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2022 Record No. COS

IN THE MATTER OF ARK LIFE ASSURANCE COMPANY DESIGNATED ACTIVITY
COMPANY

AND IN THE MATTER OF IRISH LIFE ASSURANCE PUBLIC LIMITED COMPANY

AND IN THE MATTER OF THE ASSURANCE COMPANIES ACT 1909

AND IN THE MATTER OF THE INSURANCE ACT 1989

AND IN THE MATTER OF THE EUROPEAN UNION (INSURANCE AND REINSURANCE)
REGULATIONS 2015

PETITION

TO THE HIGH COURT

The Humble Petition of the Directors of Ark Life Assurance Company DAC ("**Ark Life**") (the "**Petitioner**") (whose respective names and addresses are set out in the First Schedule hereto) shows as follows:

Section 1: Ark Life

1. Ark Life was incorporated as a private limited company in the State on 11 May 1990 under company number 158762.
2. On 13 July 2016, Ark Life converted to a designated activity company (Ark Life Assurance Company Designated Activity Company) under Part 16 of the Companies Act 2014.
3. The registered office of Ark Life is College Park House, Nassau Street, Dublin 2.
4. The objects for which Ark Life is established are set out in clause 3 of its constitution and include, *inter alia*, "to carry on in any part of the world the business of an insurance company transacting ordinary life insurance business as defined in the European Communities (Life Assurance) Regulations 1981 (SI 57 of 1984) meaning business of the following kinds namely: -

- a. *Effecting and carrying out contracts of insurance on human life or contracts to pay annuities in human life, but excluding (in each case) contracts within (c) below;*
- b. *Effecting and carrying out contracts on insurance to provide a sum on marriage or on the birth of a child, being contracts expressed to be in effect for a period of more than one year;*
- c. *Effecting and carrying out contracts of insurance on human life or contracts to pay annuities on human life where the benefits are wholly or partly determined by reference to the value of, or the income from, Property of any description (whether or not specified in the contracts) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified in the contracts);*
- d. *Effecting and carrying out contracts of insurance against personal injury including incapacity of employment, insurance against death resulting from an accident and insurance against disability resulting from an accident or sickness, where these various kinds of insurance are underwritten in addition to Life assurance;*
- e. *Effecting and carrying out contracts of insurance providing specified benefits against risks of persons becoming incapacitated in consequence of sustaining injury as a result of an accident or of an accident or a specified class or of sickness or infirmity, being contracts that: (i) are expressed to be in effect for a period of not less than five years or until the normal retirement age for the persons concerned, or without limit of time, and (ii) either are not expressed to be terminable by the insurer under the terms of the contract, or are expressed to be so terminable only in special circumstances mentioned in the contracts.....”*

5. Ark Life is authorised by the Central Bank of Ireland (the “**Central Bank**”) under the EU (Insurance and Reinsurance) Regulations 2015 (the “**2015 Regulations**”) to carry on life insurance business in the classes set out below:

Transferor	Class	Date of Authorisation
Ark Life	<p>Class I (Life assurance and contracts to pay annuities on human life, but excluding Classes II and III)</p> <p>Class III (Contracts linked to investment funds)</p> <p>Class IV (Permanent health insurance contracts)</p> <p>Class VII (Management of group pension funds)</p>	22 May 1991

6. Ark Life is empowered to transfer insurance business by the relevant clause in its constitution being clause 3.17 which provides Ark Life is authorised to *"sell or otherwise dispose of or transfer the business, property, rights and assets of the Company or any branch or part thereof, for such consideration payable in cash or in the shares, stocks, debentures or securities of any other company, or partly in each of such modes of payment, or for such other consideration as may be deemed proper subject to and in accordance with law"*.
7. The authorised share capital of Ark Life is €18,750,000 divided into 15,000,000 ordinary shares of €1.25 each, of which 15,000,000 shares are issued and fully paid up. The entire issued share capital of Ark Life is held by ILHAWK Limited.

Section 2: Irish Life

8. Irish Life Assurance PLC ("**Irish Life**") is an Irish-incorporated public liability company. It was incorporated on 11 December 1989, under company number 152576 as Calbourne Limited. It changed its name to Irish Life Assurance (NewCo) Limited on 21 September 1990. On 31 December 1990, Irish Life re-registered as a public limited company and changed its name to Irish Life Assurance plc.
9. The registered office of Irish Life is at Irish Life Centre, Lower Abbey Street, Dublin 1.
10. The objects for which Irish Life is established are detailed in clause 3 of its memorandum of association as, *inter alia*, to carry on life assurance business.

11. Irish Life is empowered by clause 3 (c) of its memorandum of association to acquire and undertake the whole or any part of the business, property and liabilities of any person or company carrying on, or proposing to carry on, any businesses which Irish Life is authorised to carry on, or possessed of properties suitable for any such business of Irish Life, or which can be carried on in conjunction therewith, and for such consideration payable in cash or shares, or securities of Irish Life, and upon such terms and conditions as may be agreed.
12. Irish Life is authorised by the Central Bank pursuant to the 2015 Regulations to carry on life insurance business in the classes set out below:

Transferee	Class	Date of Authorisation
Irish Life	<p>Class I (Life assurance and contracts to pay annuities on human life, but excluding Classes II and III)</p> <p>Class III (Contracts linked to investment funds)</p> <p>Class IV (Permanent health insurance contracts)</p> <p>Class VI (Capital redemption operations)</p> <p>Class VII (Management of group pension funds)</p>	14 March 1984

13. The authorised share capital of Irish Life is €25,000,000 divided into 20,000,000 ordinary shares of €1.25 each. The entire issued share capital of Irish Life is held by Irish Life Group Limited, being a company incorporated in Ireland and registered with the Companies Registration Office under number 152735 having its registered office at Irish Life Centre, Lower Abbey Street, Dublin 1.
14. Ark Life and Irish Life are part of the same insurance group and are both indirect wholly owned subsidiaries of Great-West Lifeco Inc.

Section 3: The Transfer

Background and Commercial Rationale

15. It has been resolved by the board of directors of Ark Life on 4 April 2022 and by the board of directors of Irish Life Assurance Plc ("**Irish Life**") on 1 April 2022, that subject to the sanction of this Honourable Court and subject to the Central Bank of Ireland not objecting, the Transferring Business (as defined in the scheme of transfer (the "**Scheme**"), a copy of which is set out in the Second Schedule to this Petition) and which includes the Transferring Policies, Transferring Assets, Transferring Liabilities, and the Transferring Contracts (all as defined in the Scheme) of Ark Life will be transferred from Ark Life to Irish Life with effect from 00:01 on 1 October 2022 (or such later date as this Honourable Court may direct) (the "**Effective Time**").
16. The primary commercial purpose of the Scheme is for Irish Life to acquire the Transferring Business from Ark Life as and from the Effective Time and in accordance with the terms and conditions set out in the Scheme and to consolidate the operations of Ark Life and Irish Life. This purpose fits within the business model of Ark Life whose model is to run off the closed book of business efficiently and effectively and ultimately to transfer the business to another entity, once scale drops to a certain level. It also fits within the business model of Irish Life whose model is to continue selling business in the Irish market and to acquire and integrate additional portfolios of insurance business and to manage them if a suitable opportunity arises.
17. It is intended that the entire insurance business of Ark Life will transfer to Irish Life pursuant to the Scheme at the Effective Time. The only asset of Ark Life at the Effective Time which is currently not intended to be transferred pursuant to the Scheme is the sum of €4.3 million held in cash by Ark Life, which sum is being retained to ensure that Ark Life has sufficient assets to cover its Minimum Capital Requirement post the Effective Time in circumstances where it remains an authorised insurer. This is defined as an "Excluded Asset" in the Scheme.

Transferring Policies

18. Ireland is the only Member State of the European Union ("**EU**") in which Transferring Policies were "concluded" for the purposes 2015 Regulations. The United Kingdom ("**UK**") is the only other jurisdiction where insurance policies were concluded by Ark Life. Based on Ark Life's policyholder records as at 21 January 2022, there are currently 4,365 policyholders resident in the UK.

19. Based on Ark Life's policyholder records, as at 11 February 2022, there are policyholders who are resident in the following EU / European Economic Area (the "EEA") countries (being the Member States of the Commitment in this instance for the purposes of Regulation 41(5)(b) of the 2015 Regulations): Austria (4 Policyholders); Belgium (27 Policyholders); Bulgaria (2 Policyholders); Cyprus; (1 Policyholder); Czech Republic (4 Policyholders); Denmark (5 Policyholders); Finland (5 Policyholders); France (81 Policyholders); Germany (81 Policyholders); Greece, (4 Policyholders); Hungary (5 Policyholders); Italy (23 Policyholders); Latvia (1 Policyholder); Lithuania (1 Policyholder); Luxembourg (8 Policyholders); Malta (3 Policyholders); Netherlands (36 Policyholders); Norway (8 Policyholders); Poland (35 Policyholders); Portugal (12 Policyholders); Romania (1 Policyholder); Slovakia (6 Policyholders); Spain (47 Policyholders) and Sweden (26 Policyholders).
20. There are Policyholders resident outside of the EU / EEA in the following jurisdictions: Argentina (1 Policyholder); Australia (146 Policyholders); Bahrain (3 Policyholders); Bangladesh (1 Policyholder); Bermuda (7 Policyholders); Brazil (1 Policyholder); Canada (63 Policyholders); Cayman Islands (3 Policyholders); China (2 Policyholders); Costa Rica (2 Policyholders); Dutch Caribbean (2 Policyholders); Fiji (1 Policyholder); Hong Kong (5 Policyholder); India (2 Policyholders); Israel (2 Policyholders); Japan (17 Policyholder); Kenya (3 Policyholders); Malaysia (3 Policyholders); New Caledonia (1 Policyholder); New Zealand (18 Policyholders); Pakistan (2 Policyholders); Qatar (4 Policyholders); Russia (2 Policyholders); Saudi Arabia (3 Policyholders); Singapore (14 Policyholders); South Africa (18 Policyholders); South Korea (1 Policyholder); Switzerland (32 Policyholders); Taiwan (2 Policyholders); Tobago (1 Policyholder); Turkey (1 Policyholder); Uganda (1 Policyholder); United Arab Emirates (22 Policyholders); US Virgin Islands (1 Policyholder); United States of America (650 Policyholders); and Vietnam (2 Policyholders).

Section 4: Report of Independent Actuary

19. Pursuant to section 13(3)(b) of the Assurance Companies Act 1909 (as amended) (the "**1909 Act**"), an independent actuary, Eamonn Phelan (the "**Independent Actuary**"), at Milliman Limited, has prepared a report dated 4 April 2022 (the "**Report**") on the terms of the Scheme and his opinion on the likely effects of the Scheme on the policyholders of (i) Ark Life and (ii) Irish Life (together the "**Policyholders**")

27. The Report is for the benefit of the Central Bank, this Honourable Court and the Policyholders.
28. The key findings of the Independent Actuary are set out in the executive summary at Section 2 of the Report where the Independent Actuary confirms that he is satisfied that the implementation of the Scheme would not have a material adverse effect on (i) the security of benefits of Policyholders (ii) the reasonable expectation of Policyholders with respect to their benefits and (iii) the standards of administration, service, management and governance that apply to Policyholders.
29. The Independent Actuary considered a number of factors in the Report, most notably the implications of the Scheme for the security of either group of policyholders' benefits, the implications for the fair treatment and reasonable expectations of either group of policyholders and the proposed approach to policyholder communications. In the context of both Ark Life and Irish Life, the Independent Actuary also considered solvency positions before and after the implementation of the Scheme, risk profiles and risk management, capital management policies, business model sustainability, the recovery and resolution options and parental supports.

Communications with Policyholders

30. At paragraph 6.20 of Section 6 of the Report, the Independent Actuary has noted the requirement under Section 13 of the 1909 Act, that, unless the Court otherwise directs, certain materials must be sent to each policyholder of both Ark Life and Irish Life. At paragraph 6.21, the Independent Actuary has noted that Ark Life will ask this Honourable Court for permission to modify and waive some of these requirements. The proposal is that Ark Life will send a 3-page letter to its policyholders which in broad terms explains the Scheme (the "**Policyholder Letter**"). Enclosed with the Policyholder Letter will be a document containing a list of frequently asked questions (the "**FAQ Document**"). The Policyholder Letter explains that additional documentation including the Scheme together with a summary thereof and the Independent Actuary's Report together with a summary thereof will be available for review on Ark Life and Irish Life's website. In addition, the Policyholder Letter will contain details of a Freephone number and email address that policyholders can contact to request hard copy documentation. The Independent Actuary has reviewed the Policyholder Letter and FAQ Document and is satisfied with the proposed approach.

31. The Independent Actuary has noted that in some instances there is a “communication hold” on a policyholder’s account in circumstances where policyholders are no longer resident at the recorded address or where policyholders have requested that Ark Life not communicate with them. As at 31 March 2022, the “communication hold” effects circa 9,919 policies (which is circa 7% of the total Transferring Policies). Ark Life proposes not to send the Policyholder Letter to such policyholders. The Independent Actuary has confirmed, at paragraph 9.21 of his report that he is satisfied that the proposed approach to communicating with Transferring Policyholders is reasonable.
32. At paragraph 9.24 of section 9 of the Report, the Independent Actuary has noted that, subject to agreement of the Court, the Circular will not be sent to Irish Life’s existing policyholders. At paragraph 9.26 of Section 9 of the Report, the Independent Actuary has opined that he is satisfied that the proposed approach to policyholder communication is fair and reasonable in the circumstances.

Conclusions

33. At Section 10 of the Report, the Independent Actuary has opined that, based on the conclusions and qualifications contained in the Report, the proposed transfer of insurance business pursuant to the Scheme will not have a material adverse effect on: (i) the security of benefits of the either group of policyholders; (ii) the reasonable expectations of either group of policyholders with respect to their benefits; and (iii) the standards of administration, service, management and governance that will apply to both groups of policyholders.
34. At paragraph 2.33 of the Report, the Independent Actuary notes that he will prepare a supplementary report on the Scheme (the “**Supplementary Report**”) closer to the date that is fixed by this honourable Court for the hearing of the Petition. In the Supplementary Report, the Independent Actuary will provide this Honourable Court with an update on the Report’s conclusions in light of significant events or developments that may have occurred since the date of the Report.

Section 5: Regulatory Matters

35. On 14 April 2022, Matheson on behalf of Ark Life notified the Central Bank pursuant to Regulation 41 of the 2015 Regulations in respect of the Scheme.
36. By virtue of the fact that the Central Bank is the competent authority of Irish Life as well as Ark Life, there is no requirement that the Central Bank notify any other EEA competent authority for the purposes of Regulation 41(3)(a) of the 2015 Regulations.

37. Pursuant to Regulation 41(3)(a) of the 2015 Regulations, the proposed Scheme cannot be effected without obtaining the certification of the Central Bank (as the EEA Member State supervisory authority of Irish Life) that, taking the proposed Scheme into account, Irish Life possesses the necessary eligible own funds to cover its solvency capital requirement thereafter. A copy of the certificate of solvency of the type referred to in Regulation 41(3)(a) of the 2015 Regulations (or such other evidence) as may be provided by the Central Bank shall be exhibited to this Honourable Court as part of affidavits to be filed in this Honourable Court in advance of the substantive hearing of the Petition by this Honourable Court.
38. Pursuant to Regulation 41(3)(b) of the 2015 Regulations, the proposed Scheme cannot be effected without also obtaining the agreement of the competent authority of each EEA Member State where the contracts "*were concluded, either under the right of establishment or the freedom to provide services*". A small number of contracts were concluded in the UK. However, as the UK is no longer an EEA Member State, the consent or non-objection of the UK regulators to the Scheme is not required as a matter of Irish law pursuant to Regulation 41(3)(b) of the 2015 Regulations.
39. The Petitioners understand that some EU regulators expect to be notified of a transfer in circumstances where there are policyholders resident in their jurisdiction notwithstanding that the contracts were not concluded there. This was the practice before the Solvency II Directive became law and the Petitioner notes that it is not strictly required under the Solvency II Directive. For completeness, the Petitioner will seek confirmation from the Central Bank as to whether it will be consulting with any regulators in the Member States of the EEA where the Transferring Policyholders are now resident.

Section 6: Local counsel advice

40. In circumstances where the Transferring Policyholders are resident in a number of jurisdictions throughout the EU / EEA, advice was sought from local counsel in each of these jurisdictions to ensure that Ark Life complies with its advertising / notification requirements in each of those jurisdictions.

Section 7: Notification / Advertisements

41. A detailed communications plan has been prepared to ensure that all interested parties are made aware of the proposed Scheme.

42. As at 31 December 2021, Ark Life has approximately 141,083 policies in issue which will transfer to Irish Life pursuant to the terms of the Scheme. In circumstances where the Transferring Business comprises life assurance business, there is a requirement under section 13 of the 1909 Act to transmit the documents specified by section 13(3)(b) of the 1909 Act to the individual policyholders of Ark Life and Irish Life.
43. For the purposes of section 13 of the 1909 Act, Ark Life has prepared the Policyholder Letter which sets out the material facts relating to the Scheme and will explain the nature of the Scheme and will also contain a sheet of "Frequently Asked Questions". Subject to the approval of this Honourable Court, Ark Life does not propose to send a hard-copy of the Report by post to the policyholders of Ark Life. Instead it will provide details of a website where the Report (together with a summary thereof, the Scheme together with a summary thereof and a draft of the legal notice) can be accessed and a Freephone number which policyholders can call to request copies of the documents. The Independent Actuary has confirmed in his Report that he is satisfied that it is appropriate to proceed in this way.
44. In accordance with section 13(3)(b) of the 1909 Act, the Policyholder Circular is to be transmitted to each policyholder of Ark Life and Irish Life at their last known address unless this Honourable Court gives a direction to the contrary. In the present case and in circumstances where the Independent Actuary has confirmed in his Report that the Scheme will have no material adverse effect on the existing policyholders of Irish Life, it is proposed that the Policyholder Circular should not be transmitted to the existing policyholders of Irish Life. It is instead proposed that the Policyholder Circular should be transmitted only to Ark Life's policyholders (the "**Transferring Policyholders**"). The Independent Actuary has confirmed in his Report that he is satisfied that it is appropriate to proceed in this way. It is therefore proposed, subject to the directions of this Honourable Court, that the Policyholder Circular should only be transmitted to the Transferring Policyholders. Additional reasons why it is considered that this proposal is appropriate are set out below:
- (a) that given the number of the total number of policyholders of Irish Life (circa 1.3 million), the cost and expense of sending the Policyholder Circular to the existing Irish Life policyholders would be disproportionate to any benefit that might be obtained by the Irish Life policyholders in having the documentation transmitted to them;
 - (b) the Independent Actuary has concluded that neither the security of benefits nor the fair treatment and reasonable benefit expectations of Irish Life's

policyholders will be affected by the proposed scheme and that therefore, sending the Policyholder Circular to them risks causing them unnecessary concern;

- (c) no further action is required by Irish Life's policyholders; and
- (d) that the Court can draw comfort from the fact that, in accordance with the other direction sought from the Court, the proposed Scheme and hearing of the Petition will be advertised in a number of publications as well as on the website of both Ark Life and Irish Life and further any Policyholder who is concerned that they might be affected by the proposed Scheme will be entitled to avail of the applicable and relevant helplines.

45. The Petitioner notes that some Transferring Policyholders have a "communication hold" on their account either where the Transferring Policyholder has said that they do not wish to receive any correspondence from Ark Life or where post has previously been returned as undelivered. Ark Life is cognisant of its obligations under data protection legislation and it is therefore proposed, subject to the directions of this Honourable Court, that the Policyholder Circular should only be transmitted to the Transferring Policyholders where there is no "communication hold" in place. As outlined above, the Independent Actuary has confirmed in his Report that he is satisfied that it is appropriate to proceed in this way.

46. Copies of this Petition and its schedules will be served on the Central Bank.

47. The Petition (including the Scheme and a summary thereof) and the Report (and a summary thereof) will be available for inspection online and at the offices of (i) Ark Life at College Park House, Nassau Street, Dublin 2, Ireland and (ii) Irish Life at Irish Life Centre, Lower Abbey Street, Dublin 1, Ireland and (ii) Matheson at 70 Sir John Rogerson's Quay, Dublin 2, Ireland and online at www.arklife.ie/ark-life-portfolio-transfer and www.irishlife.ie/ark-life-portfolio-transfer for not less than 15 clear working days between the date of the advertisement of this Petition in Iris Oifigiúil and the said newspapers and the date fixed for the hearing of this Petition. Policyholders may also contact the dedicated Freephone Policyholder telephone line on 1800 742209 from Monday to Friday (public holidays excepted) between the hours of 9:00 am and 5:00 pm or via e-mail on arkportfoliotransfer@arklifeadmin.ie

48. In accordance with Regulation 41(5)(b) of the 2015 Regulations, a notice of the proposed Scheme will be published in the Member States listed in paragraph 12

(being the Member States of the commitment in this instance) (other than Ireland) to the extent required by the laws of those Member States.

49. For completeness, a notice of the proposed Scheme will also be published in The Financial Times (International Edition).

Section 7: Costs & Expenses

50. Except as otherwise agreed in writing, all costs and expenses relating to the preparation of Scheme and application for the sanction of Scheme, including the costs of the Independent Actuary and complying with order made by the Court arising from hearing or the substantive hearing in which the Court is petitioned to sanction the Scheme shall be borne by Irish Life. For the avoidance of doubt, no such costs or expenses will be borne directly by any policyholder of Ark Life or Irish Life.

YOUR PETITIONERS THEREFORE HUMBLY PRAY AS FOLLOWS:

- (1) An order pursuant to the provisions of Section 13 of the 1909 Act, the 2015 Regulations and Section 36 of the Insurance Act 1989 (as amended) (the "**1989 Act**") sanctioning the Scheme (annexed hereto).
- (2) An order pursuant to Section 36 of the 1989 Act making the following ancillary provisions for implementing the Scheme with each such provision to take effect from the Effective Time unless otherwise state herein:
 - (i) the Transferring Business, which includes the Transferring Policies, Transferring Assets, Transferring Liabilities, and rights of Ark Life in respect of the Transferring Contracts will be transferred by Ark Life to Irish Life;
 - (ii) the Transferring Assets shall be transferred to and vested in Irish Life and shall cease to be assets of Ark Life (as appropriate);
 - (iii) that all rights, benefits and powers conferred on or vested in Ark Life and the liabilities imposed on Ark Life by or under the Transferring Contracts shall be transferred to Irish Life;
 - (iv) that all premiums or amounts attributable or referable to the Transferring Policies or the Transferring Contracts shall be payable to Irish Life;

- (v) that Irish Life shall be entitled to any and all defences, claims, counterclaims and rights of set-off under or in respect of the Transferring Contracts, which would have been available to Ark Life;
- (vi) all references in any Transferring Contract to Ark Life, the board of directors of Ark Life, or any other officers, employees or agents of Ark Life shall be read as references to Irish Life, the board of directors of Irish Life, or any other officers, employees or agents of Irish Life or, where appropriate, agents of Irish Life to which the administration carried on by Irish Life has been delegated. In particular, but without limitation, all rights and / or duties exercisable or expressed to be exercisable or responsibilities to be performed by Ark Life, the board of directors of Ark Life, or any other officers, employees or agents of Ark Life in relation to any of the Transferring Contracts shall, from and after the Effective Time be exercisable or required to be performed by Irish Life, the board of directors of Irish Life or any other officers, employees or agents of Irish Life;
- (vii) that the Transferring Liabilities shall be transferred to and shall become the liabilities of Irish Life and shall cease to be liabilities of Ark Life;
- (viii) that any mandate or other instruction in force on the Effective Time (including, without limitation, any instruction given to a bank by its customer in the form of a direct debit or standing order) and providing for the payment by a bank or other intermediary of premiums payable under or in respect of any of the Transferring Contracts or the Transferring Policies shall take effect as if it had provided for and authorised such payment to Irish Life;
- (x) that any judicial, quasi-judicial, arbitration proceedings or any complaint or claim to any ombudsman or other proceedings for the resolution of a dispute or claim which are pending by or against Ark Life in connection with the Transferring Business shall be continued by or against Irish Life and Irish Life shall be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to Ark Life in relation to any such proceedings;
- (xii) Ark Life is given liberty to transfer to Irish Life all data (including personal data) held by or on behalf of the Ark Life in relation to the

Transferring Policies, the Transferring Assets and the Transferring Liabilities (as each such term is defined in the Scheme);

- (xiii) the Books and Records (being the books and records relating to the Transferring Business), which may include Transferring Policyholder Data (as defined in the Scheme) protected under the Data Protection Legislation (as defined in the Scheme), shall be transferred to Irish Life (such that Irish Life shall be deemed to be the Data Controller of the Policyholder Data), and may be used by Irish Life for, and disclosed by Irish Life to, and used by, any agent or contractor of Irish Life to the same extent that they were used by Ark Life and its agents or contractors prior to the Effective Time for all purposes in connection with the Transferring Contracts or the Transferring Policies including, in particular, administration thereof and all matters relevant or incidental thereto; and
- (xiv) to the extent that an authority has been given to Ark Life in connection with a Transferring Policy or a Transferring Contract by a policyholder or counterparty thereto or by any other relevant person, whether pursuant to Data Protection Legislation or otherwise, such authority shall be deemed to have been given to Irish Life.

(3) To the extent appropriate or relevant, an order for costs.

(4) Such further or other order as to this Honourable Court shall appear proper.

NOTE

It is intended to serve a copy of this Petition (together with the Schedules) on such parties as this Honourable Court may direct and upon the Central Bank of Ireland.

SCHEDULES

1. List of Directors of Ark Life and Irish Life.
2. Scheme

Signed: _____

Matheson

Solicitors for the Petitioner

70 Sir John Rogerson's Quay

Dublin 2

This Petition is filed on behalf of the Petitioner by Matheson, Solicitors, 70 Sir John Rogerson's Quay, Dublin 2.

Filed this day of May 2022

FIRST SCHEDULE

Names and Addresses of the Directors of Ark Life

- a. Sylvia Cronin of 49 Eglinton Road, Donnybrook, Dublin 4.
- b. Brian Murphy of Errisbeg, 8 Stillorgan Road, Donnybrook, Dublin 4.
- c. Ann Kelleher of 16 Frankfort Park, Dundrum, Dublin 14.
- d. Anna Fitzgerald of Park, Newmarket, County Cork.
- e. Peter John Coyne of 3 Stanford Park, Dublin 18.
- f. Eoghan Burns of 90 Shrewsbury Lawn, Cabinteely, Dublin 18.

SECOND SCHEDULE

Scheme

THE HIGH COURT

2022 Record No. COS

**ARK LIFE ASSURANCE COMPANY DESIGNATED ACTIVITY COMPANY
AND IN THE MATTER OF IRISH LIFE ASSURANCE PUBLIC LIMITED COMPANY
AND IN THE MATTER OF THE ASSURANCE COMPANIES ACT 1909
AND IN THE MATTER OF THE INSURANCE ACT 1989
AND IN THE MATTER OF THE EUROPEAN UNION (INSURANCE AND REINSURANCE)
REGULATIONS 2015**

SCHEME

Dated 4 April 2022

**MATHESON
70 Sir John Rogerson's Quay
Dublin 2
Ireland**

**TEL: + 353 1 232 2000
FAX: +353 1 232 3333**

DM/EL/JM 664016/31

CONTENTS

	Page No
1 Interpretation.....	4
2 Transfer of Insurance Business.....	12
3 Further Assurances.....	17
4 Miscellaneous	17
5 General Provisions.....	18
6 Evidence of Transfer.....	22
Schedule 1	23
Classes of the Transferring Business.....	23

THIS SCHEME RECORDS THAT:

RECITALS:

- A. Ark Life Assurance Company designated activity company ("**Ark Life**" or the "**Transferor**") is a life assurance company, incorporated in Ireland on 11 May 1990 under company number 158762. It has its registered office and principal place of business at College Park House, Nassau Street, Dublin 2, Ireland. The sole shareholder of Ark Life is ILHAWK Limited.
- B. Ark Life is authorised by the Central Bank to carry on life insurance business in Class I (*Life assurance and contracts to pay annuities on human life, but excluding Classes II and III*), Class III (*Contracts linked to investment funds*), Class IV (*Permanent health insurance contracts*) and Class VII (*Management of group pension funds*) in accordance with the 2015 Regulations.
- C. The authorisations held in respect of the Transferor remain in full force and effect.
- D. Irish Life Assurance Plc ("**Irish Life**" or the "**Transferee**") is a life assurance company incorporated in Ireland on 11 December 1989 under company number 152576. It has its registered office and principal place of business at Irish Life Centre, Lower Abbey Street, Dublin 1, Ireland. The sole shareholder of the Transferee is Irish Life Group Limited.
- E. Irish Life is authorised by the Central Bank to carry on life insurance business in Class I (*Life assurance and contracts to pay annuities on human life, but excluding Classes II and III*), Class III (*Contracts linked to investment funds*), Class IV (*Permanent health insurance contracts*), Class VI (*Capital redemption operations*) and Class VII (*Management of group pension funds*) in accordance with the 2015 Regulations. These authorisations remain in full force and effect.
- F. It has been agreed by the board of directors of the Transferor and the Transferee to approve the draft Scheme, subject to the requirements of the Central Bank, Relevant Regulators and the sanction of the Court.
- G. It is intended that the Transferee should acquire the Transferring Business (which for the avoidance of doubt excludes the Excluded Assets and the Excluded Liabilities) with effect from the Effective Time and in accordance with the terms and conditions set out in this Scheme.

- H. The Transferor has notified the Central Bank of the terms of this Scheme in accordance with Regulation 41 of the 2015 Regulations.
- I. The Transferor and the Transferee hereby agrees to appear by Counsel on the hearing of the Petition to sanction this Scheme and have undertaken to be bound by the Scheme and to take all reasonable steps (including the execution of documents) which may be necessary or expedient to give effect to the Scheme.

THIS SCHEME THEREFORE PROVIDES AS FOLLOWS:

1 Interpretation

- 1.1 In this Scheme the following expressions bear the meanings specified opposite them:

1909 Act	The Assurance Companies Act 1909 (as amended);
1989 Act	The Insurance Act 1989 (as amended);
2014 Act	means the Irish Companies Act 2014 (as amended);
2015 Regulations	The European Union (Insurance and Reinsurance) Regulations 2015 (S.I. 485 of 2015) (as amended);
Anti-Money Laundering Requirements	The applicable provisions of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (as amended) and as may be repealed and replaced to implement the requirements of European Law and all relevant statutory instruments, codes, guidance and regulatory requirements as may be issued by a competent authority;
Applicable Laws	Any legally binding applicable laws, regulations, rules, codes of practice, guidance or orders which relate to the Transferring Business from time to time;
Bank Accounts	All custody and cash accounts in respect of the Business that are held by the Transferor;
Books and Records	All books, records and other information relating exclusively or primarily to the Transferring Business and all information relating to customers, suppliers, agents and distributors and

	other information in each case relating exclusively to the Transferring Business (including the employees in any jurisdiction who are wholly or mainly assigned to the Transferring Business immediately before the Effective Time);
Central Bank	The Central Bank of Ireland, or such other authority as shall from time to time carry out the functions carried out by it in Ireland as at the date of this Scheme;
Court	The High Court of Ireland;
Data Controller	Has the meaning ascribed to it in the Data Protection Legislation;
Data Protection Legislation	All applicable laws and regulatory requirements in relation to data protection and privacy (ie, protecting the fundamental rights and freedoms of individuals to privacy with respect to the processing of personal data), or similar laws that apply in relation to the processing of Transferring Policyholder Data, including without limitation, (i) the GDPR, (ii) the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011, (iii) any national data protection or privacy laws applicable to the Transferor or Transferee, and (iv) all applicable implementing, derivative or related laws, rules and regulations;
Effective Time	The time and date when this Scheme shall become operative in accordance with paragraph 2.2
Encumbrance	Any claim, charge, mortgage, lien, option, equitable right, power of sale, pledge, hypothecation, retention of title, right of pre-emption, right of first refusal or other third party right or security interest of any kind or an agreement, arrangement or obligation to create any of the foregoing;
Excluded Assets	(a) The sum of €4.3 million held by the Transferor in cash (which sum is being retained to ensure that the Transferee has sufficient solvency coverage post the

	<p>Effective Time in circumstances where it remains an authorised insurer); and</p> <p>(b) any interest of the Transferor in any other property or asset or in any agreement relating thereto which the Transferor and the Transferee shall jointly in writing determine prior to the Effective Time, should not be transferred to the Transferee whether pursuant to this Scheme or otherwise provided that no such interest shall be an Excluded Asset unless each of the Heads of Actuarial Function and the Independent Actuary shall have certified either (i) that the Transferor has appropriated to the Transferring Assets property of equal value to the interest proposed to be excluded in order to replace its value, or (ii) that the value of the interest proposed to be excluded is negligible and its exclusion from the Transferring Assets would not therefore impact on the assessment of the security of benefits or benefit expectations comprised in his or her report on the Scheme;</p>
Excluded Liabilities	Any and all liabilities or obligations of the Transferor to any Relevant Authority which arise after the Effective Time but which relate to breaches by the Transferor of Applicable Law prior to the Effective Time;
GDPR	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/ EC (General Data Protection Regulation);
Independent Actuary	Eamonn Phelan, at Milliman Limited, the independent actuary appointed to report on the terms of the Scheme, or any successor appointed to report on the same;
Losses	All losses, liabilities, damages, costs (including legal costs and experts' and consultants' fees), charges, expenses, actions,

	proceedings, claims and demands;
Order	An order made by the Court pursuant to Section 13 of the 1909 Act sanctioning this Scheme and any order (including any subsequent order, which is ancillary thereto) in relation to this Scheme made by the Court pursuant to Section 36 of the 1989 Act;
Policyholders	All of the Transferring Policyholders and Transferee Policyholders;
Reinsurance Agreements	All or such part of the reinsurance agreements entered into by the Transferor as cedant which cover the Transferring Policies;
Relevant Authority	Any regulatory body, authority or government department including any Tax Authority and the Data Protection Commissioner;
Residual Assets	<p>Any property or other rights falling within the definition of Transferring Assets or Transferring Contracts:</p> <p>(i)</p> <p>(a) in respect of which the Court has declined to order the transfer to the Transferee under the 1909 Act, the 1989 Act or the 2015 Regulations (as applicable);</p> <p>(b) where the Transferor and the Transferee agree in writing that the transfer of such property should be delayed or such property should not be transferred at all;</p> <p>(c) which is outside the jurisdiction of the Court or in respect of which its transfer pursuant to an order of the Court is not recognised by the laws of the jurisdiction in which the property is situated; or</p> <p>(d) which cannot be transferred or vested in the Transferee for any other reason,</p> <p>(ii) (together with any proceeds of sale or income or other</p>

	accrual or return, whether or not in the form of cash, earned or received from time to time after the Effective Time, in respect of any property referred to in paragraphs (i)(a) to (i)(d) of this definition;
Residual Contract	Any Transferring Contract which is a Residual Asset;
Residual Liabilities	<p>Any liability whatsoever of the Transferor in respect of the Transferring Assets:</p> <ul style="list-style-type: none"> (a) that is attributable to or connected with a Residual Asset and arises at any time before the Subsequent Transfer Date applicable to the Residual Asset; (b) in respect of which the Court has declined to order the transfer to the Transferee under either of the 1909 Act, the 1989 Act or the 2015 Regulations (as applicable); (c) which cannot be transferred or vested in the Transferee for any other reason at the Effective Time; or <p>where the Transferor and the Transferee agree in writing that the transfer of such liability should be delayed or that such liability should not be transferred;</p>
Residual Policies	Any policies which correspond to any Residual Contracts which do not transfer from the Transferor to the Transferee at the Effective Time;
Scheme	This Scheme in its original form or with, or subject to, any modification or addition thereto;
Subsequent Transfer Date	<p>In relation to any Residual Asset or Residual Liability, the date after the Effective Time on which such Residual Asset or Residual Liability is or is to be transferred to the Transferee, namely:</p> <ul style="list-style-type: none"> (a) in respect of any Residual Asset falling within paragraph (i)(a), (i)(c) or (i)(d) of the definition of Residual Asset, and of any Residual Liability which is

	<p>attributable to or connected with that Residual Asset, or which falls within paragraph (b) or (c) of the definition of Residual Liability, the date on which any impediment to its transfer shall have been removed or overcome; and</p> <p>(b) in respect of any Residual Assets falling within paragraph (i)(b) or (ii) of the definition of Residual Assets, and of any Residual Liability which is attributable to or connected with that Residual Asset, and of any Residual Liability falling within paragraph (d) of the definition of Residual Liability, the date on which the Transferor and the Transferee agree the transfer should take effect;</p>
Taxation or Tax	All forms of taxation (other than deferred tax) and statutory, governmental, state, provincial, local governmental or municipal impositions, duties, contributions and levies, in each case in the nature of tax, whether levied by reference to income, profits, gains, net wealth, asset values, turnover, added value or otherwise and shall further include payments to a Tax Authority on account of Tax, whenever and wherever imposed and whether chargeable directly or primarily against or attributable directly or primarily to the Transferor or any other person and all penalties and interest relating thereto;
Tax Authority	Any taxing or other authority competent to impose any liability in respect of Taxation or responsible for the administration and / or collection of Taxation or enforcement of any law in relation to Taxation;
Technical Provisions	The technical provisions held by the Transferor in accordance with the 2015 Regulations in respect of the liabilities under the Transferring Policies;
Transferee Head of Actuarial Function	The person duly appointed as the Head of Actuarial Function of the Transferee from time to time;

Transferee Policyholders	All policyholders of the Transferee up to and including the Effective Time;
Transferring Assets	All of the following, but excluding the Residual Assets and the Excluded Assets, as at the Effective Time: (a) the rights, benefits and powers (whether actual or contingent) of the Transferor whatsoever under or by virtue of the Transferring Policies; (b) the rights, benefits and powers (whether actual or contingent) of the Transferor whatsoever under or by virtue of the Transferring Contracts; (c) all investments and other assets (if any) representing or held in connection with the Transferring Policies, including all assets representing the Technical Provisions relating to the Transferring Business; and (d) the Bank Accounts;
Transferring Business	The insurance business as carried on by the Transferor as at the Effective Time and authorised under the 2015 Regulations as set out in Schedule 1 (Classes of the Transferring Business) and also includes the Transferring Assets, Transferring Contracts and Transferring Liabilities;
Transferring Contracts	Any contractual arrangements entered into by the Transferor in existence at the Effective Time in connection with the Transferring Business, including the Reinsurance Contracts;
Transferring Liabilities	Any and all liabilities (whether current or future, certain or contingent) of the Transferor under, in respect of, arising from or in connection with the Transferring Business as at the Effective Time but excluding the Excluded Liabilities and the Residual Liabilities;
Transferring Policies	Any policy or policies issued by the Transferor which are, or may be deemed to have been, in existence on or before the Effective Time;
Transferring Policyholders	All holders of the Transferring Policies up to and including the Effective Time but for the avoidance of doubt excluding the Residual Policies; and

Transferring Policyholder Data	The personal data (as defined in the Data Protection Legislation) of the Transferring Policyholders.
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1.2 In this Scheme (including Schedules and Appendices hereto):

1.2.1 words and expressions shall, save where the context otherwise requires, have the meanings set out in clause 1.1;

1.2.2 liabilities include liabilities, duties and obligations of every description (whether present or future, actual or contingent). Rights, benefits and powers include rights, benefits and powers of every description (whether present or future, actual or contingent);

1.2.3 the word "including" is to be construed as not importing any limitation;

1.2.4 the headings used are for convenience only and shall not affect its interpretation;

1.2.5 any references to legislation shall:

- (a) be to Irish legislation, unless otherwise stated, and
- (b) include a reference to any legislation subordinate to such legislation;
and

1.2.6 references to books, records or other information means books, records or other information in any form, including paper, electronically stored data, magnetic media, film and microfilm.

1.3 Any reference in this Scheme to an enactment, a statutory provision or any subordinate legislation shall be deemed to include a reference to that enactment, statutory provision or subordinate legislation as amended, replaced or re-enacted from time to time and to any instrument or order made from time to time under such enactment, statutory provision or subordinate legislation.

1.4 Any words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders.

- 1.5 Any reference to a person shall be construed as a reference to any individual, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing. Any reference to a person includes his successors, personal representatives and permitted assigns.
- 1.6 Unless the context otherwise requires, any references in this Scheme to a clause or sub-clause shall be a reference to a clause or sub-clause of this Scheme, and any reference in a clause to a sub-clause shall be a reference to a sub-clause of that clause.
- 1.7 References to books, records or other information mean books, records or other information in any form, including paper, electronically stored data, magnetic media, film and microfilm.

2 Transfer of Insurance Business

2.1 Purpose of the Scheme

- 2.1.1 The purpose of the Scheme is to make provision for the transfer of the Transferring Business from the Transferor, as legal and beneficial owner, to the Transferee and the consequent assumption of the Transferring Liabilities by the Transferee such that the Transferee shall succeed to the rights and obligations of the Transferor as underwriter of the Transferring Policies.
- 2.1.2 At the Effective Time, the Transferor, as legal and beneficial owner shall transfer to the Transferee and the Transferee shall acquire and undertake the Transferring Business and assume the Transferring Liabilities with the effect from the Effective Time.

2.2 Effective Time

- 2.2.1 Subject to paragraph 2.3.1, this Scheme shall become operative at 00:01 on 1 October 2022 or such other time and date as may be specified in the Order and unless this Scheme shall become operative on or before 00:01 on 1 October 2022 or such later date as the Court may allow upon the application of the Transferor and the Transferee, this Scheme shall lapse.

2.3 Conditions Precedent

2.3.1 Notwithstanding paragraph 2.2.1, this Scheme shall not become operative on the Effective Time unless:

- (a) prior thereto, any necessary consent and / or non-objection from the Central Bank has been obtained in a form acceptable to the Transferor and the Transferee; and
- (b) in the event that the Court imposes a modification of or addition to this Scheme or any further conditions or provisions affecting same before the Effective Time, the Transferor and the Transferee consent to such modification, addition or condition before the Effective Time.

2.4 Transfer of Business

2.4.1 On and with effect from the Effective Time, the Transferring Business (including the Transferring Policies) shall by the Order and without any further act or instrument, be transferred to and be vested in the Transferee in accordance with this Scheme.

2.4.2 Subject to the provisions of this Scheme, every Transferring Policyholder shall on and from the Effective Time become entitled in substitution of any rights enforceable by or available under a Transferring Policy against the Transferor to the same right or rights against the Transferee and the obligations of every such Transferring Policyholder shall on and after the Effective Time become enforceable (so far as still subsisting) by the Transferee in place of the Transferor. The Transferee shall carry out, perform and complete all of the terms and conditions of the Transferring Policies.

2.5 Transfer of Assets

2.5.1 On and with effect from the Effective Time, the Transferring Assets shall, by the Order and without any further act or instrument, be transferred to and be vested in the Transferee subject to all Encumbrances (if any) affecting such Transferring Assets.

2.5.2 The Transferee shall accept without investigation, requisition, or objection such title as the Transferor shall have at the Effective Time to the Transferring Assets and the Transferring Business.

2.5.3 The Transferor and the Transferee shall, as and when appropriate, execute all documents and perform all things as may be required to effect or perfect the transfer

to, and vesting in, the Transferee of any Transferring Assets on the Effective Time in accordance with the terms of this Scheme, including without limitation, obtaining any required consent or waiver.

2.6 Transfer of Contracts

- 2.6.1 In addition to the provisions of paragraph 2.5, on and with effect from the Effective Time, the Transferee shall, by the Order and without any further act or instrument, be entitled to all the rights, benefits and powers, and be subject to all the obligations and liabilities of the Transferor whatsoever subsisting on the Effective Time under or by virtue of the Transferring Contracts and all such rights, benefits and powers shall be vested in the Transferee.
- 2.6.2 Every person who immediately prior to the Effective Time is a holder of or party to a Transferring Contract shall, from and after the Effective Time, in substitution for any liability or obligation owed thereunder to the Transferor, be under the same liability or obligation to the Transferee and shall become entitled, to the exclusion of any rights which he may have had against the Transferor under any of the Transferring Contracts, to the same rights against the Transferee as were available to him against the Transferors under such Transferring Contract.
- 2.6.3 All premiums and other amounts attributable or referable to the Transferring Contracts shall on and after the Effective Time be payable to the Transferee and shall be receivable and received by the Transferee and every person who is a holder of or party to any of the Transferring Contracts shall be liable to the Transferee for any outstanding, further or additional premiums or other sums attributable or referable to the Transferring Contracts as and when the same become due and payable.
- 2.6.4 The Transferee shall be entitled to any and all defences, claims, counterclaims and rights of set-off under or in respect of the Transferring Contracts which would have been available to the Transferors.
- 2.6.5 All references in any Transferring Contract to the Transferor, the board of directors of the Transferor, or any other officers, employees or agents of the Transferor shall from and after the Effective Time be read as references to the Transferee, the board of directors of the Transferee, or any other officers, employees or agents of the Transferee or, where appropriate, agents of the Transferee to which the administration carried on by the Transferee has been delegated. In particular, but without limitation, all rights and / or duties exercisable or expressed to be exercisable

or responsibilities to be performed by the Transferor, the board of directors of the Transferor, or any other officers, employees or agents of the Transferor in relation to any of the Transferring Contracts shall, from and after the Effective Time be exercisable or required to be performed by the Transferee, the board of directors of the Transferee or any other officers, employees or agents of the Transferee.

- 2.6.6 All references in any guarantees, letters of credit or similar security (which covers part of the Transferring Business) to the Transferor defaulting in the payment of sums due and payable in respect of any Transferring Policies or any other liability of the Transferring Business shall be read and construed as references to such a default by the Transferee in respect of such Transferring Policies of such liability and the obligations of the respective guarantor or provider of security under such guarantee or security shall continue in full force and effect.

2.7 Transfer of Residual Assets

- 2.7.1 No Residual Assets or Residual Liabilities shall be transferred to or vested in the Transferee under or by virtue of the terms of the Scheme at the Effective Time.
- 2.7.2 The Residual Assets and Residual Liabilities will transfer from the Transferor to the Transferee, if at all, on a relevant Subsequent Transfer Date upon fulfilment of the conditions specified in the definition of Subsequent Transfer Date.
- 2.7.3 The Residual Policies will not transfer at the Effective Time. The Residual Policies will transfer from the Transferor, if at all, on a relevant Subsequent Transfer Date when the Residual Contracts transfer to the Transferee.
- 2.7.4 Pending a Subsequent Transfer Date, the Transferor shall hold any Residual Assets as trustee and in trust for and on behalf of the Transferee absolutely. The Transferor shall be subject to the Transferee's directions in respect of any Residual Assets and the Transferee shall discharge on the Transferor's behalf or, failing that, indemnify the Transferor against all Residual Liabilities.

2.8 Discretion

- 2.8.1 After the Effective Date the Transferee may, subject to specific terms and conditions of any relevant policy, the rules of any relevant investment fund, and where relevant, to the opinion of the Head of Actuarial Function of the Transferee:

- a) exercise such discretions under the Transferring Policies as are available to be exercised by it under the terms and conditions of those Transferring Policies in accordance with any principles which are for the time being applied generally in the Transferee in relation to such business and having regard, as appropriate, to such considerations as were / are in use in relation to such business of the Transferor;
- b) modify the terms and conditions applicable to any Transferring Policies or any investment fund in which such Transferring Policies are invested, in accordance with any principles which are for the time being applied generally in the Transferee in relation to such business and having regard, as appropriate, to such considerations as were / are from time to time in use in relation to such business of the Transferor,

and subject in every case to the provisions of the applicable Transferring Policies conditions and the rules of any investment fund in which such Transferring Policies are invested, and where relevant, to the opinion of the Transferee's Head of Actuarial Function.

2.9 Unit-Linked Funds

- 2.9.1 The unit-linked funds maintained by the Transferor immediately prior to the Effective Date will, on and from the Effective Date, be maintained by the Transferee and the assets appropriated to each Transferor unit-linked fund immediately prior to the Effective Date will, on the Effective Date, remain so appropriated. Following the Effective Date, some of the unit-linked funds previously operated by the Transferor may be merged with similar funds already operated by the Transferee. Any such merger of unit-linked funds and any changes to the rules of operation (including unit pricing) of the unit-linked funds following the Effective Date will comply with principles set out in 2.8 above.

2.10 Transfer of Liabilities

On and with effect from the Effective Time, the Transferring Liabilities shall, by the Order and without any further act or instrument, be transferred to and become liabilities of the Transferee and shall cease to be liabilities of the Transferor.

3 Further Assurances

Each party to this Scheme agrees to do such further acts and enter into such further deeds or documents as may be necessary to vest title in the Transferring Business in accordance with the terms of this Scheme.

4 Miscellaneous

4.1 Tax Issues Regarding Transfer of Assets

- 4.1.1 Any Tax liabilities that crystallise as a result of the transfer of the Policyholders' assets will not be borne by the Policyholders.

4.2 Mandates and Other Instructions

- 4.2.1 Any mandate or other instruction in force on the Effective Time (including, without limitation, any instruction given to a bank by its customer in the form of a direct debit or standing order) and providing for the payment by a bank or other intermediary of premiums payable under or in respect of any of the Transferring Policies shall, on and from the Effective Time (and in the case of a Transferring Policy which constitutes a Residual Contract, from the respective Subsequent Transfer Date) , take effect as if it had provided for and authorised such payment to the Transferee.
- 4.2.2 Any mandate or other instruction in force on the Effective Time in respect of any of the Transferring Policies as to the manner of payment of any benefit or other amount by the Transferor shall, on and from the Effective Time ((and in the case of a Transferring Policy which constitutes a Residual Contract, from the respective Subsequent Transfer Date), continue in force as an effective authority to the Transferee.
- 4.2.3 All premiums attributable or referable to the Transferring Policies shall from the Effective Time be payable to the Transferee.
- #### **4.3 Continuity of Proceedings**
- 4.3.1 On and with effect from the Effective Time, any judicial, quasi-judicial, arbitration proceedings or any complaint or claim to any ombudsman or other proceedings for the resolution of a dispute or claim which are pending by or against the Transferor in connection with the Transferring Business shall be continued by or against the Transferee and the Transferee shall be entitled to all defences, claims, counterclaims

and rights of set-off that would have been available to the Transferor in relation to any such proceedings.

4.3.2 Any litigation involving the Transferor at the Effective Time shall, by Order, be transferred to and be continued by or against the Transferee.

4.4 On and with effect from each Subsequent Transfer Date, all actual and potential proceedings by or against the Transferor in connection with the Residual Assets or the Residual Liabilities shall be continued by or against the Transferee, and the Transferee shall be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to the Transferor in relation to such Residual Asset and Residual Liabilities.

5 General Provisions

5.1 Effect of the Scheme

5.1.1 The transfer and vesting of Transferring Assets, Transferring Contracts or Transferring Liabilities relating to any part of the Transferring Business shall not:

- (a) invalidate or discharge any contract, security or other thing;
- (b) require further registration in respect of any security or charge;
- (c) constitute a breach of, or default under, or require any obligation to be performed sooner or later than would otherwise be the case under any instrument or contract or arrangement to which the Transferor is a party or is bound;
- (d) entitle any party to a contract or arrangement to which the Transferor is a party to terminate such contract or arrangement when, in the absence of this transfer, that party would not otherwise be entitled to terminate it; or
- (e) save as provided elsewhere in this Scheme, confer any greater or lesser rights or benefits, or impose any greater or lesser obligations, under a contract on any party to such contract to which the Transferor is a party where such greater or lesser rights, benefits or obligations would not otherwise have been conferred or imposed.

5.2 Data Protection

5.2.1 On and with effect from the Effective Time, the Books and Records (being the books and records relating to the Transferring Business), which may include Policyholder Data protected under the Data Protection Legislation, shall be transferred to the Transferee (such that the Transferee shall be deemed to be the Data Controller of the Policyholder Data from the Effective Time), and may be used by the Transferee for, and disclosed by the Transferee to, and used by, any agent or contractor of the Transferee to the same extent that they were used by the Transferor and its agents or contractors prior to the Effective Time for all purposes in connection with the Transferring Contracts including, in particular, administration thereof and all matters relevant or incidental thereto.

5.2.2 To the extent that an authority has been given to the Transferor in connection with a Transferring Contract by a policyholder or counterparty thereto or by any other relevant person, whether pursuant to Data Protection Legislation or otherwise, such authority shall, on or after the Effective Time, be deemed to have been given to the Transferee.

5.3 Nothing in this clause 8 shall be effective to the extent it would be unlawful under, or inconsistent with, Data Protection Legislation.

5.4 Anti-Money Laundering Requirements

5.4.1 For the avoidance of doubt, on and with effect from the Effective Time, the client due diligence records of the Transferor relating to the Transferring Business shall be transferred to the Transferee and may be used by the Transferee for, and disclosed by the Transferee to, and used by, any agent or contractor of the Transferee to the same extent that they were used by the Transferor and its agents or contractors prior to the Effective Time for all purposes in connection with the Transferring Contracts including satisfying all applicable Anti-Money Laundering Requirements.

5.5 Publication and Notification Requirements

The Transferor and Transferee shall co-operate to publish appropriate pre-transfer and post-transfer notices in each case as may be required by the Order, under applicable law or by any regulatory authority.

5.6 Costs and Expenses

Except as otherwise agreed in writing, all costs and expenses relating to the preparation of the Scheme and application for the sanction of the Scheme, including the costs of the Independent Actuary and complying with the order made by the Courts arising from the directions hearing or the substantive hearing in which the Court is petitioned to sanction the Scheme shall be borne by the Transferee and shall not be borne by Policyholders.

5.7 Modifications or Additions

5.7.1 The Transferor and the Transferee may consent for and behalf of themselves, and may consent on behalf of all other persons concerned (other than the Central Bank) to any amendment, modification of or addition to this Scheme or to any other further condition or provision effecting the same which the Court may approve or impose prior to the sanction of this Scheme.

5.7.2 After the Effective Time, the Transferee may vary the terms of this Scheme with the consent of the Court, including, without limitation, if at any time, the provisions of this Scheme, in the opinion of the board of directors of the Transferee, prove to be impossible, impracticable or inequitable to implement, provided that in any such case:

- (a) the Central Bank shall be notified of and have the right to be heard at the hearing of the Court at which such application is considered; or
- (b) such application shall be accompanied by a report from an independent actuary to the effect that in their opinion the proposed amendment will not materially adversely affect the interests of the Transferring Policyholders affected by the proposed amendment; and
- (c) to the extent any such variation affects any right, obligation or interest of the Transferor, the Transferor has consented thereto.

5.7.3 If such consent is granted, the Transferee may amend the terms of this Scheme in accordance with such consent.

5.8 No Third Party Rights

Subject to the provisions of paragraph 5.7 of this Scheme, nothing in this Scheme shall confer or purport to confer on any third party any benefit or the right to enforce any term of this Scheme.

5.9 Successor and Assigns

This Scheme will bind and inure to the benefit of the successors and assigns of the Transferor and the Transferee.

5.10 Notices

5.10.1 Any notice or other communication in connection with this Scheme (each, a "Notice") shall be:

- (a) in writing and in English or such other language as necessary; and
- (b) delivered by hand, email, recorded delivery or courier using an internationally recognised courier company.

5.10.2 A Notice to the Transferor shall be sent to the following addresses, or such other persons or addresses as the Transferor may notify to the Transferee from time to time:

Ark Life

Address:	College Park House, Nassau Street, Dublin 2, Ireland
Telephone:	+ 353 [1] 525 7817
Attention:	The Company Secretary for the time being (currently Gavin Hanly)
Email:	gavin.hanly@arklife.ie
With a copy to:	Emer Coyle
With a copy by email to:	emer.coyle@arklife.ie

5.10.3 A Notice to the Transferee shall be sent to the following address, or such other person or address as the Transferee may notify to the Transferor from time to time:

Irish Life

Address:	Irish Life Centre, Lower Abbey Street, Dublin 1,Ireland.
Telephone:	+ 353 [1] 704 1065
Attention:	The Company Secretary for the time being (currently Teresa Kelly-Oroz)
Email:	Teresa.kellyoroz@irishlife.ie
With a copy to:	Rory Gallagher
With a copy by email to:	rory.gallagher@irishlife.ie

5.11 Governing Law

This Scheme shall be governed by and construed in accordance with Irish law.

6 Evidence of Transfer

The production of a copy of the Order, with any modifications, amendments and/or additions made pursuant to clause 5.7 (Modifications or Additions) shall, for all purposes, be evidence of the transfer to and vesting in the Transferee of the Transferring Business.

Schedule 1

Classes of the Transferring Business

1 Ark Life

Class I (Life assurance and contracts to pay annuities on human life, but excluding Classes II and III)

Class III (Contracts linked to investment funds)

Class IV (Permanent health insurance contracts)

Class VII (Management of group pension funds)

THE HIGH COURT

2022 Record No. COS

**IN THE MATTER OF ARK LIFE ASSURANCE
COMPANY DESIGNATED ACTIVITY COMPANY**

**AND IN THE MATTER OF IRISH LIFE
ASSURANCE PUBLIC LIMITED COMPANY**

**AND IN THE MATTER OF THE ASSURANCE
COMPANIES ACT 1909**

**AND IN THE MATTER OF THE INSURANCE ACT
1989**

**AND IN THE MATTER OF THE EUROPEAN
UNION (INSURANCE AND REINSURANCE)
REGULATIONS 2015**

SCHEME

Dated 4 April 2022

**MATHESON
70 Sir John Rogerson's Quay
Dublin 2
Ireland**

**TEL: + 353 1 232 2000
FAX: +353 1 232 3333
DM/EL/JM 664016/31
54828747.11**

THE HIGH COURT

2022 Record No. COS

**IN THE MATTER OF ARK LIFE ASSURANCE
COMPANY DESIGNATED ACTIVITY COMPANY
AND IN THE MATTER OF IRISH LIFE ASSURANCE
PUBLIC LIMITED COMPANY
AND IN THE MATTER OF THE ASSURANCE
COMPANIES ACT 1909
AND IN THE MATTER OF THE INSURANCE ACT
1989
REGULATIONS 2015**

**AND IN THE MATTER OF THE EUROPEAN UNION
(INSURANCE AND REINSURANCE)
REGULATIONS 2015**

PETITION

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