

# endesa



## BYLAWS

ENDESA, S.A.

*26 April 2016*

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## TITLE I. CORPORATE NAME, PURPOSE, DURATION AND REGISTERED OFFICE

### ARTICLE 1. CORPORATE NAME

The company shall be named ENDESA, S.A. and shall be governed by these Corporate Bylaws, by the provisions of the Spanish Corporations Law and by any other applicable laws.

### ARTICLE 2. PURPOSE

1. The purpose of the company is:

- a) The electricity business including its different industrial and commercial areas of business.
- b) The exploitation of all types of primary energy resources.
- c) The provision of industrial services and, especially, telecommunications, water and gas services, in addition to those preparatory or complementary services of the business areas included in the purpose of the company.
- d) The management of the Group of Companies, formed by means of shareholdings in other companies.

2. Both domestically and internationally, the company will carry on those activities that integrate its purpose directly or through its shareholdings in other companies.

### ARTICLE 3. TERM

The duration of the company is indefinite and its operations began on the date on which its deed of incorporation was executed.

### ARTICLE 4. ADDRESS

The registered office shall be located in Madrid, at calle de Ribera del Loira, number 60. The Board of Directors shall be empowered to change the domicile within the national territory.

Likewise, the Board of Directors shall have the power to create, shutdown or transfer company branches, agencies, representative offices or any other offices of the company.

## TITLE II. SHARE CAPITAL AND SHARES

### ARTICLE 5. SHARE CAPITAL

The company has a share capital of €1,270,502,540.40 that is fully subscribed and paid up.

### ARTICLE 6. SHARES

The share capital of the company comprises 1,058,752,117 shares, each having a par value of €1.20. They are represented by book-entries and belong to the same class.

The 1,058,752,117 shares that comprise the share capital, represented by account entries, are considered to be securities and are governed by the provisions of the Securities Market Act (Ley del Mercado de Valores).

## ARTICLE 7. SHAREHOLDERS' RIGHTS

The share confers upon its holder legitimate shareholder status and attributes to such shareholder the rights provided by Law and by these Corporate Bylaws. The company must give equal treatment to shareholders who are subject to identical conditions.

As provided by Law and save in the cases provided therein, a shareholder has at least the following rights:

- a) The right to share in the distribution of profits and in the distribution of the equity resulting from the winding-up of the Company.
- b) The right to preferred subscription in the issuance of new shares or convertible bonds.
- c) The right to attend and vote at General Shareholders' Meetings and to contest corporate resolutions.
- d) The right to be informed.

## ARTICLE 8. NON-VOTING, REDEEMABLE AND PREFERRED SHARES

1. The company may issue non-voting shares for a par value not exceeding half of the paid-in share capital. The holders of non-voting shares will have the right to receive a minimum annual dividend equal to 5% of the paid-in share capital for each non-voting share. Once the minimum dividend has been declared, holders of non-voting shares will have the right to the same dividend pertaining to the common shares.
2. The company may issue redeemable shares upon request by the issuing company, by the holders of said shares or by both, for a par value not exceeding a quarter of the share capital. The issue resolution will establish the terms according to which the right to redeem may be exercised. If said right is exclusively attributable to the issuing company, it may not be exercised until after a period of three years as from the date of issue.

Redeemed shares must be paid for in full at the time of subscription.

These shares must be redeemed on account of profits or earned surplus or as a result of the new issue of shares resolved by the General Shareholders' Meeting or, as the case may be, by the Board of Directors, with the aim of financing the redemption transaction. If these shares are redeemed on account of profits or surplus reserves, the company must create a reserve for the par value of the redeemed shares. In the event there is neither a sufficient amount of profits or earned surplus nor have new share been issued to finance the transaction, the shares may only be redeemed in compliance with the requirements established for share capital reduction by means of the return of contributions.

3. The company may issue shares that confer a privilege against common shares, which shall not acquire any of the modes foreseen in Articles 96.1 and 96.2 of the Spanish Capital Corporations Law (Ley de Sociedades de Capital), in compliance with the requisites foreseen for the amendment of Corporate Bylaws.

In the event the privilege consists of the right to obtain a preferred dividend, the company will be obliged to agree on the distribution of the dividend if there are distributable profits. At the time when the shares are issued, the General Shareholders' Meeting or the Board of Directors will decide if the holders of the preferred shares have the right to the same dividend as the common shares, once the preferred dividend has been agreed upon, and if necessary, will amend the Corporate Bylaws consequently.

In the event there are no distributable profits or these do not suffice, the part of the unpaid preferred dividend will be accumulated or not, in accordance with the terms that the General Shareholders' Meeting agrees at the time it decides on the issue of shares.

Under no circumstance may common shares receive dividends on account of the profits of a financial year, as long as the relevant preferred dividend pertaining to the same financial year has not been paid for.

## ARTICLE 9. REPRESENTATION OF SHARES

Shares shall be represented by book entries and will be constituted as such by virtue of their registration in the relevant accounting record, which will show the references in the deed of issue and whether or not they have been fully paid in.

The right to legally act as shareholder is obtained by registration in the accounting record, which establishes the legal ownership and gives the registered holder the right to demand that the company acknowledge him as a shareholder. This right may be proven by means of the relevant certificates, issued by the entity responsible for the accounting records.

In the event the company performs some service in favor of an alleged shareholder, although the latter may not be the true owner of the share, it will be exempt from liability, provided it was performed in good faith and without gross negligence.

## ARTICLE 10. TRANSFER OF SHARES

Shares may be transferred in accordance with the provisions of the laws in force and these Corporate Bylaws. However, shares may not be transferred until the company and, as the case may be, the capital increase of the company, has been registered with the Mercantile Registry.

# TITLE III. INCREASE OR REDUCTION OF SHARE CAPITAL

## ARTICLE 11. MODES OF INCREASE

The share capital may be increased by means of the issue of new shares or by increasing the par values of the shares that already exist.

In both cases, the capital increase may be carried out against new cash or non-cash contributions to the corporate equity, including the contribution of credits against the company or against reserves or profits that already appeared on the latest approved balance sheet.

## ARTICLE 12. POWER CONFERRED TO THE DIRECTORS TO INCREASE THE SHARE CAPITAL

In accordance with the requirements established for the amendment of the Corporate Bylaws, the General Shareholders' Meeting may empower the Board of Directors as described below.

- a) Once a specific amount has been resolved for the capital increase, the General Shareholders' Meeting may empower the Board of Directors to:
  - 1) Execute the foregoing resolution, within a maximum period of one year, save in the case bonds are converted into shares.
  - 2) Fix the date on which the foregoing increase in the amount resolved must be carried out.
  - 3) Establish the initiation and closing date of the subscription period.
  - 4) Issue shares in accordance with the increase.
  - 5) Declare the amounts subscribed in the capital increase.
  - 6) Demand the payment and disbursement of capital calls.
  - 7) Amend Articles 5 and 6 of the Corporate Bylaws related to the share capital, replacing them with the new figure after the increase, in accordance with the amounts actually subscribed and,
  - 8) In general, establish the terms of the capital increase in relation to everything not foreseen in the resolution by the General Shareholders' Meeting.
- b) The power to resolve, once or several times, on the capital increase, up to a specific amount, when and for the amount decided, without the need for prior consultation with the General Shareholders' Meeting. These increases may under no circumstance exceed the equivalent of one-half of the share capital at the time of authorization, and must be made by means of cash contributions, within a maximum period of five years as from the resolution of the General Shareholders' Meeting.

In this case, once the increase has been resolved and executed, the Board of Directors will also have the power to amend the articles of the Corporate Bylaws related to the share capital.

#### **ARTICLE 13. CUM PRE-EMPTIVE RIGHTS**

In capital increases where new common or preferred shares are issued and charged to cash contributions, each shareholder may exercise the right to subscribe to a number of shares in proportion to the par value of the shares they own, within the period set for such purpose by company management, which may not be less than fifteen days following publication in the Official Mercantile Registry Bulletin (Boletín Oficial del Registro Mercantil) of the subscription offer over the new shares

The pre-emptive right may be transferred under the same conditions as would apply to the shares giving rise to such right. In the case of a capital increase on account of the reserves, the same rule will be applicable to the free right of assignment of the new shares.

#### **ARTICLE 14. EX PRE-EMPTIVE RIGHTS**

In the event it is in the interest of the company, when deciding on the capital increase, the General Shareholders' Meeting may resolve to totally or partially remove the pre-emptive subscription right. For this agreement to be valid, it must comply with the requisites for the amendment of Corporate Bylaws and must necessarily comply with the requirements provided for to this end in the Spanish Capital Corporations Law (Ley de Sociedades de Capital).

Under no circumstance will there be a pre-emptive right when the capital increase is due to the take-over of another company or to all or part of the split assets of another company or is due to the conversion of bonds into shares.

#### **ARTICLE 15. SHARE CAPITAL REDUCTION**

Subsequent to fulfilling, and in accordance with, the requirements established by Law, the General Shareholders' Meeting may reduce the share capital of the company and return of contributions, condone capital calls, create or increase the legal reserve or voluntary reserves or re-establish the balance between capital and the company's net equity that has been reduced due to losses.

Reduction of capital will be compulsory in the event losses have decreased the company's equity to two-thirds of the share capital and a fiscal year has lapsed without the equity having been recovered.

### **TITLE IV. BONDS**

#### **ARTICLE 16. BOND ISSUE.**

The company may issue numbered series of bonds or other securities to honor or create a debt in the terms set forth in the Capital Corporations Law and other provisions in force on this subject matter.

### **TITLE V. STATUTORY BODIES OF THE COMPANY**

#### **ARTICLE 17. STATUTORY BODIES**

The statutory bodies of the company are the General Shareholders' Meeting, the Board of Directors and those delegated bodies established thereunder.

The Board of Directors shall establish, in accordance with legal provisions and with its organizational power, the Auditing and Compliance Committee, the Appointments and Compensation Committee and any other

Committees or Commissions which are necessary or deemed appropriate for the best performance of its duties.

The Board may also create Advisory Boards for the purpose of making itself more efficient in the performance of its duties.

The Regulations of the Board of Directors shall establish, in accordance with the provisions of the law and the Corporate Bylaws, the system that will govern the various Commissions or Committees and the Advisory Boards.

## ARTICLE 18. GENERAL MEETING

All matters of the competency of the General Shareholders' Meeting shall be decided by majority vote of the shareholders that constitute the duly convened General Shareholders' Meeting.

It will be called and it will proceed in accordance with legal and statutory provisions and with the General Shareholders' Meeting Regulations proposed by the Board of Directors and approved by Shareholders' Meeting.

All shareholders, including dissenters and those not participating at the meeting, will be subject to the resolutions of the General Shareholders' Meeting.

## ARTICLE 19. TYPES OF MEETINGS

The General Shareholders' Meeting may be annual or special.

## ARTICLE 20. ANNUAL GENERAL MEETING

Subsequent to the duly given notice, the Annual General Meeting shall meet within the first six months of each fiscal year, to assess the management of the company, and approve, as the case may be, the financial statements for the previous year and decide on the distribution of profits.

## ARTICLE 21. SPECIAL GENERAL MEETING

Any meeting not contemplated in the previous article shall be deemed to be a Special Meeting.

## ARTICLE 22. NOTICE OF GENERAL MEETING

1. The General Meeting shall be called by the Board of Directors or, as the case may be, by the liquidators of the Company by way of public announcement with the minimum notice as required by law.

The official meeting notice shall be published, at least, through the following channels:

- a) The Official Mercantile Registry Bulletin or one of the highest-circulating newspapers in Spain.
- b) The Spanish Securities Market Commission (Comisión Nacional del Mercado de Valores) website.
- c) The Company's website.

The official meeting notice shall, at a minimum, include all information as required by law. The notice may also set out the date on which the meeting is to be held, if necessary, in second call.

There shall be a period of at least 24 hours between the first and second meeting.

If the General Meeting, duly convened, was not held in first call, and the official meeting notice provided no date for a meeting in second call, such date shall be announced, with the same agenda and following the same publicity requirements applicable to the first call, within 15 days following the date on which the General Meeting was to be held and at least 10 days before the new meeting date.

2. Shareholders who represent at least three percent of share capital may request that a supplement to the Annual General Meeting notice be published, including one or more agenda items, provided that the new items

are accompanied by a justification or, as the case may be, a justified proposed resolution. Under no circumstances may this right be exercised in relation to special general shareholder meeting notices.

The exercise of this right must be carried out by attestable notice which must be received at the registered offices within five days following publication of the official meeting notice. The supplement to the official meeting notice shall be published at least 15 days in advance of the date established for the general meeting. Failure to publish the meeting notice supplement within such period may cause the General Meeting to be challenged.

3. Shareholders representing at least three percent of share capital may, within the same period set forth in the previous section, present justified proposed resolutions on topics which are or which may be included on the agenda for the meeting called. The company shall ensure that all such proposed resolutions, as well as any accompanying documentation, are sent to the remaining shareholders in accordance with the provisions of law and the General Meeting Regulations.

### ARTICLE 23. POWER AND OBLIGATION TO CALL THE MEETING

The directors and, as the case may be, liquidators, may call a Special General Shareholders' Meeting whenever they deem it to be in the interests of the company.

Likewise, they shall call a meeting when requested by a number of shareholders representing at least three percent of the share capital, stating the business to be transacted at the Meeting. In this case, the General Shareholders' Meeting shall be called to meet within two months following the date on which the directors were given duly attested notice to call the meeting. The directors shall prepare the agenda, which must include the items for which the meeting is called.

### ARTICLE 24. UNIVERSAL GENERAL MEETING

Notwithstanding the provisions of the previous sections, the General Shareholders' Meeting will be deemed to be called and will be validly assembled to transact any business, provided all the share capital is present and the attendees unanimously accept to hold a Shareholders' Meeting. A Universal General Meeting may be held anywhere.

### ARTICLE 25. ASSEMBLY OF THE GENERAL SHAREHOLDERS' MEETING

A Shareholders' Meeting will be validly assembled in first call, when the shareholders, present or represented, hold at least 25% of the subscribed voting shares.

The assembly of a General Shareholders' Meeting in second call will be valid no matter the share capital represented.

### ARTICLE 26. SPECIAL RESOLUTIONS. QUORUM

In order for the Annual or Special General Shareholders' Meeting to validly resolve upon, in first call, the issuance of bonds, the increase or reduction of capital, the transformation, merger, spin-off, or total transfer of assets and liabilities of the company, the elimination or restriction of pre-emptive rights over new shares, the transfer of the registered offices abroad and, in general, any amendment to the Corporate Bylaws, shareholders representing at least 50% of the subscribed capital with voting rights must be present. In second call, only 25% of said capital must be represented.

### ARTICLE 27. ATTENDANCE RIGHT

Shareholders who have their shares recorded in the pertinent book-entry ledger five days in advance of the meeting being held may attend the General Meeting.

Members of the Board of Directors must attend the General Meetings.

The Chairman may authorize any person he deems appropriate to attend a meeting, although the General Shareholders' Meeting has the power to revoke said authorization.

## ARTICLE 28. REPRESENTATION BY PROXY

Every shareholder with a right to attend may exercise such right by way of proxy at the General Meeting. The proxy must be granted in writing and specifically for each Shareholders' Meeting, as well as comply with all other relevant legal provisions.

This power of representation is construed without prejudice to the provisions of the Law for cases of family representation and granting of general powers of attorney.

In any case, both for voluntary as well as legal proxies, no more than one proxyholder may be in attendance at the General Meeting, except as otherwise provided by law.

Furthermore, those companies with standing as shareholders by virtue of the book-entry of the shares, but who act on behalf of various individuals, may divide and cast their vote in different directions in accordance with different voting instructions, if received.

## ARTICLE 29. CHAIRMANSHIP AND PANEL OF THE SHAREHOLDERS' MEETING

The General Shareholders' Meeting will be chaired by the Chairman of the Board of Directors and, in his absence, by the relevant Vice Chairman in accordance with the provisions of Article 46 of the Corporate Bylaws and, in the absence of both, by the Chief Executive Officer chosen by the General Shareholders' Meeting. The Chairman shall be assisted by a Secretary, who shall be the Secretary of the Board of Directors and, in his absence, by the Assistant Secretary, if any, and, in any other case, by the person appointed by the General Shareholders' Meeting.

The Presiding Panel will be composed of the Board of Directors.

## ARTICLE 30. LIST OF ATTENDEES

Prior to commencing the agenda, an attendance list shall be prepared, which will include the nature or proxy of each attendee and the number of shares, own or third party, that he/she is representing.

The attendance list may also be prepared by file or computer. In the foregoing cases the medium used will be stated in the minutes and it will be duly identified on the sealed cover of the file or relevant medium and will be signed by the Secretary, with the Chairman's approval.

The number of shareholders, present or represented, will be stated at the end of the list, as well as the amount of capital they own, with specification of the capital belonging to shareholders with voting rights.

If he deems necessary, the Chairman will appoint two or more scrutineer shareholders, who will sit on the panel to assist in the preparation of the list and, if necessary, to count the votes.

During the General Shareholders' Meeting, any shareholder having the right to attend may consult the attendance list, without this delaying or slackening the normal progress of the General Meeting once the Chairman has declared it to be legally assembled. The Panel will neither be under the obligation to read the foregoing list nor to provide a copy of it in the course of the Meeting.

## ARTICLE 31. VOTING AND PROXY BY LONG-DISTANCE COMMUNICATION METHODS

- a) Shareholders entitled to attend and vote may cast their votes on the proposals concerning the agenda items by post or through electronic communication, in accordance with the provisions of the General Shareholders' Meeting Regulations and the rules that supplement and implement the Regulations, as stipulated by the Board of Directors.

Using the technical and legal means that make it possible and duly guarantee the identity of the party exercising his right to vote, the Board of Directors is authorized to implement and supplement the rules provided by the General Shareholders' Meeting Regulations. The Board shall determine the time from

which the shareholders may cast their vote through remote means of communication, depending on the stage of development and security provided by the technical means available.

The regulations and any modifications thereto that the Board of Directors adopts in order to implement and supplement the General Shareholders' Meeting Regulations within the scope of the provisions of this article of the by-laws, and the time determined by the Board of Directors from which the shareholders may cast their vote at the General Shareholders' Meeting by remote means of communication shall be published on the company's website.

The shareholders entitled to attend who cast their votes remotely pursuant to the provisions of this article shall be deemed present for the purpose of holding the General Shareholders' Meeting in question.

- b) That set forth in section a) above shall also apply to a shareholder authorizing a proxy for the General Shareholders' Meeting by means of electronic communication or any other remote means of communication.
- c) Attendance in person by a shareholder at a General Shareholders' Meeting shall have the effect of revoking votes cast by post or electronically. Furthermore, personal attendance by a shareholder otherwise represented by proxy at the General Meeting shall have the effect of revoking the proxy granted by electronic correspondence or any other means of long-distance communication contemplated in the General Meeting Regulations.

## ARTICLE 32. ADOPTION OF RESOLUTIONS

All resolutions must be passed by a simple majority of the shareholders present or represented at the General Meeting, a resolution being deemed passed when there are more votes in favor than against from the present or represented capital.

The resolutions referred to in Article 26, supra, may be adopted by absolute majority if more than fifty percent of total capital is present or represented. However, a favorable vote of two thirds of the capital present or represented at the General Meeting shall be required when, in second call, shareholders representing greater than twenty five, but no more than fifty, percent of the subscribed capital with voting rights are present or represented.

Reinforced quorums for convening and voting as established by law and in these Bylaws are not affected.

The system for determination of votes established the General Meeting Regulations shall be followed for the adoption of resolutions.

## ARTICLE 33. VOTING RIGHTS

The shareholders shall be entitled to one vote for each share they own or represent, except for non-voting shares, which shall be governed by the provisions of article 8 of these Bylaws.

## ARTICLE 34. RIGHT TO INFORMATION

Immediately following publication of the Notice of General Meeting and up until the fifth day preceding, inclusive, the date set for such meeting, the shareholders may, in writing, request any information or clarification or pose questions as they deem relevant to topics included on the agenda for the meeting, publicly available information provided by the Company to the Spanish Securities Market Commission since the last General Meeting was held or as relates to the auditors' report.

The shareholders may, during the General Shareholders' Meeting, make verbal requests for information or clarifications regarding the items listed in the previous section as they deem appropriate. If the shareholder's right could not be fulfilled at the time of the request, the directors shall be required to provide the requested information in writing within seven days following the day on which the General Meeting concluded.

The directors shall be required to provide the information requested in accordance with the two preceding paragraphs in the manner and periods provided by law, unless such information is not necessary for the proper exercise of the shareholder's rights, or unless there are objective reasons to believe that such

information may be used for purposes outside the company or if the publication of such information could negatively affect the company or any of its affiliated companies.

An information request may not be denied if such request is supported by at least one fourth of total capital.

#### ARTICLE 35. MINUTES OF THE GENERAL SHAREHOLDERS' MEETING

The Directors will require the presence of a Notary Public to draw up the minutes of the General Meeting, such Notary Public minutes being deemed to be the minutes of the General Meeting.

#### ARTICLE 36. CHALLENGING OF CORPORATE RESOLUTIONS

The resolutions adopted by the General Meetings may be contested in the cases and by means of the procedures established by current laws in force.

#### ARTICLE 37. BOARD OF DIRECTORS. GENERAL FUNCTIONS

1. The Board of Directors is in charge of governing and administering the company. The Board of Directors shall be governed by the provisions of the law, these Corporate Bylaws and the Board of Directors Regulations. By way of the Board Regulations, the Board itself shall, within the framework provided by law and the Company's Bylaws, establish its structure and operation, functions, standard practices and rules regarding the composition of the Board and its Commissions and Committees, relations with shareholders, the General Shareholders' Meeting, Auditors and Senior Management, and the Statute applicable to Directors and other officers.
2. The Board of Directors has the authority to adopt resolutions on all matters which are not prohibited by law, these Bylaws or the General Shareholders' Meeting Regulations.
3. The Board of Directors, who shall have the broadest power and authority to manage, direct, administer and represent the Company, shall, as a general rule, delegate daily management of the Company to the delegated administrative bodies and shall focus its activities on supervising and discussing matters of particular importance to the Company and its group of companies.
4. In particular, and without limiting the general nature of the preceding, the Board of Directors, acting on their own initiative or at the request of a relevant internal body and/or following a report by the relevant internal body, shall have the following general functions:
  - a) To establish the corporate strategy and management guidelines.
  - b) To monitor Senior Management performance, demand explanations for their decisions and assess their overall management.
  - c) To ensure transparency regarding the company's relations with third parties.
5. The Board, in undertaking the provisions of Article 2 hereof, shall set the general strategy for the group of companies over which the Company is the parent company in accordance with law.
6. In any event, the Board of Directors shall directly exercise all rights which, by virtue of law, these Corporate Bylaws or the General Meeting Regulations, may not be delegated.

#### ARTICLE 38. NUMBER AND TYPES OF DIRECTORS

The Board of Directors shall be made up of at minimum of nine and a maximum of fifteen members. The General Meeting shall be responsible for both the appointment and removal of members of the Board of Directors. The position of Director may be renounced, revoked and reappointed.

Directors shall be classified as:

- a) Executive Directors:  
Executive Director shall mean any person who carries out management functions within the company or a group company, regardless of the legal relationship such person has with the company.

- b) External Shareholder-Appointed Directors:  
Any Director with a shareholding greater than or equal to that legally regarded as significant, or who has been appointed due to his status as a shareholder, even if the shareholding does not reach said amount, or who represents a shareholder meeting the aforementioned criteria.
- c) External Independent Directors:  
Independent Director shall mean those directors who, having been appointed based on their personal and professional qualities, are able to perform their duties regardless of their relations with the company or its group, significant shareholders or officers.
- d) Other External Directors:  
Any Director who is not an executive director and who does not meet the requirements to be considered a shareholder-appointed or independent director.

#### ARTICLE 39. TERM OF OFFICE OF DIRECTOR

The term of a Director is four years. Directors may be re-elected for periods of like duration.

If a vacancy opens up during the term to which a director was appointed, the existing director may be appointed by the Board to fill such vacancy until the first General Meeting is held.

#### ARTICLE 40. REPRESENTATION OF THE COMPANY

The Board of Directions shall have the authority to represent the company both in and out of court, including the right to represent the company in any actions included within the corporate purpose established by these Corporate Bylaws.

#### ARTICLE 41. COMPENSATION

1. The compensation of Directors for their condition as such shall comprise the following items:
  - a) Fixed monthly salary.
  - b) Allowances for attending each meeting of the governing bodies of the company and its committees.

Maximum global and annual compensation, for the Board as a whole and including all aforementioned items, shall be established by the General Shareholders' Meeting and shall remain in effect until it resolves upon an amendment thereof.

The Board itself shall be in charge of determining the exact amount to be paid in each fiscal year, subject to the limits set forth by the General Shareholders' Meeting, as well as distributing such amount between the aforementioned items and between the directors in the manner, time and proportion as freely determined, taking into account the functions and responsibilities entrusted to each Director, whether they belong to any of the Board's Committees and all other relevant objective circumstances.

Furthermore, the amount of the allowances shall not exceed monthly fixed salary as determined in accordance with the above paragraphs. The Board of Directors may, within such limit, determine the amount of the allowances.

2. The compensation set forth in the preceding section, applicable to members of the Board of Directors, will be compatible with all other compensation, indemnities, social security contributions or any other professional or labor compensation items to which the Directors may be entitled by way of any other executive or advisory functions they may perform for the Company which are separate from the supervisory and collective decision-making functions inherent in their position as Directors, which shall be subject to all legally applicable requirements.
3. Notwithstanding the aforementioned compensation, Executive Directors' compensation may also include the delivery of shares or share option rights or compensation linked to share value. Application of this type of compensation shall require a resolution of the General Shareholders' Meeting stating, as the case may be, the maximum number of shares that may be allocated to this compensation scheme in each fiscal year, the exercise price or the method for calculating the exercise price of the stock options, the share

value that, as the case may be, is used as a benchmark, the term of the plan and any other conditions deemed appropriate.

#### ARTICLE 42. DIRECTORS' DUTIES

Each Director shall perform the duties imposed thereon by law and these Corporate Bylaws with the diligence of an organized businessman, taking into account the nature of the position and functions attributed to him/her. The Directors shall also act as a loyal representative while carrying out their position, working in good faith and in the best interests of the company.

Directors shall have the necessary dedication and shall adopt those measures necessary for the proper management and control of the company.

In carrying out their functions, the Directors have a duty to request, and the right to gather, all information from the Company which may be appropriate or necessary in order to carry out their duties.

The Board Regulations shall establish specific obligations related to the Directors' duties, as established by law and in particular, the duty of diligence, fidelity, loyalty and secrecy and, especially, their non-compete obligation as well as their obligation against the use of non-public information and corporate assets, exploitation of business opportunities, conflicts of interest and related-party transactions.

The company may purchase an insurance policy to cover civil liability of the Directors in the exercise of their functions.

#### ARTICLE 43. INCOMPATIBILITIES OF DIRECTORS

Those persons subject to the prohibitions provided by the Spanish Capital Corporations Law (Ley de Sociedades de Capital) and other applicable legal provisions may not be appointed as directors.

#### ARTICLE 44. NOTICE AND PLACE OF MEETING

The Board shall meet as often as the Chairman or an acting chairman calls a meeting, either at his discretion or when at least two Board Members or, if any, the Coordinating Director so request. The official meeting notice shall include the agenda, set by the Chairman, which in any case shall include those items as requested by the Coordinating Director.

Meetings will generally take place at the registered offices; however, they may also be held elsewhere as the Chairman determines. Board meetings may be held in one or more locations simultaneously provided there is interactivity and intercommunication, in real time, by means of audiovisual or telephone systems, thereby guaranteeing simultaneity of developments. In such case, the meeting notice shall indicate the connection system and, as the case may be, the locations where the technical means necessary to attend and participate at the Meeting are available. Resolutions shall be deemed to have been adopted in the place where the Chairman is located.

Without prejudice to the foregoing, and unless precluded by Law, resolutions may be adopted in writing in lieu of a meeting, subject to the requisites and formalities established by the law.

#### ARTICLE 45. ASSEMBLY OF THE BOARD OF DIRECTORS

The Board of Directors shall be validly assembled when a majority of the members are present or represented at the meeting.

Proxies shall be granted in writing and specifically for each Board Meeting. No director may hold more than three proxies, with the exception of the Chairman, to whom this limit shall not apply, although he may not represent the majority of the Board of Directors. Non-Executive Directors may only delegate their proxy to another non-executive.

By decision of the Chairman of the Board of Directors, the General Managers and Managers of the company, as well as any other persons he deems appropriate, may attend Board meetings.

## ARTICLE 46. BOARD OFFICERS

The officers of the Board of Directors shall be: Chairman, Vice Chairman (or Chairmen), Chief Executive Officer and Secretary and, as the case may be, a Coordinating Director.

- 1) In addition to the duties set forth by law and in the Corporate Bylaws, the Chairman shall be responsible for the general and active management of the company and its investee companies, management of the operation of the Board of Directors, ensuring that all Board Members are duly informed, representation of the company, in particular before Public Administrations, Stock Exchange Institutions, Agencies, Electricity Companies and Associations as well as before companies and associations for other economic sectors in which the company carries out its activities.

If the position of Chairman is filled by an Executive Director, appointment of the Chairman must be approved by two thirds of the members of the Board of Directors.

- 2) If the Chairman is absent, he/she shall be substituted by the oldest Vice Chairman and, in the absence of all of the Vice Chairmen, by the Board Member appointed to act as a temporary substitute.
- 3) The Board of Directors shall appoint a Chief Executive Officer, who will be responsible for managing the Company in accordance with the criteria established by the Board of Directors. As the highest responsible person for the management of the company, he/she will be in command of all the company's services and will be in charge of Senior Management. Likewise, he/she will be responsible for carrying out and overseeing the general strategy of the Corporate Group formed by stakes in other companies, without prejudice to the individual competencies vested in each of the investee companies.
- 4) Regardless of the rights and obligations of Board Members as stated herein, the Board Regulations shall develop a specific legal regime, applicable to the Chairman and the Chief Executive Officer, in light of their permanent and professional relationship with the Company.
- 5) If the Chairman is an Executive Director, the Board of Directors, with all Executive Directors abstaining, shall necessarily appoint a Director from among the Independent Directors, who shall be specifically empowered to convene a meeting of the Board of Directors, add new items to the agenda for a Board Meeting which has already been called, coordinate and gather non-executive Directors and, as the case may be, carry out periodic assessments of the Chairman of the Board of Directors.

The Board will also be responsible for electing the Secretary and, as the case may be, the Assistant Secretary, who may or may not be a Director. In the case of a vacancy or absence, the youngest Director among those in attendance at the meeting shall substitute them. The Secretary shall carry out those functions assigned thereto by law, these Corporate Bylaws and the Board of Directors Regulations.

## ARTICLE 47. DELIBERATION AND ADOPTION OF RESOLUTIONS

The Chairman shall organize the discussion such that it promotes participation by all Directors in the deliberations of the body.

Resolutions shall be adopted by absolute majority of the Board Members who, present or represented, are in attendance at the meeting. In the event of a tie, the Chairman or acting Chairman shall have the casting vote. The provisions of this section shall be applicable without prejudice to those resolutions for which a qualified majority of the Board Members is required in accordance with these Corporate Bylaws or current laws in force.

Voting in writing in lieu of a meeting will only be accepted in the event no Board Member opposes the procedure.

The resolutions of the Board of Directors will be set out in the meeting minutes, which will be recorded in the relevant Minute Book in accordance with the requirements of the laws in force.

The minutes will be approved by the Board of Directors itself either upon conclusion of the meeting or at the following meeting. The minutes will also be deemed to be approved when within the five days following receipt of a draft copy of the minutes, no Board Member makes objections. The Board of Directors may empower the Chairman and a Board Member to jointly approve the minutes of a meeting.

Once approved, the minutes will be signed by the Secretary of the Board or of the meeting, with the approval of whoever acts as Chairman at the meeting.

#### ARTICLE 48. GRANTING OF POWERS

The Board of Directors may provisionally or permanently delegate all or part of its powers to the Executive Committee, to the Chief Executive Officer and to the different Board Committees, except those that legally or by resolution of the General Shareholders' Meeting, are exclusively reserved to its competence.

For the permanent delegation of the Board of Director's powers to the Executive Committee and to the Chief Executive Officer and the appointment of officers that will occupy these posts to be valid, the vote in favor of two thirds of the members of the Board and its registration in the Mercantile Registry will be required.

The Executive Committee and the Chief Executive Officer will inform the Board of Directors of the main resolutions adopted during the exercise of the powers conferred on them.

#### ARTICLE 49. COMPOSITION OF THE EXECUTIVE COMMITTEE

The Executive Committee will consist of a minimum of five and a maximum of seven Board Members, including the Chairman.

#### ARTICLE 50. EXECUTIVE COMMITTEE POSITIONS

The Chairman of the Board of Directors shall chair the Executive Committee and the Secretary of the Board shall also act as Secretary for the Executive Committee. The system of substitutions of these posts is that foreseen for the Board of Directors.

#### ARTICLE 51. FORMAL PROTEST OF BOARD OF DIRECTORS RESOLUTIONS

Both directors and shareholders may contest any resolutions of the Board of Directors, in accordance with the requirements, periods and procedures established thereto by Law.

#### ARTICLE 52. AUDIT AND COMPLIANCE COMMITTEE

The Audit and Compliance Committee shall be comprised of a minimum of three and a maximum of six Non-Executive Directors from the Board of Directors, the majority of whom, at least, must be Independent Directors and one of whom shall be appointed based on their accounting and/or auditing knowledge and experience. The members of the Committee shall collectively have the relevant technical expertise in relation to the sector of activity in which the company operates.

The chairman of the Audit and Compliance Committee shall be appointed, by the Board of Directors, from among the Independent Directors on the Committee and which should be replaced every four years. The Chairman may, however, be re-elected one year after his/her removal has lapsed.

The main task of the Committee is to promote compliance with good corporate governance and ensure the transparency of all actions of the Company in the economic and financial area and external and compliance audits and internal audits. In any event it will be entrusted with the following duties:

- a) To inform the general shareholders' meeting about matters arising which fall under the competency of the Committee and, in particular, about audit results, explaining how the audit has contributed to the integrity of the financial information provided, and about the involvement of the Committee in this process.
- b) To supervise the effectiveness of the company's internal controls, internal auditing and risk management systems, as well as discuss with auditors any significant weaknesses in the internal control system

identified during the audit, without undermining its independence. For such purpose, as the case may be, recommendations or proposals may be submitted to the governing body, including the periods established for compliance therewith.

- c) To monitor the preparation and presentation of all required financial information and present recommendations or proposals to the governing body, aimed at safeguarding the integrity thereof.
- d) To refer proposals for the selection, appointment, reappointment and removal of the statutory auditor, taking responsibility for the selection process in accordance with the provisions of applicable regulations, as well as on the hiring conditions thereof, to the Board of Directors, and regularly gather information from the external auditor on the auditing plan and execution thereof, in addition to maintaining its independence in carrying out its duties.
- e) To establish the relevant relationships with the external auditor in order to receive information on all matters which may threaten their independence, to be examined by the Committee, as well as on any other matters related to the auditing of the accounts, and, as applicable, on the authorization of services other than those services prohibited under the terms set forth in applicable regulations on the independence regime, including all communications as provided for by statutory auditing legislation and standards. In any event, the Committee shall receive an annual statement from the external auditors on their independence in relation to the company or any of its directly or indirectly related entities. This report shall include detailed and personalized information on additional services of any nature that were provided together with the applicable fees received from such entities by either the external auditor or other persons or entities related thereto, in accordance with the applicable regulations governing statutory auditing.
- f) To issue annually, prior to the issuance of the auditors' report, a report which will express an opinion on whether the independence of the statutory auditors or audit firms is compromised. This report shall, in any event, include a motivated assessment of the value of each and every one of the additional services referred to in the preceding paragraph, accounted for both individually and collectively, which were provided apart from the legal auditing and in relation to independence requirements or regulations governing statutory audit activities.
- g) Provide the Board of Directors with advance notice regarding all matters provided for by Law, these Bylaws and the Board Regulations and in particular, regarding:
  - 1. all financial information which the company must periodically make public.
  - 2. the creation or acquisition of shares in special purpose vehicles or companies incorporated in foreign countries or territories which are classified as tax havens and
  - 3. all transactions with related parties.

The Committee shall not exercise those functions provided for in this paragraph g) when they are assigned by the Bylaws to another Committee which is comprised solely of non-executive Directors and, at least, two Independent Directors, one of whom shall be the chairman.

These duties shall be deemed to be without limitation and notwithstanding such other duties as may be entrusted to the Committee by the Board of Directors.

The Board Regulations may establish the competencies of the Committee as well as the organization and operation thereof. The Audit and Compliance Committee may have its own regulations, which shall be approved by the Board of Directors.

#### ARTICLE 53. APPOINTMENTS AND COMPENSATION COMMITTEE

The Appointments and Compensation Committee shall be comprised of a minimum of three and a maximum of six Non-Executive Directors from the Board of Directors, at least two of whom must be Independent Directors.

The Chairman of the Appointments and Compensation Committee shall be appointed by the Board of Directors from among the Independent Directors on the Committee. The Chairman must be removed every four years but may be re-elected one year after his removal has lapsed.

In the Chairman's absence, the Independent Director temporarily designated by the Board of Directors or, failing this, the oldest Independent Director on the Committee, will act as Chairman.

The Appointments and Compensation Committee will meet as often as convened by its Chairman, when so resolved by the majority of its members or at the request of the Board of Directors. Committee meetings shall take place at the Company's registered address or at such other location as may be determined by the Chairman and stated in the meeting notice.

Committee meetings will be validly assembled when a majority of the Committee members are in attendance.

Resolutions must be passed by a majority vote of the Directors attending the meeting. In the event of a tie, the Chairman or Acting Chairman shall have the casting vote.

The Secretary of the Committee shall also be the Secretary of the Board of Directors and shall draft minutes for the resolutions passed, of which the Board shall be notified.

The Appointments and Compensation Committee shall have, at least, the following functions, notwithstanding those attributed thereto by law, these Corporate Bylaws or by the Board of Directors Regulations as developed according to the Bylaws:

- a) Assess the skills, knowledge and experience needed on the Board of Directors. For such purpose, the Committee shall define the functions and skills necessary in the candidates to cover each vacancy and evaluate the time and dedication required in order that they may properly perform their mandate.
- b) Establish a representation goal for the least-represented gender on the Board of Directors and develop guidelines on how to reach such objectives.
- c) Bring all proposals for nomination of Independent Directors to the Board of Directors for their appointment by co-optation or by submission to decision of the General Shareholders' Meeting, as well as all proposals for the re-election or removal of said Directors by the General Shareholders' Meeting.
- d) Provide notification of all nomination proposals of the remaining Directors for their appointment by co-optation or by submission to decision of the General Shareholders' Meeting, as well as all proposals for their re-election or removal by the General Shareholders' Meeting.
- e) Report proposals for the appointment or removal of senior management together with the basic terms of their contracts.
- f) Assess and coordinate the removal of the Chairman of the Board of Directors and the company's CEO and, as the case may be, develop proposals for the Board of Directors such that said removal may be completed as smoothly and orderly as possible.
- g) Propose a policy to the Board of Directors for the compensation of Directors and general managers or other individuals carrying out senior management functions under the direct supervision of the Board, Executive Committees or Chief Executive Officers, as well as for individual compensation and related to all other contractual terms of the Executive Directors, ensuring that such terms are complied with.

These duties shall be deemed to be without limitation and notwithstanding such other duties as may be entrusted to the Committee by the Board of Directors.

The Board Regulations may establish the competencies of the Committee as well as the organization and operation thereof.

## TITLE VI. ANNUAL FINANCIAL STATEMENTS

### ARTICLE 54. ANNUAL ACCOUNTS

The fiscal year will begin on January 1 and will end on December 31 of each year.

The annual financial statements, forming one unit, shall consist of the balance sheet, the income statement, the statement of changes in net equity, the cash-flow statement, and the notes thereto. These documents must be drafted in such a manner so as to offer a true and fair view the company's equity, financial position and results, as provided by Law.

### ARTICLE 55. CONTENTS OF THE ANNUAL FINANCIAL STATEMENTS

The balance sheet shall include, duly separated, the assets and rights forming the company's assets and the obligations forming its liabilities, specifying its equity. The balance sheet will be structured as provided by the Spanish Capital Corporations Law and other applicable legal provisions.

The income statement will include, also duly separated, the income and expenses of the year and, by difference, the result thereof. It will differentiate between profit from ordinary activities and from other activities, or profits that are the result of extraordinary circumstances. The income statement must be structured as provided by the Spanish Capital Corporations Law and other applicable legal provisions.

The statement of changes in net equity shall include the statement of recognized income and expenses and the total statement of changes in net equity.

The cash-flow statement shall include the origin and utilization of the monetary assets representing cash and other equivalent liquid assets.

The notes to the financial statement shall complete, expand and comment on the information contained on the balance sheet, the income statement, the statement of changes in net equity and the cash-flow statement. The notes shall contain the indications provided by the Spanish Capital Corporations Law and other applicable legal provisions.

### ARTICLE 56. MANAGEMENT REPORT

The Management Report must at least contain a true and fair view on the development of the business and situation of the company. It must also include indications on the most important events for the company that occurred subsequent to the close of the year, the expected development of the company, research and development activities and the acquisition of treasury stock, in accordance with the Law.

### ARTICLE 57. STATUTORY AUDITORS.

The annual financial statements and management report must be reviewed by the auditors as provided by law. The auditors shall also check the agreement of the management report with the fiscal year annual financial statements. The auditors shall have at least one month from the time in which the financial statements are submitted to them by the directors, in order to present their report.

### ARTICLE 58. APPOINTMENT OF AUDITORS.

The Audit and Compliance Committee will propose the external auditors to the Board of Directors who will refer this issue to the General Shareholders' Meeting. The appointment by the General Shareholders' Meeting shall take place before the end of the year to be audited, for a period of not less than three years or more than nine years. The General Shareholders' Meeting may re-elect the Auditors annually once the initial period has lapsed, for maximum successive periods of three years, complying in all cases with maximum contracting periods provided for by law. The General Shareholders' Meeting may appoint one or several natural persons or legal entities to act jointly. When the appointed auditors are natural persons, the General Shareholders' Meeting must appoint as many substitutes as there are appointed auditors.

#### ARTICLE 59. PREPARATION OF THE ANNUAL FINANCIAL STATEMENTS

Within a maximum period of three months as from the year-end closing date, the Board of Directors shall be obliged to prepare the annual financial statements Management Report and the proposal for the application of earnings, as well as, if applicable, the consolidated accounts and Management Report. The annual financial statements and management report must be signed by all Directors. If the signature of any Board Member is missing, this circumstance must be indicated on each one of the documents from which it is missing, with express indication of the cause.

#### ARTICLE 60. APPROVAL OF THE ANNUAL FINANCIAL STATEMENTS

The annual financial statements shall be approved by the General Shareholders' Meeting, which shall resolve on the application of the fiscal year earnings, in accordance with the approved balance sheet.

#### ARTICLE 61. LEGAL RESERVE

In any case, an amount equal to 10% of the profit for the year shall be allocated to the legal reserve, until the latter reaches at least 20% of the share capital. As long as it does not exceed the amount indicated, the legal reserve may only be used to offset losses, in the event there are no other reserves available for this purpose.

#### ARTICLE 62. DISTRIBUTION OF DIVIDENDS

Once the requirements established by Law or by the Corporate Bylaws have been met, dividends may only be distributed against the fiscal year earnings, or against the freely-available reserves, if the equity for accounting purposes is not or, as a consequence of the distribution, does not become less than the share capital. In the event of losses from prior fiscal years which cause such equity to fall below the amount of the share capital, the profits shall be used to offset these losses.

The General Shareholders' Meeting will determine the time and form of payment in the resolution declaring the dividend distribution. Unless otherwise resolved by the General Shareholders' Meeting, the dividend shall be payable at the company's registered office as from the day following the date of the resolution.

#### ARTICLE 63. INTERIM DIVIDENDS

Only the General Shareholders' Meeting or the Board of Directors may resolve the distribution to shareholders of interim dividends, under the following conditions.

1. The Board of Directors shall prepare an accounting statement in which it proves that there is sufficient liquidity for the allocation. This accounting statement will subsequently be included in the annual report.
2. The amount to be distributed may not exceed the amount of the results obtained since the end of the last fiscal year, minus losses from prior years and the amount to be allocated to the compulsory reserves established by law and by the Corporate Bylaws, as well as the estimated tax to be paid on these earnings.

#### ARTICLE 64. DEPOSIT OF ANNUAL FINANCIAL STATEMENTS

Within the month following the approval of the annual financial statements, the certification of the resolutions of the General Shareholders' Meeting and of the distribution of profits, to which a copy of each one of the foregoing accounts will be attached, in addition to the Management Report and the Auditors' Report, must be deposited at the Mercantile Registry in the district where the Company's registered office are located.

## TITLE VII. CONFLICT RESOLUTION

### ARTICLE 65. CONFLICT RESOLUTION

Ownership of one or more shares implies acceptance and absolute agreement with the Company's Bylaws and Regulations, and submission to the resolutions legally adopted by the Company's governing bodies.

For all disputes that may arise between the Company and the shareholders, or between the shareholders themselves, which are related to corporate matters, both the Company and the shareholders submit to the jurisdiction of the Company's registered office and waive their right to the jurisdiction to which they would otherwise submit.

*The amended and restated text of Endesa, S.A.'s Corporate Bylaws approved by the General Shareholders' Meeting on June 19, 2003 is registered at the Madrid Mercantile Registry, Volume 14779, Book 0, Folio 116, Section 8, Form M-6405, entry 897.*

*The amendment approved by the General Shareholders' Meeting on April 02, 2004 is registered at the Madrid Mercantile Registry, Volume 14779, Book 0, Folio 147, Section 8, Form M-6405, entry 905.*

*The amendment approved by the General Shareholders' Meeting on September 25, 2007 is registered at the Madrid Mercantile Registry, Volume 14779, Book 0, Folio 170, Section 8, Form M-6405, entry 939.*

*The amendment approved by the General Shareholders' Meeting on December 14, 2009 is registered at the Madrid Mercantile Registry, Volume 26946, Book 0, Folio 18, Section 8, Form M-6405, entry 1000. Date: 01/18/2009.*

*The amendment of Endesa, S.A.'s Corporate Bylaws and the restated text thereof, as approved by the General Shareholders' Meeting on May 09, 2011 are registered at the Madrid Mercantile Registry, Volume 26946, Book 0, Folio 56, Section 8, Form M-6405, entry 1026. Date: 06/08/2011.*

*The amendment approved by the General Shareholders' Meeting on April 27, 2015 is registered at the Madrid Mercantile Registry, Volume 26946, Book 0, Folio 131, Section 8, Form M-6405, entry 1112. Date: 05/25/2015.*

*The amendment approved by the General Shareholders' Meeting on April 26, 2016 is registered in the Madrid Mercantile Registry, Volume 26946, Book 0, Folio 161, Section 8, Page M-6405, entry 1129. Date: 06/22/2016.*