

**COMPANIES ACT 2014**

**CONSTITUTION**

**OF**

**THE CARE TRUST DESIGNATED ACTIVITY COMPANY**

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**MEMORANDUM OF ASSOCIATION**

1. The name of the company is The Care Trust Designated Activity Company.
2. The company is a designated activity company limited by shares registered under Part 16 of the Companies Act 2014 (the "**Act**").
3. The main object for which the company is established is to support, by any means available if and so far as allowed by law, the charitable activities of the **Central Remedial Clinic** and **The Rehab Group** and to do so in keeping with The Charities Act 2009, The Governance Code for Community and Voluntary Organisations in Ireland and The Statement of Guiding Principles for Fundraising.

The object set out above is the main object of the company and all others listed hereafter are subsidiary and ancillary thereto.

- a. To carry on lotteries, and drawings for prizes, the proceeds or profits of which are to be applied to or for the benefit of the **Central Remedial Clinic** and **The Rehab Group**.
- b. To carry on lotteries, competitions and drawings for and prizes, the proceeds or profits of which are to be applied to or for the main object.
- c. To pay to or for the benefit of the **Central Remedial Clinic** and **The Rehab Group** or to or for the benefit of the main object any proceeds, profits or income from any of the undertakings, businesses, investments or dealings carried on under or by virtue of the main object of the company.
- d. To make gifts, grants and loans to the **Central Remedial Clinic** and **The Rehab Group** and to accept gifts, donations, devises and bequests of land, money and other property or the proceeds thereon and to hold any funds or property upon trusts calculated to promote the main object of the company.
- e. To apply to any court of justice in Ireland for the grant of orders, licences or permissions necessary or convenient for the main object of the company, or to enable the main object of the company to be carried out and to give all necessary undertakings for the purpose of obtaining such orders, permissions or licences, and to hold, retain and renew any such orders, licences or permissions.



- f. To join or cooperate with any person, firm, company or society in conducting and managing lotteries or drawings for prizes, in the furtherance of the main object.
- g. To acquire shares, stocks, debentures, debenture stock, bonds, obligations or securities either by original subscription, tender, purchase, exchange or otherwise, and to subscribe for the same either conditionally or otherwise, to guarantee or underwrite the subscription thereof, and to exercise and enforce all rights and powers conferred by or incident to the ownership thereof.
- h. To take part in the formation, management, supervision or control of the business or operations of any company, or undertaking, and for that purpose to appoint any directors, to appoint and remunerate accountants or other experts and agents, to transact, or carry on all kinds of agency business and in particular in relation to the investment of money, sale of property and the collection and receipt of money.
- i. To purchase or by any other means acquire any freehold, leasehold or other property for any estate or interest whatever, and any rights, privileges or easements over or in respect of any property of any kind and any real or personal property or rights whatsoever.
- j. To establish, regulate and discontinue agencies, and to undertake and transact all kinds of agency business which an ordinary individual may legally undertake.
- k. To acquire by subscription, purchase or otherwise and to accept and take, hold or sell, shares, stocks, debentures, debenture stock, bonds, obligations or securities issued or guaranteed by any company, society, association or undertaking, constituted or carrying on business in Ireland or in any other jurisdiction.
- l. To purchase or otherwise acquire and undertake all or any part of the business, property and liabilities of any company, society, partnership, or person, carrying on any business which the company is authorised to carry on, or of a character similar, or auxiliary or ancillary thereto, or connected therewith, or possessed of any property suitable for any of the purposes of the company, and to conduct or carry on, or liquidate and wind up, any such business.
- m. To apply for and take out, purchase or otherwise acquire any trade marks, designs, patents, copyright or secret processes, which may be useful for the company's main object, and to grant licences to use the same.
- n. To adopt such means of making known the business products and goods of the company as may seem expedient.
- o. To draw, make, accept, endorse, discount, negotiate and issue bills of exchange, promissory notes, bills of lading and other negotiable or transferable instruments.
- p. To borrow or raise or secure the payment of money in such manner as the company shall think fit and for such purpose or any other purposes to issue debentures or debenture stock (perpetual or otherwise), charged upon all or any of the property and rights of the company, both present and future, including its



uncalled capital, or without any such security, and to purchase, redeem or pay off any such securities.

- q. To receive money on deposit from customers and employees with or without allowance of interest thereon.
- r. To invest and deal with the moneys of the company not immediately required and in such manner as from time to time may be determined.
- s. To remunerate by payment, either in cash or any other usual payment method, any person or company for services rendered or to be rendered to the company.
- t. To enter into and carry into effect any arrangement for joint working in business, or for sharing of profits, or for amalgamation, with any other company or association, or any partnership or person, carrying on any business or proposing to carry on any business within the main object of the company.
- u. To enter into any arrangement with any government or local or other authority that may seem conducive to the company's main object, 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, and to exercise and comply with the same.
- v. To sell, improve, manage, develop, exchange, lease, hire, mortgage, dispose of, turn to account or otherwise deal with all or any part of the undertaking, property and rights of the company.
- w. To do all or any of the matters hereby authorised in any part of Ireland or any other jurisdiction, and either alone or in conjunction with any other party in any capacity and generally to do all such other things as may appear to be incidental or conducive to the attainment of the above main object.

And it is hereby declared that in the interpretation of these ancillary and subsidiary objects, but always subject to the main object, the meaning of any of the company's objects shall not be restricted by reference to any other objects, or by the juxtaposition of two or more objects, and that, in the event of any ambiguity, this Regulation shall be construed in such a way as to widen, and not to restrict, the powers of the company.

4. The income and property of the company shall be applied solely towards the promotion of main objects as set forth in this Memorandum of Association. 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. No charity trustee 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 charity trustee) 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 charity trustees 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 charity trustee) to the company;
  - d) reasonable and proper out-of-pocket expenses incurred by any charity trustee 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 charity trustee may be a member holding not more than one hundredth part of the issued capital of such company;
  - f) 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).
5. Annual audited accounts shall be kept and made available to the Revenue Commissioners on request.
  6. If upon the winding up or dissolution of the company there remains, after satisfaction of all debts and liabilities, any property whatsoever, it shall not be paid to or distributed among the members of the company. Instead, such the property shall be given or transferred to other charitable institutions: the **Central Remedial Clinic** or **The Rehab Group** 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 Regulation 4 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.
  7. The company must ensure that the Charities Regulator has a copy of its most recent governing instrument. If it is proposed to make an amendment to the governing instrument 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.
  8. The liability of the members is limited.
  9. The share capital of the company is €130 divided into 50 A Shares of €1.30 each and 50 B shares of €1.30 each.



## ARTICLES OF ASSOCIATION

### PRELIMINARY

1. The Companies Act 2014 (The "**Act**") except as modified by these Articles, shall apply to the company.

### SHARE CAPITAL

2. The capital of the company is €130 divided into 50 A Shares of €1.30 each and 50 B Shares of €1.30 each. The said Shares shall rank pari passu in all respects save as hereafter provided with regard to the rights to the payment of dividends and the rights to appoint and remove directors.
3. The directors of the company are authorised to allot shares provided always that any increased capital of the company shall be issued to the **The Rehab Group** and to the **Central Remedial Clinic** in equal amounts and the company shall not issue any Shares to any other person except with the consent of both the **The Rehab Group** and the **Central Remedial Clinic**.
4. The directors may, at their discretion, declare dividends of differing amounts on the A Shares and B Shares and in doing so shall have regard to any agreement which may exist between the holders of the A Shares and holders of the B Shares.
5. The lien conferred by Section 80 of the Act shall attach to fully paid shares and to all shares registered in the name of any person indebted or under liability to the company whether he be the sole registered holder thereof or one of two or more joint holders.

### TRANSFER OF SHARES

6.
  - (a) In the event of either of the said **The Rehab Group** or the **Central Remedial Clinic** at any time after the allotment to them or either of them of the said shares being desirous of transferring its shares and withdrawing from the company the party so withdrawing shall offer to the other of them the said **The Rehab Group** or the **Central Remedial Clinic** its shares in the company and the other of them shall have the option of purchasing the same at the fair value (as certified by the auditors of the company in writing) of the said shares within the period of 30 days on notice in writing to be given by the party so withdrawing to the other of them.
  - (b) Any shares comprised in any such notice not acquired by the party to whom they were offered may be transferred at the expiration of the said period of 30 days to any person and at any price not being less than the fair value certified by the auditors under Article 6(a) of these Articles.



7. The instrument of transfer of any share shall be executed by or on behalf of the transferor, save that if the share concerned (or one or more of the shares concerned) is not fully paid, the instrument shall be executed by or on behalf of the transferor and the transferee.

#### **GENERAL MEETINGS**

7. The general meetings shall be held in compliance with Part 4, Chapter 6 of the Act unless varied below.

#### **PROCEEDINGS AT GENERAL MEETINGS**

8. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. A quorum shall consist of two members of whom one shall be a holder, its representative or proxy of A Shares and one shall be a holder, its representative or proxy of B Shares.
9. The business of general meetings shall include fixing the remuneration of directors.

#### **DIRECTORS**

10. The number of directors shall be not less than two and unless and until otherwise determined by the company in general meeting not more than 20 of whom not more than 10 shall be A directors and not more than 10 shall be B directors. The A and B directors may, however, agree to the appointment of an independent director or directors to the board and in such case the number of permitted directors shall be increased accordingly by the number of directors so appointed. The independent directors shall neither be an A director nor a B director.
11. A director need not hold any shares in the company to qualify him as a director and Section 136 of the Act will not apply to the company.
12. No director may receive any remuneration from the company for the performance of his duties as director, but they may be paid all expenses properly incurred by them in connection with the business of the company. Section 155 of the Act shall be modified accordingly.
13. The directors may exercise all the powers of the company to borrow or raise money and to mortgage or charge its undertaking, property and uncalled capital and to issue debentures, debenture stock and other securities as security for any debt, liability or obligation of the company or of any third party.

#### **COMMITTEES**

14. The directors may delegate any of their powers to committees consisting of such directors of the board as they think fit. The proceedings of such committees shall be regulated by Section 160 of the Act and/or by each Committees Terms of Reference as agreed and approved by the directors from time to time.



## **DISQUALIFICATION OF DIRECTORS**

15. Section 148(2)(e) of the Act shall be modified by substituting words "6 months" with words "3 months".

## **APPOINTMENT AND REMOVAL OF DIRECTORS**

16.

- (a) The holders of the majority of the A shares issued for the time being shall be entitled at any time and from time to time to appoint any person an A director (but so that the maximum number of A directors fixed in accordance with these Articles is not exceeded) and to determine the period for which such person is to hold office and to remove any A director from office.
- (b) The holders of the majority of the B Shares issued for the time being shall be entitled at any time and from time to time to appoint any person a B director (but so that the maximum number of B directors fixed in accordance with these Articles is not exceeded) and to determine the period for which such person is to hold office and to remove any B director from office.
- (c) Every appointment determination or removal made pursuant to this Article shall be made by notice in writing signed by or on behalf of the party entitled to make same.
- (e) Directors shall be appointed for a term of three years. On expiration of the term of three years the director may be eligible for reappointment, subject to Article 20 of these Articles.
- (f) Directors may not be appointed for more than three terms of three years.
- (g) Regulations (e) and (f) shall also apply to an independent director appointed pursuant to Article 10 of these Articles.

## **PROCEEDINGS OF DIRECTORS**

17. The quorum necessary for the transaction of the business of the directors may be fixed by the directors and unless so fixed shall be two of whom one shall be an A director and one a B director.
18. The Chairperson shall not be entitled to a second or casting vote and Section 160(2) of the Act shall be modified accordingly.
- 19.
- (a) Subject to the provisions of Article 17 of these Articles questions arising at any meeting shall be decided by a majority of votes provided that a resolution relating to any of the matters specified in paragraph (b) of this Article shall only be deemed to have been duly passed by a majority vote of the A directors present and voting and a majority of the B directors present and voting.
  - (b) The following are the matters referred to in paragraph (a) of this Article:



- (i) The carrying on or acquisition by the company of any other business
- (ii) The acquisition by the company of any share in any other company;
- (iii) Any material alteration in the policy or manner of conducting the existing activities of the company;
- (iv) Any variation in the remuneration or other terms of appointment of any executive of the company;
- (v) The sale or exchange of any fixed asset the written down value of which is appearing in the company's books of accounts exceeds €50,000;
- (vi) Any capital expenditure in excess of €50,000;
- (vii) Any increase in the level of the company's borrowings or creation of any mortgage charge or other encumbrance on any of its property or assets;
- (viii) Any loan or any guarantee in respect of a loan or a liability in excess of €50,000;
- (ix) Any delegation of the powers of the directors to committees in accordance with Section 158(4) and Section 160(9) of the Act.

20.

- (a) A chairperson shall be elected by the directors each year from among themselves. Each chairperson so elected shall hold office for a period of one year from the date of his election, but shall be eligible to be re-elected on expiry of the period of one year for a further one year term. A vice chairperson shall be similarly elected and hold office for a similar period, however the chairperson and vice chairperson should not both be from the A directors nor both be from the B directors but shall be one of the A directors and B directors at all times.
- (b) If no chairperson or vice chairperson is appointed, or, if at any meeting of the directors appointed for holding the same, the directors present may choose one of their number to be the chairperson of the meeting.

#### **DIRECTORS MEETINGS HELD ELECTRONICALLY**

- 21. A meeting of the directors, or of a committee of the directors referred to in Section 160(9) of the Act, may consist of a conference between some or all of the directors, or as the case may be, members of the committee, who are not all in one place, but each of whom is able (directly or by means of telephonic, video or other electronic communication) to speak to each other and to be heard by each of the others and –



- (a) a director, or member of the committee as appropriate, taking part in such a conference shall be deemed to be present in person, to be counted as part of the quorum and shall be entitled to vote, and
- (b) such meeting of the directors, or committee, as appropriate 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 then where the chairperson of the meeting is located;
  - (iii) if neither subparagraph (i) or (ii) applies, then at such location as the meeting itself so decides.

## **DEADLOCK**

- 22. Where all the A directors present and all the B directors present at a board meeting vote in opposite directions, or in the event of any other deadlock between directors, then and only then the next succeeding four Articles shall come into effect and the implementation of same shall not be restricted by any other Article.
- 23. Immediately upon the taking of such vote the matter in dispute will be deferred until a meeting of directors called exclusively for the purpose of deciding the disputed matter and presided over by a chairperson co-opted or appointed as provided hereafter.
- 24. The directors shall unanimously co-opt a person to be a director of the company exclusively to act as chairperson of the board meeting convened to settle the disputed matter deferred from the preceding board meeting. In default of agreement among the directors such chairperson shall be appointed by the auditors of the company.
- 25. The person so co-opted or appointed shall act as a director of the company only for the purpose of chairing the board meeting at which the disputed matter is to be settled. Where there is equality of votes at this board meeting the chairperson of the meeting shall have a second or casting vote.
- 26. The chairperson so co-opted or appointed shall resign as a director of the company immediately after the termination of this board meeting.
- 27. No director may hold any executive office in the management of the business of the company.

## **NOTICES**

- 28. The provisions regarding notice of every general meeting shall be regulated by Section 181 of the Act, however for the avoidance of doubt the signature to any notice to be given by the company may be written or printed.
- 29. The notice can be served or given by electronic means and Section 218(3)(d) of the Act shall apply to the company.



30. Section 218(5) of the Act shall apply to the company.

#### **INDEMNITY**

31. Every director, managing director, chief executive officer, agent, auditor, secretary or other officer of the company shall be entitled to be indemnified out of the assets of the company against all losses or liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defence of any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under Section 642 of the Act in which relief is granted to him by the court, and no director or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the company in the execution of the duties of his office or in relation thereto. But this Article shall only have effect in so far as its provisions are not avoided by Section 235 of the Act.

#### **SECURITY CLAUSE**

32. No member shall be entitled to require discovery of or any information respecting any detail of the company's trading, or any matter which is or may be in the nature of a trade secret, mystery of trade, or secret process which may relate to the conduct of the business of the company, and which, in the opinion of the directors, it will be inexpedient in the interest of the members of the company to communicate to the public.



We, the several persons whose names and addresses are subscribed, wish to be formed into a company in pursuance of this constitution, and we agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses and Descriptions of Subscribers	Number of Shares Subscriber taken by each Subscriber
Irene Wall Secretary 51/52 Fitzwilliam Square Dublin 2	One
Mary Moyles M. T. Operator 51/52 Fitzwilliam Square Dublin 2	One
Total Shares Taken	Two

As appropriate:

Signatures in writing of the above subscribers, attested by witness as provided for below; or

Authentication in the manner referred to in Section 888.

Dated the 26<sup>th</sup> day of August 20 16

Witness to the above Signatures:

Name: Shona Malton

Address: Horsham East, Glendalough, Co Wicklow.