

**THE COMPANIES ACT 1985 TO 2006**

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**COMPANY LIMITED BY GUARANTEE AND  
NOT HAVING A SHARE CAPITAL**

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**MEMORANDUM  
AND  
ARTICLES OF ASSOCIATION  
OF  
ST MICHAEL'S HOSPICE  
(INCORPORATING THE FREDA PEARCE FOUNDATION)**

Bates Wells & Braithwaite London LLP  
2-6 Cannon Street  
London EC4M 6YH

**I hereby certify this to be a true copy of the Memorandum and Articles of Association adopted by  
Special Resolution passed at an Extraordinary General Meeting on the 7<sup>th</sup> November 2012.**

Susan Newbould  
Company Secretary

FRIDAY



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RM

29/09/2017

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COMPANIES HOUSE

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HEREFORD HR1 2ND  
28.9.2017

THE COMPANIES ACT 1985 TO 2006

COMPANY LIMITED BY GUARANTEE AND  
NOT HAVING A SHARE CAPITAL

MEMORANDUM OF ASSOCIATION  
OF  
ST MICHAEL'S HOSPICE  
(INCORPORATING THE FREDA PEARCE FOUNDATION)

1. The name of the Company (hereinafter called "the Charity") is "ST MICHAEL'S HOSPICE (INCORPORATING THE FREDA PEARCE FOUNDATION)".
2. The registered office of the Charity will be situated in England.
3. The objects for which the Charity is established are:
  - (1) to promote the relief of sickness in such ways as the Charity shall from time to time think fit, and in particular (but without prejudice to the generality of such object):
    - (A) By establishing maintaining and conducting a residential home in the County of Herefordshire for the reception and care of persons of either sex (without regard to race or creed) who are suffering (at any age) from any chronic or terminal illness or from any disability or disease whether attributable to old age or otherwise or from any other physical infirmity, disability or disease, and by providing medical or other treatment and attention for such persons as aforesaid in their own homes.
    - (B) By conducting or promoting or encouraging research into the care and treatment of persons suffering from any illness, disability, disease or infirmity as aforesaid and particularly into the care and treatment of persons suffering from cancer or terminal illness and to disseminate the results thereof to the public.
    - (C) By promoting or encouraging or assisting in the teaching or training of doctors, nurses, physiotherapists and other persons engaged in any branch of medicine, surgery, nursing or allied services, and in the teaching or training of students in any branch of medicine, surgery, nursing or allied services.
    - (D) By providing or assisting or encouraging the provision of spiritual help and guidance for any persons resident (either as patients or otherwise) or working in any such home or homes as aforesaid.
    - (E) By providing or assisting or encouraging the provision of palliative care for any persons receiving care (whether as residents or otherwise) in any such home or homes as aforesaid or for such persons in their own homes.

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- (F) By maintaining and up-keeping the garden and grounds of any such home or homes as aforesaid for the benefit of the residents and local community
4. For the purpose of furthering the attainment of all or any of the above mentioned charitable objects (hereinafter called "the principal objects of the Charity") but not for any other purpose and so far as the objects hereinafter mentioned are conducive or ancillary to the furtherance of the principal objects of the Charity (but not further or otherwise) the Charity may:
- (A) purchase, take on lease or in exchange, hire or otherwise acquire any real or personal property and any rights or privileges which the Charity think are necessary for the promotion of the objects, and to construct, repair, renovate, equip, decorate, maintain and alter any building or erections necessary for use as such home or homes as aforesaid or for any use in connection with the establishment or conduct of any such home or homes (including use as a church or chapel for the use of any person or persons resident or working in any such home) or otherwise for the work of the Charity.
- (B) establish and conduct clinics, outpatients' departments, surgeries, dispensaries and convalescent homes.
- (C) engage and pay such doctors, surgeons, nursing or domestic staff, lecturers, chaplains, physiotherapists, occupational therapists, radiologists, dieticians, dentists, chiropodists, pharmacists, social workers and others whom the Charity think fit for the promotion of its objects.
- (D) make such regulations as to the admission of persons to any home, clinic or out-patients' department established by or conducted under the direction of the Charity as aforesaid, and as to the residence of any persons in any such home as aforesaid as the Charity may think fit, and so that such regulations may provide, either generally or in any particular case or cases for such admission or residence to be either free of charge or subject to such payment as the Charity may think fit.
- (E) provide or arrange for such medical or other attention as the Charity may think fit for patients in any such home, clinic or out-patients' department as aforesaid or for patients in their own homes.
- (F) provide such medical supplies, equipment and apparatus, drugs, amenities, comforts and other things conducive to the material or spiritual welfare of any persons resident in or attending any such home, clinic or out-patients' department as aforesaid or any persons being treated or attended in their own homes as the Charity may think fit.
- (G) provide or arrange for a building or premises to be used by the Charity as a church or chapel available for Christian worship.

- (H) establish and conduct schools, training colleges and other places of learning and laboratories and other research establishments.
- (I) arrange lectures and conduct training courses and to publish pamphlets, books, journals and other publications relating to the work of the Charity.
- (J) conduct appeals for money or other gifts or for any other assistance for any of the purposes of the Charity and to solicit and accept subscriptions and donations (whether of real or personal property) and devises and bequests for any of the purposes of the Charity.
- (K) establish pension or superannuation schemes for, and to pay pensions to any persons formerly employed by the Charity, and generally to provide as the Charity shall think fit for the welfare of any employees or former employees of the Charity.
- (L) sell, let, mortgage, dispose of or turn to account all or any of the property or assets of the Charity as may be thought expedient with a view to the promotion of its objects.
- (M) undertake and execute any charitable trusts which may lawfully be undertaken by the Charity and may be conducive to any of the principal objects of the Charity.
- (N) borrow or raise money for the purposes of the Charity on such terms and on such security as may be thought fit.
- (O) invest the moneys 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.
- (P) delegate the management of investments to a financial expert provided that:
- (Q)
  - (i) the financial expert is:
    - (a) an individual who is an authorised person within the meaning of the Financial Services and Markets Act 2000; or
    - (b) a company or firm of repute which is an authorised or exempt person within the meaning of that Act except persons exempt solely by virtue of Article 44 and/or Article 45 of the Financial Services and Markets Act 2000 (Exemption) Order 2001.
  - (ii) the investment policy is set down in writing for the financial expert by the Directors;

- (iii) every transaction is reported regularly to the Directors;
- (iv) the performance of the investments is reviewed regularly by the Directors;
- (v) the Directors are entitled to cancel the delegation arrangement at any time;
- (vi) the investment policy and the delegation arrangements are reviewed at least once a year;
- (vii) all payments due to the financial expert are on a scale or at a level which is agreed in advance and are notified promptly to the Directors on receipt;
- (viii) the financial expert may not do anything outside the powers of the Directors;
- (R) arrange for investments or other property of the Charity to be held in the name of a nominee (being a corporate body registered or having an established place of business in England and Wales) under the control of the Directors or a financial expert acting under their instructions and to pay any reasonable fee required;
- (S) 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 or calculated to further any of the principal objects of the Charity.
- (T) provide indemnity insurance to cover liability of the Directors which by virtue of any rule of law would otherwise attach to them in respect of any negligence, default, breach of trust or breach of duty of which they may be guilty in relation to the Charity: Provided that any such insurance shall not extend to any claim arising from any act or omission which the Directors knew to be a breach of trust or duty or not or which was committed by the Directors in reckless disregard to whether it was a breach of trust or breach of duty or not and provided also that any such insurance shall not extend to the costs of any unsuccessful defence to a criminal prosecution brought against the Directors in their capacity as Directors of the Charity.
- (U) carry on trade insofar as either the trade is exercised in the course of the actual carrying out of a primary object of the Charity or the trade is temporary and ancillary to the carrying out of the objects aforesaid and to incorporate any wholly owned company to carry on any such trade.
- (V) do all such other things as are incidental or conducive to the attainment of the principal objects of the Charity or any of them.

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**5. Application of income and property**

- (1) The income and property of the Charity shall be applied solely towards the promotion of the Objects.
- (2)
  - (A) A director is entitled to be re-imbursed from the property of the Charity or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the Charity
  - (B) A director may benefit from trustee indemnity insurance cover purchased at the Charity's expense in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011
  - (C) A director may receive an indemnity from the Charity in the circumstances specified in clause 5(B) (5)
  - (D) A director may not receive any other benefit or payment unless it is authorised by clause 5B
  - (E) Subject to clause 5B, none of the income or property of the Charity may be paid or transferred directly or indirectly by way of dividend bonus or otherwise by way of profit to any member of the Charity. This does not prevent a member who is not also a director receiving:
    - (i) A benefit from the Charity in the capacity of a beneficiary of the Charity
    - (ii) reasonable and proper remuneration for any goods or services supplied to the Charity

**5B Benefits and payments to Charity directors and connected persons**

- (1) General provisions

No director or connected person may

  - (A) buy any goods or services from the Charity on terms preferential to those applicable to members of the public;
  - (B) sell goods, services or any interest in land to the Charity;
  - (C) be employed by, or receive any remuneration from, the Charity;
  - (D) receive any financial benefit from the Charity;

unless the payment is permitted by subclause (2) of this clause 5B or authorised by the court or the Charity Commission.

In this clause a "financial benefit" means a benefit, direct or indirect, which is either money or has a monetary value

(2) Scope and powers permitting directors' or connected persons' benefits

- (A) A director or connected person may receive a benefit from the Charity in the capacity of a beneficiary of the Charity provided that a majority of the directors do not benefit in this way.
- (B) A director or connected person may enter into a contract for the supply of services, or of goods that are supplied in connection with the provision of services, to the Charity where that is permitted in accordance with and subject, to sections 185 and 186 of the Charities Act 2011
- (C) Subject to sub-clause (3) of this clause 5B a director or connected person may provide the Charity with goods that are not supplied in connection with the services provided to the Charity by the director or connected person.
- (D) A director or connected person may receive interest on money lent to the Charity at a reasonable and proper rate which must be not more than the Bank of England bank rate (also known as the base rate).
- (E) A director or connected person may receive rent for premises let by the director or connected person to the Charity. The amount of the rent and other terms of the lease must be reasonable and proper. The director concerned must withdraw from any meeting at which such a proposal or the rent and other terms of the lease are under discussion.
- (F) A director or connected person may take part in the normal trading and fundraising activities of the Charity on the same terms as members of the public

(3) Payment for supply of goods only - controls

The Charity and its directors may only rely upon the authority provided by sub-clause (2)(c) of this clause 5B if each of the following conditions is satisfied:

- (A) The amount or maximum amount of the payment for the goods is set out in an agreement in writing between the Charity or its directors (as the case may be) and the director or connected person supplying the goods ("the supplier") under which the supplier is to supply the goods in question to or on behalf of the Charity.
- (B) The amount or maximum amount of the payment for the goods does not exceed what is reasonable in the circumstances for the supply of the goods in question.

- (C) The other directors are satisfied that it is in the best interests of the Charity to contract with the supplier rather than someone who is not a director or connected person. In reaching that decision the directors must balance the advantage of contracting with a director or connected person against the disadvantages of doing so.
  - (D) The Supplier is absent for the part of any meeting at which there is discussion of the proposal to enter into a contract or arrangement with him or her or it with regard to the supply of goods to the Charity
  - (E) The supplier does not vote on any such matter and is not to be counted when calculating whether a quorum of directors is present at the meeting.
  - (F) The reason for their decision is recorded by the directors in the minute book.
  - (G) A majority of the directors then in office are not in receipt of remuneration or payments authorised by clause 5B.
- (4) In sub-clauses (2) and (3) of clause 5B -
- (A) "Charity" includes any company in which the Charity;
    - (i) holds more than 50% of the shares; or
    - (ii) controls more than 50% of the voting rights attached to the shares; or
    - (iii) has the right to appoint one or more directors to the board of the company
  - (B) "connected person" means
    - (i) a child, parent, grandchild, grandparent, brother or sister of the director;
    - (ii) the spouse or civil partner of the director or of any person falling within sub-clause(i) above;
    - (iii) a person carrying on business in partnership with the director or with any person falling within sub-clause (i) or (ii) above
- (5)
- (A) the Charity may indemnify a relevant director against any liability incurred in that capacity to the extent permitted in sections 232 to 234 of Companies Act 2006
  - (B) in this clause "a relevant director" means any director or former director of the Charity



- (6) For any transaction authorised by clause 5, the Directors' 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 have been complied with
- (7) The liability of the Members is limited.
- (8) 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 contributories among themselves, such amount as may be required not exceeding £2.00.
- (9) 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 charitable institution or institutions having exclusively charitable objects similar to the objects of the Charity, and which shall prohibit the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Charity under or by virtue of Clause 5 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 such provisions, then to some other charitable object.

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**ARTICLES OF ASSOCIATION**  
OF  
ST MICHAEL'S HOSPICE  
(INCORPORATING THE FREDA PEARCE FOUNDATION)

**Interpretation**

1 In these Articles and the Memorandum of Association:

"address"	includes a number or address used for the purposes of sending or receiving documents by electronic means.
"the Articles"	means these Articles of Association of the Charity.
"the Charity"	means St Michael's Hospice (incorporating the Freda Pearce Foundation).
"circulation date"	in relation to a written resolution, has the meaning given to it in the Companies Acts.
"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 and excluding Saturdays, Sundays and Bank Holidays.
"the Companies Acts"	has the meaning given to it in section 2 of the Companies Act 2006 including any statutory modification or re-enactment thereof for the time being in force.
"Conflict of Interest"	any interest of a Director (whether personal, by virtue of a duty of loyalty to another organisation or otherwise) that interests conflicts, or might conflict with the of the Charity.
"electronic form" and "electronic means"	have the meanings respectively given to them in the Companies Act 2006.
"executed"	includes any mode of execution.
"hard copy" and "hard copy form"	have the meanings respectively given to them in the Companies Act 2006.
"Office"	means the registered office of the Charity.
"Member" and "Members"	means respectively a member and the members of the Charity for the time being (or as applicable their authorised representatives).
"Memorandum"	means the Memorandum of Association of the Charity.

## St Michael's Hospice, Hereford Memorandum and Articles of Association

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"Secretary" means the secretary of the Charity or any other person appointed to perform the duties of the Secretary of the Charity, including a joint, assistant or deputy Secretary.

"the United Kingdom" means Great Britain and Northern Ireland.

Unless the context otherwise requires, words or expressions contained in these Articles bear the same meaning as in the Companies Acts but excluding any statutory modification thereof not in force when these Articles become binding on the Charity.

Words suggesting the singular shall include the plural and vice versa. Words suggesting one gender shall include the other genders and "person" shall include corporations.

### Members

- 2 The subscribers to the Memorandum of Association of the Charity and such other persons as are admitted to the membership in accordance with the Articles shall be Members of the Charity. Subject to Article 4 every person who wishes to become a Member shall deliver to the Charity an application for membership in such form as the Board of Directors require executed by him.
- 3 The Board of Directors may in their absolute discretion decline to accept any person as a Member and need not give reasons for so doing. The Board of Directors may from time to time prescribe criteria for membership but shall not by so doing become obliged to accept persons fulfilling those criteria as Members.
- 4 The names of the Members of the Company shall be entered into the register of Members. If a person becomes a Member as a representative of an unincorporated association or body, the name of the Member, the name of the unincorporated association or body and the fact that the Member is its representative shall be entered in the register of Members. Subject to the Board of Directors' right to decline to accept any person as a Member, the unincorporated association or body shall be able to replace the Member who is its representative with another person by notice in writing to the Charity without it being necessary for the outgoing Member to give notice or the incoming Member to complete an application form.

### Honorary Officers

- 5 The Board of Directors may from time to time appoint and remove such Patrons and Vice Patrons and such Presidents and Vice Presidents and other honorary officers as the Board of Directors may think fit of the Charity or of any charitable institution, purpose or appeal from time to time conducted or undertaken by the Charity, and any person may be so appointed whether or not he is also a Member of the Charity. No remuneration (except by way of repayment of out of pocket expenses, if any) shall be paid to any person so appointed in respect of any honorary office. Save as aforesaid every such appointment shall be for such period and on such terms as the Board of Directors shall think fit.
- 6 Subject to Article 4, membership shall not be transferable and shall cease on death. A Member shall cease to be a Member:
  - 6.1 On the expiry of at least seven clear days' notice given by him to the Charity of his intention to withdraw;
  - 6.2 If he becomes bankrupt or makes any arrangement or composition with his creditors generally or it goes into liquidation otherwise than for the purpose of a bona fide reconstruction or amalgamation without insolvency or has an administrator or a receiver or an administrative receiver (but not a receiver and manager appointed under Section 18 of the Charities Act 1993) appointed over all or any part of its assets or a petition is presented or an order is made or a resolution passed for its winding up; or

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- 6.3 If, at a meeting of the Board of Directors at which not less than half of the Directors are present, a resolution is passed resolving that the Member be expelled. Such a resolution shall not be passed unless the Member has been given not less than fourteen clear days' notice of the fact that the resolution is to be proposed, specifying the misconduct or circumstances alleged to justify expulsion, and has been afforded a reasonable opportunity of being heard by or of making written representations to the Board of Directors. If such a resolution as is referred to in this paragraph is passed, then the Member shall forthwith cease to be a Member but without prejudice to the liability of the Member to pay to the Charity any subscription or other sum owed by him.

### Annual General Meeting

- 7 The Charity shall hold an annual general meeting each year in addition to any other general meetings in that year, and shall specify the meeting as such in the notice calling it; and not more than fifteen months shall elapse between the date of one annual general meeting of the Charity and that of the next. The annual general meeting shall be held at such times and places the Directors shall appoint.

### General Meetings

- 8 The Directors may call a general meeting at any time. The Directors shall call a general meeting on receiving a requisition to that effect, signed by at least 10% of the Members having the right to attend and vote at general meetings. In default, the requisitionists may call a general meeting pursuant to the provisions of the Companies Acts. If there are not within the United Kingdom sufficient Directors to call a general meeting, any Directors or any Member of the Charity may call a general meeting.

### Length of notice

- 9 Unless Article 10 applies, all general meetings shall be called by at least fourteen clear days' notice unless the Companies Acts require a longer notice period.
- 10 A general meeting may be called by shorter notice if it is so agreed by a majority in number of the Members having a right to attend and vote at that meeting, being a majority together holding not less than ninety-five percent of the total voting rights at the meeting of all the Members.

### Contents of notice

- 11 The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an annual general meeting, shall specify the meeting as such. If a special resolution is to be proposed, the notice shall include the proposed resolution and specify that it is proposed as a special resolution. In every notice calling a meeting of the Charity there must appear with reasonable prominence a statement informing the Member of his rights to appoint another person as his proxy at a general meeting.

### Service of notice

- 12 The notice shall be given to all the Members and any patron and to the Directors and auditors.
- 13 Notice of general meetings shall be served in accordance with Articles 76 to 81 below.

### Quorum

- 14 No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business. Save as herein otherwise provided five persons entitled to vote upon the business to be transacted, each being a Member or a proxy for a Member or a duly authorised representative of a corporate Member, shall be a quorum.
- 15 If within half an hour from the time appointed for the holding of a general meeting a quorum is not present, the meeting, if convened on the requisition of Members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place, or at such other place as the Board may determine. 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

- 16 The chairman (if any) of the Board shall preside as chairman at every general meeting but if there be no such chairman present within fifteen minutes after the time appointed for holding the same, or the chairman shall be unwilling to preside, the Members present shall choose some member of the Board to act as chairman. A proxy holder who is not a Member entitled to vote shall not be entitled to be appointed chairman.

### Adjournment

- 17 The chairman, may with the consent of any 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 other business shall be transacted at any adjourned meeting other than business which might have been transacted at the meeting from which the adjournment took place. Whenever a meeting is adjourned for forty five days or more, notice of the adjourned meeting shall be given in the same manner as of an original meeting. Save as aforesaid the Members shall not be entitled to any notice of an adjournment or of the business to be transacted at an adjourned meeting.

### Poll

- 18 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is, before or upon the declaration of the result of the show of hands, demanded:
  - 18.1 by the chairman; or
  - 18.2 by at least three Members present in person or by proxy and having a right to vote at the meeting; or
  - 18.3 by a Member or Members present in person or by proxy and representing one-tenth of the total voting rights of all Members having the right to vote at the meeting.
- 19 Unless a poll is duly demanded, a declaration by the chairman that a resolution has been carried, unanimously or by a particular majority, or lost, or not carried by a particular majority, and an entry to that effect in the minute book of the Charity shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution. The demand for a poll may be withdrawn.
- 20 Subject to the provisions of Article 21, if a poll be demanded in manner aforesaid, it shall be taken at such time and place, and in such manner, as the chairman of the meeting shall direct, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

- 21 No poll shall be demanded on the election of a chairman of a meeting, or on any question of adjournment.
- 22 In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting shall be entitled to a second or casting vote.
- 23 The demand of a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.
- 24 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.

#### Votes of Members

- 25 Subject to hereinafter provided, on a show of hands and on a poll every Member present in person or by proxy shall have one vote.
- 26 No Member other than a Member duly registered, who shall have paid every subscription and other sum (if any) which shall be due payable to the Charity in respect of his membership, shall be entitled to vote on any question either personally or by proxy or as a proxy for another Member, at any general meeting.
- 27 A corporation may vote by its duly authorised representative.

#### Proxies

- 28 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 Directors shall:
  - 28.1 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
  - 28.2 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:
    - 28.2.1 in the notice convening the meeting; or
    - 28.2.2 in any instrument of proxy sent out by the Charity in relation to the meeting; or
    - 28.2.3 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; or
  - 28.3 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
  - 28.4 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 or to any Director and an appointment of proxy which is not deposited, delivered or received in a manner so permitted shall be invalid.
- 29 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, provided that no intimation in writing of the

**St Michael's Hospice, Hereford Memorandum and Articles of Association**

death, insanity or revocation as aforesaid shall have been received at the Office before the commencement of the meeting or adjourned meeting at which the proxy is used.

- 30 Any instrument appointing a proxy shall be in the following form or as near thereto as circumstances will admit or in any other form which the Directors may approve:

**"ST. MICHAEL'S HOSPICE  
(INCORPORATING THE FREDA PEARCE FOUNDATION)"**

"I [Name of Member appointing proxy] of [Address]

a member of the above named Charity hereby appoint

[Name of proxy] of [Address of proxy]

and failing him [Name of proxy] of [Address of proxy]

to vote for me and on my behalf at the (Annual or Adjourned, as the case may be) General Meeting of the Charity to be held on the day of , and at every 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:.....

**Written Resolutions**

- 31 Subject to Article 35, a written resolution of the Charity passed in accordance with these Articles 31 to 39 shall have effect as if passed by the Charity in general meeting.
- 32 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.
- 33 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 is proposed as a special resolution.
- 34 In relation to a resolution proposed as a written resolution of the Charity the eligible Members are the Members who are entitled to vote on the resolution on the circulation date of the resolution.

- 35 A Members' resolution under the Companies Acts removing a Director or an auditor before the expiration of his term of office may not be passed as a written resolution.
- 36 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.
- 37 A Member signifies his agreement to a proposed written resolution when the Charity receives from him an authenticated document identifying the resolution to which it relates and indicating his agreement to the resolution. If the document is sent to the Charity:
  - 37.1 in hard copy form, it is authenticated if it bears the Member's signature; or
  - 37.2 by electronic means, it is authenticated 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 or it is authenticated in such other manner as the Directors may approve.
- 38 A written resolution is passed when the required majority of eligible Members have signified their agreement to it.
- 39 A proposed written resolution lapses if it is not passed within 28 days beginning with the circulation date.

#### Number of Directors

- 40 The Board of Directors shall comprise not fewer than four individuals made up as follows:
  - 40.1 Up to two Directors nominated in accordance with Article 44.1 ("the Nominated Directors");
  - 40.2 A representative of any local community group selected by the Directors, such representative to be nominated by such group ("the Representative Director"); and
  - 40.3 Such other Directors as are elected by the Members in accordance with Articles 45 to 51 ("the Elected Directors").
  - 40.4 For the avoidance of doubt, the Nominated Directors and the Representative Director shall act at all times in the interests of the Charity and shall not be representatives acting in the interests of their nominators.

#### Powers of Directors

- 41 Subject to the provisions of the Companies Acts, the Memorandum and the Articles and to any directions given by special resolution, the business of the Charity shall be managed by the Directors who may exercise all the powers of the Charity. No alteration of the Memorandum or Articles and no such direction shall invalidate any prior act of the Directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Article shall not be limited by any special power given to the Directors by these Articles and a meeting of Directors at which a quorum is present may exercise all powers exercisable by the Directors.

#### Delegation of Directors' powers

- 42 The Directors 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.
  - 42.1 The Directors may delegate any of their powers or the implementation of any of their resolutions to any committee.



- 42.2 The resolution making that delegation shall specify those who shall serve or be asked to serve on such committee (though the resolution may allow the committee to make co-options up to a specified number).
- 42.3 The composition of any such committee shall be entirely in the discretion of the Directors and may comprise such of their number (if any) as the resolution may specify.
- 42.4 The deliberations of any such committee shall be reported regularly to the Directors and any resolution passed or decision taken by any such committee shall be reported to the Directors at the following meeting of the Board of Directors and for that purpose every committee shall appoint a secretary.
- 42.5 All delegations under this Article shall be revocable at any time.
- 42.6 The Directors may make such regulations and impose such terms and conditions and give such mandates to any committees as it may from time to time think fit.
- 42.7 The Directors may appoint a committee comprising such members of local groups which support the Charity and other individuals (including Directors) as the Directors think fit ("the Nominations Committee"). If appointed, the Nominations Committee shall have power to make nominations under Article 44.1 and such other powers as the Directors may delegate to it from time to time.
- 42.8 For the avoidance of doubt the Directors 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 Director provided always that no committee shall incur expenditure on behalf of the company except in accordance with a budget which has been approved by the Directors.
- 43 The meetings and proceedings of any committee shall be governed by the provisions of these Articles regulating the meetings and proceedings of the Board of Directors so far as the same are applicable and are not superseded by any regulations made by the Board of Directors.

#### Appointment and retirement of Directors

44

- 44.1 The Nominations Committee if established pursuant to Article 42.7 shall be entitled to nominate two individuals to be Nominated Directors and the Directors may reject such nominations without being requested to give any reason therefore. The Directors shall notify the Nominations Committee of any such rejection.
- 44.2 Notice of any Nominated Directors and Representative Directors shall be given in accordance with Article 51. At the annual general meeting the Members may reject the appointment of individuals nominated pursuant to Article 44.1 by the Nomination Committee if any. Representative Directors and also (unless so rejected) Nominated Directors shall take office at the end of the annual general meeting in respect of which such notice has been given and shall serve until the third annual general meeting following their taking office. Thereafter they shall only be eligible for reappointment as an Elected Director.
- 45 At every annual general meeting one-third of the Elected Directors or, if their number is not three or a multiple of three, the number nearest to one-third shall retire from office; but, if there is only one Elected Director, he shall retire.
- 46 Subject to the provisions of the Companies Acts, the Elected Directors to retire by rotation shall be those who have been longest in office since their last appointment or reappointment, but as between persons who become or were last reappointed Directors on the same day as those to retire shall (unless they otherwise agree among themselves) be determined by lot.

- 47 If the Charity, at the meeting at which an Elected Director retires by rotation, does not fill the vacancy the retiring Elected Director shall, if willing to act, (and subject to Article 48), be deemed to have been reappointed unless at the meeting it is resolved not to fill the vacancy or unless a resolution for the reappointment of the Director is put to the meeting and lost.
- 48 No Elected Director may serve more than three terms of office in succession unless at least two thirds of the Board of Directors vote in a secret ballot (conducted as the Board of Directors thinks fit) for a resolution that such Director be entitled to serve for a further term. Any Director serving his fourth or more successive term shall retire at the following annual general meeting and be subject again to the provisions of this Article 48. No more than 25% of the Directors in office at any time may have served more than three terms.
- 49 No person other than a Director retiring by rotation or in accordance with Article 48 shall be appointed or reappointed a Director at any general meeting unless:
- 49.1 he is recommended by the Directors; or
- 49.2 at least seven but not more than thirty five clear days before the date appointed for the meeting, notice executed by a member qualified to vote at the meeting has been given to the Charity of the intention to propose that person for appointment or reappointment stating the particulars which would, if he or she were so appointed or reappointed, be required to be included in the Charity's register of Directors together with notice executed by that person of his or her willingness to be appointed or reappointed.
- 50 No person may be appointed as a Director:
- 50.1 Unless he has attained the age of 18 years; or
- 50.2 In circumstances such that had he already been a Director he would have been disqualified from acting under the provisions of Article 55.
- 51 Not less than seven nor more than twenty eight clear days before the date appointed for holding a general meeting notice shall be given to all who are entitled to receive notice of the meeting of any person (other than a Director retiring by rotation at the meeting) who is recommended by the Directors for appointment or reappointment as a Director at the meeting or in respect of whom notice has been duly given to the Charity of the intention to propose him at the meeting for appointment or reappointment as a Director. The notice shall give the particulars of that person which would, if he were so appointed or reappointed, be required to be included in the Charity's register of Directors.
- 52 Subject as aforesaid, the Charity may by ordinary resolution appoint a person who is willing to act to be a Director either to fill a vacancy or as an additional Director and may also determine the rotation in which any additional Directors are to retire.
- 53 The Directors may appoint a person who is willing to act to be a Director, either to fill a vacancy or as an additional Director, provided that the appointment does not cause the number of Directors to exceed any number fixed by or in accordance with the Articles as the maximum number of Directors. A Director so appointed shall hold office only until the next following annual general meeting and shall not be taken into account in determining the Directors who are to retire by rotation at the meeting. If not reappointed at such annual general meeting, he shall vacate office at the conclusion thereof.
- 54 Subject as aforesaid, a Director who retires at an annual general meeting may, if willing to act, be reappointed. If he is not reappointed, he shall retain office until the meeting appoints someone in his place, or if it does not do so, until the end of the meeting.

#### Disqualification and removal of Directors

- 55 The office of a Director shall be vacated if:

- 55.1 He ceases to be a Director by virtue of any provision of the Companies Acts or he becomes prohibited by law from being a Director, or
- 55.2 He becomes bankrupt or makes any arrangement or composition with his creditors generally; or
- 55.3 He is, or may be, suffering from mental disorder and either:
- 55.3.1 He is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983, or in Scotland, an application for admission under the Mental Health (Scotland) Act 1960; or
- 55.3.2 An order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his property or affairs; or
- 55.4 He resigns his office by notice to the Charity (but only if at least two Directors will remain in office when the notice of resignation is to take effect).

#### Directors' expenses

- 56 The Directors may be paid all reasonable travelling, hotel, and other expenses properly incurred by them in connection with their attendance at meetings of Directors or committees of Directors or general meetings or separate meetings of the holders of debentures of the Charity or otherwise in connection with the discharge of their duties.

#### Proceedings of Directors

- 57 Subject to the provisions of the Articles, the Directors may regulate their proceedings as they think fit. Two Directors may, and the Secretary at the request of two Directors shall, call a meeting of the Directors. Notice of every meeting of the Board of Directors stating the general particulars of all business to be considered at such meeting shall be given to each Director in accordance with Articles 76 to 81 at least seven clear days before such meeting unless urgent circumstances require shorter notice but the proceedings of any meeting shall not be invalidated by any irregularity in respect of such notice or by reason of any business being considered which is not comprised in such general particulars. It shall not be necessary to give notice of a meeting to a Director who is absent from the United Kingdom. Questions arising at a meeting shall be decided by a majority of votes. In the case of an equality of votes, the chairman shall have a second or casting vote.
- 58 The quorum for the transaction of the business of the Directors may be fixed by the Directors and unless so fixed at any other number shall be more than one half of the Directors for the time being.
- 59 The continuing Directors or a sole continuing Director may act notwithstanding any vacancies in their number but if and so long as the number of Directors is less than the number fixed as a quorum the Directors may act for the purpose of increasing the number of Directors to that number or of summoning a general meeting of the Charity but for no other purpose.
- 60 The Directors may appoint one of their number to be the chairman of the Board of Directors and may at any time remove him from that office. Unless he is unwilling to do so, the Director so appointed shall preside at every meeting of Directors at which he is present. But if there is no Director holding that office, or if the Director holding it is unwilling to preside or is not present within five minutes after the time appointed for the meeting, the Directors present may appoint one of their number to be chairman of the meeting.
- 61 All acts done by a meeting of Directors, or of a committee of Directors, or by a person acting as a Director shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any Director or that any of them were disqualified from holding office, or had

vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director and had been entitled to vote.

#### Decisions without a meeting

- 62 The Directors may take a unanimous decision without a Directors' 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 Director or to which each Director has otherwise indicated agreement in writing.
- 63 A decision which is made in accordance with Article 62 shall be as valid and effectual as if it had been passed at a meeting duly convened and held, provided the following conditions are complied with:
- 63.1 approval from each Director must be received by one person being either such person as all the Directors shall have nominated in advance for that purpose or such other person as volunteers if necessary ("the Recipient"), which person may, for the avoidance of doubt, be one of the Directors;
- 63.2 following receipt of response from all of the Directors, the Recipient shall communicate to all of the Directors by any means whether the resolution has been formally approved by the Directors in accordance with this Article 63;
- 63.3 the date of the decision shall be the date of the communication from the Recipient confirming formal approval; and
- 63.4 the Recipient prepares a minute of the decision in accordance with Article 74.

#### Conflict of interest

- 64 Whenever a Director finds himself or herself in a situation that may give rise to a Conflict of Interest, he or she must declare his or her interest to the Directors unless, or except to the extent that, the other Directors are or ought reasonably to be aware of it already.
- 65 Whenever a matter is to be discussed at a meeting or decided in accordance with Article 62 and a Director has a Conflict of Interest in respect of that matter then, subject to Article 67, he or she must:
- 65.1 withdraw from that part of the meeting unless expressly invited to remain by the Directors in order to inform the debate;
- 65.2 not be counted in the quorum for that part of the meeting; and
- 65.3 withdraw during the vote and have no vote on the matter.
- 66 If any question arises whether a Director has a Conflict of Interest or should be invited to remain in the meeting under Article 65.1, the question shall be decided by a majority decision of the other Directors.

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

- 67 The Directors 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:
- 67.1 any matter which would otherwise result in a Director infringing his or her duty to avoid a situation in which he or she has a Conflict of Interest; and

- 67.2 the manner in which a Conflict of Interest arising out of any Director's office, employment or position may be dealt with and, for the avoidance of doubt, they may decide that the Director with a Conflict of Interest can participate in a vote on the matter and be counted in the quorum provided that when deciding to give such authorisation the provisions of Articles 64 and 65 shall be complied with and

provided that nothing in this Article 67 shall have the effect of allowing the Directors to authorise a benefit that is not permitted in accordance with the Memorandum.

- 68 If a matter, or office, employment or position, has been authorised by the Directors in accordance with Article 67 then the Director may absent himself or herself from meetings of the Directors at which anything relating to that matter, or that office, employment or position, will or may be discussed.
- 69 A Director 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 Directors (subject to any limits or conditions to which such approval was subject).
- 70 When a Director has a Conflict of Interest which he or she has declared to the Directors, 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.

#### Indemnity Insurance

- 71 The Directors shall have power to resolve pursuant to the provisions of the Memorandum of Association to effect Trustees' Indemnity Insurance notwithstanding their interest in such policy.

#### Secretary

- 72 Subject to the provisions of the Companies Acts, a Secretary shall be appointed by the Directors for such term at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.

#### Regulations

- 73 The Board of Directors shall have power from time to time to make repeal or alter regulations as to the management of the Charity and the affairs thereof as to the duties of any officers or servants of the Charity and as to the conduct of business by the Board of Directors or any committee and as to any of the matters or things within the powers or under the control of the Board of Directors provided that the same shall not be inconsistent with the Memorandum of Association or these Articles.

#### Minutes

- 74 The Directors shall cause minutes to be made in books kept for the purpose:
- 74.1 Of all appointments of officers; and
- 74.2 Of all proceedings at meetings of the Charity and of the Directors, and of committees of Directors, including the names of the Directors present at each such meeting; and
- 74.3 Of all resolutions of the Charity and of the Directors
- 74.4 and any such minute, if purported to be signed by the chairman of the meeting at which the proceedings were held, or by the chairman of the next succeeding meeting, shall, as against any Member or Directors 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.

#### Accounts

- 75 The Directors shall comply with the provisions of the Companies Acts and the Charities Act 1993 (or any statutory modification or re-enactment thereof for the time being in force) with regard to the preparation of accounts and making them available for inspection.

#### Communications by and to the Charity

- 76 Subject to the provisions of the Companies Acts and these Articles:

76.1 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 or (in the case of communications by the Charity) by making it available on a website;

76.2 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

76.3 a document or information (including any notice) may only be given, sent or supplied by being made available on a website if the recipient has agreed (generally or specifically) that the document or information may be sent or supplied in that manner, or if the recipient is deemed to have so agreed in accordance with the Companies Acts.

77 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:

77.1 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

77.2 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.

78 Any document to be served on the Charity or on any officer of the Charity under the Articles may only be served:

78.1 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

78.2 in the case of documents in electronic form, by sending them by electronic means:

78.2.1 to an address notified to the members for that purpose; and

78.2.2 from an address previously notified to the Charity by the member (other than by electronic means) for the purpose of sending and receiving documents and information.

79 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.

80 Where a document or information is sent or supplied under the Articles:

80.1 by post, service or delivery shall be deemed to be effected at the expiration of 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;

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- 80.2 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; and
- 80.3 by means of a website, service or delivery shall be deemed to be effected when both of the following conditions are satisfied:
- 80.3.1 the material is made available on the website; and
- 80.3.2 the recipient receives, or is deemed to have received, notification of the fact that the material is (or will be) available on the website.
- 81 Where any document or information has been sent or supplied by the Charity by electronic means and the Charity receives notice (including notice by electronic means) that the message is undeliverable or undelivered:
- 81.1 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
- 81.2 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.
- 81.3 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

- 82 Without prejudice to any indemnity to which a Director may otherwise be entitled, every Director of the Charity shall and every other officer of the Charity may be indemnified out of the assets of the Charity against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Charity, and against all costs, charges, losses, expenses or liabilities incurred by him in the execution and discharge of his duties or in relation thereto but only to the extent permitted by the Companies Acts.

### Winding-up

- 83 The provisions of the Memorandum of Association relating to the winding-up or dissolution of the Charity shall have effect and be observed as if the same were repeated in these Articles.