

COMPANIES ACT 2014

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COMPANY LIMITED BY GUARANTEE NOT HAVING A SHARE CAPITAL

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**CONSTITUTION**

-of-

**Muscular Dystrophy Ireland**

ADOPTED BY SPECIAL RESOLUTION

DATED the            day of            2020

JR 22/1/20

## MEMORANDUM OF ASSOCIATION

(As amended and adopted by Special Resolution dated [            ] )

1. **Name**

The name of the Company is Muscular Dystrophy Ireland,

2. **Company type**

The Company is a company limited by guarantee, registered under Part 18 of the Companies Act 2014.

3. **Main Objects**

The main objects for which the Company is established (the “Main Objects”) are:

- (i) To promote and foster within Ireland the carrying out of medical, scientific and social research into the cause, cure and relief of muscular dystrophy and allied conditions;
- (ii) To undertake duties in relation to the care and welfare of persons and their families with muscular dystrophy and allied conditions;
- (iii) To lend and advance with security or make grants in aid to persons living with the condition of muscular dystrophy or to their parents or guardians or family member carers so as to alleviate financial conditions or expenditure caused by or contributed to the difficulties of living with the condition of muscular dystrophy
- (iv) Advocacy to define and articulate the rights and needs of the members of the Company and to carry out advocacy on their behalf.

4. **Powers**

The Company shall in addition to the powers conferred on it by law have the following powers which are exclusively subsidiary and ancillary to the Main Objects and which powers may only be exercised in promoting the Main Objects. Any income generated by the exercise of these powers is to be applied to the promotion of the Main Objects:

- 4.1 To solicit and procure by any lawful means and to accept and receive any donation of property of any nature and any devise, legacy or annuity, subscription, gift, contribution or fund, including by means of payroll giving or other similar arrangements, and including (but so as not to restrict the generality of the foregoing) the holding of lotteries in accordance with the law for the purpose of promoting the Main Objects, and to apply to such purpose the capital as well as the income of any such legacy, donation or fund.
- 4.2 To undertake, accept, execute and administer, without remuneration, any charitable trusts.
- 4.3 To establish and support or aid in the establishment and support of any charitable association or institution, trust or fund, and to subscribe or guarantee money for any charitable purpose which the Company shall consider calculated to promote its Main Objects.
- 4.4 To collect and to receive voluntary contributions, donations or bequests or money for any of the purposes aforesaid.
- 4.5 To promote, sponsor, undertake, and establish fundraising events for the purpose of raising funds for the Company and other similar means of raising funds to serve its aims and mission statement in accordance with this Constitution.
- 4.6 To make application on behalf of the Company to any authority, whether governmental, local, philanthropic or otherwise, for financial funding of any kind.
- 4.7 To apply, petition for or promote any Act of the Oireachtas or other legislation relating directly to the advancement of the Main Objects.
- 4.8 Subject to clause 5, to employ such staff, and on such terms, as are necessary or desirable for the proper promotion of the Main Objects.

- 4.9 To grant pensions, gratuities, allowances or charitable aid to any person who may have served the Company as an employee, or to the wives, husbands, children or other dependents of such person provided that such pensions, gratuities, allowances or charitable aid shall be no more than that provided by a pension scheme covered by Part 30 of the Taxes Consolidation Act 1997 and provided that such pension scheme has been operated by the company and the beneficiary of the pensions, gratuities, allowances or charitable aid, or their spouse or parent, has been a member of the pension scheme while employed by the Company; and to make payments towards insurance and to form and contribute to provident and benefit funds for the benefit of any persons employed by the Company and to subscribe or guarantee money for charitable objects.
- 4.10 To purchase, take on lease or in exchange, hire or otherwise acquire any real or personal property, patents, copyrights, licences, rights and privileges or any estate or interest whatsoever and any rights, privileges and easements over or in respect of any property which may be considered necessary for the purposes of the Company and to develop and turn to account any land acquired by the Company or in which it is interested and in particular by laying out and preparing the same for building purposes, constructing, altering, pulling down, decorating, maintaining, fitting up and improving buildings and conveniences and by planting, paving, draining, farming, cultivating, letting or building leases or building agreement and by advancing money to and entering into contracts and arrangements of all kinds with builders, tenants and others.
- 4.11 To acquire, hold, sell, manage, lease, mortgage, exchange or dispose of all or any part of the property of the Company with a view to the promotion, protection or encouragement of its Main Objects and to vary investments.
- 4.12 To co-operate with any other society or institution in carrying out any investments hereby authorised in furtherance of the Main Objects.

- 4.13 To borrow and raise money in such manner as may be considered expedient, and to issue debentures, debenture stock and other securities, and for the purpose of securing any debt or other obligation of the Company to mortgage or charge all or any part of the property of the Company, present or future, and collaterally or further to secure any securities of the Company by a trust deed or other assurance.
- 4.14 To invest and deal with monies and property of the Company not immediately required in such manner as will most effectively provide funds for the advancement and promotion of the purposes aforesaid and this power shall include power from time to time to vary any investments made thereunder.
- 4.15 To invest in such ways as shall seem desirable to the Directors any moneys of the Company not immediately required for the use in connection with its Main Objects and to place any such moneys on deposit with bankers and others; subject nevertheless as regards the making of investments to such conditions (if any) and such consents (if any) as may for the time being be imposed or required by law and subject also as hereinafter provided; prior permission to be obtained from the Revenue Commissioners where the Company intends to accumulate funds over a period in excess of two years for any purposes.
- 4.16 To guarantee, support or secure, whether by personal covenant or by mortgaging or charging all or any part of the undertaking, property and assets (present and future) of the Company, or all such methods, the performance of the obligations of and the repayment or payment of the principal amounts and interest of any person, firm or company or the dividends or interest of any securities, including (without prejudice to the generality of the foregoing) any company which is the Company's holding company or a subsidiary or associated company.
- 4.17 To draw, accept, make, endorse, discount, execute, issue and negotiate bills of exchange, promissory notes, bills of lading, warrants, debentures and other negotiable or transferable instruments.

- 4.18 To insure the property of the Company against any foreseeable risk in its full value and take out other insurance policies to protect the Company when required.
- 4.19 To insure any or all of the Directors against personal liability incurred in respect of any act or omission which is or is alleged to be a breach of trust or breach of duty, provided he or she acted in good faith and in the performance of his or her functions as charity trustee (as defined in the Charities Act, 2009).
- 4.20 To apply for, purchase or otherwise acquire any patents, brevets d'invention, licences, concessions and the like conferring any exclusive or non-exclusive or limited rights to use or any secret or other information as to any invention which may seem capable of being used for any of the purposes of the Company or the acquisition of which may seem calculated directly or indirectly to benefit the Company, and to use, exercise, develop or grant licences in respect of or otherwise turn to account the property, rights or information so acquired.
- 4.21 To adopt such means of making known the products and/or services of the Company as may seem expedient and in particular by advertising in the press, by circulars, by purchase and exhibition of works of art or interest, by publication of books and periodicals and via the internet and by granting prizes, rewards and donations.
- 4.22 To maintain, improve or provide public amenities including recreational facilities, childcare, public health, home, welfare and youth facilities generally.
- 4.23 To enter into any arrangements with any governments or authorities, supreme, municipal, local or otherwise, that may seem conducive to the Main Objects and to obtain from any such government or authority any rights, privileges and concessions which the Company may think it desirable to obtain and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions.

- 4.24 To enter into a partnership or into any arrangement for sharing profits, union of interest, co-operation, joint venture, reciprocal concession or otherwise with any person, company, society, trust or other partnership whose objects are solely charitable, carrying on or engaged in, or are about to carry on or engage in, any business or transaction capable of being conducted so as directly or indirectly to benefit the Company and which prohibits the distribution of income and assets to at least as great a degree as the Company by virtue of Clause 6 hereof and to guarantee the contracts of, otherwise assist any such person, company, society, trust or other partnership, and to take over or otherwise acquire shares, stock, debentures, or debenture stock and securities of any such person, company society, trust or other partnership, and to sell, hold, reissue with or without guarantee or otherwise deal with same.
- 4.25 To procure the registration or incorporation of the Company in or under the laws of any place outside Ireland.
- 4.26 To pay all expenses of and incidental to the incorporation and establishment of the Company.
- 4.27 To carry on alone or in conjunction with others any other trade of business which may in the opinion of the Directors be advantageously carried on by the Company in connection with or as ancillary to any of the above businesses or the general business of the Company in pursuance of the Main Objects.
- 4.28 To found, subsidise, and assist any charitable funds, associations or institutions calculated to promote or assist the Main Objects.
- 4.29 To establish and maintain links with international and national organisations having similar objectives.
- 4.30 To do all such other lawful things as the Company may think incidental and conducive to the foregoing Main Objects.

4.31 To do all or any of the things and matters aforesaid in any part of the world and as principals, agents, contractors, trustees or otherwise and by or through trustees, agents or otherwise and either alone or in conjunction with others.

**PROVIDED THAT:**

in case the Company shall take or hold any property which may be subject to any trusts, the Company shall only deal with or invest the same in such manner as allowed by law having regard to such trusts;

nothing hereinbefore contained shall be construed as including in the purposes for which the Company has been established any purposes which are not charitable according to law.

**5. Income and Property**

5.1 The income and property of the Company shall be applied solely towards the promotion of Main Objects as set forth in this Constitution. No portion of the Company's income and property shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever by way of profit to members of the Company.

5.2 No Director shall be appointed to any office of the Company paid by salary or fees, or receive any remuneration or other benefit in money or money's worth from the Company. However, nothing shall prevent any payment in good faith by the Company of:

- a) reasonable and proper remuneration to any member or servant of the Company (not being a Director) for any services rendered to the Company;
- b) interest at a rate not exceeding 1% above the Euro Interbank Offered Rate (Euribor) per annum on money lent by Directors or other members of the Company to the Company;



- c) reasonable and proper rent for premises demised and let by any member of the Company (including any Director) to the Company;
- d) reasonable and proper out-of-pocket expenses incurred by any Director in connection with their attendance to any matter affecting the Company;
- e) fees, remuneration or other benefit in money or money's worth to any company of which a Director may be a member holding not more than one hundredth part of the issued capital of such company.
- f) Nothing shall prevent any payment by the Company to a person pursuant to an agreement entered into in compliance with section 89 of the Charities Act, 2009 (as for the time being amended, extended or replaced).

6. **Additions, alterations or amendments**

The Company must ensure that the Charities Regulator has a copy of its most recent Constitution. If it is proposed to make an amendment to the Constitution of the Company which requires the prior approval of the Charities Regulator, advance notice in writing of the proposed changes must be given to the Charities Regulator for approval, and the amendment shall not take effect until such approval is received.

7. **Winding Up**

If upon the winding up or dissolution of the Company there remains, after satisfaction of all its debts and liabilities, any property whatsoever, it shall not be paid to or distributed among the members of the Company. Instead, such property shall be given or transferred to some other charitable institution or institutions having main objects similar to the main objects of the Company. The institution or institutions to which the property is to be given or transferred shall prohibit the distribution of their income and property among their members to an extent at least as great as is imposed on the Company under or by virtue of Clause 6 hereof. Members of the Company shall select the relevant institution or institutions at or before the time of dissolution, and if and so far as effect cannot be given to such provisions, then the property shall be given or transferred to some charitable object with the agreement of the Charities Regulator. Final accounts will be prepared and submitted that will include a section that identifies and values any assets transferred along with the details of the recipients and the terms of the transfer.

8. **Limited Liability**

The liability of the members is limited.

9. **Undertaking to Contribute**

Every member of the Company undertakes to contribute to the assets of the Company, if the Company is wound up while he or she is a member or is wound up within one year after the date on which he or she ceases to be a member, for

- a) payment of the debts and liabilities of the Company contracted before he or she ceases to be a member, and the costs, charges and expenses of winding up; and
- b) the adjustment of the rights of the contributories among themselves,
- c) such amount as may be required, not exceeding €1.

10. **Keeping of Accounts**

Annual audited accounts shall be kept and made available to the Revenue Commissioners upon request.

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## ARTICLES OF ASSOCIATION

(As amended and adopted by Special Resolution dated [            ] )

### PRELIMINARY

1. In these Articles, unless there is something in the subject or context inconsistent herewith:

The “**Act**” means the Companies Act, 2014, all statutory instruments which are to be read as one with, or construed or read together as one with, the Companies Act 2014 and every statutory modification and re-enactment thereof for the time being in force;

The “**Board**” means the Board of Directors of Muscular Dystrophy Ireland Company Limited by Guarantee.

The "**Company**" means Muscular Dystrophy Ireland.

The "**Directors**" means the members for the time being of the board of directors of the Company and “Director” shall be construed accordingly.

The "**Secretary**" means any person appointed to perform the duties of the Company Secretary of the Company.

The "**Seal**" means the Common Seal of the Company.

A "**Volunteer**" means any person who gives freely of their time and service to assist with the work of Muscular Dystrophy Ireland;

**"In writing"** means written or printed or partly written or printed and shall unless the contrary intention appears, be construed as including references to printing, lithography, photography and any other modes of representing or reproducing words in visible forms.

Unless the contrary intention appears, the words or expressions contained in these articles shall bear the same meaning as in the Companies Act.

Where a reference is made to a particular section or sections of any Act the reference shall be such section or sections as the same may be from time to time amended or replaced.

Words importing the singular number shall include the plural number and vice versa and words importing the masculine gender only shall include the feminine gender and reference to persons shall include bodies corporate and unincorporated.

#### **ALTERATION OF THE CONSTITUTION**

2. Subject to the provisions of the Act, and the provisions of this constitution, the Company may by special resolution alter either or both its memorandum and articles of association hereinafter referred to as the Constitution. Any alteration or addition so made shall be as valid as if originally contained therein.

#### **MEMBERS**

3. The number of members of the Company is unlimited subject to there being a minimum of 3 members.
4. The Subscribers to the Memorandum of Association of the Company and such other persons as shall be admitted to membership in accordance with these Articles shall be members of the Company and shall be entered in the Register of Members accordingly.

5. The following persons are hereby defined as eligible for membership of the Company:
  - a) Persons with muscular dystrophy aged 18 years or over, who subscribe in writing to the Company and who have declared their interest in participating in the Company and who also agree to be listed on the Company's register of members and pay the annual membership fee.
  - b) Individual family members of persons with muscular dystrophy, who subscribe in writing to the Company and who have declared their interest in participating in the Company and who also agree to be listed on the Company's register of members and pay the annual membership fee (one vote per individual rather than one vote per family).
  - c) Volunteers aged 18 years or over who work with persons with muscular dystrophy and who have declared their interest in participating in the Company and who also agree to be listed on the Company's register of members and pay the annual membership fee.
6. No person shall be admitted as a member of the Company in any class unless he/she is first approved by the Board.
7. The Board may from time to time determine the terms and conditions on which persons shall be admitted to membership of the Company and sign a written consent to membership.
8. **Only members of the Company shall be qualified to serve on the Board.**
9. The Board will determine the annual membership fee and notify members of same and the date for payment each year.

## **RIGHTS OF MEMBERS**

10. Membership of the Company is not transferable and shall cease:
  - a) on the member's death;
  - b) if the member resigns by serving notice in writing to the Directors of the Company at its registered office;
  - c) if the annual membership fee is unpaid for a period of three months from the renewal date determined by the Directors; and
  - d) If any member shall refuse or willfully neglect to comply with this Constitution or shall have been guilty of such conduct as in the opinion of the Board either shall have rendered him/her unfit to remain a member of the Company or shall be injurious to the Company, or if the Board shall for any other good reason require that a member shall be expelled, such members may by a Resolution of the Board be expelled from membership, provided that he/she shall have been given notice of the intended resolution for his/her expulsion and shall have been afforded an opportunity of giving orally or in writing to the Board any explanation or defence as he/she may think fit.
11. Every member shall be bound to further to the best of his ability the objects and interests of the Company, and shall observe all bye-laws of the Company that may be made pursuant to Article 74.
12. A former member of the Company shall remain liable for all subscriptions (if any) and contributions due or imposed on him up to the date on which he ceased to be a member and for any sums due by him under Clause 9 of the Constitution of the Company and shall forfeit all claim to a return of any money paid by him to the Company on his admission as a member or by way of subscription or otherwise.

## GENERAL MEETINGS

13. The Company shall hold a general meeting in every calendar year as its annual general meeting at such time and place as may be determined by the Directors and shall specify the meeting as such in the notices calling it provided that every annual general meeting shall be held not more than fifteen months after the holding of the last preceding annual general meeting.
14. All general meetings of the Company other than annual general meetings shall be known as extraordinary general meetings.
15. The Board may, whenever they think fit, convene an extraordinary general meeting.
16. If, at any time, there are not sufficient directors capable of acting to form a quorum, any Director of the Company or any member of it may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the Board.
17. The Board shall, on the requisition of one or more members holding, or together holding, at the date of the deposit of the requisition, not less than 10% of the total voting rights of all the members having, at the date of the deposit, the right to vote at general meetings of the Company, forthwith proceed duly to convene an extraordinary general meeting of the Company.
18. The requisition shall state the objects of the meeting and shall be signed by the requisitionists and deposited at the registered office of the Company and may consist of several documents in like form each signed by one or more requisitionists.
19. If the Directors do not within 21 days after the date of the deposit of the requisition proceed duly to convene a meeting to be held within 2 months after that date (the "requisition date"), the requisitionists, or any of them representing more than 50% of the total voting rights of all of them, may themselves convene a meeting but any meeting so convened shall not be held after the expiration of 3 months after the requisition date.



20. Any reasonable expenses incurred by the requisitionists by reason of the failure of directors duly to convene a meeting shall be repaid to the requisitionists by the company and any sum so repaid shall be retained by the company out of any sums due or to become due from the Company by way of fees or other remuneration in respect of their services to such of the Directors as were in default.
21. For the purposes of Articles 13 to 17, the Directors shall, in the case of a meeting at which a resolution is to be proposed as a special resolution, be deemed not to have duly convened a meeting if they do not give such notice of it as is required by Section 181 of the Act.
22. A meeting convened under Articles 17 or 19 shall be convened in the same manner as nearly as possible as that in which meetings are to be convened by directors.
23. All members of the Company are entitled to receive notice of and attend all General Meetings of the Company.

#### **PROCEEDINGS AT GENERAL MEETING**

24. The business to be transacted at an Annual General Meeting shall include the consideration of the accounts, balance sheets and the reports of the Board and auditors, the election of members of the Board in place of those retiring and the appointment of, and the fixing of the remuneration of, the auditors.
25. All business shall be deemed special that is transacted at an Extraordinary General Meeting, and also all that is transacted at an Annual General Meeting, with the exception of the consideration of the accounts, balance sheets and the reports of the Board and Auditors, the election of members of the Board in the place of those retiring, the re-appointment of the retiring Auditors and the fixing of the remuneration of the Auditors.
26. No business shall be transacted at any General Meeting unless a quorum of not less than eleven (11) members is present at the commencement of such business.

27. If within fifteen minutes from the appointed time for the meeting a quorum is not present, the meeting, if convened on the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Board may determine, and if at the adjourned meeting a quorum is not present within fifteen minutes from the time appointed, the members present shall be a quorum.
28. No question shall be determined at any meeting of the Company which has not been sufficiently indicated in the agenda accompanying the notice of the meeting. In the event of dispute as to whether any question shall have been sufficiently indicated in the agenda, the matter shall be put to a vote, and unless two-thirds of those present and voting at the meeting shall decide that the question has been sufficiently so indicated, the question shall be deemed not to have been sufficiently so indicated. This provision shall be without prejudice to the statutory requirements, or to notice of Special Resolutions.
29. Every eligible member present in person at a meeting of the Company shall have one vote each, provided always that such members must be entered on the Register of Members and have paid their annual membership fee.
30. Votes must be given personally but it is recognised that in some instances, because of a person's level of impairment, the voting may be carried out by a personal assistant on behalf of the individual who must be present.
31. At any General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:-
  - a) By the Chairperson, or
  - b) By at least three members present in person.

32. Unless a poll is so demanded, a declaration by the Chairperson that a resolution has, on a show of hands, been carried or carried unanimously or by a particular majority or lost, and an entry to that effect in the book containing the minutes of proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against such resolution. The demand for a poll may be withdrawn.
33. Except as provided in Article 31 if a poll is duly demanded it shall be taken in such a manner as the Chairperson directs and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
34. Where there is an equality of votes, whether on a show of hands or on a poll, the Chairperson of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.
35. A poll demanded on the election of a Chairperson, or on a question of adjournment shall be taken forthwith. A poll demanded on any other questions shall be taken at such time as the Chairperson of the meeting directs, and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll.
36. The Chairperson, or, failing him/her the Vice-Chairperson, or, failing both, a member chosen by the members present, shall preside as Chairperson at every General Meeting.
37. A member is entitled to a postal vote for general meetings of the Company.
38. Members may register for the postal vote at any time of the year. When the registration is approved by the Company Secretary a member may vote by post (but not in person) at all general and extraordinary general meetings of the Company for a period of twelve months. The minimum time for registration is sixteen (16) days prior to the meeting at which the member intends to use the postal vote. The ballot paper must be received by the Company Secretary two (2) full days before the relevant meeting.

39. When such a member receives a ballot paper they will also receive a declaration of identity form. This form must be signed by the member and witnessed by a person who is known to them. The witness should not be aware of how the member has voted.
40. Minutes shall be kept of all proceedings of the Company.

### **NOTICE OF GENERAL MEETINGS**

41. Subject to sections 181 and 191 of the Companies Act, an Annual General Meeting and a meeting called for the passing of a special resolution shall be called by twenty-one days' notice in writing at least, and that any other meeting of the Company shall be called by fourteen days' notice in writing at the least. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given and shall specify the place, the day and the hour of the meeting and, in the case of special business, the general nature of that business shall be given, in manner hereinafter mentioned, to such persons as are, under the Articles of the Company, entitled to receive such notices from the Company. Notices of all meetings are covered in this document at Articles 41 to 46 inclusive.
42. The accidental omission to give notice of a meeting to or the non-receipt of notice of a meeting by any person entitled to receive notice shall not invalidate the proceedings at that meeting.
43. A meeting of the Company shall, notwithstanding that it is called by shorter notice than that specified in Article 41, be deemed to have been duly called if it is so agreed by:
  - a) all the members entitled to attend and vote at the meeting; and
  - b) unless no statutory auditors of the Company stand appointed in consequence of the Company availing itself of the audit exemption, the statutory auditors of the Company.

44. Where notice of a meeting is given by posting it by ordinary prepaid post to the registered address of a member, then, for the purposes of any issue as to whether the correct period of notice for that meeting has been given, the giving of the notice shall be deemed to have been effected on the expiration of 24 hours following posting. The notice of a general meeting may be served on members by electronic means.
45. In determining whether the correct period of notice has been given by a notice of a meeting, neither the day on which the notice is served nor the day of the meeting for which it is given shall be counted.
46. The notice of a meeting shall specify:
- a) the place, date and time of the meeting;
  - b) the general nature of the business to be transacted at the meeting;
  - c) in the case of a proposed special resolution, the text or substance of that proposed special resolution; and
  - d) with reasonable prominence a statement that:
    - i. a member entitled to attend and vote is entitled to appoint a proxy using the form set out in Section 184 of the Act or, where that is allowed, one or more proxies, to attend, speak and vote instead of him or her;
    - ii. a proxy need not be a member;
    - iii. the time by which the proxy must be received at the Company's registered office or some other place within the State as is specified in the statement for that purpose.

## PROXIES

47. A member of the Company entitled to attend and vote at a meeting of the Company shall be entitled to appoint another person (whether a member or not) as his or her proxy to attend and vote instead of him or her. A proxy so appointed shall have the same right as the member to speak at the meeting and to vote on a show of hands and on a poll.
48. The instrument appointing a proxy (the “**Instrument of Proxy**”) shall be in writing –
- a) under the hand of the appointer or of his or her attorney duly authorised in writing; or
  - b) if the appointer is a body corporate, either under seal of the body corporate or under the hand of an officer or attorney of it duly authorised in writing.
49. The Instrument of Proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority, shall be deposited at the registered office of the Company or at such other place within the State as is specified for that purpose in the notice convening the meeting, and shall be deposited not later than the following time:-
- a) 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
  - b) in the case of a poll, 48 hours before the time appointed for the taking of the poll.
50. The depositing of the Instrument of Proxy may, rather than its being effected by sending or delivering the instrument, be effected by communicating the instrument to the Company by electronic means (as defined in section 2 of the Act) and this Article likewise applies to the depositing of anything else referred to in the preceding Article.

51. An instrument appointing a proxy shall be in the following form or a form as near to it as circumstances permit –

Muscular Dystrophy Ireland company limited by guarantee (the “Company”)

[Name of member] of [Address of Member] being a member of the Company hereby appoint/s [name and address of proxy] or failing him or her [name and address of alternative proxy] as the proxy of the Member to attend, speak and vote for the Member on behalf of the Member at the (annual or extraordinary, as the case may be) general meeting of the Company to be held on the [date of meeting] and at any adjournment of the meeting.

The proxy is to vote as follows:-

Voting instructions to proxy

(Choice to be marked with an “X”)

Number or description of resolution:	In Favour	Abstain	Against
1.			
2.			
3.			

Unless otherwise instructed, the proxy will vote as he or she thinks fit.

Signature of Member.....

Dated [date] .....

## **VOTES OF MEMBERS**

52. Where a matter is being decided (whether on a show of hands or on a poll), every member present in person and every proxy shall have one vote, but so that no individual member shall have more than one vote.
53. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairperson of the meeting, whose decision shall be final and conclusive.
54. Votes may be given either personally or by proxy. Where there is an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

## **MINUTES OF GENERAL MEETINGS**

55. The Company shall, as soon as may be after the holding of a meeting, cause minutes of the proceedings of the meeting and the terms of all resolutions to be entered in books kept for the purpose. All such books shall be kept in the same place.
56. Any minute referred to in Article 55, if purporting to be signed by the chairperson of the meeting at which the proceedings were had, or the chairperson of the next succeeding meeting, shall be evidence of what occurred at the meeting.



## DIRECTORS

57. The number of the Directors shall be not less than seven (7) and unless and until determined by the Company in general meeting, not more than twelve (12) directors comprising;
- a) The Chairperson who shall be elected as the Chairperson by the members at an A.G.M. and shall automatically be a director (the “Chairperson”);
  - b) The Vice-Chairperson who shall be elected as the Vice-Chairperson by the members at an A.G.M. and shall automatically be a director (the “Vice-Chairperson”);
  - c) The Treasurer who shall be elected as the Treasurer by the members at an A.G.M. and shall automatically be a director (the “Treasurer”);
  - d) The Secretary who shall be elected as the Secretary by the members at an A.G.M. and shall automatically be a director (the “Secretary”);
  - e) A minimum of three directors elected by the members at an A.G.M. and shall automatically be a director (the “A.G.M. Elected Directors”) and
  - f) A maximum of five directors who may be co-opted by the Directors for their particular expertise from time to time (the “Co-opted Directors”).
58. Co-opted Directors must become paid-up members of the Company within seven days of their appointment by the Board in order to comply with Articles 8, 59, 66 and 71.
59. Co-opted Directors shall be eligible for re-election to the Board at the next A.G.M. following their appointment provided their membership subscription is paid.
60. At least 25% of the Board must be persons with muscular dystrophy.

61. No remuneration shall be payable under any circumstances to any of the Board in respect of his services as Director, or on any Committee of the Directors to which the Directors may delegate powers under Article 73. The Directors may be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or general meetings of the Company or otherwise in connection with the business of the Company.

#### **REMOVAL OF DIRECTORS AND VACATION OF OFFICE**

62. The office of director shall be vacated if the director-
- a) Holds any office or place of profit under the Company; or
  - b) Is adjudicated bankrupt or being a bankrupt has not obtained a certificate of discharge in the relevant jurisdiction or makes any arrangement or composition with his creditors generally; or
  - c) Becomes or is deemed to be subject to a disqualification order within the meaning of Chapter 4 of Part 14 of the Companies Act; or
  - d) Ceases to be qualified for the position of director under Section 55 of the Charities Act 2009; or
  - e) Becomes of unsound mind; or
  - f) Resigns his office by notice in writing to the Company; or
  - g) Is convicted of an indictable offence unless the Board otherwise determines; or
  - h) Is removed from office by a resolution signed by not less than two-thirds of the members of the Board; or
  - i) Is directly or indirectly interested in any contract with the Company and fails to declare the nature of his/her interest in the manner required by Section 231 of the Companies Act; or

- j) Is confirmed to have a conflict of interest in relation to involvement with competitors or other such agency that may threaten the work, service contracts, confidentiality or income of the Company; or
- k) Is continually absent from Board meetings for four consecutive meetings, without due cause; or
- l) Is confirmed to be partaking in substance abuse - drugs/alcohol, which is interfering with the work of the Company and bringing the Company into disrepute; or
- m) Retires in accordance with Articles 63 and 64.

### **ROTATION OF DIRECTORS**

- 63. At the first Annual General Meeting of the Company, all the Board shall retire from office and at the Annual General Meeting in every subsequent year, one-quarter of the Directors for the time being, or, if their number is not four or a multiple of four, then the number nearest one-quarter, shall retire from office.
- 64. The Directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became Directors on the same day, those to retire shall (unless they otherwise agree amongst themselves) be determined by lot.
- 65. The Company, at a meeting at which a Director retires in manner aforesaid, may fill the vacated office by electing a person thereto, and in default of the Company doing so, the retiring Director shall, if offering himself for re-election, be deemed to have been re-elected, unless (a) at such meeting it is expressly resolved not to fill such vacated office; or (b) a resolution for the re-election of such Director has been put to the meeting and lost.

66. A retiring Director shall be eligible for re-election, provided that no Director may-
- a) Hold the same office for a period of more than two terms of three consecutive years; or
  - b) Remain a Director for a continuous period of more than ten consecutive years.
67. No person other than a Director retiring at the meeting shall, unless recommended by the Board, be eligible for election to the office of Director at any general meeting unless, not less than seven nor more than twenty one days before the date appointed for the meeting, there has been left at the Company's registered office (a) notice in writing, signed by a member duly qualified to attend and vote at the meeting for which such notice is given, of his intention to propose such a person for election, and (b) notice in writing signed by the person concerned of his willingness to be elected.
68. The Company may from time to time by ordinary resolution increase or reduce the number of Directors, and may also determine in what rotation the increased or reduced number is to go out of office.
69. The Company may by ordinary resolution of which extended notice has been given in accordance with section 146 of the Act remove any Director before the expiration of his period of office, notwithstanding anything in these articles or in any agreement between the Company and such director. Such removal shall be without prejudice to any claim such director may have for damages for breach of any contract of service between him and the Company.
70. The Company may by ordinary resolution appoint another person in place of a Director removed from office under Article 69. Without prejudice to the powers of the Directors under Article 72, the Company in general meeting may appoint any person to be a Director, either to fill a casual vacancy or as an additional Director.

71. The Board may at any time appoint any person to be a Director of the Company, either to fill a casual vacancy or as an addition to the existing Directors, but so that the total number of Directors of the Company shall not at any time exceed the number, if any, provided for in these Articles. Any Director so appointed shall hold office only until the next annual general meeting, and shall then be eligible for re-election.

### **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

72. The business of the Company shall be managed by the Directors, who may pay all expenses incurred in promoting and registering the Company, and may exercise all such powers of the Company as are not, by the Act or by these Articles required to be exercised by the Company in general meeting, subject nevertheless to the provisions of the Act and of these Articles and to such directions, not being inconsistent with the aforesaid provisions, as the Company in general meeting may (by special resolution) give. No such direction given by the Company in general meeting shall invalidate any prior act of the Directors which would have been valid if that direction had not been given.
73. Without prejudice to Section 40 of the Act, the Board may delegate any of their powers to such person or persons as they think fit, including committees; any such committee shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Directors.
74. Without prejudice to the general powers and authorities conferred by these Articles or any statute on the Board, the Board is hereby empowered to make, vary and repeal all such bye-laws as it may deem necessary or expedient or convenient for the proper conduct and management of the affairs of the Company. The Board shall adopt such means as it deems sufficient to bring to the notice of the members all such bye-laws and variations and repeals thereof and all such bye-laws so long as they are in force shall be binding upon all the members of the Company provided always that no bye-law shall be inconsistent with or shall affect or repeal anything contained in the Constitution of the Company or constitute such an amendment of or addition to these Articles as could lawfully be made only by special resolution.

75. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for moneys paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed as the case may be, by such person or persons and in such manner as the Board shall from time to time by resolution determine.
76. The Company shall cause minutes to be entered in books kept for the purpose:-
- a) of all appointments of officers made by the Board;
  - b) of the names of the Directors present at each meeting of the Directors and of any committee of the Directors;
  - c) of all resolutions and proceedings at all meetings of the Company and, of the Board and of committees of the Directors.

#### **BORROWING POWERS**

77. The Board shall exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking and property or any part thereof, and to issue debentures, debenture stock and other securities, whether outright or as security for any debt, liability or obligation of the Company or of any third party.

#### **POWERS OF ATTORNEY**

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

## VOTING ON CONTRACTS

79. A member of the Board may not vote in respect of any contract in which he has a material interest, or any matter arising thereof, and a statement of such interest should be declared and noted in the minute of the meeting at which the vote is taken.

## PROCEEDINGS OF DIRECTORS

80. The Board may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit and shall endeavour to meet at least nine times in each calendar year. Questions arising at any meeting shall be decided by a majority of votes. In the case of equality of votes, the chairperson shall have a second or casting vote. A Director may, and the Secretary on the requisition of Director shall, at any time summon a meeting of the Board. The Chairperson may convene a meeting of the Board at any time when, in his opinion, an urgent matter has arisen for consideration by the Board. If the Board so resolve it shall not be necessary to give notice of a meeting of Directors to any Director who being resident in the State is for the time being absent from the State.
81. The quorum necessary for the transaction of the business of the Board may be fixed by the Directors, and unless so fixed shall be five (5).
82. The continuing Directors may act notwithstanding any vacancy in their number but, if and so long as their number is reduced below the number fixed by or pursuant to the Act as the necessary quorum of Directors, the continuing Directors or director may act for the purpose of increasing the number of Directors to that number or of summoning a general meeting of the Company, but for no other purpose.
83. The Chairperson shall act as Chairperson of all meetings.
84. In the event of the absence of the Chairperson, the vice-Chairperson or the Treasurer shall act as Chairperson of the meeting and if at any meeting, the vice-Chairperson or the Treasurer are not present within 15 minutes after the time appointed for holding it, the Directors present may choose one of their number to be chairperson of the meeting.

85. The Board may delegate any of their powers to Committees consisting of such member or members of the Directors as they think fit and; any Committee so formed shall, in exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Board.
86. The Board may appoint the chairperson of any Committee; if no such chairperson is elected, or if at any meeting the chairperson is not present within fifteen minutes after the time appointed for holding it, the members of the committee may choose one of their number to be chairperson of the meeting.
87. A committee may meet and adjourn as it thinks proper. Questions arising at any meetings shall be determined by a majority of votes of the members of the committee present, and when there is an equality of votes, the chairperson shall have a second or casting vote.
88. All acts done by any meeting of the Board or by any person acting as a member of the Directors or any Committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such person acting as aforesaid, or that he or any of the Directors was disqualified, be as valid as if every such person had been duly appointed.
89. A resolution in writing, signed by all the Directors for the time being entitled to receive notice of a meeting of the Board, shall be as valid as if it had been passed at a meeting of the Board duly convened and held. Any such resolution in writing may consist of several documents in the like form, each signed by one or more of the Directors and for all purposes shall take effect from the time when it was signed by the last director.



90. A meeting of the Board or of a committee established by the Board may consist of a conference between some or all of the Board or, as the case may be, members of the committee who are not all in one place, but each of whom is able (directly or by means of telephonic, video or other electronic communication) to speak to each of the others and to be heard by each of the others and –
- a) a Director or member of the committee taking part in such a conference shall be deemed to be present in person at the meeting and shall be entitled to vote and be counted in a quorum accordingly; and
  - b) such a meeting shall be deemed to take place –
    - (i) where the largest group of those participating in the conference is assembled;
    - (ii) if there is no such group, where the chairperson of the meeting then is;
    - (iii) if neither sub-paragraph (i) or (ii) applies, in such location as the meeting itself decides.

### **CONFLICT OF INTEREST**

91. A director may not vote in respect of any contract, appointment, or arrangement in which he or she is interested and he or she shall not be counted in the quorum present at a meeting at which the matter is considered.
92. A director who is in any way, directly or indirectly, interested in a contract or proposed contract with the Company shall declare the nature of his or her interest at the Board meeting at which the question of entering into the contract is first raised, or at the next meeting held after he or she became so interested.
93. A copy of every declaration shall, within 3 days of making it, be entered into the register of disclosable interests maintained by the Company

## **MINUTES OF MEETINGS**

94. The Company shall cause minutes to be entered in books kept for that purpose of
- a) all appointments of officers made by the directors;
  - b) the names of the directors present at each meeting of its directors and of any committee of the directors;
  - c) all resolutions and proceedings at all meetings of its Board and of committees of directors.
95. Such minutes shall be entered in the foregoing books as soon as may be after the appointment concerned is made, the meeting concerned has been held or the resolution concerned has been passed.
96. Any such minute, if purporting to be signed by the chairperson of the meeting at which the proceedings were had, or by the chairperson of the next succeeding meeting, shall be evidence of the proceedings.
97. Where minutes have been made in accordance with Articles 94 to 96 inclusive, then, until the contrary is proved
- a) the meeting shall be deemed to have been duly held and convened;
  - b) all proceedings had at the meeting shall be deemed to have been duly had;  
and
  - c) all appointments of officers made by its directors at the meeting shall be deemed to be valid

## **SECRETARY**

98. The Secretary shall be appointed by the Board for such term and upon such conditions as they may think fit; and any Secretary so appointed may be removed by them.

99. A provision of the Act or these Articles requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in place of, the Secretary.

### **SEAL**

100. The seal shall be used only by the authority of the Board or of a committee of Directors authorised by the Board in that behalf, and every instrument to which the seal shall be affixed shall be
- a) signed by a Director of it or by some other person appointed for the purpose by its Board or by a foregoing committee of them; and
  - b) be countersigned by the Secretary or by a second Director of it or by some other person appointed for the purpose by its Board or by a foregoing committee of them.

### **ACCOUNTS**

101. The Board shall cause adequate accounting records to be kept. Adequate accounting records shall be deemed to have been maintained if they comply with Section 282(1) to 282(3) of the Act and explain the Company's transactions and facilitate the preparation of financial statements that give a true and fair view of the assets, liabilities, financial position and profit or loss of the Company.
102. The accounting records shall be kept at the registered office or, subject to Section 283 of the Act, at such other place as the Board think fit, and shall at all reasonable times be open to the inspection of the officers of the Company and by other persons entitled pursuant to the Act. No copies or transcripts of the accounting records may be taken at the time of such inspection unless specifically authorised before or after an inspection.

103. The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the financial statements and accounting records of the Company or any of them shall be open to the inspection of its members not being Directors. No member (not being a Director) shall have any right of inspecting any financial statement or accounting record of the Company except as conferred by statute, this Constitution or authorised by the Board or by the Company in general meeting.
104. The Board shall in accordance with the Act cause to be prepared and to be laid before the annual general meeting of the Company the statutory financial statements of the Company, the Directors' report in relation to it and the statutory auditor's report on those financial statements and Directors' report as are required by the Act to be prepared and laid before the annual general meeting of the Company.
105. A copy of the statutory financial statements of the Company, the Directors' report in relation to it and that statutory auditor's report on those financial statements and Directors' report shall, not less than twenty one days before the date of the annual general meeting, be sent to every person entitled under Section 338(1) of the Act to receive them.
106. In accordance with Section 338 of the Companies Act, the documents referred to in Article 105 hereof and Section 338(2) of the Companies Act shall be treated as having being sent to a member where such member has agreed by whatever means (either directly or otherwise) to him or her having access to such documents on a website and that notice of the matters set out in Section 338(5)(c) of the Companies Act is sent to such member in accordance with Article 109 hereof and section 338(6) of the Companies Act. Notwithstanding the terms of Article 109, the documents referred to in Article 105 hereof that are treated as sent in accordance with the terms of this Article shall be deemed and treated as having been sent to the members.

#### **AUDIT**

107. Auditors shall be appointed and their duties regulated in accordance with Chapters 18 and 19 of Part 6 of the Act.

## NOTICES

108. Section 218 of the Companies Act shall not apply to the Company.
109. A notice may be given by the Company to any member either personally or by sending it by post or electronic means (as defined in section 2(1) of the Act) to the member at his or her registered address or email address (or, if not so registered, then to the address or email address of the member last known to the Company). Section 218(5) of the Act shall apply.
110. Any notice or other document required to be served on any member shall be deemed sufficiently served by personal service; by leaving the same at or sending it prepaid through the post to the registered address of such member; by sending it to the electronic mail address of such member (if applicable); or by printing it in the Company's Newsletters or Periodicals. With regard to those members whose registered address is unknown, a notice posted up in the Office shall be deemed to be well served on them at the expiration of twenty-four (24) hours after it is so posted.
111. Each member who has an electronic mail address should communicate this from time to time to the Secretary of the Company and all notices or other documents sent to or delivered at such address shall be deemed to have been duly received by such member.
112. Any notice or document served in accordance with Article 109 hereof shall be deemed to have been served on the day following that on which the same is posted, delivered or sent and in proving such service it shall be sufficient to prove that the notice was properly posted, delivered or sent and a certificate in writing signed by the Secretary or other officer of the Company that the notice was so posted, delivered or sent shall be conclusive evidence thereof.

113. Notice of every general meeting shall be given in any manner hereinbefore authorised to:
- a) every member who has paid their annual membership fee by the deadline determine by the Directors;
  - b) the auditor for the time being of the Company; and
  - c) the directors and Secretary of the Company.

No other person shall be entitled to receive notice of general meetings.

### **INDEMNITY**

114. Subject to Section 235 of the Act, every officer for the time being of the Company shall be entitled to be indemnified out of the asset of the Company against any losses or liabilities which he or she may sustain or incur:
- a) In defending any proceedings whether civil or criminal in which judgment is given in his or her favour on in which he or she is acquitted or in connection with any proceedings of application referred to in or under Section 233 or 234 of the Act in which relief is granted to him or her by the court; and/or
  - b) In or about the execution of the duties of his or her office or otherwise in relation thereto.

115. The provisions of Clause 7 of the Constitution of the Company relating to the winding up or dissolution of the Company shall have effect and be observed as if the same were repeated in full in these Articles.

### **INSURANCE**

116. The Company may, as the Board may determine from time to time, purchase and maintain Directors' and Officers' insurance for its officers, on such terms as the Board shall decide.