

The Companies Acts 1948 to 2006  
Company limited by guarantee and not having a share capital

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**MEMORANDUM  
AND  
ARTICLES OF ASSOCIATION  
OF  
ST WILFRID'S HOSPICE  
(EASTBOURNE)**

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COMPANIES HOUSE

COMPANY NO: 1594410

Incorporated on 29 October 1981

Memorandum and Articles of Association amended by Special Resolution on 27 March 2012

Company name changed 28 September 2009

Bates Wells & Braithwaite London LLP  
2-6 Cannon Street  
London EC4M 6YH  
(Telephone: 020 7551 7777)  
[www.bwblip.com](http://www.bwblip.com)

***MEMORANDUM  
OF  
ASSOCIATION***

**MEMORANDUM OF ASSOCIATION**  
**of**  
**ST WILFRID'S HOSPICE (EASTBOURNE)<sup>1</sup>**

- 1 The name of the Company (hereinafter called "the Charity") is St Wilfrid's Hospice (Eastbourne).
- 2 The registered office of the Charity will be situated in England.
- 3 The objects for which the Charity is established are to promote the relief of sickness by such charitable means as the Charity shall from time to time think fit and in particular (but without prejudice to the generality of such object) and in furtherance thereof:
  - 3.1 To promote the care of, provide care and services to, give symptom control to and for, and organise and provide continuing and terminal care services to all persons with cancer or any other disease, where it is felt that a cure is no longer possible and for whom only palliative treatment is available, and provide such services to all persons suffering from intractable pain, so far as this can be done without detriment to those suffering from terminal illness (hereinafter together called "such persons").
  - 3.2 To promote primary, continuing and terminal care services for such persons, including physical, moral, spiritual and social support and help for such persons and relatives and friends of such persons, and for those caring for such persons whether in hospitals, hospices, nursing homes, clinics, other treatment centres or private homes.
  - 3.3 To establish, maintain and conduct hospitals, hospices, residential nursing homes and convalescent homes, clinics, treatment and training centres, surgeries, dispensaries and domiciliary services in England or Wales for the reception and care of such persons.
  - 3.4 To conduct, promote and encourage research into the care and treatment of such persons (including the use of techniques of medical palliation, nursing, physiotherapy, occupational and recreational therapy and other methods of enhancing the life of such persons) and to analyse the results of such research and share the same with other persons, bodies and institutions having similar objects to the Charity.
  - 3.5 To conduct, promote and encourage teaching and training of medical staff, doctors, nurses, clergy, physiotherapists, psychologists and others engaged in the

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<sup>1</sup> Name changed from "St Wilfrid's Hospice (Eastbourne) Limited" on 28 September 2009

care of such persons; to establish and maintain a corps of persons with special skills in the care of such persons and capable of giving mature counsel to and capable of using the techniques referred to above for such persons and the relatives and friends of such persons and those caring for them; to co-ordinate in any particular locality or nationwide the efforts of social workers and others and of voluntary organisations caring for such persons and the relatives and friends of such persons and those caring for them.

- 3.6 For the purpose of attaining and furthering the attainment of the foregoing primary objects but not further or otherwise the Charity shall have the following powers:
- 3.7 To purchase, take on lease or licence, an exchange, hire, accept as a gift (whether or not subject to any special trust or restriction) or otherwise acquire any real or personal property and any rights or privileges which the Charity may think necessary for the promotion of its objects and to construct, repair, renovate, equip, maintain and alter any buildings or erections temporary or permanent as necessary for use as establishments for the care of such persons or for any use in connection with the objects of or the work of the Charity including the engagement and payment of doctors, surgeons, nursing and domestic staff, lecturers, chaplains, physiotherapists, occupational therapists, radiologists, dieticians, dentists, chiropodists, social workers, administrators and others whom the Charity may think fit for the promotion of its objects; the provision or arrangement for such medical or other care and attention as the Charity may think fit for such persons in any such establishments as aforesaid or for such persons in their own homes; the provision of medical supplies, equipment, apparatus, drugs, amenities, comforts and other things necessary for the care and welfare of such persons and those resident or working in or attending at any such establishment as aforesaid; and the making of such regulations as to admission of persons to any such establishment as aforesaid which may be conducted under the direction of the Charity and as to the residence of any persons in such establishments as aforesaid and so that such regulations may provide either generally or in any particular case or cases for the admission or residence of such persons to be free of charge or subject to such payment as the Charity may think fit.
- 3.8 To arrange lectures, broadcasts, television programmes and films, to conduct training courses and to publish pamphlets, books, journals and other matter relating to the work of the Charity; to establish, operate, provide or carry on or take part in the establishment, operation, provision or carrying on at any such establishment as aforesaid such amenities for persons attending performances, meetings or functions being presented or sponsored by the Charity as are considered by the Trustees necessary or appropriate for such performance, meeting or function.
- 3.9 To take steps by verbal, written or visual personal appeals, public meetings or otherwise for the purpose of raising funds for the Charity whether by donations, annual subscriptions or otherwise.
- 3.10 To sell, let, license, mortgage, dispose of or turn to account all or any of the property or assets of the Charity as may be expedient with a view to the promotion of the primary objects.

- 3.11 To undertake and execute any charitable trusts which may be lawfully undertaken by the Charity and which may be likely to contribute to the attainment of the primary objects.
- 3.12 To borrow or raise money for the purposes of the Charity on such terms and on such security as may be thought fit.
- 3.13 To invest the monies of the Charity not immediately required for its purposes in or upon such investments, securities or property as may be thought fit subject nevertheless to such conditions (if any) and such consents (if any) as may for the time being be imposed or required by law and subject also as hereinafter provided.
- 3.14 To establish and support or aid in the establishment and support of any charitable associations or institutions and to subscribe or guarantee money for charitable purposes in any way connected with the purposes of the Charity and calculated to further its objects.
- 3 15 To do all such lawful things as will further the attainment of the above objects or any of them.

PROVIDED THAT:

- (i) In case the Charity shall take or hold any property which may be subject to any trusts, the Charity shall only deal with or invest the same in such manner as allowed by law, having regard to such trusts.
- (ii) The objects of the Charity shall not extend to the regulation of relations between workers and employers or organisations of workers and organisations of employers.
- (iii) In case the Charity shall take or hold any property subject to the jurisdiction of the Charity Commissioners for England and Wales the Charity shall not sell, mortgage, charge or lease the same without such authority, approval or consent as may be required by law, and as regards any such property the Board of Trustees of the Charity shall be chargeable for any such property that may come into their hands and shall be answerable and accountable for their own acts, receipts, neglects and defaults, and for the due administration of such property in the same manner and to the same extent as they would as such Board of Trustees have been if no incorporation had been effected and the incorporation of the Charity shall not diminish or impair any control or authority exercisable by the Chancery Division or the Charity Commissioners over such Board of Trustees but they shall as regards any such property be subject jointly and separately to such control or authority as if the Charity were not incorporated.
4. The income and property of the Charity shall be applied solely towards the promotion of its objects.
5. Except as provided below, no part of the income and property of the Charity may be paid or transferred directly or indirectly by way of benefit to the members of the Charity and no Trustee may receive any remuneration or other benefit in money or money's worth from the Charity. This shall not prevent any payment in good faith by the Charity of:

- 5.1 any payments made to any member, Trustee or Connected Person in their capacity as a beneficiary of the Charity;
- 5.2 reasonable and proper out of pocket expenses of the Trustees;
- 5.3 reasonable and proper remuneration to any Trustee for any services supplied to the Charity on the instructions of the Trustees (excluding the service of acting as Trustee and services performed under a contract of employment with the Charity) provided that:
  - 5.3.1 the procedure described in Articles 67 to 68 of the Articles (Conflicts of Interest) must be followed in considering the appointment of the Trustee and in relation to any other decisions regarding the remuneration authorised by this provision; and
  - 5.3.2 This provision together with clauses 5.4 and 6.3 of this Memorandum may not apply to more than half of the Trustees in any financial year (and for these purposes such provisions shall be treated as applying to a Trustee if they apply to a person who is a Connected Person in relation to that Trustee).
- 5.4 Reasonable and proper remuneration to any person (not being a Trustee) for any goods or services supplied to the Charity (including services performed under a contract of employment with the Charity) provided that:
  - 5.4.1 if such person is a Connected Person the procedure described in Articles 67 to 68 of the Articles (Conflicts of Interest) must be followed by the relevant Trustee in relation to any decisions regarding such Connected Person; and
  - 5.4.2 this provision together with clauses 5.3 and 6.3 of this Memorandum may not apply to more than half of the Trustees in any financial year (and for these purposes such provisions shall be treated as applying to a Trustee if they apply to a person who is a Connected Person in relation to that Trustee);
- 5.5 interest on money lent by any member, Trustee or Connected Person at a reasonable and proper rate;
- 5.6 any reasonable and proper rent for premises let by any member, Trustee or Connected Person;
- 5.7 reasonable and proper premiums in respect of indemnity insurance effected in accordance with section 73F of the Charities Act 1993 (as amended);
- 5.8 any payments made to any Trustee or officer under the indemnity provisions set out at Article 85.
- 6. Except as provided below no part of the income and property of any Subsidiary Company may be paid or transferred directly or indirectly by way of benefit to the members of the Charity and no Trustee may receive any remuneration or other benefit in money or money's worth from any Subsidiary Company. This shall not prevent any payment in good faith by any Subsidiary Company of:

- 6.1 any payments made to any member, Trustee or Connected Person in their capacity as a beneficiary of the Charity and/or of the Subsidiary Company;
- 6.2 reasonable and proper out of pocket expenses of the Trustees;
- 6.3 reasonable and proper remuneration to any person for any goods or services supplied to the Subsidiary Company (including services performed under a contract of employment with the Subsidiary Company) provided that:
  - 6.3.1 if such person is a Trustee or a Connected Person such remuneration and any changes to it must be approved by the Trustees following the procedure described in Articles 67 to 68 as far as the relevant Trustee is concerned; and
  - 6.3.2 this provision together with clauses 5.3 and 5.4 of this Memorandum may not apply to more than half of the Trustees in any financial year (and for these purposes such provisions shall be treated as applying to a Trustee if they apply to a person who is a Connected Person in relation to that Trustee);
- 6.4 interest on money lent by any member, Trustee or Connected Person at a reasonable and proper rate,
- 6.5 any reasonable and proper rent for premises let by any member, Trustee or Connected Person;
- 6.6 Any payments made to any Trustee or officer under the indemnity provisions set out in the Subsidiary Company's Articles.
7. For any transaction authorised by clause 5 or clause 6, the Trustee's duty (arising under the Companies Act 2006) to avoid a conflict of interest with the Charity shall be disapplied provided the relevant provisions of clause 5 or clause 6 have been complied with.
8. The liability of the members is limited.
9. Every member of the Charity undertakes to contribute to the assets of the Charity, in the event of the same being wound up while he is a member or within one year after he ceases to be a member, for payment of the debts and liabilities of the Charity contracted before he ceases to be a member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributors among themselves, such amount as may be required not exceeding five pounds.
10. If upon the winding up or dissolution of the Charity there remains after the satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed among the members of the Charity, but shall be given or transferred to some other institution or institutions having charitable objects similar to or including the primary objects of the Charity, and which shall prohibit the distribution of its or their income and property amongst its or their members to an extent at least as great as is imposed on the Charity under or by virtue of clause 4 hereof, such institution or institutions to be determined by the members of the Charity at or before the time of dissolution, and if and so far as effect cannot be given to the aforesaid provision then to some other charitable object.

**ARTICLES  
OF  
ASSOCIATION**

# **ARTICLES OF ASSOCIATION OF ST WILFRID'S HOSPICE (EASTBOURNE)**

## **INTERPRETATION**

1. In these Articles and the Memorandum the following terms shall have the following meanings

<b>Term</b>	<b>Meaning</b>
1.1 "address"	includes a number or address used for the purposes of sending or receiving documents by electronic means,
1.2 "Articles"	these Articles of Association of the Charity;
1.3 "Charity"	St Wilfrid's Hospice (Eastbourne);
1.4 "circulation date"	in relation to a written resolution, has the meaning given to it in the Companies Acts;
1.5 "clear days"	in relation to the period of a notice, that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect,
1.6 "Companies Acts"	has the meaning given to it in section 2 of the Companies Act 2006,
1.7 "Conflict of Interest"	any direct or indirect interest of a Trustee (whether personal, by virtue of a duty of loyalty to another organisation or otherwise) that conflicts, or might conflict with the interests of the Charity,
1.8 "Connected Person"	any person falling within one of the following categories and where payment to that person might result in the Trustee obtaining benefit: (a) any spouse, civil partner, parent, child, brother, sister, grandparent or grandchild of a Trustee; or (b) the spouse or civil partner of any person in

- (a), or (c) any other person in a relationship with a Trustee which may reasonably be regarded as equivalent to such a relationship, or (d) any company or LLP or firm of which a Trustee is a paid director, member, partner or employee, or shareholder holding more than 1% of the capital,
- 1 9 “electronic form” and “electronic means” have the meanings respectively given to them in the Companies Act 2006,
- 1.10 “financial expert” an individual, company or firm who is authorised to give investment advice under the Financial Services and Markets Act 2000,
- 1.11 “hard copy” and “hard copy form” have the meanings respectively given to them in the Companies Act 2006,
- 1.12 “Hour” any full period of an hour but not including any part of a day that is a Saturday Sunday or Bank Holiday in England,
- 1.13 “Memorandum” the Memorandum of Association of the Charity,
- 1.14 “Secretary” the secretary of the Charity (if any),
- 1 15 “Subsidiary Company” any company in which the Charity holds more than 50% of the shares, controls more than 50% of the voting rights attached to the shares or has the right to appoint a majority of the board of the company;
- 1.16 “Trustee” and “Trustees” the director and directors as defined in the Companies Acts,

## 2. In these Articles and the Memorandum:

- 2.1 Subject to Article 2.2, any reference in these Articles or the Memorandum to an enactment includes a reference to that enactment as re-enacted or amended from time to time and to any subordinate legislation made under it.
- 2.2 Unless the context otherwise requires, words or expressions contained in the Articles bear the same meaning as in the Companies Act 2006 as in force on the date when these Articles became binding on the Charity.

## MEMBERS

3. The Trustees from time to time shall be the only members of the Charity. A Trustee shall become a member on becoming a Trustee. A member shall cease to be a member if he or she ceases to be a Trustee. Membership shall not be transferable and shall cease on death.

## **ASSOCIATE MEMBERS**

4. The Trustees may establish such classes of associate membership with such description and with such rights and obligations (including without limitation the obligation to pay a subscription) as they think fit and may admit and remove such associate members in accordance with such regulations as the Trustees shall make provided that no such associate members shall be members of the Charity for the purposes of the Articles or the Companies Acts.

## **PATRONS AND HONORARY PRESIDENTS**

5. The members of the Charity may at their discretion appoint, in general meeting, any person to be a Patron or Honorary President of the Charity (and remove any Patron and Honorary President) provided always that no such person may be appointed (or removed) unless such appointment (or removal) has been recommended by the Trustees who, in the case of the appointment of Honorary Presidents may only recommend such appointment in recognition of exemplary and outstanding support to the Charity by the proposed Honorary President.
6. There shall be no more than eight Patrons at any time and no more than eight Honorary Presidents at any one time.
7. The Patrons and Honorary Presidents shall have the right to attend and speak (but not vote unless they are also members of the Charity) at general meetings of the Charity and to be given notice of general meetings as if a member and shall receive accounts of the Charity when available to members.

## **TRUSTEES**

### **Number of Trustees**

8. There shall be at least six Trustees and not more than fifteen.

### **Appointment, retirement, removal and disqualification of Trustees**

9. Trustees shall be appointed by resolution of the Trustees.
10. Each Trustee shall retire from office at the third annual retirement meeting following his or her appointment but may be re-appointed subject to the Articles below. The retirement takes effect at the conclusion of the meeting.
11. The annual retirement meeting shall be the meeting of the Trustees at which the accounts of the Charity are adopted.
12. Retiring Trustees may be reappointed but a Trustee who has served for three consecutive terms of office must take a break from office and may not be reappointed until the earlier of:
  - 12.1 the fifth anniversary of the commencement of his or her break from office; and
  - 12.2 if applicable, the fifth annual retirement meeting following the annual retirement meeting at which his or her break from office commenced and only then if the Trustees decide that it would be desirable for the person to be re-appointed as a Trustee in view of his or her skills.

13. If the retirement of a Trustee under Article 10 causes the number of Trustees to fall below that set out in Article 8 then the retiring Trustee shall remain in office until a new appointment is made.
14. No person may be appointed as a Trustee:
  - 14.1 unless he or she has attained the age of 18 years; or
  - 14.2 in circumstances such that, had he or she already been a Trustee, he or she would have been disqualified from acting under the provisions of the Articles.
15. The office of a Trustee shall be vacated if:
  - 15.1 he or she ceases to be a Trustee by virtue of any provision of the Companies Acts or he or she becomes prohibited by law from being a Trustee;
  - 15.2 he or she is disqualified under the Charities Act 1993 from acting as a Trustee,
  - 15.3 he or she becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
  - 15.4 the Trustees reasonably believe he or she is suffering from mental disorder and incapable of acting and they resolve that he or she be removed from office;
  - 15.5 he or she resigns by notice to the Charity (but only if at least three Trustees will remain in office when the notice of resignation is to take effect);
  - 15.6 he or she fails to attend three consecutive meetings of the Trustees and the Trustees resolve that he or she be removed for this reason;
  - 15.7 at a general meeting of the Charity, a resolution is passed that he or she be removed from office, provided the meeting has invited the views of the Trustee concerned and considered the matter in the light of such views; or
  - 15.8 at a meeting of the Trustees at which at least half of the Trustees are present, a resolution is passed that he or she be removed from office. Such a resolution shall not be passed unless the Trustee has been given at least 14 clear days' notice that the resolution is to be proposed, specifying the circumstances alleged to justify removal from office, and has been afforded a reasonable opportunity of either, at the option of the trustee being removed, being heard by or of making written representations to the Trustees.

#### **Powers of Trustees**

16. Subject to the Companies Acts, the Memorandum and the Articles, the business of the Charity shall be managed by the Trustees who may exercise all the powers of the Charity. No alteration of the Memorandum or Articles shall invalidate any prior act of the Trustees which would have been valid if that alteration had not been made. The powers given by this Article shall not be limited by any special power given to the Trustees by the Articles and a meeting of the Trustees at which a quorum is present may exercise all powers exercisable by the Trustees.
17. The continuing Trustees or a sole continuing Trustee may act despite any vacancies in their number but while there are fewer Trustees than required for a

quorum the Trustees may only act for the purpose of increasing the number of Trustees or of summoning a general meeting of the Charity.

18. All acts done by a person acting as a Trustee shall, even if afterwards discovered that there was a defect in his or her appointment or that he or she was disqualified from holding office or had vacated office, be as valid as if such person had been duly appointed and was qualified and had continued to be a Trustee.
19. Subject to the Articles the Trustees may regulate their proceedings as they think fit.

#### **Chair**

20. The Trustees may elect from amongst their number a Chair of the Charity who shall hold office until the earlier to occur of the expiry of a period of three years or the expiry of the Trustee's period of office current at the time he or she was appointed as Chair of the Charity. At the expiry of a Chair's initial period of office, he or she shall be eligible for re-election on an annual basis up to a maximum of six successive years in office (including, for the avoidance of doubt, the initial period of office), provided always he or she remains a Trustee.
21. The Trustees may elect from amongst their number a Vice Chair of the Charity who shall hold office until the earlier to occur of the expiry of a period of three years or the expiry of the Trustee's period of office current at the time he or she was appointed as Vice Chair of the Charity and, in the latter case, the Vice Chair of the Charity shall be eligible for re-election on an annual basis up to a maximum of three successive years in office (including, for the avoidance of doubt, the initial period of office), provided always he or she remains a Trustee.
22. The Trustees may elect from amongst their number an Honorary Treasurer of the Charity who shall hold office until the earlier to occur of the expiry of a period of three years or the expiry of the Trustee's period of office current at the time he or she was appointed as Honorary Treasurer of the Charity. At the expiry of a Honorary Treasurer's initial period of office, he or she shall be eligible for re-election on an annual basis up to a maximum of six successive years in office (including, for the avoidance of doubt, the initial period of office), provided always he or she remains a Trustee.

#### **Delegation of Trustees' powers**

23. The Trustees may by power of attorney or otherwise appoint any person to be the agent of the Charity for such purposes and on such conditions as they determine.
24. The Trustees may delegate any of their powers or functions to any committee or the implementation of any of their resolutions and day to day management of the affairs of the Charity to any person or committee in accordance with the conditions set out in these Articles.

#### **Delegation to committees**

25. In the case of delegation to committees:

- 25.1 the resolution making that delegation shall specify those who shall serve or be asked to serve on such committee (although the resolution may allow the committee to make co-options up to a specified number),
  - 25.2 the composition of any such committee shall be entirely in the discretion of the Trustees and may comprise such of their number (if any) as the resolution may specify;
  - 25.3 the deliberations of any such committee shall be reported regularly to the Trustees and any resolution passed or decision taken by any such committee shall be reported promptly to the Trustees and for that purpose every committee shall appoint a secretary;
  - 25.4 all delegations under this Article shall be variable or revocable at any time;
  - 25.5 the Trustees may make such regulations and impose such terms and conditions and give such mandates to any such committee as they may from time to time think fit; and
  - 25.6 no committee shall knowingly incur expenditure or liability on behalf of the Charity except where authorised by the Trustees or in accordance with a budget which has been approved by the Trustees.
- 26. For the avoidance of doubt, the Trustees may delegate all financial matters to any committee and may empower such committee to resolve upon the operation of any bank account according to such mandate as it shall think fit whether or not requiring a signature of any Trustee.
  - 27. The meetings and proceedings of any committee shall be governed by the Articles regulating the meetings and proceedings of the Trustees so far as applicable and not superseded by any regulations made by the Trustees.

#### **Delegation of day to day management powers**

- 28. In the case of delegation of the day to day management of the Charity to a chief executive or other manager or managers:
  - 28.1 the delegated power shall be to manage the Charity by implementing the policy and strategy adopted by and within a budget approved by the Trustees and if applicable to advise the Trustees in relation to such policy, strategy and budget;
  - 28.2 the Trustees shall provide the manager with a description of his or her role and the extent of his or her authority; and
  - 28.3 the manager shall report regularly to the Trustees on the activities undertaken in managing the Charity and provide them regularly with management accounts sufficient to explain the financial position of the Charity.

### **MEETINGS**

#### **Trustees' meetings**

- 29. Two Trustees may (and the Secretary, if any, shall at the request of two Trustees) call a Trustees' meeting at any time.

### **Members' general meetings**

30. Any two Trustees may (and the Secretary, if any, shall at the request of two Trustees) call a members' general meeting at any time.

### **Length of notice**

31. All general meetings shall be called by either:
- 31.1 at least 14 clear days' notice; or
  - 31.2 shorter notice if it is so agreed by a majority of the members having a right to attend and vote at that meeting. Any such majority shall together represent at least 90% of the total voting rights at that meeting of all the members.
32. A Trustees' meeting shall be called by at least seven clear days' notice unless either:
- 32.1 all the Trustees agree; or
  - 32.2 urgent circumstances require shorter notice.

### **Contents of notice**

33. Every notice calling a general meeting shall specify the place, day and time of the meeting, whether it is a Trustees' or members' annual general meeting or general meeting, and the general nature of the business to be transacted. If a special resolution is to be proposed at a members' general meeting, the notice shall include the proposed resolution and specify that it is proposed as a special resolution.
34. In every notice calling a members' general meeting of the Charity there must appear with reasonable prominence a statement informing the member of his or her rights to appoint another person as his or her proxy at a members' general meeting.

### **Service of notice**

35. Notice of general meetings shall be given to every Trustee, and in the case of members' general meetings, notice shall also be given to any patron, and to the auditors of the Charity.

### **Manner of serving notice**

36. Notice of general meetings shall be served in accordance with Articles 79 to 84.

### **Quorum**

37. No business shall be transacted at any general meeting unless a quorum is present. The quorum for Trustees' meetings may be fixed by the Trustees and, unless so fixed at any other number, shall be three or one-third of the total number of Trustees, whichever is the greater. At members' general meetings three people or one-third of the total number of members present in person or by proxy and entitled to vote shall be a quorum. If a quorum is not present within half an hour from the time appointed for the meeting, the meeting shall stand

adjourned to the same day in the next week at the same time and place or to such time and place as the Trustees may determine and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting those present and entitled to vote shall be a quorum.

#### **Chair**

38. The chair, if any, of the Trustees or in his or her absence some other Trustee nominated by the Trustees shall act as chair of each meeting. (For the avoidance of doubt a proxy holder who is not a Trustee shall not be entitled to be appointed chair.)

#### **Adjournment**

39. The chair may, with the consent of a general meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place.
40. When a members' general meeting is adjourned for 14 days or more, at least seven clear days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice.

#### **Voting at Trustees' meetings**

41. At a Trustees' meeting every person present in person and entitled to vote shall have one vote.
42. A resolution put to the vote of a Trustees' meeting shall be decided on a show of hands.
43. Questions arising at a Trustees' meeting shall be decided by a majority of votes. In the case of an equality of votes, the chair shall be entitled to a casting vote in addition to any other vote he or she may have.

#### **Voting at members' general meetings**

44. A resolution put to the vote of a general meeting shall be decided on a show of hands unless before or on the declaration of the result of the show of hands a poll is duly demanded. Subject to the Companies Acts, a poll may be demanded:
- 44.1 by the chair; or
  - 44.2 by at least two members present in person or by proxy and having the right to vote at the meeting; or
  - 44.3 by any person who, by virtue of being appointed proxy for one or more members having the right to vote at the meeting, holds two or more votes; or
  - 44.4 by a member or members present in person or by proxy representing at least one-tenth of the total voting rights of all the members having the right to vote at the meeting.

45. Unless a poll is duly demanded a declaration by the chair that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
46. The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the chair and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
47. A poll shall be taken as the chair directs and he or she may appoint scrutineers (who need not be members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
48. A poll demanded on the election of the chair or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time and place as the chair directs not being more than 30 days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.
49. No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.
50. On a show of hands every person present and entitled to vote shall have a maximum of one vote. On a poll every member present in person or by proxy shall have one vote. In the case of an equality of votes, whether on a show of hands or on a poll, the chair shall have a casting vote in addition to any other vote he or she may have.
51. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the chair whose decision shall be final and binding.
52. The appointment of a proxy shall be in the following form (or in form as near thereto as circumstances allow or in any other form which is usual or which the Trustees may approve):-

"St Wilfrid's Hospice (Eastbourne)

Name of member appointing the proxy:

Address:

I/We hereby appoint [name of proxy] of [address of proxy] as my/our proxy to vote in my/our name(s) and on my/our behalf at the meeting of the Charity to be held on [date], and at any adjournment thereof.

This form is to be used in respect of the resolutions mentioned below as follows:

Resolution No 1	*for	*against	*abstain	*as the proxy thinks fit
Resolution No 2	*for	*against	*abstain	*as the proxy thinks fit
All other resolutions properly put to the meeting	*for	*against	*abstain	*as the proxy thinks fit

\*Strike out whichever is not desired.

Unless otherwise instructed, the proxy may vote as he or she thinks fit or abstain from voting.

Signed. ....

Dated: .....”

53. Unless the appointment of a proxy indicates otherwise, it must be treated as:
  - 53.1 allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
  - 53.2 appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.
54. The appointment of a proxy and any authority under which it is executed or a copy of such authority in some way approved by the Trustees may:
  - 54.1 in the case of an instrument in writing be deposited at the registered office of the Charity or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument of proxy sent out by the Charity in relation to the meeting at least 48 Hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
  - 54.2 in the case of an appointment sent by electronic means, where an address has been specified for the purpose of receiving documents or information by electronic means:
    - 54.2 1 in the notice convening the meeting; or
    - 54.2 2 in any instrument of proxy sent out by the Charity in relation to the meeting, or
    - 54 2.3 in any invitation to appoint a proxy issued by the Charity in relation to the meeting which is sent by electronic means, be received at such address not less than 48 Hours before the time for holding the meeting or adjourned meeting at which the person named in the appointment proposes to vote;

- 54.3 in the case of a poll taken more than 48 Hours after it is demanded, be deposited or received as aforesaid after the poll has been demanded and at least 24 Hours before the time appointed for the taking of the poll; or
- 54.4 where the poll is not taken forthwith but is taken not more than 48 Hours after it was demanded, be delivered at the meeting at which the poll was demanded to the chair or to the Secretary (if any) or to any Trustee; and an appointment of proxy which is not deposited, delivered or received in a manner so permitted shall be invalid.
55. An appointment of a proxy may be revoked by delivering to the Charity a notice given by or on behalf of the person by whom or on whose behalf the proxy notice was given. A notice revoking the appointment of a proxy only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates. Attendance by a member in person at a meeting automatically revokes any appointment of a proxy by that member.

#### **Advisors**

56. The Trustees may invite advisors to attend and advise at but not vote at meetings of the Trustees on such terms as they agree from time to time.

#### **Virtual meetings of Trustees**

57. A Trustees' meeting may be held by telephone or using any televisual or other electronic or virtual method agreed by resolution of the Trustees in which all participants may communicate simultaneously with all other participants

#### **Decisions without a meeting**

##### **Written members' resolutions**

58. Subject to Article 60, a written resolution of the Charity passed in accordance with these Articles 58 to 64 shall have effect as if passed by the Charity in general meeting
- 58.1 A written resolution is passed as an ordinary resolution if it is passed by a simple majority of the total voting rights of eligible members.
- 58.2 A written resolution is passed as a special resolution if it is passed by members representing not less than 75% of the total voting rights of eligible members. A written resolution is not a special resolution unless it states that it was proposed as a special resolution.
59. In relation to a resolution proposed as a written resolution of the Charity the eligible members are the members who would have been entitled to vote on the resolution on the circulation date of the resolution.
60. A members' resolution under the Companies Acts removing a Trustee or an auditor before the expiry of his or her term of office may not be passed as a written resolution.
61. A copy of the written resolution must be sent to every member together with a statement informing the member how to signify their agreement to the resolution and the date by which the resolution must be passed if it is not to lapse.

Communications in relation to written resolutions shall be sent to the Charity's auditors in accordance with the Companies Acts.

62. A member signifies their agreement to a proposed written resolution when the Charity receives from him or her an authenticated document identifying the resolution to which it relates and indicating his or her agreement to the resolution.
- 62.1 If the document is sent to the Charity in hard copy form, it is authenticated if it bears the member's signature.
- 62.2 If the document is sent to the Charity by electronic means, it is authenticated if it bears the member's signature or if it is from an email address specified by the member to the Charity for the purposes of receiving documents or information by electronic means.
63. A written resolution is passed when the required majority of eligible members have signified their agreement to it.
64. A proposed written resolution lapses if it is not passed within 28 days beginning with the circulation date.

#### **Trustees' decision-making without a meeting**

##### **Unanimous decision without a meeting**

65. The Trustees may take a unanimous decision without a Trustees' meeting by indicating to each other by any means, including without limitation by electronic means, that they share a common view on a matter. Such a decision may, but need not, take the form of a resolution in writing, copies of which have been signed by each Trustee or to which each Trustee has otherwise indicated agreement in writing.

##### **Majority decisions without a meeting**

66. The Trustees may, in the circumstances outlined in this Article 66, make a majority decision without holding a Trustees' meeting.
- 66.1 If:
- 66.1.1 a Trustee has become aware of a matter on which the Trustees need to take a decision;
- 66.1.2 that Trustee has taken all reasonable steps to make the other Trustees aware of the matter and the decision;
- 66.1.3 the Trustees have had a reasonable opportunity to communicate their views on the matter and the decision to each other;
- 66.1.4 a majority of those Trustees vote in favour of a particular decision on that matter; and
- 66.1.5 no Trustee has demanded a meeting be held for the Trustees to discuss the decision concerned a decision of the Trustees may be taken by

majority and shall be as valid and effectual as if it had been taken at a Trustees' meeting duly convened and held.

66.2 Trustees participating in the taking of a majority decision otherwise than at a Trustees' meeting in accordance with this Article:

66.2.1 may be in different places, and may participate at different times; and

66.2.2 may communicate with each other by any means.

66.3 No decision shall be taken by the Trustees in accordance with this Article unless a quorum participates in the decision-making process. The quorum for Trustees' decision-making in accordance with this Article shall be the same as the quorum for Trustees' meetings as set out in Article 37.

66.4 The Chair, if any, of the Trustees, or such other Trustee as shall be appointed by the Trustees shall be the chair of the process of decision-making in accordance with this Article. The process shall include:

66.4.1 circulating the proposed decision with an indication of the date by which Trustees' votes must be received in order to be counted in the process - the chair of the process can determine what this date should be but, except in unusual circumstances, it should be at least 14 days after the circulation date;

66.4.2 the nomination of a person to whom all Trustees' votes must be communicated;

66.4.3 on or after the date by which Trustees' votes must be received, the communication by that nominated person to all the Trustees of the votes cast in favour and against and whether the resolution has been passed;

66.4.4 the date of the decision shall be the date of the communication from the nominated person confirming formal approval; and

66.4.5 the nominated person must prepare a minute of the decision in accordance with Article 77.

### **Conflicts of interest**

67. Whenever a Trustee finds himself or herself in a situation that is reasonably likely to give rise to a Conflict of Interest, he or she must declare his or her interest to the Trustees unless, or except to the extent that, the other Trustees are or ought reasonably to be aware of it already.

68. Whenever a matter is to be discussed at a meeting or decided in accordance with Article 65 or 66 and a Trustee has a Conflict of Interest in respect of that matter then, subject to Article 70, he or she must:

68.1 remain only for such part of the meeting as in the view of the other Trustees is necessary to inform the debate;

68.2 not be counted in the quorum for that part of the meeting; and

68.3 withdraw during the vote and have no vote on the matter.

69. If any question arises as to whether a Trustee has a Conflict of Interest, the question shall be decided by a majority decision of the other Trustees.

#### **Trustees' power to authorise a conflict of interest**

70. The Trustees may (subject to such terms as they may impose from time to time, and subject always to their right to vary or terminate such authorisation) authorise, to the fullest extent permitted by law:
- 70.1 any matter which would otherwise result in a Trustee infringing his or her duty to avoid a situation in which he or she has a Conflict of Interest; and
- 70.2 the manner in which a Conflict of Interest arising out of any Trustee's office, employment or position may be dealt with and, for the avoidance of doubt, they can decide that the Trustee with a Conflict of Interest can participate in a vote on the matter and can be counted in the quorum provided that when deciding to give such authorisation the provisions of Article 68 shall be complied with and provided that nothing in this Article 70 shall have the effect of allowing the Trustees to authorise a benefit that is not permitted in accordance with the Memorandum.
71. If a matter, or office, employment or position, has been authorised by the Trustees in accordance with Article 70 then, even if he or she has been authorised to remain at the meeting by the other Trustees, the Trustee may absent himself or herself from meetings of the Trustees at which anything relating to that matter, or that office, employment or position, will or may be discussed.
72. A Trustee shall not be accountable to the Charity for any benefit which he or she derives from any matter, or from any office, employment or position, which has been authorised by the Trustees in accordance with Article 70 (subject to any limits or conditions to which such approval was subject).
73. When a Trustee has a Conflict of Interest which he or she has declared to the Trustees, he or she shall not be in breach of his or her duties to the Charity by withholding confidential information from the Charity if to disclose it would result in a breach of any other duty or obligation of confidence owed by him or her.

#### **Register of Trustees' interests**

74. The Trustees shall cause a register of Trustees' interests to be kept. A Trustee must declare the nature and extent of any interest, direct or indirect, which s/he has in a proposed transaction or arrangement with the Charity or in any transaction or arrangement entered into by the Charity which has not previously been declared.

#### **Irregularities**

75. The proceedings at any meeting or on the taking of any poll or the passing of a written resolution or the making of any decision shall not be invalidated by reason of any accidental informality or irregularity (including any accidental omission to give or any non-receipt of notice) or any want of qualification in any of the persons present or voting or by reason of any business being considered which is not specified in the notice unless a provision of the Companies Acts specifies that such informality, irregularity or want of qualification shall invalidate it.

## **GENERAL**

### **Secretary**

76. A Secretary may be appointed by the Trustees for such term at such remuneration and upon such conditions as they may think fit, and may be removed by them. If there is no Secretary:
- 76.1 anything authorised or required to be given or sent to, or served on, the Charity by being sent to its Secretary may be given or sent to, or served on, the Charity itself, and if addressed to the Secretary shall be treated as addressed to the Charity; and
- 76.2 anything else required or authorised to be done by or to the Secretary of the Charity may be done by or to a Trustee, or a person authorised generally or specifically in that behalf by the Trustees.

### **Minutes**

77. The Trustees shall cause minutes to be made in books kept for the purpose:
- 77.1 of all appointments of officers made by the Trustees;
- 77.2 of all resolutions of the Charity and of the Trustees; and
- 77.3 of all proceedings at meetings of the Charity and of the Trustees, and of committees of Trustees, including the names of the Trustees present at each such meeting;
- 77.4 and any such minute, if purported to be signed (or in the case of minutes of Trustees' meetings signed or authenticated) by the chair of the meeting at which the proceedings were had, or by the chair of the next succeeding meeting, shall, as against any member or Trustee of the Charity, be sufficient evidence of the proceedings. The minutes must be kept for at least ten years from the date of the meeting, resolution or decision.

### **Records and accounts**

78. The Trustees shall comply with the requirements of the Companies Acts and of the Charities Act 1993 as to maintaining a members' register, keeping financial records, the audit or examination of accounts and the preparation and transmission to the Registrar of Companies and the Charity Commission of:
- 78.1 annual reports;
- 78.2 annual returns;
- 78.3 annual statements of account.

### **Communications by and to the Charity**

79. Subject to the provisions of the Companies Acts and these Articles:

- 79.1 a document or information (including any notice) to be given, sent or supplied to any person pursuant to the Articles may be given, sent or supplied in hard copy form, in electronic form;
- 79.2 a document or information (including any notice) may only be given, sent or supplied in electronic form where the recipient has agreed (generally or specifically) that the document or information may be sent in that form and has not revoked that agreement; and
80. Any document or information (including any notice) sent to a member under the Articles may be sent to the member's postal address as shown in the Charity's register of members or (in the case of documents or information sent by electronic means) to an address specified for the purpose by the member, provided that:
- 80.1 a member whose registered address is not within the United Kingdom and who gives to the Charity an address within the United Kingdom at which notices may be given to him or her, or an address to which notices may be sent by electronic means, shall be entitled to have notices given to him at that address, but otherwise no such member shall be entitled to receive any notice from the Charity; and
- 80.2 the Charity is not required to send notice of a general meeting or a copy of its annual report and accounts to a member for whom it no longer has a valid address.
81. Any document to be served on the Charity or on any officer of the Charity under the Articles may only be served:
- 81.1 in the case of documents in hard copy form, by sending or delivering them to the Charity's registered office or delivering them personally to the officer in question; or
- 81.2 in the case of documents in electronic form, by sending them by electronic means:
- 81.2.1 to an address notified to the members for that purpose; and
- 81.2.2 from an address previously notified to the Charity by the member for the purpose of sending and receiving documents and information.
82. A member present in person or by proxy at any meeting of the Charity shall be deemed to have received notice of the meeting and, where requisite, of the purpose for which it was called.
83. Where a document or information is sent or supplied under the Articles:
- 83.1 Where the document or information is sent or supplied by post, service or delivery shall be deemed to be effected 48 hours after the envelope containing it was posted. In proving such service or delivery it shall be sufficient to prove that such envelope was properly addressed and posted.
- 83.2 Where the document or information is sent or supplied by electronic means to an address specified for the purpose by the intended recipient, service or delivery shall be deemed to be effected on the same day on which it is sent or supplied.

In proving such service it shall be sufficient to prove that it was properly addressed.

84. Where any document or information has been sent or supplied by the Charity by electronic means and the Charity receives notice that the message is undeliverable:

84.1 if the document or information has been sent to a member and is notice of a general meeting of the Charity or a copy of the annual report and accounts of the Charity, the Charity is under no obligation to send a hard copy of the document or information to the member's postal address as shown in the Charity's register of members, but may in its discretion choose to do so; and

84.2 in all other cases, the Charity will send a hard copy of the document or information to the member's postal address as shown in the Charity's register of members, or in the case of a recipient who is not a member, to the last known postal address for that person.

84.3 The date of service or delivery of the documents or information shall be the date on which the original electronic communication was sent, notwithstanding the subsequent sending of hard copies.

#### **Indemnity**

85. Without prejudice to any indemnity to which a Trustee may otherwise be entitled, every Trustee of the Charity shall be indemnified out of the assets of the Charity in relation to any liability incurred by him or her in that capacity but only to the extent permitted by the Companies Acts; and every other officer of the Charity may be indemnified out of the assets of the Charity in relation to any liability incurred by him or her in that capacity, but only to the extent permitted by the Companies Acts.

#### **Winding-up**

86. The provisions of clauses 9 and 10 of the Memorandum relating to the winding-up or dissolution of the Charity shall have effect and be observed as if the same were repeated in the Articles.

#### **Regulations**

87. The Trustees shall have power from time to time to make, repeal or alter regulations as to the management of the Charity and its affairs, as to the duties of any officers or employees of the Charity, as to the conduct of business of the Trustees or any committee and as to any of the matters or things within the powers or under the control of the Trustees provided that such regulations shall not be inconsistent with the Companies Acts, the Memorandum, the Articles or any rule of law.

#### **Exclusion of Model Articles**

88. The relevant model articles for a company limited by guarantee are hereby expressly excluded.