5,000,000 unless such debt security has received the prior approval of the Board, including the approval of each of the Preferred Share Directors;
- (g) acquire or sell any entity or assets of the Company in one or a series of related transactions if the purchase price exceeds US\$1,000,000 in the aggregate, other than in the ordinary course of business;
- (h) acquire any entity or assets if the target entity is not, or the acquired assets are not, as applicable, related to the principal product or products of the Company;
  - (i) issue loans to, or make investments in, any of the Company's joint ventures, partnerships or any other entity in which the Company holds equity securities, other than a subsidiary that is wholly owned (either directly or through one or more other subsidiaries) by the Company; or
- (j) materially change or alter the nature of the Company's business.

In addition, pursuant to the shareholders agreement expected to be entered into by the Company with certain shareholders (as described at paragraph 5.3 below), those shareholders are expected to agree to exercise their rights to ensure that, without the consent of the Requisite Holders, the Company will not take any of the actions listed above or any of the additional actions listed at paragraphs 5.3(e)(i) to (iv) below.

## **5. Agreements to be entered into in connection with the Proposed Transaction**

In connection with the Proposed Transaction, it is expected that the following legally binding agreements will be entered into by the Company with the persons listed below:

### **5.1 Subscription Agreement**

The Company and each Preferred Share Investor are expected to enter into a form of subscription agreement whereby the Preferred Share Investors will conditionally agree to subscribe for a specified number of Preferred Shares at the Preferred Share Subscription Price. The Company would be expected to give customary representation and warranties regarding the Preferred Shares and its business under this agreement.

### **5.2 Registration Rights Agreement**

The Company and each Preferred Share Investor (and certain other shareholders) are expected to enter into a customary registration rights agreement pursuant to which the Company will agree to register Ordinary Shares arising upon conversion of the Preferred Shares with the U.S. Securities and Exchange Commission in certain circumstances.

### 5.3 Shareholders Agreement

The Company and each shareholder that will hold at least 1,000,000 Ordinary Shares (assuming the conversion of all issued Preferred Shares into Ordinary Shares and the exercise of all options outstanding under the Company's share plans) (each, a "**Major Shareholder**") and certain other shareholders (the "**Shareholder Parties**") are expected to enter into a shareholders agreement providing for the following matters:

- (a) the Shareholder Parties will agree to exercise their voting rights at general meetings of the Company to ensure that the following persons shall be elected to the Board:
  - (i) one individual designated by the Lead Investor and one individual designated by another investor in the Preferred Shares for so long as each of them or their affiliates holds at least 5 million Ordinary Shares (including Ordinary Shares arising on conversion of the Preferred Shares);
  - (ii) one individual designated by the holders of Ordinary Shares (excluding those arising upon conversion of the Preferred Shares);
  - (iii) one individual who is considered by the Board to be an independent Director and who is mutually acceptable to a majority of the other members of the Board;
  - (iv) the Chief Executive Officer of the Company from time to time;
- (b) an agreement whereby the Shareholder Parties agree to vote in favour of a Deemed Liquidation Event or transaction in which 50% or more of the voting power of the Company is transferred and that is approved by the Board (including the Preferred Share Directors) and also approved by the Requisite Holders and to take other specified actions to give effect to a sale of their shares on the same terms and conditions as the other shareholders of the Company in such circumstances, provided that if the acquirer in such proposed transaction is the holder of Preferred Shares, then the transaction would also have to be approved by the holders of a majority of the Ordinary Shares excluding any such shares arising upon conversion of the Preferred Shares;
- (c) provisions whereby all Major Shareholders shall have a pro rata right, based on their percentage equity ownership in the Company (assuming the conversion of all issued Preferred Shares into Ordinary Shares and the exercise of all options outstanding under the Company's share plans), to participate in subsequent issuances of equity securities of the Company. In addition, should any Major Shareholder choose not to purchase its full pro rata share, the remaining Major Shareholders shall have the right to purchase the remaining pro rata shares;
- (d) the Company shall agree to provide specified financial and other information to persons holding an agreed minimum number of shares (including the Major Shareholders), including monthly and quarterly unaudited financial information and an annual budget and business plan;
- (e) for as long as there are at least 10 million Preferred Shares in issue the Major Shareholders will agree to exercise their voting rights at general meetings of the Company so that, without the written consent of the holders of at least 55% of the Preferred Shares, the Company shall not:
  - (i) amend, alter or repeal in any material respect any provision of its constitution;
  - (ii) liquidate, dissolve or wind-up the business and affairs of the Company, or effect any Deemed Liquidation Event or consent to any of the foregoing;
  - (iii) increase or decrease the authorised number of shares of any class of shares;
  - (iv) reclassify, alter or amend any existing security, if such reclassification, alteration or amendment would render such other security senior to or on parity with the Preferred Shares;
  - (v) do any of the things listed in paragraph 4.8 (and the Company is expected to agree to procure that none of those things are done (insofar as it is lawfully able); and
- (f) for as long as there are at least 10 million Preferred Shares in issue, the Company will agree not to:
  - (i) set or amend a comprehensive operating budget forecasting its revenues, expenses and cash position on a month-to-month basis for the current and upcoming financial year without approval of the Board, which approval must include the affirmative vote of each



Preferred Share Director or, where the majority of the Board approves the budget but with the affirmative vote of none or only one of the Preferred Share Directors, the Company will require the written consent of the Requisite Holders; or

- (ii) create or authorize the creation of any debt security in excess of US\$5,000,000 in aggregate amount without the approval of the Board including the approval of each of the Preferred Share Directors (which will apply in addition to the requirements outlined at paragraph 4.8(f) above).

#### **5.4 Rights of First Refusal and Co-Sale Agreement**

The Company and each Major Shareholder are expected to enter into an agreement providing that in the event of a sale, offer or any transfer of shares, the Company first and Major Shareholders second will have the right of first refusal to purchase (or in the case of the Company only, redeem) those shares, proposed to be sold by any persons holding 1,000,000 or more shares of any class in the Company (on a fully diluted and as converted basis), with a right for Major Shareholders to acquire those shares not acquired by the other Major Shareholders. To the extent the Company and Major Shareholders do not exercise their rights of first refusal, Major Shareholders are expected to have the right to participate in such sale, with an amount up to the seller's pro rata share.

#### **6. Resolutions to be proposed at the EGM**

##### *Resolution 1: Increase in share capital (Ordinary Resolution)*

- 6.1 Resolution 1 is being proposed to approve an increase in the share capital of the Company to reflect the creation of the new class of Preferred Shares (authorised to a total of 50 million Preferred Shares), having the rights and restrictions set out in the Revised Articles and also to create an additional 25 million Ordinary Shares. If passed, the resolution will become effective only if the Board adopts a resolution to implement the Proposed Transaction.

##### *Resolution 2: Revised articles of association (Special Resolution)*

- 6.2 Resolution 2 is being proposed to approve and adopt new Articles of Association of the Company incorporating the rights attaching to the Preferred Shares (being the Revised Articles). An explanation of the proposed changes to the Articles of Association is contained in paragraph 4 of, and the Appendix to, this circular. A copy of the Revised Articles (marked to highlight the proposed changes) is available on the Company's website ([www.mainstay-medical.com](http://www.mainstay-medical.com)) and at its registered office and can be provided to current Ordinary Shareholders by post or email on request to [matt.onaitis@mainstay-medical.com](mailto:matt.onaitis@mainstay-medical.com). In accordance with applicable regulations and public health guidelines in force in Ireland in connection with Coronavirus (COVID-19), we request shareholders not to attend at the Company's offices but instead to inspect the Revised Articles on the Company's website. Resolution 2 is conditional on Resolution 1 being passed at the EGM and becoming effective in accordance with its terms. In approving Resolution 2, Ordinary Shareholders will also consent to any variation or abrogation of the rights attached to the Ordinary Shares arising as a result of the creation of the new class of Preferred Shares and the approval and adoption of the Revised Articles.

##### *Resolution 3: Directors' power to allot shares (Ordinary Resolution)*

- 6.3 Resolution 3 is being proposed to authorise the Directors for a period of 5 years from the date of the passing of the resolution to allot and issue all authorised but unissued shares of the Company as at the date of passing of the Resolution (including, to reflect the increase in share capital being sought under Resolution 1). Resolution 3 is conditional on Resolutions 1 and 2 being passed at the EGM and becoming effective in accordance with their terms.

##### *Resolution 4: Disapplication of pre-emption rights (Special Resolution)*

- 6.4 Resolution 4 is being proposed to empower the Directors for a period of 5 years from the date of the passing of the resolution, to allot and issue for cash (including by way of extinguishment of

debt) all authorised but unissued shares of the Company as at the date of passing of the Resolution (including, to reflect the increase in share capital being sought under Resolution 1) without regard to statutory or other pre-emption rights. Resolution 4 is conditional on Resolution 3 being passed at the EGM.

## **7. Action to be taken**

Shareholders will find enclosed with this document a Form of Proxy for the EGM. The Directors note the measures currently in force in Ireland due to the ongoing COVID-19 pandemic. At the time of publication of this document, the Irish Government has prohibited public gatherings, save in certain limited circumstances. In light of these measures, together with the uncertainty as to any additional and/or alternative measures that may be put in place by the Irish Government, and in order to protect the health and safety of the shareholders and Directors, it is not currently expected that shareholders or any other persons will be permitted to attend the meeting in person, save for the Chairman of the Meeting, the Company's legal advisers and any other persons whose attendance is necessary to enable the meeting to proceed. We therefore strongly encourage you to submit your Form of Proxy no later than 48 hours before the EGM or, in the case of an adjourned EGM, no later than 48 hours prior to the time and date set for the adjourned EGM and to appoint the Chairman of the EGM as your proxy.

To facilitate shareholder communication, the EGM will be broadcast by conference call. Shareholders may submit questions relating to the business of the meeting in advance (so as to be received by no later than 48 hours before the commencement of the EGM) by email to [matt.onaitis@mainstay-medical.com](mailto:matt.onaitis@mainstay-medical.com).

To access the live telephone conference call, shareholders should use the following numbers:

Ireland: +353 14311252

UK: +44 3333000804

France: +33 170750711

United States: +1 6319131422

PIN: 48849493#

Please dial in 15 minutes prior to the start time using the phone number and conference code above.

Shareholders should be aware that attendance on the conference call will not constitute attendance at the meeting (and it will not be possible to vote electronically in real time at the EGM). Accordingly, shareholders who attend the call and who wish to vote must still submit their Forms of Proxy no later than 48 hours before the EGM.

## **8. Importance of the vote**

The passing of the Resolutions at the EGM are conditions of the Proposed Transaction. Therefore, if all of those Resolutions are not approved at the EGM, then the Company will not be able to proceed with the Proposed Transaction.

In those circumstances, the Company would need to assess its strategic and operational position and would be required to explore other fundraising options. There can be no assurance that the Company would be successful in identifying and implementing any alternative fundraising options in an appropriate timeframe. Accordingly, the inability of the Company to complete the Proposed Transaction could have material adverse consequences for the Group's business, operating results, financial condition and prospects.

As at the date of this document, legally binding agreements to give effect to the Proposed Transaction have not been finalised or executed and there can be no assurance that such legally binding agreements will be so finalised or executed. Even if legal binding agreements are entered into, the terms of those agreements may differ from those described in this document and/ or the parties may agree to alter the terms of the Proposed Transaction as described in this document. Even if passed at the EGM, the Resolutions will not become effective until such time as the Board adopts a resolution to implement the Proposed Transaction. If no such resolution is adopted, the Board will advise shareholders as appropriate.

9. **Recommendation**

The Board considers the Resolutions to be proposed at the EGM to be in the best interests of the Company and shareholders as a whole. **The Board unanimously recommends that Ordinary Shareholders vote in favour of the Resolutions at the EGM, as the members of the Board intend to do in respect of their own shareholdings.**

Yours faithfully

**Oern Stuge**  
*Chairman*

## APPENDIX

### SUMMARY OF PROPOSED CHANGES TO THE MAINSTAY ARTICLES

Set out below is an explanation for the principal amendments to the Articles of Association of the Company proposed to be made pursuant to Resolution 2 set out in the Notice. Non-material changes (such as to correct typographical errors or to update cross-referencing) have not been set out below. References below to specific Articles are to those Articles in the Revised Articles.

Article	Explanation for the proposed amendments to the Articles of Association
Definitions	New definitions (related to the Preferred Shares) have been inserted for the following terms: “As Converted Basis”, “ordinary shares”, “Preferred Shares” “Preferred Shareholder” and “Redeemable Shares”.
5	The share capital clause has been updated to reflect the increase in share capital (including to reflect the creation of the new class of Preferred Shares) assuming that Resolution 1 at the EGM is approved.
7	Article 7 is new and sets out the rights attaching to the new class of Preferred Shares. See paragraph 4 of the Chairman’s letter for further details of those rights and the implications for holders of Ordinary Shares.
9	Article 9(b) is new and Article 9(a) has been revised to take account of its terms (by deleting the words “ <i>and the Company may convert any of its shares into redeemable shares</i> ”). Article 9(b) provides that unless the Board determines otherwise, any share in the Company that the Company has agreed to acquire shall be automatically converted into a redeemable share. Accordingly, for purposes of the Companies Act, unless the Board determines otherwise, the acquisition of any shares by the Company will technically be effected as a redemption of those shares, rather than a purchase. If such acquisition were to be effected by way of purchase, the proposed purchase contract would need to be authorized by special resolution of shareholders before the contract is entered into. Any such actions must be taken in compliance with the rights afforded to the holders of Preferred Shares.
11	This Article has been revised to clarify that the variation of class rights provisions will not apply where a new class of shares is created with rights that are preferential to the rights of existing shares or by the variation of the rights attaching to any other class of share.
16	The time period for the Company to issue shares certificates has been reduced from within two months of allotment or lodgement of a transfer to within two weeks (or such later time as determined by the Board but in any case within two months).
41(a)	The words “ <i>which are listed or dealt in on any regulated market (as such term is defined in the EU Markets in Financial Instruments Directive (2004/39/EC)) on the grounds that they are partly paid shares in circumstances where such refusal would prevent dealings in such shares from taking place on an open and proper basis</i> ” have been deleted to reflect the fact that the Company’s shares are no longer listed on Euronext Paris or Euronext Growth.

Article	Explanation for the proposed amendments to the Articles of Association
41(b)	<p>Articles 41(b)(iv), (v) and (vi) have been inserted to clarify that the Directors may refuse to register any transfer of shares in the Company unless:</p> <p>(a) a registration statement under the Securities Act of 1933 of the United States of America is in effect with respect to such transfer or such transfer is exempt from registration and, if requested by the Directors, a written opinion from counsel reasonably acceptable to the Directors is obtained to the effect that such transfer is exempt from registration;</p> <p>(b) the Directors are satisfied, acting reasonably, that all applicable consents, authorisations, permissions or approvals of any governmental body or agency in Ireland or any other applicable jurisdiction required to be obtained under relevant law prior to such transfer have been obtained; and</p> <p>(c) the Directors are satisfied, acting reasonably that the transfer would not violate the terms of any agreement which the Company and the transferor are party or subject provided always that, for the avoidance of doubt, the Directors shall not refuse to register any transfer of any shares made in compliance with any Right of First Refusal and Co-Sale Agreement entered into by the Company from time to time (including in connection with the Proposed Transaction).</p>
42	The time period to notify a proposed transferee of a refusal to register a transfer of shares in accordance with the terms of the Revised Articles has been reduced from two months to two weeks.
53	The second sentence of this Article dealing with market purchases of shares has been deleted to reflect the fact that the Company's shares are no longer listed on Euronext Paris or Euronext Growth.
57(b) and 97 (b)	These Articles have been revised to remove reference to the resignation of Directors by rotation at the annual general meeting.
58	This Article has been revised so as to provide that, for so long as there are Preferred Shares in issue, two persons (including holders representing at least a majority of the voting rights attaching to the Preferred Shares) present in person or by proxy shall constitute a quorum for a general meeting.
68	This Article has been revised to remove the casting vote of the chairman of a general meeting.
72 (no longer used)	This Article, which entitled the Directors to restrict voting and other rights in certain circumstances, has been deleted on the basis that the shares in the Company are no longer listed on Euronext Paris or Euronext Growth.
79(a)	This Article has been amended to provide that, subject to the Acts, the Board size shall be fixed at five Directors or such higher or lower number as may be determined by the Directors. Any such determination must be made in compliance with the rights afforded to the holders of Preferred Shares.
81	This Article has been revised to provide that the ordinary remuneration of the Directors shall be determined by the Directors rather than the shareholders.
87(a)	For so long as any Director is considered to be a Preferred Share Director for the purposes of the Articles, each of the Preferred Share Directors shall have a right, but not the obligation, to be appointed to each such committee
87(b) and 89	These Articles have been amended to make clear that a committee, local or divisional board or agency established by the Board shall not have any power or authority that is not held by the Board and the powers and activities of each body shall be subject to all the restrictions and limitations applicable to the Board.



Article	Explanation for the proposed amendments to the Articles of Association
93	This Article has been amended to provide that, at every annual general meeting of Company, all of the Directors shall retire but shall be eligible for re-election. The rights of shareholders to elect Directors shall be as provided for in paragraph 4.4 of the Chairman's letter.
96	This Article has been amended to increase the time limits for nomination of Directors at general meetings so that any such nomination must be received not less than 42 days nor more than 70 days before the date appointed for the meeting.
101(b)	This Article has been amended to provide that the determination of the remuneration of any executive Directors shall also be subject, for so long as any Director is considered to be a Preferred Share Director for the purposes of the Articles, to the approval of at least one Preferred Share Director.
104	The following words are to be deleted from this Article: <i>"but in the absence of any such request or in the case where oral notice only is given of a meeting of the Directors, it shall not be necessary to give notice of a meeting of the Directors to any Director who is for the time being absent from the State"</i> . It is considered that this is no longer appropriate.
107	The provision of the Article that stated that any Director absent from the State is not required to receive notice of a Directors' meeting has been deleted.
108	The quorum for Board meetings has been amended from two Directors to a majority of the Directors, which must include (for so long as any Director is considered to be a Preferred Share Director for the purposes of the Articles) the two Preferred Share Directors. If within one hour from the time appointed for a meeting of the Directors a quorum is not present, the meeting shall stand adjourned until the time that is two hours from the time appointed for such meeting, at the same place, or to such other day and at such other time and place as a majority of the Directors may determine, and at the adjourned meeting the quorum shall be a majority of Directors.
68	This Article has been revised to remove the casting vote of the chairman of a board meeting.
126 (no longer used)	This Article (providing for the ability of the Company to pay scrip dividends) has been deleted on the basis that the shares in the Company are no longer listed on Euronext Paris or Euronext Growth.
136	This Article has been amended to expressly allow the Company to use any merger reserve (including that created under the corporate reorganisation in 2020) for the purposes of capitalisation issues of shares. In addition, the Directors are being authorised to make capitalisation issues to all shareholders, not just holders of Ordinary Shares.

## DEFINITIONS

<b>“€” or “EUR” or “Euro”</b> .....	the currency introduced at the start of the third stage of the European economic and monetary union pursuant to the Treaty establishing the European Community as amended;
<b>“Articles of Association”</b> .....	the articles of association of the Company from time to time;
<b>“Board” or “Directors”</b> .....	the board of directors of Mainstay from time to time;
<b>“Business Day”</b> .....	a day (excluding Saturdays, Sundays and public holidays) on which banks are generally open for business in Dublin;
<b>“certificated” or “in certificated form”</b> .....	a share which is not in uncertificated form;
<b>“Circular” or “this document”</b> .....	this document, which is to be sent to Ordinary Shareholders setting out, amongst other things, the Proposed Transaction and the notice of EGM;
<b>“Companies Act”</b> .....	the Companies Act 2014 of Ireland, as amended;
<b>“Completion”</b> .....	means completion of the Proposed Transaction;
<b>“Computershare” or “Registrars”</b> .....	Computershare Investor Services (Ireland) Limited;
<b>“CREST”</b> .....	the system of paperless settlement of trades in securities and the holding of uncertificated securities operated by Euroclear in accordance with the CREST Regulations;
<b>“CREST member”</b> .....	a person who has been admitted by Euroclear as a system-member (as defined in the CREST Regulations);
<b>“CREST Regulations”</b> .....	the Companies Act 1990 (Uncertificated Securities) Regulations 1996 (S.I. No. 68 of 1996) of Ireland (as amended);
<b>“Deemed Liquidation Event”</b> .....	has the meaning given to that term in paragraph 4.1 of the letter from the Chairman of the Company in this document;
<b>“Euroclear”</b> .....	Euroclear UK & Ireland Limited, the operator of CREST;
<b>“Extraordinary General Meeting”, “EGM” or “Meeting”</b> .....	the extraordinary general meeting of Shareholders to be held at McCann FitzGerald, Riverside One, Sir John Rogerson’s Quay, Dublin 2 on 9 February 2021 at 10.00 a.m. or such adjournment thereof;
<b>“FDA”</b> .....	the U.S. Food and Drug Administration;
<b>“Form of Proxy”</b> .....	the form of proxy for use at the EGM, sent to Ordinary Shareholders together with this document;
<b>“IPF”</b> .....	IPF Fund I SCA SICAV-FIS;
<b>“IPF Facility Agreement”</b> .....	a facility agreement dated 24 August 2015 and made between (1) Mainstay Medical Limited; (2) the companies listed in schedule 8 thereof as

	guarantors and (3) IPF as lender and amended, supplemented or varied from time to time including, without limitation by amendment and restatement agreements dated 18 April 2019 and 7 April 2020;
<b>"Ireland"</b> .....	Ireland excluding Northern Ireland, and the word <b>"Irish"</b> shall be construed accordingly;
<b>"Lead Investor"</b> .....	the lead investor in the Proposed Transaction, as determined by the Board in its sole discretion;
<b>"Mainstay Group" or "Group"</b> .....	Mainstay and its subsidiaries and subsidiary undertakings;
<b>"Mainstay" or the "Company"</b> .....	Mainstay Medical Holdings plc a company incorporated and registered in Ireland with registered number 667520 whose registered office is at 77 Sir John Rogerson's Quay, Block C, Grand Canal Docklands, Dublin 2, D02 T804;
<b>"Major Shareholders"</b> .....	investors in the Preferred Share financing that hold at least 1,000,000 of the Ordinary Shares (on a fully diluted and as converted basis);
<b>"Notes"</b> .....	has the meaning has the meaning given to that term in paragraph 2 of the letter from the Chairman of the Company in this document;
<b>"Ordinary Shareholder"</b> .....	a holder of Ordinary Shares from time to time;
<b>"Ordinary Shares"</b> .....	the ordinary shares with a nominal value of €0.01 each in the capital of Mainstay;
<b>"Outstanding Amounts"</b> .....	has the meaning has the meaning given to that term in paragraph 2 of the letter from the Chairman of the Company in this document;
<b>"Preferred Share Directors"</b> .....	has the meaning given to that term in paragraph 4.4 of the letter from the Chairman of the Company in this document;
<b>"Preferred Share Investors"</b> .....	the investors in the Proposed Transaction as determined by the Board in its sole discretion;
<b>"Preferred Shareholder"</b> .....	a holder of Preferred Shares from time to time;
<b>"Preferred Shares"</b> .....	the preferred shares of €0.01 each proposed to be created in the capital of Mainstay;
<b>"Preferred Share Subscription Price"</b> .....	US\$2.96 per Preferred Share;
<b>"Proposed Transaction"</b> .....	a potential fundraising by the Company of approximately US\$106 million (including the conversion of existing debt) involving the Lead Investor and certain new and existing investors;
<b>"Requisite Holders"</b> .....	has the meaning given to that term in paragraph 4.6 of the letter from the Chairman of the Company in this document;
<b>"Resolutions"</b> .....	the resolutions to be proposed at the EGM as set out in the notice of EGM;
<b>"Revised Articles"</b> .....	the revised Articles of Association proposed to be adopted at the EGM pursuant to Resolution 2;
<b>"Term Sheet"</b> .....	the term sheet dated 21 December 2020 in respect of the Proposed Transaction and entered into by the Company and the Lead Investor;

**“uncertificated” or “in uncertificated form”** . . . . . a share which is for the time being recorded on the register of members of the relevant company as being held in uncertificated form; and

**“United States” or “U.S.”** . . . . . the United States of America, its territories and possessions, any state in the United States of America, the District of Columbia and all other areas subject to the jurisdiction of the United States of America.

All references to time in this document are to Dublin time.

Words importing the singular shall include the plural and vice versa, and words importing the masculine gender shall include the feminine or neutral gender.

Any reference to **“subsidiary”** or **“holding company”** has the meaning given by sections 7 and 8 of the Companies Act.

Any references to any provision of any legislation shall include any amendment, modification, re-enactment or extension thereof. Any reference to any legislation is to Irish legislation unless specified otherwise.

**NOTICE OF EXTRAORDINARY GENERAL MEETING  
OF  
MAINSTAY MEDICAL HOLDINGS PUBLIC LIMITED COMPANY**

NOTICE IS HEREBY GIVEN that an EXTRAORDINARY GENERAL MEETING (the "EGM") of Mainstay Medical Holdings plc (the "Company") will be held at McCann FitzGerald, Riverside One, Sir John Rogerson's Quay, Dublin 2 on 9 February 2021 at 10.00 a.m. for the purpose of considering and, if thought fit, passing the following resolutions:

**RESOLUTION 1 (AS AN ORDINARY RESOLUTION):**

"THAT, subject to the board of directors of the Company adopting a resolution to implement the Proposed Transaction (as that term is defined in the circular of which this Notice forms part), the authorised share capital of the Company be increased by €750,000 by the creation of:

- (a) a new class of preferred shares comprising 50,000,000 preferred shares of €0.01 each (the "**Preferred Shares**") having the rights and restrictions as set out in the constitution to be adopted pursuant to Resolution 3 below; and
- (b) 25,000,000 new ordinary shares of €0.01 each having the rights and restrictions as set out in the constitution to be adopted pursuant to Resolution 3 below,

and, accordingly, that the authorised share capital of the Company be increased from €375,000 divided into 35,000,000 ordinary shares of €0.01 each and 25,000 deferred shares of €1.00 each to €1,125,000 divided into 50,000,000 Preferred Shares of €0.01 each, 60,000,000 ordinary shares of €0.01 each and 25,000 deferred shares of €1.00 each.

**RESOLUTION 2 (AS A SPECIAL RESOLUTION)**

"THAT, subject to and conditional upon Resolution 1 being duly passed and becoming effective in accordance with its terms, the articles of association attached hereto and, for the purpose of identification marked "X" (the "**Revised Articles**"), be and are hereby approved and adopted as the articles of association of the Company, in substitution for, and to the exclusion of, the existing articles of association and any variation or abrogation of the rights attached to the ordinary shares of €0.01 each in the capital of the company (the "**Ordinary Shares**") arising as a result of (1) the creation of the new class of preferred shares of €0.01 each in the capital of the Company pursuant to Resolution 1; and (2) the approval and adoption of the Revised Articles, be and is hereby consented to by the holders of Ordinary Shares."

**RESOLUTION 3 (AS AN ORDINARY RESOLUTION)**

"THAT, subject to and conditional on Resolutions 1 and 2 being duly passed and becoming effective in accordance with their terms, the Directors be and they are hereby generally and unconditionally authorised pursuant to section 1021 of the Companies Act 2014 (the "**Act**"), in substitution for all such existing authorities, to exercise all powers of the Company to allot relevant securities of the Company (within the meaning of section 1021 of the Act) up to an amount equal to the authorised but unissued share capital of the Company immediately following the passing of Resolution 1, such authority to expire on the date that is five years after the date of passing of this Resolution, unless and to the extent that such authority is renewed, revoked, or extended prior to such date, provided that the Company may before such expiry make an offer or agreement which would or might require relevant securities to be allotted after such expiry and the Directors may allot relevant securities in pursuance of such offer or agreement as if the authority hereby conferred had not expired."

**RESOLUTION 4 (AS A SPECIAL RESOLUTION)**

"THAT, subject to and conditional on Resolution 3 being duly passed and becoming effective in accordance with its terms, the Directors be and they are hereby empowered pursuant to and in accordance with sections 1022 and 1023 of the Companies Act 2014 (the "**Act**"), in substitution for all such existing authorities, to allot equity securities (within the meaning of section 1023(1) of the Act) for cash pursuant to the authority to allot relevant securities conferred on the Directors by Resolution 3 as if section 1022(1) of the Act or any pre-emption right granted by the Company or otherwise applying



did not apply to any such allotment, such power to expire on the date that is five years after the date of passing of this Resolution, unless and to the extent that such power is renewed, revoked, or extended prior to such date, provided that the Company may before such expiry make an offer or agreement which would or might require equity securities to be allotted after such expiry and the Directors may allot equity securities in pursuance of such offer or agreement as if the authority hereby conferred had not expired .”

## **BY ORDER OF THE BOARD**

**Matt Onaitis**  
**Company Secretary**

77 Sir John Rogerson’s Quay, Block C,  
Grand Canal Docklands,  
Dublin 2,  
D02 T804

Dated: 14 January 2021

---

### **NOTES:**

#### **Entitlement to attend and vote**

- (1) Pursuant to Section 1095 of the Companies Act 2014, only those shareholders in the Company (“Shareholders”) registered on the Company’s register of members: (i) at 6:00 p.m. on the day two days prior to the EGM; or (ii) if the EGM is adjourned, at 6:00 p.m. on the day two days prior to the adjourned EGM, shall be entitled to attend and vote at the EGM or, if relevant, any adjournment thereof. Changes to entries on the Company’s register of members after those times will be disregarded in determining the rights of any person to attend and vote at the EGM.

#### **Covid-19 restrictions**

- (2) The EGM will be held at McCann FitzGerald, Riverside One, Sir John Rogerson’s Quay, Dublin 2. The Directors note the measures currently in force in Ireland due to the ongoing COVID-19 pandemic. At the time of publication of this document, the Irish Government has prohibited public gatherings, save in certain limited circumstances. In light of these measures, together with the uncertainty as to any additional and/or alternative measures that may be put in place by the Irish Government, and in order to protect the health and safety of the Shareholders and Directors, is not currently expected that Shareholders or any other persons will be permitted to attend the meeting in person, save for the Chairman of the Meeting, the Company’s legal advisers and any other persons whose attendance is necessary to enable the meeting to proceed. We therefore strongly encourage you to submit your Form of Proxy no later than 48 hours before the EGM or, in the case of an adjourned EGM, no later than 48 hours prior to the time and date set for the adjourned EGM and to appoint the Chairman of the EGM as your proxy.
- (3) To facilitate shareholder communication, the EGM will be broadcast by conference call. Shareholders may submit questions relating to the business of the meeting in advance (so as to be received by no later than 48 hours before the commencement of the EGM) by email to [matt.onaitis@mainstay-medical.com](mailto:matt.onaitis@mainstay-medical.com). To access the live telephone conference call, shareholders should use the following numbers:  
Ireland: +353 14311252  
UK: +44 3333000804  
France: +33 170750711  
United States: +1 6319131422  
PIN: 48849493#  
Please dial in 15 minutes prior to the start time using the phone number and conference code above.  
Shareholders should be aware that attendance on the conference call will not constitute attendance at the meeting (and it will not be possible to vote electronically in real time at the EGM). Accordingly, shareholders who attend the call and who wish to vote must still submit their Forms of Proxy no later than 48 hours before the EGM.

#### **Appointment of proxies**

- (4) A Shareholder who is entitled to attend and vote at the EGM is entitled to appoint a proxy or more than one proxy as alternates to attend, speak and vote at the EGM instead of the Shareholder. A proxy need not be a Shareholder.
- (5) A Form of Proxy for use by Shareholders is enclosed with this Notice of EGM (or is otherwise being delivered to Shareholders). Completion of a Form of Proxy (or submission of proxy instructions electronically) will not prevent a Shareholder from attending the EGM and voting in person should the Shareholder wish to do so.
- (6) To be valid, a Form of Proxy and any power of attorney or other authority under which it is signed (or a notarially certified copy of any such power of attorney or other authority) must be lodged with the Company’s Registrar, Computershare Investor Services (Ireland) Limited, 3100 Lake Drive, Citywest Business Campus, Dublin 24, D24 AK82, Ireland, not later than 48 hours before the EGM or adjourned EGM or (in the case of a poll taken otherwise than at or on the same day as the EGM or adjourned EGM) at least 48 hours before the taking of the poll at which it is to be used.
- (7) In the case of a corporation, the form of proxy must be executed under seal or signed on its behalf by an officer or attorney, duly authorised.

- (8) To appoint (or remove) a proxy electronically, log on to the website of the Registrars, Computershare Investor Services (Ireland) Limited at [www.eproxyappointment.com](http://www.eproxyappointment.com). To log in, you will require your unique PIN (which will expire at the end of the voting period), and your Shareholder Reference Number (SRN) and the Control Number, all of which are printed on the face of the accompanying Form of Proxy.
- (9) CREST members may appoint proxies through the CREST electronic proxy appointment service in accordance with the procedures described in the CREST Manual. CREST Personal Members or other CREST Sponsored Members and those CREST Members who have appointed a voting service provider(s) should refer to their CREST Sponsor or voting service provider(s), who will be able to take the appropriate action on their behalf.
- (10) In order for a proxy appointment or instruction made by means of CREST to be valid, the appropriate CREST message (a “**CREST Proxy Instruction**”) must be properly authenticated in accordance with Euroclear UK & Ireland Limited’s specifications and must contain the information required for such instructions, as described in the CREST Manual. The message (whether it constitutes the appointment of a proxy or an amendment to the instruction given to a previously appointed proxy) must be transmitted so as to be received by the Company’s Registrars, Computershare Investor Services (Ireland) Limited, as issuer’s agent (CREST participant ID 3RA50) by the latest times(s) for receipt of proxy appointments specified in this Notice of EGM. For this purpose, the time of receipt will be taken to be the time (as determined by the timestamp applied to the message by the CREST Applications Host) from which Computershare Investor Services (Ireland) Limited is able to retrieve the message by enquiry to CREST in the manner prescribed by CREST.
- (11) CREST members and, where applicable, their CREST Sponsors or voting service providers should note that Euroclear UK & Ireland Limited does not make available special procedures in CREST for any particular messages. Normal system timings and limitations will therefore apply in relation to the input of CREST Proxy Instructions. It is the responsibility of the CREST member concerned to take (or, if the CREST member is a CREST Personal Member or Sponsored Member or has appointed a voting service provider(s), to procure that his CREST Sponsor or voting service provider(s) take(s)) such action as shall be necessary to ensure that a message is transmitted by means of the CREST system by any particular time. In this connection, CREST members and, where applicable, their CREST Sponsors or voting service providers are referred, in particular, to those sections of the CREST Manual concerning practical limitations of the CREST system and timings.
- (12) The Company may treat as invalid a CREST Proxy Instruction in the circumstances set out in Regulation 35(5)(a) of the Companies Act 1990 (Uncertificated Securities) Regulations 1996.

#### **Voting thresholds**

- (13) Resolutions 1 and 3 to be proposed at the EGM are ordinary resolutions and require the approval of Shareholders representing at least 50 per cent. of the votes cast in person or by proxy to be passed. Resolutions 2 and 4 to be proposed at the EGM are special resolutions and require the approval of Shareholders representing at least 75 per cent. of the votes cast in person or by proxy to be passed.









