

**Articles of Association**  
**of the**  
**Max Delbrück Center of Molecular Medicine in the Helmholtz Association**

Approved in the meeting of the MDC Advisory Board on December 10<sup>th</sup>, 2015

**§ 1 LEGAL STATUS**

- (1) Without affecting its legal identity, the “Max Delbrück Center for Molecular Medicine” has been changed from a legally responsible foundation under public law into a legally responsible corporation under public law under the name “Max Delbrück Center for Molecular Medicine in the Helmholtz Association” (MDC). This change was effected by the law of the State of Berlin of April 9, 2015 (GVBL.[Laws and Ordinances Gazette] for Berlin p. 70), which entered into force on April 23, 2015.
- (2) The MDC has its seat in Berlin and is subject to the laws of the State of Berlin. The Berlin Senate Department responsible for Research is the supervisory authority for legal issues. The fiscal year is the calendar year.
- (3) The MDC has its own official seal.
- (4) The MDC is a legally responsible corporation within the joint corporation “Berlin Institute of Health” (BIH).

**§ 2 PURPOSE OF THE MDC**

- (1) The purpose of the MDC is to promote science and research (§ 52 para. 2 no. 1 AO) and professional education and training (§ 52 para. 2 no. 7 AO).
- (2) The objective of the MDC is to conduct biomedical research, in particular in the field of the molecular causes of disease, and to promote the clinical application and practical implementation of this research. The knowledge gained from the MDC’s research activities shall be passed on to society within the framework of knowledge and technology transfer. These tasks were transferred to the MDC to perform autonomously; in accordance with § 3 para. 3 of the BIH Articles of Association, they are not subject to any directives of the BIH or its bodies.
- (3) The MDC may perform other related tasks, including education and training, in particular the promotion of young scientists. If permitted by law and not prohibited by these Articles of Association, the MDC shall be entitled to carry out all transactions and measures that appear suited to serve the purposes of the MDC. In particular, the MDC shall be entitled to establish branches, to participate in other institutions of the same or related nature as well as to found or acquire such institutions and to generate revenues from the

commercialization of activities carried out within the framework of the realization of the purpose. The same shall apply to holdings in spin-offs of the MDC.

- (4) As a member of the Hermann von Helmholtz Association of German Research Centres (HGF), the MDC pursues long-term research and educational objectives of the state and society and is integrated into the financing procedures oriented on these goals.
- (5) To fulfill its tasks, the MDC also cooperates with third parties besides the BIH and the Charité, in particular with institutions of health care, universities, research institutions and companies, and concludes cooperation agreements for this purpose.

### § 3 NON-PROFIT ORGANIZATION

- (1) The MDC is a non-profit corporation; it does not primarily pursue its own economic purposes. In accordance with the purposes specified in § 2 para. 1, it exclusively and directly pursues charitable purposes within the meaning of the section "Tax-privileged Purposes" of the German Fiscal Code.
- (2) Any funds of the MDC shall be used exclusively for purposes in accordance with its Articles of Association. No person shall benefit from expenses not used for the MDC's intended purposes, in accordance with § 2 of these Articles of Association, or shall receive unreasonably high compensation payments.

### § 4 ASSETS

- (1) The MDC may acquire own assets. It is entitled to accept grants and subsidies from third parties.
- (2) The MDC shall manage its assets itself.
- (3) The MDC is not entitled to take or grant loans or credits or to assume sureties, guarantees or similar liabilities.

### § 5 GRANTS AND SUBSIDIES

- (1) To fulfill its research tasks, the MDC receives grants and subsidies from funds of the Federal Government and the State of Berlin on the basis of Article 91b of the Basic Law in conjunction with Article 3 of the Administrative Agreement between the Federal Government and the States on the establishment of the Joint Science Conference (GWK Agreement) in conjunction with § 1 para. 1 no. 2 of the appendix to the GWK Agreement (Federal Gazette no. 195, p. 7787 of October 18, 2007) in the respective current version, provided that the expenditures are not covered by other revenues or through own or other funds – excluding donations and their proceeds.
- (2) The funds will be allocated to the MDC within the framework of its approved economic plan and in accordance with the budgets of the Federal Government and the State of Berlin.

## § 6 BUDGET

- (1) The budget of the MDC must contain all the expected revenues for the fiscal year, expected expenditures and commitment appropriations. Revenues and expenditures must be balanced. For the establishment and implementation of the budget, the financial statutes of the research institutions of the Hermann von Helmholtz Association of German Research Centres shall apply in the respective applicable version.
- (2) At the latest two months before the end of the fiscal year, the Board of Directors shall draw up a budget for the following fiscal year and submit this to the Supervisory Board for approval. The underlying assumptions and key planning data must be explained.

## § 7 GOVERNANCE OF THE MDC

The governing bodies of the MDC are the Supervisory Board, the Board of Directors and the Scientific Advisory Board.

## § 8 DUTIES OF THE SUPERVISORY BOARD

- (1) The Supervisory Board monitors the legality, usefulness and cost-effectiveness of the management of the MDC's affairs, and may at any time demand reports from the Board of Directors. It specifies which decisions of the Board of Directors shall require the prior approval of the Supervisory Board and is authorized to issue instructions to the Board of Directors in special research policy and financial matters and for the performance reviews.
- (2) The Supervisory Board decides on the fundamental matters of the MDC, in particular on:
  1. the general research objectives and the financial affairs of the MDC,
  2. the management principles and the principles for the performance review, unless these are specified by the financing process of the Hermann von Helmholtz Association of German Research Centres. (HGF),
  3. the annual budget and the multiannual financial plans, including the expansion and investment programs as well as the planning for appointments,
  4. the approval of the annual financial statements,
  5. the discharge of the Board of Directors,
  6. the selection and commissioning of the auditor for the audit of the annual financial statement,
  7. the adoption and amendment of the articles of association,
  8. the appointment of the members of the Scientific Advisory Board in accordance with § 14,
  9. the appointment and dismissal of the Board of Directors in accordance with § 12,
  10. the secondment of a member of the corporation to the Supervisory Board of the Berlin Institute of Health Research (BIH) in accordance with § 19 para. 5 of these articles of association and § 5 para. 1 no. 6 of the articles of association of the BIH,

11. dissolution of the MDC.
- (3) The following shall require the prior approval of the Supervisory Board :
  1. legal transactions which exceed the framework of current business operations and impose commitments on the MDC lasting longer than one year,
  2. measures which may exert considerable influence on the position and the activity of the MDC,
  3. substantial changes and additions to the previous task description as well as significant organizational changes within the MDC,
  4. agreements on joint appointments, the rules of procedure for appointments, the adoption of rules of procedure for the Board of Directors,
  5. measures pursuant to the coverage or design of the collective wage agreement as well as general remuneration and social regulations and
  6. all decisions, regulations and measures regarding civil service, salary, pension rights and labor law rights that deviate from the applicable laws for federal civil servants, or from the authorizations granted on the basis of federal law.
- (4) The Supervisory Board may revocably grant its consent to certain types of legal transactions and measures in advance, in general or in compliance with certain conditions. In urgent cases the prior written approval of the Chairman and Deputy Chairman of the Supervisory Board shall be sufficient. The remaining members of the Supervisory Board must be informed immediately by the Chairman.
- (5) Declarations of intent by the Supervisory Board shall be made on its behalf by the chairperson; declarations of intent made to the Supervisory Board shall be accepted by the chairperson. With respect to the Board of Directors, the representative of the Federal Government in the Supervisory Board, who has been authorized for this purpose by the Federal Ministry of Education and Research, shall represent the MDC in and out of court; for this purpose he/she requires the consent of the Supervisory Board member in accordance with § 9 para. 1 sentence 2 no. 2.

## **§ 9 COMPOSITION OF THE SUPERVISORY BOARD**

- (1) The Supervisory Board consists of a maximum of twelve members who perform their duties in an honorary capacity. It is comprised of
  1. two members, who shall be appointed and recalled by the Federal Government,
  2. one member, who shall be appointed and recalled by the Berlin Senate Department for Education, Science and Research,
  3. the chairperson of the Scientific Advisory Board,
  4. the president of Humboldt-Universität zu Berlin,
  5. the president of Freie Universität Berlin,
  6. two members of the MDC, who are not members of the Board of Directors, and
  7. a maximum of four prominent individuals from business, academia or civil society.In accordance with para 2 nos. 6 and 7, the members shall be appointed and recalled

by the Berlin Senate Department for Education, Science and Research in mutual agreement with the Federal Government. In accordance with para. 2 no. 6, those members of the MDC shall be appointed who have received the most votes in an election among the members of the MDC. Details are regulated by the Electoral Code, which shall be adopted by the Board of Directors with the approval of the Supervisory Board. In the appointment of members referred to in para. 2 no. 7, both the Board of Directors and the Senate Department for Education, Science and Research of the State of Berlin and the Federal Ministry of Education and Research have the right of proposal; the Board of Directors must be heard.

- (2) In accordance with para. 1 nos. 6 and 7, the Supervisory Board members shall be appointed for a term of no longer than four years. One reappointment is permitted. After the term of office expires, members shall remain in office until the new appointments have been implemented. Members may also be recalled without important cause at any time and resign from their office without important cause at any time by written notice to the MDC. Members who leave office before their term of office expires shall immediately be replaced by appointing a new member; in the case that a member leaves office referred to in para. 2 no. 6, the member of the MDC shall be appointed who in the election for the Supervisory Board attained the next highest number of votes; his/her nomination and appointment shall be valid for the remainder of the term. The membership of a Supervisory Board member shall end when he/she loses the position that was decisive for his/her appointment.
- (3) All members of the Board of Directors, the chairperson of the Scientific Council, the president of the Helmholtz Association of German Research Centres, a member of the Staff Council and the women's representative as Equal Opportunities Officer shall participate in the meetings of the Supervisory Board in an advisory capacity unless the Supervisory Board decides otherwise in individual cases. The chairperson of the BIH shall participate in the Supervisory Board meetings in accordance with § 19 para. 1.
- (4) The chairperson and deputy chairperson of the Supervisory Board are elected from among the members of the Supervisory Board. The election shall require the votes of the members referred to in para. 1 clause 2 nos. 1 and 2 and is valid, unless otherwise specified, for the duration of the term of office of the person elected. The Supervisory Board may revoke the election of the chairperson or deputy chairperson before expiration of the term without explanation; in these cases the Supervisory Board shall conduct a new election. The chairperson and the deputy chairperson may resign from their office before their term of office has expired, without important cause, by notice to the MDC.

## § 10 MEETINGS OF THE SUPERVISORY BOARD

- (1) Supervisory Board meetings shall be called by the chairperson or a member of the Board acting on his/her behalf usually once every calendar half year, at least, however, once each

calendar year. The Supervisory Board shall be convened at the request of one quarter of the board members.

- (2) Supervisory Board meetings shall be called in writing by the chairperson of the Supervisory Board, subject to a three-week notice period. In calculating the period, the date on which the notice is dispatched and the date of the meeting shall not be included. The notice shall state the place and time of the meeting, as well as the individual agenda items and shall enclose the required documents. In urgent cases, the chairperson may reduce the period to a maximum of seven days and also call the meeting orally, by telephone or by telefax.
- (3) Minutes shall be taken in written form at all meetings of the Supervisory Board and its committees and shall be promptly signed by the chairperson. The minutes shall include the place and date of the meeting, participants, agenda items, the substance of the discussions and the resolutions of the Supervisory Board. A violation against para. 1 or para. 2 does not make a resolution invalid.
- (4) The Supervisory Board shall issue its own rules of procedure, in which in particular the responsibility and procedure of committees shall be regulated in greater detail.

#### § 11 RESOLUTIONS OF THE SUPERVISORY BOARD

- (1) The Supervisory Board has a quorum when more than half its members are present. The chairperson or the deputy chairperson must be present. If the Supervisory Board cannot make decisions due to a lack of a quorum, it shall be convened again within 14 days. In this case, it has a quorum regardless of the number of members present and shall decide by a majority of members present.
- (2) Each member of the Supervisory Board shall ensure that he/she has sufficient time to fulfill his/her mandate and as a rule is able to do so personally. Members of the Supervisory Board appointed by the Federal Government and the State of Berlin who are prevented from attending a meeting may be represented by members of their respective administrations. In the individual case, other members of the Supervisory Board may give written authorization to another member of the Supervisory Board to represent them when they are prevented from attending. Members of the Supervisory Board may also participate in a resolution of the Supervisory Board by submitting their vote in writing through another member of the Supervisory Board to the chairperson of the Supervisory Board. They are considered to be present in the meaning of para. 1 also in these cases.
- (3) A member of the Supervisory Board shall not participate in the discussion and resolution of an agenda item if it is assumed that this member could obtain a personal benefit through a resolution under consideration or if another conflict of interest exists.
- (4) The Supervisory Board shall adopt its resolutions, unless these Articles of Association provide or permit otherwise, with a simple majority. Decisions with significant financial or fundamental research policy implication and amendments to the Articles of Association require the consent of the members appointed by the Federal Government and the State

of Berlin. Abstentions are not counted. This also applies to resolutions by the Supervisory Board committees.

- (5) Resolutions made in written form, via telefax, or via email by the Supervisory Board or its committees are permissible if no member objects to this procedure within seven days. For such a resolution, the chairperson or if he/she is prevented, the deputy chairperson must propose the resolution, justify it and request that the Supervisory Board members immediately submit their vote, at the latest however within a deadline of two weeks. After the set deadline, any votes not received by the chairperson, or if he/she is prevented, by the deputy chairperson or not received on his/her behalf by the Board of Directors shall be considered abstentions. The Supervisory Board members shall be informed immediately about the outcome of the vote. The resolution shall be announced once again at the next Supervisory Board meeting and shall be recorded in the minutes. Resolutions made by telephone are not permissible.

## § 12 BOARD OF DIRECTORS

- (1) The Board of Directors manages the MDC and conducts its business affairs. It consists of one or more scientific members and one administrative member. A scientific member, who is to be determined by the Supervisory Board, shall be the chairperson of the Board of Directors. The administrative member must have commercial and legal expertise and relevant work experience.
- (2) The Board of Directors shall be appointed and dismissed by the Supervisory Board. The term of office shall be five years. Reappointment is permissible. Members of the Board of Directors shall work on the basis of employment contracts and shall receive appropriate remuneration for their activities.
- (3) The chairperson of the Board of Directors is the scientific representative of the MDC and is a member of the Board of Directors of the BIH in accordance with § 6 para. 1 no. 5 of the BIH law (BIHL). He/she represents the MDC together with the administrative member both in and out of court. In ongoing business of the administration, the administrative member may represent the MDC alone. The administrative member is responsible for the budget in the meaning of the State Budget Regulations in the version of the notice of January 30, 2009 (GVBl. [Gazette of Laws and Ordinances] p. 31), which was most recently amended by Article I of the law of November 4, 2013 (GVBl. p. 578).
- (4) The chairperson of the BIH shall participate in meetings of the Board of Directors in accordance with § 19 para. 1.
- (5) The Board of Directors shall adopt its rules of procedure, which require the approval of the Supervisory Board. The rules of procedure shall also regulate the power of representation in accordance with para. 4 clauses 2 and 3 in case the authorized representative of the MDC is prevented.

## § 13 RIGHTS AND DUTIES OF THE BOARD OF DIRECTORS

- (1) The Board of Directors shall conduct the business affairs in accordance with the law, these Articles of Association and the resolutions of the Supervisory Board in compliance with due diligence. Its management authority extends to all actions associated with the ordinary operation of the MDC. For actions that go beyond this, the Board of Directors requires the prior consent of the Supervisory Board in accordance with § 8.
- (2) The Board of Directors must report to the Supervisory Board at its meetings – at least, however, every six months – about the course of business and the situation of the MDC and, in the case of important reason, must submit a written report to the chairperson and his/her deputy chairperson. Within the first six months of each fiscal year the Board of Directors shall submit a Center progress report covering the previous fiscal year. The reports must comply with the principles of conscientious and accurate accounting.

#### § 14 SCIENTIFIC ADVISORY BOARD

- (1) The Scientific Advisory Board advises the Supervisory Board and the Board of Directors in scientific and programmatic matters as well as significant structural issues. It contributes to the ongoing performance review of the research work of the MDC by providing scientific assessment and is independent in its advisory activity.
- (2) The Scientific Advisory Board is comprised of a maximum of 12 recognized scientists or scholars from Germany or other countries whose research areas are closely related to those of the MDC.
- (3) The members of the Scientific Advisory Board are appointed by the Supervisory Board after consultation with the Board of Directors for a term of four years; reappointment to a second four-year term is permitted.
- (4) Guests, in particular members of the Board of Directors, the chairperson of the Scientific Council and representatives of the State and Federal Governments may take part in meetings of the Scientific Advisory Board unless the Scientific Advisory Board decides otherwise in individual cases. The chairperson of the BIH shall take part in the meetings in accordance with § 19 para. 1.
- (5) The Scientific Advisory Board shall elect from its members a chairperson and deputy chairperson.
- (6) As a rule, the Scientific Advisory Board shall meet twice a year as well as upon request of the Board of Directors, the Supervisory Board or at the request of one third of its members. It has a quorum when at least half of its members are present. Resolutions shall be adopted by a simple majority. Abstentions shall not be counted. Minutes shall be taken on the deliberations and recommendations and shall be signed by the chairperson. These minutes shall be sent to the members of the Scientific Advisory Board, the Supervisory Board and the Board of Directors.
- (7) The Scientific Advisory Board may adopt its rules of procedure.

## § 15 SCIENTIFIC COUNCIL

The Scientific Council, which is composed exclusively of members of the MDC, advises the Board of Directors in matters of fundamental scientific importance. Details shall be regulated by the Electoral Rules and Rules of Procedure.

## § 16 MEMBERS OF THE MDC

Members of the MDC are the senior research staff; these are all leaders of research groups, who are employed by the MDC or whose salary is reimbursed by the MDC to third parties. Concurrently they are also members of the Berlin Institute of Health in accordance with § 1 para. 5 of the BIH law (BIHL).

## § 17 ORGANIZATION

In accordance with § 2, the tasks of the MDC shall be carried out in research groups and supported by scientific service facilities and other organizational units. The organization of the MDC must ensure that the tasks incumbent on the individual organizational unit can be fulfilled.

## § 18 HUMAN RESOURCES MANAGEMENT

- (1) The MDC is the employer of the staff working in the MDC. The chairperson of the Board of Directors has authority over the Human Resources Department in personnel matters. He/she may delegate his/her powers to the administrative member of the Board of Directors. Details are regulated by the Rules of Procedure for the Board of Directors. The Supervisory Board has authority over the members of the Board of Directors of the MDC in personnel matters and matters of compensation. The Supervisory Board may delegate this authority to the chairperson of the Supervisory Board.
- (2) The employment contracts of the employees and trainees of the MDC shall be regulated according to the provisions in the valid collective agreement for employees of the Federal Government.

## § 19 RIGHTS AND DUTIES AS JOINT CORPORATION OF THE BERLIN INSTITUTE OF HEALTH

- (1) The Board of Directors of the MDC shall inform the Board of Directors of the BIH promptly and comprehensively about upcoming important decisions that refer to the BIH. In particular, these include decisions about structural and developmental plans as well as research programs and business plans. Prior to any major decisions in the meaning of para. 1, the chairperson of the BIH must be heard by the Board of Directors or the Supervisory Board of the MDC in the respective Board of Directors or Supervisory Board meetings. For

this purpose, the chairperson shall have speech and petition rights in the respective meeting of the Board of Directors or the Supervisory Board.

- (2) The Board of Directors of the MDC shall report to the BIH by June 30th of the following year about the use of funds that the MDC received from the BIH to carry out projects in the common research area and shall transmit the audit report of the auditor to the BIH immediately after establishment of the annual financial statement.
- (3) A member of the Staff Council of the MDC, in accordance with § 3 para. 2 no. 2 of the BIH law, is entitled to participate in the Supervisory Board meetings of the BIH with speech and petition rights, as does the Equal Opportunities Officer in accordance with § 5 para. 2 no. 4 of the BIH law.
- (4) In accordance with § 13 of the BIH law and in order to fulfill its duties, the BIH shall make use of administrative departments and administrative services of the MDC. For this purpose public-law agreements shall be concluded, in which the reimbursement of incurring costs shall be regulated.
- (5) The Supervisory Board of the MDC shall appoint one of the two members in accordance with § 9 para. 1 clause 2 no. 6 to the BIH Supervisory Board.

## § 20 ACCOUNTING, AUDITING, DISCHARGE, DISCLOSURE OF EMOLUMENTS

- (1) The revenues and expenses as well as the assets and liabilities of the MDC shall be accounted for each year by the Board of Directors. In doing so, it shall ensure a transparent separation accounting and a cost and management accounting that the funds of the BIH were used appropriately according to their purpose.
- (2) Irrespective of the statutory auditing rights of the federal audit office and the Berlin state audit office, the annual financial statement shall be audited by an auditor. The Supervisory Board shall select the auditor.
- (3) A financial statement shall be presented to the Supervisory Board at the end of the year.
- (4) The economic management and the accounting of the MDC shall be governed by commercial principles, taking into account the budgetary provisions of the State of Berlin.
- (5) The provisions of the State budget regulations shall apply to the discharge. The decision-making body is the Supervisory Board.
- (6) The Board of Directors shall prepare an annual remuneration report, which shall be made publicly available in suitable form. In the remuneration report the total compensation of each member of the Board of Directors shall be shown individually and in detail in generally comprehensible form. In the case of members of the Board of Directors, the report shall also specify benefits that were promised to the member or former member of the Board of Directors in the event of termination of employment or have been granted during the fiscal year.

## § 21 ALTERATION OF THE ARTICLES OF ASSOCIATION AND DISSOLUTION OF THE MDC

Decisions regarding the Articles of Association, amendments thereof and the proposal of dissolution of the MDC may only be made with the votes of members of the Supervisory Board appointed by the Federal Government and the State of Berlin. The Board of Directors and the Scientific Advisory Board must first be consulted. The decisions shall only become effective upon approval by the Berlin Senate Department for Education, Science and Research.

## § 22 ACCESSION OF ASSETS

If the MDC is dissolved, its assets shall be divided between the Federal Government and the State of Berlin in proportion to the value of the subsidies paid by the respective body, as long as the assets at the time of dissolution do not exceed the value of the granted funds and in-kind investments. Any surplus shall be directed towards tax-privileged purposes in consultation with the Federal Government.

## § 23 ENTRY INTO FORCE, TRANSITIONAL PROVISIONS

In accordance with § 7 of the MDC law, these Articles of Association require the approval of the Berlin Senate Department for Education, Science and Research. The Articles of Association and the amendments thereto must be published in the official gazette for Berlin. They enter into force upon their publication, provided these Articles of Association do not specify a different time.

This document is an English translation of the original *Satzung des Max-Delbrück-Centrums in der Helmholtz Gemeinschaft*. In the event of any discrepancies arising between the German and English versions, the German version shall take precedence over the English version.