



**Registration of a Charge**

Company Name: **4D PHARMA PLC**

Company Number: **08840579**



XAA9LY9L

Received for filing in Electronic Format on the: **05/08/2021**

**Details of Charge**

Date of creation: **29/07/2021**

Charge code: **0884 0579 0001**

Persons entitled: **OXFORD FINANCE LUXEMBOURG SÀRL (ACTING IN RESPECT OF ITS COMPARTMENT 4) AS COLLATERAL AGENT**

Brief description: **N/A**

**Contains fixed charge(s).**

**Contains negative pledge.**

**Authentication of Form**

This form was authorised by: **a person with an interest in the registration of the charge.**

**Authentication of Instrument**

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **GREENBERG TRAURIG, LLP**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 8840579

Charge code: 0884 0579 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 29th July 2021 and created by 4D PHARMA PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 5th August 2021 .

Given at Companies House, Cardiff on 6th August 2021

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**

**EXECUTION VERSION**

**THE COMPANY LISTED IN SCHEDULE 1**  
(as Chargor)

**OXFORD FINANCE LUXEMBOURG S.à.r.l. ACTING IN RESPECT OF COMPARTMENT 4**  
(as Collateral Agent)

**CHARGE ON SHARES**

**WILLIAM FRY**

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**THIS DEED** is made on 29 July 2021

**BETWEEN:**

- (1) **THE COMPANY LISTED IN SCHEDULE 1** as Chargor (the **Chargor**); and
- (2) **OXFORD FINANCE LUXEMBOURG S.à.r.l.** a Luxembourg private limited company (société à responsabilité limitée) with its registered office located at 2, route d'Arlon, L-8008 Strassen, Grand Duchy of Luxembourg and registered with the Luxembourg Business Register under number B243395, acting in respect of its Compartment 4 as security agent and as collateral agent for and on behalf of the Secured Parties (the "**Collateral Agent**").

**RECITALS:**

- A. The Lenders have agreed to make Term Loans available to the Borrowers pursuant to the terms of the Loan and Security Agreement.
- B. It is one of the conditions of the availability of the Term Loans that the Chargor executes and delivers this Deed and provides to the Collateral Agent on behalf of the Secured Parties the security created by this Deed.
- C. The directors of the Chargor are satisfied that it is in the best interests of, and for the corporate benefit of, the Chargor to enter into this Deed.
- D. The Collateral Agent is entering into this Deed as security trustee on behalf of the Secured Parties and the terms of Schedule 4 shall apply.

**THIS DEED WITNESSES** as follows:

**SECTION 1.0 - DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Deed (including the Recitals), all terms and expressions shall, unless defined in this Deed or the context otherwise requires, have the meaning attributed to such terms and expressions in the Loan and Security Agreement (whether defined expressly therein or by reference to another document).

**1.2 Further Definitions**

In this Deed (including the Recitals):

**Act** means the Land and Conveyancing Law Reform Act 2009;

**Authorisation** means an authorisation, consent, approval, resolution, licence, exemption, filing, notorisation or registration;

**Companies Act** means the Companies Act 2014;

**Company** means 4D Pharma Cork Limited, a company incorporated in Ireland with company registration number 574753 and having its registered address at c/o Quintas, Heron House, Blackpool Park, Blackpool, Cork, Ireland, T23 R50R;

**Delegate** means any delegate, agent, attorney or co-trustee appointed by the Collateral Agent;

**Legal Reservations** means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under any limitation acts;
- (c) the principle that any provision for the payment of compensation or additional interest which is not a genuine pre-estimate of loss may be unenforceable on the grounds that it is a penalty and thus void;
- (d) the principle that an Irish court may refuse to give effect to a provision dealing with the cost of litigation brought before any court where the litigation is unsuccessful or the court itself has made an order for costs;
- (e) the principle that in certain circumstances security granted by way of fixed charge may be characterised as a floating charge or that security purported to be constituted by an assignment may be re-characterised as a charge;
- (f) similar principles, rights and defences under the laws of any relevant jurisdiction; and
- (g) any other matters which are set out as qualifications or reservations as to matters of law of general application in the legal opinions delivered to the Collateral Agent with respect to the Chargor;

**Liability** means any present or future obligation or liability for the payment of money, whether in respect of principal, interest or otherwise, whether actual or contingent, whether owned jointly or severally and whether as principal or surety or in any other capacity and including any amount which would constitute such a liability but for any discharge, non-probability, unenforceability or non-allowability of the same in any insolvency or other proceedings;

**Loan and Security Agreement** means the loan and security agreement dated on or about the date hereof between, amongst others, the Collateral Agent (as lender and collateral agent) and the Chargor as a Loan Party;

**Receiver** means any one or more receivers and/or manager appointed by the Collateral Agent over all or any part of the Security Assets;

**Secured Obligations** means all present and future Liabilities of the Loan Parties to the Secured Parties under or in relation to any one or more of the Loan Documents (including, without limitation, all Liabilities arising out of any extension, variation, modification, restatement or novation (however fundamental) but excluding any money, obligation or liability which would cause the covenant set out in Clause 2.1 (*Nature and Scope of Security*) or the security which would otherwise be constituted by this Deed to be unlawful or prohibited by any applicable law or regulation);

**Secured Parties** means the Lenders, the Collateral Agent, a Receiver or any Delegate (and a **Secured Party** shall mean any one of them);

**Security** means the security constituted or intended to be constituted by this Deed;

**Security Assets** means, those assets, rights and property (both present and future), the subject of this Deed;

**Security Period** means the period beginning on the date of this Deed and ending on:

- (a) the date on which all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full; and

- (b) the date on which the Collateral Agent is satisfied (acting reasonably) that the Lenders have ceased to have any commitment, obligation or other liability (whether actual or contingent) to make any credit or provide any other financial accommodation to a Loan Party under any Loan Document or otherwise;

**Share Related Rights** means in relation to any Shares:

- (a) all dividends, distributions, interest and other income paid or payable after the date hereof on all or any of the Shares;
- (b) all stocks, shares, securities (and the dividends and interest thereon), rights, money or property accruing or offered at any time by way of redemption, bonus, preference, option rights or otherwise to or in respect of any of the Shares or in substitution or exchange for any of the Shares;
- (c) all rights relating to any of the Shares which are deposited with or registered in the name of any depositary, custodian, nominee, clearing house or system, investment manager, chargee or other similar person or their nominee (including rights against any such person); and
- (d) all other rights attaching or relating to any of the Shares and all cash or other securities or investments in the future deriving from any of the Shares or such rights;

**Shares** means all shares owned by the Chargor in the Company specified in Schedule 2 (*Shares*) and all other shares, stocks, bonds, warrants, coupons or other securities and investments and all other interests (including, but not limited to, loan capital), in each case from time to time held in the Company together with all Share Related Rights, now or in the future owned from time to time by it, or held by any nominee or trustee on its behalf in the Company; and

**Subsidiary** means subsidiary as defined by Section 7 of the Companies Act.

### 1.3 Interpretation

- (a) If there is any inconsistency between the terms of this Deed and those of the Loan and Security Agreement, the Loan and Security Agreement shall prevail.
- (b) In this Deed, unless the contrary intention appears, a reference to:
  - (i) an **amendment**, includes a supplement, amendment, novation, restatement or re-enactment and **amended** is to be construed accordingly;
  - (ii) **company**, includes a corporation or a body corporate;
  - (iii) a provision or matter **including** or which **includes** shall be construed without limitation to any events, circumstances, conditions, acts or matters listed or specified after those words;
  - (iv) the **winding up, dissolution** or **examinership** of a company shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which a company carries on business including, but not limited to, the seeking of liquidation, winding up, reorganisation, dissolution, examinership, administration, arrangements, adjustment, protection or relief of debtors;
  - (v) a provision of law is a reference to that provision as extended, applied, amended, substituted or re-enacted and includes any subordinate legislation made thereunder;
  - (vi) the singular includes the plural and vice versa;



- (vii) any **Loan Document**, other **instrument** or other **document** is to that Loan Document, other Instrument or other document as supplemented, otherwise amended, replaced or novated from time to time (however fundamental that amendment, novation or replacement may be, even if it involves increased, new, additional and/or replacement facilities or an increase in any other amount or rate);
- (viii) a "**Party**" or other "**particular person**" includes its successors in title, permitted assignees and permitted transferees in accordance with their respective interests and this Deed shall be enforceable notwithstanding any change in the constitution of the Collateral Agent, its absorption in or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person;
- (ix) "**person**" includes any individual, firm, company or other corporation, unincorporated body of persons, government, state or any agency of a person, any association, trust or partnership (whether or not having separate legal personality) or two or more of them; and
- (x) an Event of Default (as such term is defined in the Loan and Security Agreement) is "**continuing**" if it has not been waived in writing by the Collateral Agent or remedied to the satisfaction of the Collateral Agent (acting in good faith).
- (c) Unless the contrary intention appears, the index to and the headings in this Deed do not affect its interpretation.
- (d) Unless the context otherwise provides, a reference to a Security Asset includes the proceeds of any disposal of that Security Asset.
- (e) Section 75 of the Act shall not apply to this Deed.

#### 1.4 **Certificates**

Any certificate or determination of the Collateral Agent as to any amounts owing under this Deed will be conclusive and binding on the Chargor, save in the case of manifest error.

#### 1.5 **Financial Collateral**

To the extent that any of the Security Assets constitute "financial collateral" and this Deed and the obligations of the Chargor and the Collateral Agent hereunder constitute a "security financial collateral arrangement" (in each case as defined in the European Communities (Financial Collateral Arrangements) Regulations 2010 (the **Regulations**)) the Collateral Agent shall have the right, at any time after the Security has become enforceable, to appropriate any or all of the Security Assets which constitutes financial collateral in such manner as it thinks fit in or towards the satisfaction of the Secured Obligations in accordance with the Regulations. For this purpose the parties agree that the value of such financial collateral so appropriated shall be a market price or value at the time of appropriation as determined by the Collateral Agent by such process as the Collateral Agent may select including independent valuation. The parties further agree that the method of valuation provided for in this Deed shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

#### 1.6 **Secured Obligations not paid if Avoided**

If the Collateral Agent considers that an amount paid by the Chargor in respect of the Secured Obligations is capable of being avoided, or otherwise set aside, on the insolvency of the Chargor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

## **SECTION 2.0 - NATURE OF SECURITY AND COVENANT TO PAY**

### **2.1 Nature and Scope of Security**

The Chargor expressly confirms that it intends the Security to extend from time to time to any variation, increase, extension or addition (however fundamental) to the Loan Documents or any facility or amount made available or owing under or in connection with the Loan Documents.

### **2.2 Covenant to Pay**

The Chargor hereby unconditionally and irrevocably covenants with the Collateral Agent on behalf of the Secured Parties that it will on demand pay, discharge or perform the Secured Obligations when they become due.

### **2.3 Interest**

Any amount which is not paid under this Deed when due shall bear interest at the Default Rate (both before and after judgment and payable on demand) from its due date up to the date of a final payment, such interest to accrue at a daily basis.

## **SECTION 3.0 - SECURITY**

### **3.1 Fixed Charges**

As continuing security for the payment, performance and discharge of all of the Secured Obligations, the Chargor in favour of the Collateral Agent on behalf of the Secured Parties as legal and beneficial owner hereby charges by way of first fixed charge the Shares and all the Share Related Rights;

### **3.2 Negative Pledge and Dispositions**

The Chargor shall comply with the terms of Sections 7.1 (*Dispositions*) and 7.5 (*Encumbrances*) of the Loan and Security Agreement.

### **3.3 Validity of Security**

The Security shall be and shall be deemed to be effective and shall have effect whether or not the principal monies and interest and all other sums intended to be hereby secured or any part thereof shall be advanced before or after or upon the date of the execution of this Deed.

## **SECTION 4.0 - CONTINUING SECURITY, ETC.**

### **4.1 Continuing Security**

The Security shall be a continuing security for the Secured Obligations and shall not be considered as satisfied or discharged by any intermediate payment or settlement of all or any of the Secured Obligations.

### **4.2 Additional and Independent Security**

This Security is in addition to, independent of and shall not in any way prejudice or affect any other Lien now or hereafter held by the Collateral Agent and/or the Secured Parties for the Secured Obligations. The Security shall not merge with nor be prejudiced by any other Lien or the invalidity of any such Lien.

### **4.3 Opening of New Accounts**

If the Collateral Agent receives or is deemed to be affected by actual or constructive notice of any subsequent Lien affecting all or part of the Security Assets or if for any reason the Security

ceases to be a continuing security, the Collateral Agent may open a new account for the Chargor and if the Collateral Agent does not open a new account, it shall nevertheless be treated as if it had done so at the time it received or was deemed to have received such notice. As from that time all payments made to the Collateral Agent by the Chargor shall be treated as having been credited to such new account and shall not operate to reduce or have the effect of discharging any part of the Secured Obligations.

#### **4.4 Suspense Account**

All monies received, recovered or realised by the Collateral Agent or a Receiver under this Deed may at the discretion of the Collateral Agent or a Receiver be credited to any suspense or securities realised account for as long as the Collateral Agent or Receiver thinks fit without any obligation to apply such monies or any part thereof in or towards the discharge of the Secured Obligations. Amounts standing to the credit of any such suspense account shall bear interest at a rate considered by the Collateral Agent (acting reasonably) to be a fair market rate.

#### **4.5 Release of Security**

- (a) On the expiry of the Security Period and subject always to the Lenders ceasing to be under any commitments to advance any Credit Extensions, the Collateral Agent will at any time thereafter at the request and cost and expense of the Chargor (but subject to the rights and claims of any person having prior rights to the Security Assets or any of them) execute and do all such deeds, acts and things that may be necessary to surrender, reassign, discharge or release the Security.
- (b) If the Collateral Agent considers that an amount paid by the Chargor to the Collateral Agent or the Secured Parties under any of the Loan Documents is at risk of being avoided or otherwise set aside on the liquidation or examinership of the Chargor or otherwise, then such amount shall not be considered to have been irrevocably paid for the purposes hereof, and the Collateral Agent may decline to grant any release of the Security for such time as the risk of avoidance or invalidity continues.

#### **4.6 Reinstatement of Security**

- (a) Where any release, discharge or settlement (whether in respect of the Secured Obligations, the Security or otherwise) is made in whole or in part on the faith of any payment, security or other disposition which is avoided or must be restored on insolvency, liquidation or otherwise, the liability of the Chargor under this Deed shall continue as if the discharge or arrangement had not occurred.
- (b) The Collateral Agent may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

#### **4.7 Discretion of Collateral Agent and Receivers**

Save as otherwise expressly provided for in this Deed any freedom or power which may be exercised or any determination which may be made pursuant to this Deed by the Collateral Agent or by any Receiver may be exercised or made in its absolute and unfettered discretion and it shall not be obliged to give reasons therefor.

#### **4.8 Indulgence**

The Collateral Agent may from time to time, in its discretion, give time or other indulgence or forbearance to the Chargor or any other Parties without in any way releasing the Chargor or affecting the Security.

#### **4.9 Currency Conversion**

- (a) For or pending the discharge of the Secured Obligations, the Collateral Agent or any Receiver may convert any monies received, recovered or realised by the Collateral Agent or any Receiver from their existing currency into any other currency the Collateral Agent or Receiver thinks fit. Any such conversion shall be effected at the Collateral Agent's spot rate of exchange for obtaining such other currency with the existing currency.
- (b) No payment to the Collateral Agent or any Secured Parties (whether under a judgment or court order or otherwise) shall discharge the obligation or liability of the Chargor in respect of which it was made unless and until the Collateral Agent or any Lender concerned shall have received payment in full in the currency in which the obligation or liability was incurred and to the extent the amount of any such payment shall on an actual conversion into such currency fall short of such obligation or liability expressed in that currency, the Collateral Agent or as the case may be the Collateral Party concerned, shall have a further separate cause of action against the Chargor and shall be entitled to enforce the Security to recover the amount of the shortfall.

#### **4.10 Waiver of Defences**

- (a) The liability of the Chargor under this Deed will not be affected by any act, omission, circumstance, matter or thing which but for this provision would release or prejudice any of its obligations under this Deed or prejudice or diminish such obligations in whole or in part, including without limitation (and whether or not known to the Collateral Agent or any Lender):
  - (i) any time, indulgence or waiver granted to, or composition with, the Chargor or any other person; or
  - (ii) the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor of the Chargor; or
  - (iii) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect or take up or enforce any rights or remedies against, or any security over assets of, the Chargor or any other person; or
  - (iv) any non-presentment or non-observance of any formality or other requirement in respect of any instruments or any failure to realise the full value of any other security; or
  - (v) any legal limitation, disability, incapacity or lack of powers, authority or legal personality of or dissolution or change in the members or status of or other circumstance relating to, the Chargor or any other person; or
  - (vi) any variation (however fundamental and whether or not involving any increase in the liability of the Chargor thereunder) or replacement of any Loan Document or any other document or security so that references to the Loan Documents or other documents or security in this Deed shall include each such variation or replacement; or
  - (vii) any unenforceability, illegality, invalidity or frustration of any obligation of the Chargor or any other person under any Loan Document or any other document or security, or any failure of the Chargor to become bound by the terms of a Loan Document whether through any want of power or authority or otherwise; or
  - (viii) any postponement, discharge, reduction, non-provability or other similar circumstance affecting any obligation of the Chargor under a Loan

Document or any security granted therefor resulting from any insolvency, liquidation or dissolution proceedings or from any law, regulation or order.

- (b) The Collateral Agent shall not be concerned to see or investigate the powers or authorities of the Chargor or its officers or agents, and monies obtained or Secured Obligations incurred in purported exercise of such powers or authorities or by any person purporting to act on behalf of the Chargor shall be deemed to form a part of the Secured Obligations, and **Secured Obligations** shall be construed accordingly.

## **SECTION 5.0 - SHARES AND SHARE RELATED RIGHTS COVENANTS**

### **5.1 Covenants relating to Shares**

The Chargor hereby covenants with the Collateral Agent that in relation to the Shares and Share Related Rights it will at all times for the duration of the Security Period comply with the provisions of this Section.

### **5.2 Deposit of Title Documents**

- (a) The Chargor shall, on the execution of this Deed in respect of the Shares set out in Schedule 2 (*Shares*) (or, in the case of any Shares subsequently acquired or subscribed for after the date of this Deed) promptly and in any event within two Business Days:
  - (i) deposit with the Collateral Agent, or as the Collateral Agent may direct, all certificates and other documents of title or evidence of ownership in relation to any of the Shares;
  - (ii) execute in blank and deliver to the Collateral Agent in respect of the Shares all stock transfer forms in the form set out in Part 4 of Schedule 3 (*Stock Transfer Form*) duly completed in favour of the Collateral Agent or its nominee or otherwise as the Collateral Agent may direct together with letters of authority in respect of such transfers in the form set out in Part 1 of Schedule 3 (*Letter of Authority*);
  - (iii) deliver to the Collateral Agent irrevocable proxies in respect of such Shares duly executed in favour of the Collateral Agent in the form set out in Part 2 of Schedule 3 (*Irrevocable Proxy*), entitling the Collateral Agent to exercise, subject to Clause 5.6, all voting rights in respect of the Shares; and
  - (iv) deliver to the Collateral Agent in respect of such Shares an executed dividend mandate in the form set out in Part 3 of Schedule 3 (*Dividend Mandate*).
- (b) The Chargor shall:
  - (i) on the execution of this Deed and promptly on the appointment of any director or company secretary, deliver to the Collateral Agent executed but undated letters of resignation and release, from each such director, alternate director and the company secretary and of those of its Subsidiaries in which they hold office as directors, alternate directors or company secretaries in the form set out in Part 5 of Schedule 3 (*Letter of Resignation*) and letters of authority from each of its director, alternate director and company secretary in the form set out in Part 6 of Schedule 3 (*Letter of Authority*); and
  - (ii) promptly (and, in any event within two Business Days) upon the accrual, offer or issue of any Share Related Rights (in the form of stocks, shares, warrants or other securities) in which it has a beneficial interest, procure the delivery to the Collateral Agent of (and in the case of any shares in

uncertified form at the date of this Deed, when requested by the Collateral Agent):

- (A) all certificates and other documents of title or evidence of ownership representing those Share Related Rights; and
- (B) such stock transfer forms or other instruments of transfer (executed in blank by or on behalf of it) in respect of those Share Related Rights as the Collateral Agent may request.

### **5.3 Changes to Rights**

The Chargor shall not take or allow the taking of any action on its behalf (including any amendment to any declaration of trust and/or nominee agreement) in relation to any of the Shares or Share Related Rights which would (in the opinion of the Collateral Agent) prejudice the value of, or the ability of the Collateral Agent to realise, the Security.

### **5.4 Calls**

The Chargor shall duly pay all calls or other payments due and payable in respect of any of the Shares and Share Related Rights and in the event of it failing to do so, the Collateral Agent may, but shall not be obliged to, pay the calls or other payments on behalf of the Chargor. The Chargor must immediately on demand reimburse the Collateral Agent for any payment made by the Collateral Agent in respect of the foregoing and pending reimbursement such amounts shall constitute part of the Secured Obligations.

### **5.5 Other Obligations in respect of Shares**

- (a) The Chargor shall ensure that none of the Shares or Share Related Rights are converted into an uncertificated form without the prior written consent of the Collateral Agent.
- (b) Immediately (and, in any event within two Business Days) on conversion of any Shares or Share Related Rights from a certificated to an uncertificated form, and on the acquisition of any Shares or Share Related Rights in an uncertificated form, it shall give such instructions or directions and take such other steps and enter into such documentation as the Collateral Agent may require in order to protect or preserve the Security.
- (c) The Chargor shall ensure that the constitutional documents of the Company, which contain any restriction on transfers of those Shares or Share Related Rights or any pre-emptive rights in respect of those Shares or Share Related Rights shall disapply such restriction or rights (in a manner acceptable to the Collateral Agent) in relation to any transfer of those Shares or Share Related Rights to any person upon the enforcement of the Security.
- (d) The Chargor shall provide to the Collateral Agent, as soon as practicable upon receipt, copies of any notices and information received by it from any other Parties in relation to the Shares and Share Related Rights which would be relevant to the Collateral Agent's interests under this Deed.
- (e) The Chargor shall remain the legal and beneficial owner of the Shares and Share Related Rights.
- (f) The Chargor shall comply with all other conditions and obligations assumed by it in respect of any of the Shares and Share Related Rights.
- (g) The Collateral Agent is not obliged to:
  - (i) perform any obligation of the Chargor;

- (ii) make any payment;
- (iii) make any enquiry as to the nature or sufficiency of any payment received by it or the Chargor; or
- (iv) present or file any claim or take any other action to collect or enforce the payment of any amount to which it may be entitled under this Deed,

in respect of any of the Shares or Share Related Rights.

## **5.6 Voting and Dividend Rights**

- (a) Provided an Event of Default has not occurred and is continuing the Chargor may:
  - (i) exercise the voting rights, powers and other benefits in respect of the Shares and Share Related Rights provided that such rights and powers must not be exercised in any manner which would be inconsistent with any of the terms of any of the Loan Documents or which would constitute a violation of any such terms or which would prejudice the value of, or the ability of the Collateral Agent to realise, the security created by this Deed including but not limited to agreeing any variation of the rights attached to or conferred by all or any of the Shares or the Share Related Rights or agreeing to any cancellation, increase or reorganisation in the issued share capital or reserves of any company whose shares are charged pursuant to this Deed; and
  - (ii) receive and deal with all dividends, interest or other monies paid or payable in relation to the Shares and Share Related Rights subject to any restrictions in the Loan and Security Agreement.
- (b) After the occurrence of an Event of Default which is continuing the Collateral Agent may, at its discretion, (and in the name of the Chargor or otherwise and without any further consent or authority from the Chargor):
  - (i) exercise (or refrain from exercising) any voting rights or any other rights in respect of the Shares and Share Related Rights;
  - (ii) apply all dividends, interest and other monies arising from the Shares and Share Related Rights as though they were the proceeds of sale under this Deed;
  - (iii) transfer the Shares and Share Related Rights into the name of such nominee(s) of the Collateral Agent as it shall require; and
  - (iv) exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Shares and Share Related Rights, including the right, in relation to any company whose shares or other securities are included in the Shares and Share Related Rights, to concur or participate in:
    - (A) the reconstruction, amalgamation, sale or other disposal of such company or any of its assets or undertaking (including the exchange, conversion or reissue of any shares or securities as a consequence thereof),
    - (B) the release, modification or variation of any rights or liabilities attaching to such shares or securities, and
    - (C) the exercise, renunciation or assignment of any right to subscribe for any shares or securities,

in each case in the manner and on the terms the Collateral Agent thinks fit, and the proceeds of any such action shall form part of the Shares and Share Related Rights.

- (c) After the occurrence of an Event of Default which is continuing the Chargor, in relation to any declaration and/or any nominee agreement, agrees:
  - (i) to act on the instructions of the Collateral Agent; and
  - (ii) if directed to do so by the Collateral Agent, to direct each trustee and/or nominee to act on the instructions of the Collateral Agent.
- (d) At any time after on or after the occurrence of an Event of Default which is continuing to the extent that the Shares or Share Related Rights remain registered in the name of the Chargor, it irrevocably appoints the Collateral Agent or its nominee as its corporate representative to exercise all voting rights in respect of those Shares or Share Related Rights. The Chargor shall indemnify the Collateral Agent against any loss or liability incurred by the Collateral Agent as a consequence of the Collateral Agent acting in respect of the Shares on the direction of the Chargor unless such loss or liability is caused by the negligence or wilful default of the Collateral Agent.
- (e) The Chargor shall, if requested by the Collateral Agent, procure that the directors of the issuer of Shares or Share Related Rights shall not refuse to register a duly stamped transfer of any share presented to its board of directors for registration pursuant to the power of sale under this Deed.

## **SECTION 6.0 - REPRESENTATIONS AND WARRANTIES**

### **6.1 Representations and Warranties**

The Chargor hereby unconditionally and irrevocably makes the representations and warranties set out in this Section to the Collateral Agent on the date of this Deed and at such time as the representations and warranties under the Loan and Security Agreement are required to be repeated.

- (a) **Shares and Share Related Rights**

The Shares are duly authorised, validly issued and fully paid and are not subject to any option to purchase or similar right.

- (b) **Obligations, Legal, Valid and Binding**

Subject to the Legal Reservations, this Deed creates legal, valid and binding obligations enforceable against it in accordance with its terms.

- (c) **No Avoidance**

Subject to the Legal Reservations, this Deed creates the security it purports to create and is not liable to be avoided or otherwise set aside on its liquidation or administration or otherwise.

- (d) **No Security**

The Security Assets are, or when acquired will be, legally and beneficially owned by the Chargor free from any Lien other than as created by this Deed and as permitted by the Loan Documents (including a Permitted Lien).



## **SECTION 7.0 - ENFORCEABILITY OF SECURITY**

### **7.1 When Security becomes Enforceable**

Upon the occurrence of an Event of Default which is continuing, the Security shall immediately become enforceable and the Secured Obligations shall immediately become due and payable.

### **7.2 Discretion**

At any time on or after the Security shall have become enforceable the Collateral Agent may, in its absolute discretion, without further notice to or demand on the Chargor and without the restrictions contained in the Act (in particular, but not limited to, the provisions of Section 96(1) of the Act), enforce the Security Assets (or any part thereof) in any manner it sees fit and exercise the power of sale and all other powers conferred on mortgagees by law and by the Act in each case as varied or extended by this Deed.

## **SECTION 8.0 - RIGHTS AND POWERS OF THE COLLATERAL AGENT**

### **8.1 Entry into Possession**

At any time on or after the Security shall have become enforceable, the Collateral Agent may in its absolute discretion, without further notice to or demand on the Chargor:

- (a) enter into possession of or hold the Security Assets (or any part thereof) without the need to obtain the consent of the Chargor or an order for possession under Sections 97 or 98 of the Act; and/or;
- (b) exercise any right, power or discretion conferred by this Deed or by law on a Receiver without first appointing a Receiver or notwithstanding the appointment of a Receiver,

**PROVIDED THAT** Section 99 of the Act shall not apply to this Deed and neither the Collateral Agent nor any Receiver shall be obliged to take any steps to sell the Security Assets (or any part thereof) after going into possession of the Security Assets (or any part thereof) and the Collateral Agent and any Receiver shall have absolute discretion as to the time of exercise of the power of sale and all other powers conferred on them by the Act or otherwise. Such rights of the Collateral Agent and any Receiver are without prejudice to and in addition to any right of possession (express or implied) to which the Collateral Agent and/or any Receiver is otherwise entitled (whether by virtue of this Deed, operation of law, statute, contract or otherwise).

### **8.2 Power of Sale**

At any time on or after the Security has become enforceable the power of sale and all other powers conferred on mortgagees by the Act shall be exercisable immediately without the need:

- (a) for the occurrence of any of the events specified in sub-sections (a) to (c) of Section 100(1) of the Act; or
- (b) to give notice as specified in the final proviso to Section 100(1) of the Act; or
- (c) to obtain the consent of the Chargor or a court order authorising the exercise of the power of sale under Sections 100(2) or (3) of the Act; or
- (d) to give any notice to the Chargor under Section 103(2) of the Act.

The Chargor shall not take any action under Section 94 of the Act and the provisions of that Section shall not apply to the Security or to this Deed.

### **8.3 Protection of Third Parties**

No person (including a purchaser) dealing with the Collateral Agent or any Receiver or its or his agents will be concerned to enquire:

- (a) whether any of the Secured Obligations have become payable or remain due; or
- (b) whether due notice has been given to any person; or
- (c) whether any power which the Collateral Agent or any Receiver is purporting to exercise has become exercisable or has been or is being properly exercised; or
- (d) whether any Receiver is authorised to act; or
- (e) how any money paid to the Collateral Agent or to any Receiver is to be applied,

and all protections to purchasers contained in Sections 105(1), 106 and 108(5) of the Act shall apply to any person (including a purchaser) dealing with the Collateral Agent or any Receiver in like manner as if the statutory powers under the Act had not been varied or extended by this Deed. The provisions of Section 105(2) of the Act shall not apply to this Deed or any enforcement thereof.

### **8.4 Conclusive Receipt**

The receipt of the Collateral Agent or any Receiver shall be absolute and conclusive discharge of a purchaser and shall relieve such purchaser from being concerned to see to the application of any monies paid to or by the direction of the Collateral Agent or any Receiver.

### **8.5 Application of Monies**

Unless otherwise determined by the Collateral Agent, all monies received by the Collateral Agent or Receiver in the exercise of any powers conferred by this Deed, shall after the discharge of all sums, obligations and liabilities having priority thereto be applied in the following manner and order:

- (a) in or towards the payment of all cost, charges and expenses of and incidental to the appointment of any Receiver under this Deed and his remuneration;
- (b) in or towards the payment and discharge of any liabilities incurred or payable by a Receiver whether of his own account or on behalf of any of the Chargor in the exercise of any of the powers conferred by this Deed;
- (c) in or towards payment or discharge of the Secured Obligations in the manner provided for under Section 9.4 (*Application of Payment and Proceeds*) of the Loan and Security Agreement; and
- (d) any surplus shall be paid to the Chargor or any person entitled thereto.

Sections 106(3), 107 and 109 of the Act shall not apply to the application of any monies received or realised pursuant to the exercise of powers conferred by this Deed

### **8.6 Delegation**

The Collateral Agent and any Receiver shall have full power to delegate to any person any right, power, discretion exercisable by it under this Deed or under the Act upon any terms as they may deem fit provided always that the Collateral Agent or any Receiver should not be in any way liable to the Chargor for any loss or damage arising for any act, default or omission for misconduct on the part of any such delegate. No delegation made pursuant to this Deed shall preclude the subsequent exercise of any such right, power or discretion by the Collateral Agent or any Receiver nor shall it preclude the Collateral Agent or any Receiver from making

any subsequent delegation to some other person. Any such delegation may be revoked by the Collateral Agent or any Receiver at any time.

#### **8.7 Indemnity**

Section 12.2 (*Indemnification*) of the Loan and Security Agreement shall be deemed incorporated into this Deed as if it were set out in full here, *mutatis mutandis*, save that a reference to a Borrower shall be a reference to the Chargor.

#### **8.8 Prior Liens**

At any time on or after the Security shall have become enforceable, the Collateral Agent may:

- (a) redeem any prior Lien over any part of the Security Assets; and/or
- (b) take a transfer of any such Lien it itself; and or
- (c) settle and pass accounts of any person in whom the prior Lien may for the time being be vested and any account so settled and passed shall be binding and conclusive on the Chargor each of whom hereby authorises any prior mortgagee/chargee pursuant to this clause to give to the Collateral Agent all information and account relating to the prior Lien.

The Chargor shall on demand pay to the Collateral Agent all monies so expended by the Collateral Agent pursuant to this clause and such monies, if not so paid, shall carry interest at the Default Rate as well after judgement as before from the time of the same having been expended until reimbursement and pending reimbursement such amounts shall constitute part of the Secured Obligations.

### **SECTION 9.0 - RECEIVERS**

#### **9.1 Power of Appointment**

- (a) At any time after the Security shall have become enforceable and without the need for the occurrence of any of the events specified in section 108(1)(a) to (c) inclusive of the Act, the Collateral Agent may without further notice under seal or in writing under the hand of any director, secretary, employee or agent for the time being of the Collateral Agent appoint one or more persons as Receiver of the Security Assets or any part thereof and may from time to time remove any Receiver so appointed in writing under the hand of any employee or agent of the Collateral Agent and appoint another or others in his stead and/or appoint another person to act with any such Receiver.
- (b) If at any time there is more than one Receiver appointed over all or any of the Security Assets, each Receiver, unless specified to the contrary in any appointment document, may exercise all powers conferred by this Deed severally.
- (c) Any appointment of a Receiver or Receivers may be made either before or after the Collateral Agent shall have entered into or taken possession of the Security Assets or any part thereof.
- (d) Any right, power or discretion conferred by this Deed or by law on a Receiver may be exercised by the Collateral Agent without first appointing a Receiver or notwithstanding the appointment of a Receiver.

#### **9.2 Powers of Receiver**

- (a) A Receiver shall have and be entitled to exercise all powers conferred on a mortgagee or a receiver by statute and in particular all powers conferred by Section 437 of the Companies Act and conferred by the Act, without the restrictions contained

in the Act. In addition, a Receiver shall have the power on behalf of and at the cost of the Chargor to do or omit to do anything which the Chargor could do or omit to do in relation to the Security Assets or any part thereof and in particular but without limitation shall have power to do all or any of the following:

- (i) to take possession of, collect and get in the Security Assets and for that purpose to make demands, to exercise in respect of the Shares and Share Related Rights all voting and other powers, rights and remedies available to the registered holder thereof, to take, defend or discontinue any proceedings or submit any matter to arbitration or mediation in the name of the Chargor;
  - (ii) to sell, dispose of, convert into money or realise (or concur in so doing) any of the Security Assets by public auction or private contract and to carry such sale or disposal into effect and by deed in the name and on behalf of the Chargor. The consideration for such sale or disposition may be cash, debentures, shares or other valuable consideration, payable in instalments or immediately in a lump sum;
  - (iii) to make any arrangement or compromise or enter into, perform, repudiate, rescind, vary or cancel any contracts which the Receiver shall think expedient;
  - (iv) to promote the formation of a subsidiary company and/or companies of the Chargor with a view to such subsidiary company and/or companies purchasing, leasing, licensing or otherwise acquiring interests in all or any of the Security Assets;
  - (v) to redeem any prior Lien and to settle and prove the accounts of the holder of such Lien. Any accounts so settled and proved shall be conclusive and binding on the Chargor and the money so paid shall be taken to be an expense properly incurred by the Receiver;
  - (vi) to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person relating in any way to the Security Assets or any part thereof and take, defend, continue and discontinue any proceedings relating to the Security Assets or any part thereof;
  - (vii) to raise or borrow money or incur any other liability, either unsecured or secured, on the Security Assets or any part thereof either in priority to the Security or otherwise and on such terms and conditions as the Receiver may think fit and no person lending any such money shall be concerned to enquire as to the propriety or purpose of the exercise of this power or to see to the application of any monies so raised or borrowed provided that no Receiver shall exercise this power without first obtaining the written consent of the Collateral Agent but the Collateral Agent shall incur no responsibility or liability to the Chargor or otherwise by reason of its giving or refusing such consent whether absolutely or subject to any limitation or condition; and
  - (viii) to do all such other acts and things as may be considered by the Receiver to be incidental or conducive to any of the matters and powers aforesaid and which the Receiver may or can lawfully do as agent for the Chargor or necessary or desirable for the preservation or realisation of the Security and to use the name of the Chargor for all the above purposes.
- (b) Unless otherwise directed by the Collateral Agent, such Receiver may also exercise all the powers and authority vested in the Collateral Agent by this Deed and in

particular all powers vested in the Collateral Agent by Section 8.0 hereof. Section 108(4) shall not apply to this Deed.

- (c) The Collateral Agent may from time to time or at any time require such Receiver to give security for the due performance of his duties as such Receiver and may fix the nature and amount of security to be so given but the Collateral Agent shall not be bound in any case to require any such security.

### **9.3 Liability of the Collateral Agent and Receiver**

- (a) The Collateral Agent and any Receiver appointed by the Collateral Agent under this Deed shall not, in any circumstances, whether by reason of the Collateral Agent or such Receiver entering into possession of the Security Assets or any part thereof or for any other reason whatsoever be liable to account as mortgagee in possession or on any basis whatsoever for anything except actual receipts or be liable for any loss arising from any realisation of the Security Assets or any part thereof.
- (b) The Collateral Agent and each Receiver is entitled to all the rights, powers, authority, discretions and immunities conferred on mortgagees and receivers (save as varied or modified by this Deed) by the Act and shall not be liable for any default or omission in relation to the Security Assets or any exercise or non-exercise of any power, authority or discretion conferred on the Collateral Agent or any Receiver in relation to the Security Assets or any part thereof by or pursuant to this Deed or the Act unless such loss or damage is caused by the fraud, negligence or wilful misconduct of the Collateral Agent or such Receiver (as applicable).

### **9.4 Receiver Agent of the Chargor**

Any Receiver appointed hereunder shall be deemed to be in the same position as a Receiver duly appointed under the Act and shall be the agent of the Chargor for all purposes. The Chargor shall be solely responsible for all acts, omissions, remuneration, defaults, losses of and liabilities incurred by the Receiver as agent for the Chargor. The Lenders shall not incur any liability whatsoever to the Chargor, or to any other person for any such acts, defaults, omissions, misconduct, fraud or negligence of any Receiver appointed under this Deed or otherwise.

### **9.5 Remuneration of Receiver**

A Receiver shall be entitled to remuneration at a rate to be fixed by agreement between such Receiver and the Collateral Agent (or failing such agreement to be fixed by the Collateral Agent). The provisions of Section 108(7) of the Act shall not apply to this Deed.

## **SECTION 10.0 - GENERAL PROVISIONS**

### **10.1 Further Assurances**

The Chargor shall at its own expense promptly do all such acts or execute and deliver all such documents (including assignments, transfers, mortgages, charges, filings, registrations, notices and instructions) as the Collateral Agent may request (and in such form as the Collateral Agent may require in favour of the Collateral Agent or its nominee(s));

- (a) to create, perfect, protect and/or maintain the Security (including for the avoidance of doubt, in respect of property and assets acquired after the execution of this Deed) or for the exercise of any rights, powers and remedies of the Collateral Agent under this Deed; and
- (b) to facilitate the realisation of the Security Assets, or the exercise of any right, power or discretion exercisable, by the Collateral Agent or any Receiver or any of their respective delegates or sub-delegates in respect of any Security Asset.

## **10.2 Costs and Expenses**

The provisions of Section 2.5 (*Fees*) of the Loan and Security Agreement shall apply mutatis mutandis to this Deed as if set out in full in this Deed and as if all references to a Borrower was to the Chargor.

## **10.3 Assignment**

- (a) This Deed shall be binding upon and inure to the benefit of each Party hereto and its successors and permitted assigns and references in this Deed to any of them shall be construed accordingly.
- (b) The provisions of Section 12.1 (*Successor and Assigns*) of the Loan and Security Agreement shall apply mutatis mutandis to this Deed as if set out in full in this Deed and as if all references to a Borrower was to the Chargor.
- (c) The provisions of Section 12.9 (*Confidentiality*) of the Loan and Security Agreement shall apply mutatis mutandis to this Deed as if set out in full in this Deed and as if all references to a Borrower was to the Chargor.

## **10.4 Consolidation of Mortgages**

Any restrictions on the right of consolidation of mortgages including the provisions of Section 92 of the Act shall not apply to the Security and to this Deed.

## **10.5 Preferential Claims**

The Chargor shall procure that all debts and obligations to or in respect of persons employed by it which by law may have priority over the Security shall be punctually duly paid and discharged.

## **10.6 Power of Attorney**

- (a) The Chargor, by way of security irrevocably appoints the Collateral Agent (whether or not a Receiver has been appointed) and, also as a separate appointment, any Receiver or Receivers severally appointed to be its attorney or attorneys with its full power and authority to execute, deliver and perfect all deeds, instruments and other documents and do all things which the attorney may consider to be required for:
  - (i) carrying out any obligation imposed on it by this Deed (including the execution and delivery of any deeds, charges, assignments or other security and any transfers of any of the Security Assets) including pursuant to Clause 10.1 (*Further Assurances*)); and
  - (ii) enabling the Collateral Agent and/or any Receiver to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on them by or pursuant to this Deed or by law (including the exercise of any right of a legal or beneficial owner of any of the Security Assets).
- (b) The Chargor ratifies and confirms and agrees to ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of any of such attorney's rights, powers and discretions.
- (c) Notwithstanding paragraph (a) the Collateral Agent shall only be permitted to exercise the power of attorney conferred upon it under this Deed:
  - (i) following an Event of Default which is continuing; or
  - (ii) following a Chargor's failure to do any acts or things required under the Loan Documents following the expiry of any applicable grace period; or

- (iii) for giving effect to, perfecting (including the priority of it), preserving or protecting the Collateral Agent's security over the Security Assets created (or intended to be created) by this Deed; or
- (iv) to facilitate the realisation or enforcement of, or exercise any of the rights and powers conferred on of the Collateral Agent or any other Secured Party or any Receiver in relation to, the security over the Security Assets created (or intended to be created) by this Deed.

#### **10.7 Enforcement of Other Rights**

The Chargor waives any right it may have of first requiring the Collateral Agent to proceed against or enforce any other rights or security the Collateral Agent may have or benefit from before enforcing the Security.

#### **10.8 Notices**

Any notice, demand or other communication required or permitted to be given or made under or in connection with this Deed shall be given or made in accordance with Section 10 (*Notices*) of the Loan and Security Agreement.

#### **10.9 Non-Competition**

- (a) Until all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full the Chargor shall not, by virtue of any payment made, security realised or monies received or recovered under the Loan Documents, or on account of the liability of any Borrower.
  - (i) exercise any rights of subrogation or marshalling in relation to any rights, security or moneys held, received or receivable by any Secured Party (or any trustee or agent on its behalf) or exercise any right of contribution or indemnity from any Borrower; or
  - (ii) claim, rank, prove or vote as a creditor of any other person or its estate in competition with any Secured Party (or any trustee or agent on its behalf); or
  - (iii) unless the Collateral Agent directs it to do so after the Security has become enforceable, receive, claim or have the benefit of any payment, distribution or security from or on account of any Loan Party, or exercise any right of set-off as against any Loan Party.
- (b) The Chargor will hold in trust for and forthwith pay or transfer to the Collateral Agent any payment or distribution or benefit of security received by it contrary to the provision of this Clause 10.9. If the Chargor exercises any right of set-off contrary to the above, it will forthwith pay an amount equal to the amount set off to the Collateral Agent.

#### **10.10 Counterparts**

This Deed may be executed in any number of counterparts and by the parties to this Deed on separate counterparts, each of which, when executed and delivered, shall constitute an original, but all the counterparts shall together constitute but one and the same instrument.

#### **10.11 Grossing Up**

Section 2.6 (*Taxes; Increased Costs*) of the Loan and Security Agreement shall be deemed incorporated into this Deed as if it were set out in full here, mutatis mutandis, with reference to the Lenders being deemed to refer to the Collateral Agent and reference to Borrower being deemed to refer to each Chargor.

#### 10.12 Governing Law

This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of Ireland.

#### 10.13 Jurisdiction

- (a) The courts of Ireland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a **Dispute**).
- (b) The Parties agree that the courts of Ireland are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 10.13 is for the benefit of the Collateral Agent and the other Secured Parties only. As a result, the Collateral Agent or any Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Collateral Agent or any Lender may take concurrent proceedings in any number of jurisdictions.
- (d) The Chargor hereby irrevocably appoints the Company as its agent to accept service of any Dispute or proceedings in Ireland relating to this Deed.

IN WITNESS whereof the parties have executed and delivered this Deed on the date specified above.



## SCHEDULE 1

The Chargor

Name	Registration Number	Address
4D Pharma PLC	08840579	5 <sup>th</sup> Floor, 9 Bond Court, Leeds, LS1 2JZ, England

## SCHEDULE 2

### The Shares

Chargor	Company	No. of Shares	Type of Shares
The Chargor	4D Pharma Cork Limited	120	Ordinary Shares of €0.01 each
The Chargor	4D Pharma Cork Limited	36	A Ordinary Shares of €0.01 each
The Chargor	4D Pharma Cork Limited	16	B Ordinary Shares of €0.01 each
The Chargor	4D Pharma Cork Limited	188	C Ordinary Shares of €0.01 each

### **SCHEDULE 3**

Shares

#### **PART 1**

Letter of Authority

To: Oxford Finance Luxembourg S.à.r.l., acting in respect of Compartment 4  
2, route d'Arlon, L-8008 Strassen,  
Grand Duchy of Luxembourg

**RE: 4D Pharma Cork Limited**

[Date]

**Charge on Shares dated 2021 (the Charge on Shares) between (1) Oxford Finance Luxembourg S.à.r.l., acting in respect of Compartment 4 (the Collateral Agent) and (2) 4D Pharma PLC (as Chargor)**

Dear Sirs,

We hereby unconditionally and irrevocably authorise the Collateral Agent or its nominees to date and otherwise complete, stamp and register the share transfer forms irrevocable proxy and dividend mandate in respect of the Shares (as defined in the Charge on Shares) deposited by us with the Collateral Agent and/or its designee(s) pursuant to the Charge on Shares, as and when the Collateral Agent becomes entitled to date and complete the same pursuant to the terms of the Charge on Shares.

This letter and any non-contractual obligations arising out of it or in connection with it are governed by Irish law.

Yours faithfully

---

Director  
**4D Pharma PLC**

## PART 2

### Irrevocable Proxy

We, 4D Pharma PLC, being the sole member of 4D Pharma Cork Limited (**Company**) hereby irrevocably appoint **Oxford Finance Luxembourg S.à.r.l.**, acting in respect of Compartment 4 or its nominee as proxy to vote for us on our behalf at meetings of the Company in respect of any existing or further shares in the Company which may have been or may from time to time be issued to us and/or registered in our name and which are subject to the Charge on Shares dated [ ] 2021 between (1) Oxford Finance Luxembourg S.à.r.l., acting in respect of Compartment 4 (the **Collateral Agent**) and (2) 4D Pharma PLC (the **Chargor**).

This proxy is irrevocable by reason of being coupled with the interest of the Collateral Agent as charge of the aforesaid shares in the Company.

The person appointed as proxy is authorised to vote as that person thinks fit.

Yours faithfully

---

For and on behalf of  
**4D Pharma PLC**

### PART 3

#### Dividend Mandate

To: The Secretary  
**4D Pharma Cork Limited**

Date: \_\_\_\_\_

Dear Sirs

We, refer to:

- A. the **[number of shares]** **[type of shares]** of [€ ] each (the **Shares**) in 4D Pharma Cork Limited (the **Company**), of which we are the registered holder or are entitled to be the registered holder; and
- B. the Charge on Shares dated [ ] 2021 (the **Charge on Shares**) between (1) Oxford Finance Luxembourg S.à.r.l., acting in respect of Compartment 4 (the **Collateral Agent**) and (2) 4D Pharma PLC as Chargor (the **Chargor**) pursuant to which we have created security over the Shares in favour of the Collateral Agent.

We hereby request that:

- 1. on receipt by you of written notice from the Collateral Agent, you shall forward to the Collateral Agent, until further written notice by the Collateral Agent, all dividends that may become from time to time payable on so many of the Shares as are specified in that notice; and
- 2. you act on such notice and request therein without requiring further evidence of the identity of the Collateral Agent, the number of the Shares in respect of which the Collateral Agent is entitled under the Charge on Shares to receive dividends or any other matter relating to compliance with, or entitlement under, the Charge on Shares.

This request is irrevocable. Compliance with this request shall be a good discharge to the Chargor.

This letter and any non-contractual obligations arising out of or in connection with it are governed by Irish law.

Yours faithfully

\_\_\_\_\_  
For and on behalf of  
**4D Pharma PLC**

## Stock Transfer Form

[illegible]

*(Endorsement for use in Stock Exchange Transactions)*

The security represented by the transfer overleaf has been sold as follows:-

[illegible]

Balance (if any) due to Selling Broker(s) \_\_\_\_\_

Amount of Certificate(s) \_\_\_\_\_

Stamp of certifying Stock Exchange

Brokers Transfer Forms for above amounts certified

Stamp of Selling Broker(s)

**FORM OF CERTIFICATE REQUIRED WHERE TRANSFER IS NOT LIABLE TO  
AD VALOREM STAMP DUTY**

I/We hereby certify that the transaction in respect of which this transfer is made, and under which the fixed Duty of ten punds is payable, falls within the following description:-

- (a) Vesting the property in trustees on the appointment of a new Trustee of a pre-existing Trust, or on the retirement of a trustee.
- (b) \*A transfer, where no beneficial interest in the property passes, (i) to a mere nominee of the Transferor, (ii) from a mere nominee of the Transferor, (iii) from one nominee to another nominee of the same beneficial owner.
- (c) \*A transfer by way of security for a loan; or a re-transfer to the original Transferor on repayment of a loan.
- (d) A transfer to a residuary legatee of Shares, etc., which forms part of the residue divisible under a Will.
- (e) A transfer to a beneficiary under a Will of a specific legacy of Shares, etc.
- (f) A transfer of Shares, etc., being the property of a person dying intestate, to the person or persons entitled thereto.
- (g) A transfer to a beneficiary under a settlement on distribution of the trust funds, of Shares, etc., forming the share, or part of the share of those funds to which the beneficiary is entitled in accordance with the terms of the settlement.
- (h) A transfer on the occasion of a marriage to trustees of shares, etc., to be held on the terms of a settlement made in consideration of marriage.
- (i) A transfer by the liquidator of a Company of Shares, etc., forming part of the assets of the Company, to which the Transferee is entitled in satisfaction or part satisfaction of his rights as a shareholder of the Company.

Here set out concisely the facts explaining the transaction in cases falling within (b) and (c) or in any case which does not clearly fall within any one of the clauses (a) to (g). Adjudication may be required.

Date: 2021

Transferors: \_\_\_\_\_

Transferees: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

Description: \_\_\_\_\_

Note:- The above certificate should be signed in the case of (b) and (c) either by (i) all the transferors and transferees, or (ii) a member of a Stock Exchange or a Solicitor acting for one or other of the parties, or (iii) an accredited representative of a Bank. Where the Bank or its official nominee is a Parties to the transfer, the Certificate may be to the effect that "the transfer is excepted from Section 74 of the Finance (1909-10) Act, 1910". The above Certificate in other cases should be signed by a Solicitor or other person (e.g. a Bank acting as Trustee or Executor) having a full knowledge of the facts

**PART 5**

Letter of Resignation

To: 4D Pharma Cork Limited (the **Company**)

Date: \_\_\_\_\_

**Resignation as a director/secretary**

Dear Sirs

I hereby resign with immediate effect as a director [and/or secretary] of the Company.

This letter and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with Irish law.

Yours faithfully,

SIGNED and DELIVERED as a DEED

by:

\_\_\_\_\_

[ ], Director

in the presence of

\_\_\_\_\_

Witness

\_\_\_\_\_

Print name

\_\_\_\_\_

Address

\_\_\_\_\_

Occupation



## PART 6

### Letter of Authority

To: [ ] [name and address of the Collateral Agent]

Attn: [ ]

From: [ ] [name and address of director/secretary]

Date: \_\_\_\_\_

4D Pharma Cork Limited (the Company)

Dear Sirs

I hereby unconditionally and irrevocably authorise you to date the duly executed resignation letter in respect of the Company deposited by me with Collateral Agent pursuant to the Charge on Shares (the **Charge on Shares**) dated \_\_\_\_\_ 2021 between (1) Oxford Finance Luxembourg S.à.r.l., acting in respect of Compartment 4 as Collateral Agent and (2) 4D Pharma PLC as Chargor, as and when you become entitled to date and complete the same pursuant to the terms of the Charge on Shares and to deliver such signed and dated letter to the Company

Yours faithfully,

\_\_\_\_\_

Director/Secretary

## **SCHEDULE 4**

### **Security Trust Provisions**

The rights set out in this Schedule 4 are in addition to those set out in the Loan and Security Agreement

#### **1 DECLARATION OF TRUST**

The Collateral Agent shall hold the Security Assets in trust for the benefit of the Secured Parties on the terms of the Loan Documents.

#### **2 DEFECTS IN SECURITY**

The Collateral Agent shall not be liable for any failure or omission to perfect, or defect in perfecting, the Security created pursuant to any Loan Document, including:

- (a) failure to obtain any authorisation for the execution, validity, enforceability or admissibility in evidence of any Loan Document; or
- (b) failure to effect or procure registration of or otherwise protect or perfect any of the security created by the Loan Documents under any laws in any territory.

#### **3 NO ENQUIRY**

The Collateral Agent may accept without enquiry, requisition, objection or investigation such title as the Chargor may have to any assets charged pursuant to the Loan Documents.

#### **4 RETENTION OF DOCUMENTS**

The Collateral Agent may hold title deeds and other documents relating to any of the assets charged pursuant to the Loan Documents in such manner as it sees fit (including allowing the Chargor or its advisers to retain them).

#### **5 INDEMNITY OUT OF SECURITY ASSETS**

The Collateral Agent and every Receiver, delegatee, attorney or other similar person appointed under any Loan Document may indemnify itself out of the Security Assets against any cost, loss or liability incurred by it in that capacity (otherwise than by reason of its own gross negligence or wilful misconduct).

#### **6 PERPETUITY PERIOD**

The perpetuity period for the trusts created by the Loan Documents governed by the laws of Ireland shall commence on the date of this Deed and shall end on the expiration of 21 years from the date of death of the last survivor of the issue now living of the late President of Ireland, Eamon de Valera.

#### **7 APPROPRIATION**

- (a) Each Party irrevocably waives any right to appropriate any payment to, or other sum received, recovered or held by, the Collateral Agent in or towards payment of any particular part of the liabilities and agrees that the Collateral Agent shall have the exclusive right to do so.

- (b) Paragraph (a) above will override any application made or purported to be made by any other person.

## **8 INVESTMENTS**


All money received or held by the Collateral Agent pursuant to the trusts in the Loan Documents may, in the name of, or under the control of, the Collateral Agent:

- (a) be invested in any investment it may select; or
- (b) be deposited at such bank or institution (including itself, any other Lender or any affiliate of any Lender) as it thinks fit.

**EXECUTION PAGE**

**Chargor**

EXECUTED as a deed by )  
Director, duly authorised for and on behalf of )  
**4D PHARMA PLC** in the presence of: )



Signature of Witness:



Name of Witness: *Alex STEVENTON*

Address of Witness: *2 OAKLANDS AVENUE, LEEDS, LS16 8NR*

Occupation of Witness: *SCIENTIST*

**Collateral Agent**

EXECUTED as a deed for and on behalf of )  
**OXFORD FINANCE LUXEMBOURG S.À.R.L.** )  
**ACTING IN RESPECT OF COMPARTMENT 4** )  
actin by its authorised signatories: )

\_\_\_\_\_  
Authorised Signatory

\_\_\_\_\_  
Authorised Signatory

**EXECUTION PAGE**

**Chargor**

EXECUTED as a deed by )  
Director, duly authorised for and on behalf of )  
4D PHARMA PLC in the presence of: )

Signature of Witness: \_\_\_\_\_

Name of Witness: \_\_\_\_\_

Address of Witness: \_\_\_\_\_

Occupation of Witness: \_\_\_\_\_

**Collateral Agent**

EXECUTED as a deed for and on behalf of )  
OXFORD FINANCE LUXEMBOURG S.À.R.L. )  
ACTING IN RESPECT OF COMPARTMENT 4 )  
actin by its authorised signatories: )  
)  
)  
)

\_\_\_\_\_  
Authorised Signatory  **Mélanie FLORSCH**  
Manager

\_\_\_\_\_  
Authorised Signatory  **Caroline KINYUA**  
Manager