

THE COMPANIES ACT 2006
PRIVATE COMPANY LIMITED BY GUARANTEE

Company Number 08188237
Incorporated 22 August 2012
Charity Number 1151049

ARTICLES OF ASSOCIATION OF
St. Mary Devizes Trust

The Companies Act 2006
Company Limited by Guarantee

**ARTICLE OF ASSOCIATION OF
ST. MARY DEVIZES TRUST**

1. Name

The name of the **Charity** is St. Mary Devizes Trust.

2. Registered Office

The registered office of the Charity is to be in England and Wales.

3. Objects

The **Objects** are to further or benefit the residents of Devizes and the neighbourhood, without distinction of sex, sexual orientation, race or of political, religious or other opinions by associating together the said residents and the local authorities, voluntary and other organisations in a common effort to advance education, advance the arts and to provide facilities in the interests of social welfare for recreation leisure time occupation with the objective of improving the conditions of life for the residents.

4. Powers

The Charity has the following powers, which may be exercised only in promoting the Objects:

- 4.1. to promote or carry out research.
- 4.2. to provide advice.
- 4.3. to publish or distribute information.
- 4.4. to co-operate with other bodies.
- 4.5. to support, administer or set up other charities.
- 4.6. to raise funds (but not by means of **taxable trading**).
- 4.7. to borrow money and give security for loans (but only in accordance with the restrictions imposed by the **Charities Act**).
- 4.8. to acquire or hire property of any kind.
- 4.9. to let or dispose of property of any kind (but only in accordance with the restrictions imposed by the Charities Act).
- 4.10. to make grants or loans of money and to give guarantees.

- 4.11. to set aside funds for special purposes or as reserves against future expenditure.
- 4.12. to deposit or invest in funds in any manner (but to invest only after obtaining such advice from a **financial expert** as the Trustees consider necessary and having regard to the suitability of investments and the need for diversification).
- 4.13. to delegate the management of investments to a financial expert, but only on terms that:
 - 4.13.1. the investment policy is set down **in writing** for the financial expert by the Trustees;
 - 4.13.2. every transaction is reported promptly to the Trustees;
 - 4.13.3. the performance of the investments is reviewed regularly with the Trustees;
 - 4.13.4. the Trustees are entitled to cancel the delegation arrangement at any time;
 - 4.13.5. the investment policy and the delegation arrangement are reviewed at least once a **year**;
 - 4.13.6. 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 Trustees on receipt; and
 - 4.13.7. the financial expert must not do anything outside the powers of the Trustees.
- 4.14. to arrange for investments or other property of the Charity to be held in the name of a **nominee company** acting under the control of the Trustees or of a financial expert acting under their instructions, and to pay any reasonable fee required.
- 4.15. to deposit documents and physical assets with any company registered or having a place of business in England and Wales as **custodian**, and to pay any reasonable fee required.
- 4.16. to insure the property of the Charity against any foreseeable risk and take out other insurance policies to protect the Charity when required.
- 4.17. to pay for **indemnity insurance** for the Trustees.
- 4.18. subject to Article 5, to employ paid or unpaid agents, staff or advisers.
- 4.19. to enter into contracts to provide services to or on behalf of other bodies.
- 4.20. to establish or acquire subsidiary companies to assist or act as agents for the Charity.
- 4.21. to acquire or merge with any other charity the objects of which are the same as or similar to the Objects whether by way of the acquisition of assets or otherwise.

- 4.22. to pay the costs of forming the Charity.
- 4.23. to do anything else within the law which promotes or helps to promote the Objects.

5. Benefits to Members and Trustees

- 5.1. The property and funds of the Charity must be used only for promoting the Objects and do not belong to the **Members** but:
 - 5.1.1. Members who are not Trustees may be employed by or enter into contracts with the Charity and receive reasonable payment for goods or services supplied;
 - 5.1.2. Members (including Trustees) may be paid interest at a reasonable rate on money lent to the Charity;
 - 5.1.3. Members (including Trustees) may be paid a reasonable rent or hiring fee for property or equipment let or hired to the Charity; and
 - 5.1.4. Members (including Trustees) who are also beneficiaries may receive charitable benefits in that capacity provided that a majority of the Trustees do not benefit in this way.
- 5.2. A Trustee must not receive any payment of money or other **material benefit** (whether directly or indirectly) from the Charity except:
 - 5.2.1. as mentioned in Articles 4.17 (indemnity insurance), 5.1.2 (interest), 5.1.3 (rent), 5.1.4 (charitable benefits) or 5.4 (contractual payments);
 - 5.2.2. reimbursement of reasonable out-of-pocket expenses (including hotel and travel costs) actually incurred in the administration of the Charity;
 - 5.2.3. an indemnity in respect of any liabilities properly incurred in running the Charity (including the costs of a successful defence to criminal proceedings);
 - 5.2.4. payment to any company in which a Trustee has no more than a 1 per cent shareholding; and
 - 5.2.5. in exceptional cases, other payments or benefits (but only with the written approval of the Commission in advance).
- 5.3. A **connected person** must not receive any payment of money or other material benefit (whether directly or indirectly) from the Charity except:
 - 5.3.1. as mentioned in Articles 5.1.2 (interest), 5.1.3 (rent), 5.1.4 (charitable benefits) or 5.4 (contractual payments);
 - 5.3.2. payment to any company in which a connected person has no more than a 1 per cent shareholding; and

- 5.3.3. in exceptional cases, other payments or benefits (but only with the written approval of the Commission in advance).
- 5.4. A Trustee or a **connected person** may be an employee of the Charity or enter into a contract with the Charity to supply goods or services in return for a payment or other material benefit if:
 - 5.4.1. the goods or services are actually required by the Charity;
 - 5.4.2. the nature and level of the benefit is no more than reasonable in relation to the value of the goods or services and is set at a meeting of the Trustees in accordance with the procedure in this Article 5.4 and Article 6; and
 - 5.4.3. no more than half of the Trustees are interested in such a contract in any **financial year**; and
 - 5.4.4. the Charity enters into a written contract with the relevant Trustee or connected person setting out the amount or maximum amount of remuneration to be paid under the contract.
- 5.5. This Article 5 may not be amended without the written consent of the Commission in advance.
- 6. Conflicts of Interest and Conflicts of Loyalty
 - 6.1. Whenever a Trustee has a personal interest in a matter to be discussed at a meeting of the Trustees or a committee, the unconflicted Trustees may authorise such a conflict of interest where the following conditions apply:
 - 6.1.1. the conflicted Trustee declares an interest before the meeting or at the meeting before discussion begins on the matter; and
 - 6.1.2. the conflicted Trustee is absent from the meeting for that item unless expressly invited to remain in order to provide information; and
 - 6.1.3. the conflicted Trustee is not to be counted in the quorum for that part of the meeting; and
 - 6.1.4. the conflicted Trustee is absent during the vote and has no vote on the matter; and
 - 6.1.5. the unconflicted Trustees consider it is in the interest of the Charity to authorise the conflict of interest in the circumstances applying.
 - 6.2. If a conflict of interest arises for a Trustee because of a duty of loyalty owed to another organisation or person and the conflict is not authorised by virtue of any other provision in the Articles, the unconflicted Trustees may authorise such a conflict of interest where the following conditions apply:

- 6.2.1. the conflicted Trustee declares an interest before the meeting or at the meeting before discussion begins on the matter; and
- 6.2.2. the conflicted Trustee is absent from the meeting for that item unless expressly invited to remain in order to provide information; and
- 6.2.3. the conflicted Trustee is not counted in quorum for that part of the meeting; and
- 6.2.4. the conflicted Trustee is absent during the vote and has no vote on the matter; and
- 6.2.5. the unconflicted Trustees consider it is in the interests of the Charity to authorise the conflict of interest in the circumstances applying.

7. Limited Liability

The liability of Members is limited.

8. Guarantee

Every Member promises, if the Charity is dissolved while he or she remains a Member or within 12 months afterwards, to pay up to £10 towards the costs of dissolution and the liabilities incurred by the Charity while he or she was a Member.

9. Dissolution

- 9.1. If the Charity is dissolved, the assets (if any) remaining after provision has been made for all its liabilities must be applied in one or more of the following ways:
 - 9.1.1. by transfer to 1 or more other bodies established for exclusively charitable purposes with, the same as or similar to the Objects;
 - 9.1.2. directly for the Objects or for charitable purposes which are within or similar to the Objects; or
 - 9.1.3. in such other manner consistent with charitable status as the Commission shall approve in writing in advance.
- 9.2. A final report and statement of account must be sent to the Commission.

10. Membership

- 10.1. The Charity must maintain a register of Members.
- 10.2. **Membership** of the Charity is open to any individual interested in promoting the Objects who:
 - 10.2.1. applies to the Charity in the form required by the **Trustees**;
 - 10.2.2. is approved by the Trustees; and

- 10.2.3. agrees to be a Trustee; and
- 10.2.4. signs the register of Members or consents **in writing** to become a Member.
- 10.3. The Members may refuse to admit as a Member any individual or organisation if, acting reasonably and properly, they consider it to be in the best interests of the Charity to refuse the application.
- 10.4. The Trustees may establish different classes of membership (including **informal membership**), prescribe their respective privileges and duties and set the amounts of any subscriptions.
- 10.5. Membership is terminated if the Member concerned:
 - 10.5.1. gives written notice of resignation to the Charity;
 - 10.5.2. dies;
 - 10.5.3. is more than 6 months in arrears in paying the relevant subscription, if any (but in such a case the Member may be reinstated on payment of the amount due); or
 - 10.5.4. is removed from membership by resolution of the Trustees on the ground that in their reasonable opinion the Member's continued membership is harmful to the Charity. The Trustees may only pass such a resolution after notifying the Member in writing and considering the matter in the light of any written representations which the Member concerned puts forward within 14 **clear days** after receiving notice; or
 - 10.5.5. ceases to be a Trustee.
- 10.6. Membership of the Charity is not transferable.

11. General Meetings

- 11.1. General meetings are the meetings of the Members.
- 11.2. A general meeting may be held either in person or by suitable electronic means agreed by the Trustees in which all participants may communicate with all the other participants.
- 11.3. Members are entitled to attend general meetings either personally or by proxy. Proxy forms must be delivered to the **Secretary** at least 24 hours before the meeting.
- 11.4. There is a quorum at a general meeting if the number of Members present in person or by proxy is at least 3 or 10% of the Members (if greater).
- 11.5. The **Chair** or (if the Chair is unable or unwilling to do so) some other Member elected by those present presides at a general meeting.

- 11.6. Except where otherwise provided by the **Articles** or the **Companies Act**, every issue is decided by a majority of the votes cast.
- 11.7. Every Member present in person or by proxy has 1 vote on each issue. The Chair of the meeting shall not have a casting vote.
- 11.8. Where a written resolution is approved by the appropriate majority required for the resolution in question of those entitled to vote at a general meeting, or where approval of the resolutions is given electronically by the appropriate majority of those entitled to vote at a general meeting, then that resolution shall be as valid as a resolution actually passed at a general meeting. For this purpose a written resolution may be:
 - 11.8.1. set out in more than 1 document (in which case it will be treated as passed on the date of the last signature); or
 - 11.8.2. sent out and/or returned in hard copy or electronic format (and if sent back electronically, then the resolution will be treated as passed at the time and on the date of the last response to be received).
- 11.9. A general meeting may be called at any time by the Trustees and must be called on a written request from at least 5% of the Members.
- 11.10. The Members may adopt rules relating to the circulation of agendas or notices of resolutions, the conduct of meetings and the circulation of resolutions consistent with the Companies Act as they think fit.
- 11.11. The auditors must be appointed or re-appointed, as the case may be, by an ordinary resolution of the Members which may be passed by way of a written resolution or in a general meeting.
- 11.12. The Members may remove the auditors during any term of office in accordance with Sections 510 – 513 of the Companies Act. This requires an ordinary resolution of the Members which must be passed at a general meeting.
- 11.13. The Members may adopt rules defining **Special Matters** and procedures to be followed in respect of Special Matters and such rules may only be varied or amended by a resolution approved by not less than two thirds of the Members.

12. Notice of General Meetings

- 12.1. Any general meeting must be called on at least 14 and not more than 28 clear days' written notice indicating the business to be discussed, and if a special resolution is to be proposed, at least 28 clear days' written notice setting out the terms of the proposed special resolution.
- 12.2. A general meeting may be called on shorter notice if it is so agreed by all Members entitled to attend and vote.
- 12.3. The notice must be given to all Members.

13. The Trustees

- 13.1. The Trustees as **charity trustees** have control of the Charity and its property and funds.
- 13.2. The Trustees when complete shall consist of:
 - 13.2.1. The Rector of the Parish of St John with St Mary Devizes (ex-officio)
 - 13.2.2. at least 3 other individuals
- 13.3. The number of Trustees shall not be subject to any maximum
- 13.4. A technical defect in the appointment of a Trustee of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.
- 13.5. Every Trustee after appointment or reappointment must sign a declaration of willingness to act as a charity trustee of the Charity before he or she may vote at any meeting of the Trustees.
- 13.6. Subject to Article 13.7, a Trustee appointed under Article 13.2.2 shall hold office for a term of three years from the date of their appointment but may be reappointed by the Trustees (if willing) for a further three year **term of office**.
- 13.7. A Trustee's term of office automatically terminates if he or she:
 - 13.7.1. is disqualified under the Charities Act from acting as a charity trustee;
 - 13.7.2. is the subject of a decision by HMRC that they are not a fit and proper person as that term is defined by the Finance Act 2010;
 - 13.7.3. is incapable, whether mentally or physically, of managing his or her own affairs;
 - 13.7.4. is absent without notice from 3 consecutive meetings of the Trustees and is asked by a majority of the other Trustees to resign;
 - 13.7.5. ceases to be a Member;
 - 13.7.6. resigns by written notice to the Trustees (but only if at least two Trustees will remain in office);
 - 13.7.7. is removed by resolution of the Members present and voting at a general meeting after the meeting has invited the views of the Trustee concerned and considered the matter in the light of any such views.
- 13.8. The Trustees may at any time co-opt any individual to act as an advisor to the Trustees. A co-opted adviser shall be invited to attend meetings of the Trustees as an observer to advise the Trustees but shall have no voting rights on the issues to be determined by the Trustees.

14. Trustees' proceedings

- 14.1. The Trustees must hold at least 2 meetings each year.
- 14.2. A quorum at a meeting of the Trustees is 2 Trustees or 10% of the Trustees (if greater).
- 14.3. A meeting of the Trustees may be held either in person or by suitable electronic means agreed by the Trustees in which all participants may communicate with all the other participants.
- 14.4. The Chair or (if the Chair is unable or unwilling to do so) some other Trustee chosen by the Trustees present presides at each meeting.
- 14.5. Every issue may be determined by a simple majority of the votes cast at a meeting, but a written resolution signed by all the Trustees is as valid as a resolution passed at a meeting. For this purpose the resolution may be contained in more than 1 document and will be treated as passed on the date of the last signature.
- 14.6. Except for the Chair of the meeting, who has a second or casting vote, every Trustee has 1 vote on each issue.
- 14.7. A procedural defect of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.
- 14.8. The Trustees may adopt rules relating to the circulation of agendas or notices of resolutions, the conduct of meetings, and the circulation of resolutions for confirmation as they think fit which shall apply until revoked or amended by resolution of the Trustees.
- 14.9. In any event, the Trustees shall:
 - 14.9.1. report on their meetings to the Members, either at the next general meeting of the Members or if no general meeting is to take place within the next 8 weeks, by way of a written report; and
 - 14.9.2. not reach any decision on Special Matters without complying with the rules relating to Special Matters adopted in accordance with Article 10.12.

15. Trustees' powers

The Trustees have the following powers in the administration of the Charity:

- 15.1. to appoint (and remove) any Member (who may be a Trustee) to act as Secretary in accordance with the Companies Act;
- 15.2. to appoint a Chair, Treasurer and other honorary officers from among their number;

- 15.3. to delegate any of their functions to committees consisting of 2 or more individuals appointed by them. At least 1 member of every committee must be a Trustee and all proceedings of committees must be reported promptly to the Trustees;
- 15.4. to make standing orders consistent with the Articles and the Companies Act to govern proceedings at general meetings and to prescribe a form of proxy;
- 15.5. to make rules consistent with the Articles and the Companies Act to govern their proceedings and proceedings of committees;
- 15.6. to make regulations consistent with the Articles and the Companies Act to govern the administration of the Charity and the use of its seal (if any);
- 15.7. to establish procedures to assist the resolution of disputes or differences within the Charity; and
- 15.8. to exercise any powers of the Charity which are not reserved to a general meeting.

16. Records and Accounts

- 16.1. The Trustees must comply with the requirements of the Companies Act and of the Charities Act as to keeping financial records, the audit of accounts and the preparation and transmission to the Registrar of Companies and the **Commission** of:
 - 16.1.1. annual returns;
 - 16.1.2. annual reports; and
 - 16.1.3. annual statements of account.
- 16.2. The Trustees must keep proper records of:
 - 16.2.1. all proceedings at general meetings;
 - 16.2.2. all proceedings at meetings of the Trustees;
 - 16.2.3. all reports of committees; and
 - 16.2.4. all professional advice obtained.
- 16.3. Accounting records relating to the Charity must be made available for inspection by any Trustee at any time during normal office hours
- 16.4. A copy of the Charity's latest available statement of account must be supplied on request to any Trustee or Member. A copy must also be supplied, within 2 months, to any other person who makes a written request and pays the Charity's reasonable costs.

17. Notices

- 17.1. Notices under the Articles may be sent by hand, by post or by suitable electronic means.
- 17.2. The only address at which a Member is entitled to receive notices sent by post is an address in the UK shown in the register of Members.
- 17.3. Any notice given in accordance with these Articles is to be treated for all purposes as having been received:
 - 17.3.1. 24 hours after being sent by electronic means or delivered by hand to the relevant address;
 - 17.3.2. 2 clear days after being sent by first class post to that address;
 - 17.3.3. 3 clear days after being sent by second class or overseas post to that address;
 - 17.3.4. on the date of publication of a newspaper containing the notice;
 - 17.3.5. on being handed to the Member) personally; or, if earlier,
 - 17.3.6. as soon as the Member acknowledges actual receipt.
- 17.4. A technical defect in the giving of notice of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

18. Means of Communication

- 18.1. Subject to the Articles, anything sent or supplied by or to the Charity under the Articles may be sent or supplied in any way in which the Companies Act provides for documents or information which are authorised or required by any provision of the Companies Act to be sent or supplied by or to the Charity.
- 18.2. Subject to the Articles, any notice or document to be sent or supplied to a Trustee in connection with the taking of decisions by Trustees may also be sent or supplied by the means by which that Trustee has asked to be sent or supplied with such notices or documents for the time being.

19. Disputes

If a dispute arises between the Members about the validity or propriety of anything done by the Members under the Articles, and the dispute cannot be resolved by agreement, the parties to the dispute must first try in good faith to settle the dispute by mediation before resorting to litigation.

20. Interpretation

- 20.1. In the Articles, unless the context indicates another meaning:
 - ‘the **Articles**’ means the Charity’s articles of association;

‘Chair’ means the chair of the Trustees or the Members (as appropriate);

‘the Charity’ means the company governed by the Articles;

‘the Charities Act’ means (as applicable) the Charities Act 1993, the Charities Act 2006 and the Charities Act 2011;

‘charity trustee’ has the meaning prescribed by section 97(1) of the Charities Act;

‘clear day’ means 24 hours from midnight following the relevant event;

‘the Commission’ means the Charity Commissioners for England and Wales;

‘the Companies Act’ means the Companies Act 2006;

‘connected person’ means any spouse, partner, parent, child, brother, sister, grandparent or grandchild of a Trustee, any **firm** of which a Trustee is a member or employee, and any company of which a Trustee is a director, employee or shareholder having a beneficial interest in more than 1 per cent of the share capital;

‘custodian’ means a person or body who undertakes safe custody of assets or of documents or records relating to them;

‘financial expert’ means an individual, company or firm who is authorised to give investment advice under the Financial Services and Markets Act 2000;

‘financial year’ means the Charity’s financial year;

‘firm’ includes a limited liability partnership;

‘indemnity insurance’ means insurance against personal liability incurred by any Trustee for an act or omission which is or is alleged to be a breach of trust or breach of duty, unless the Trustee concerned knew that, or was reckless whether, the act or omission was a breach of trust or breach of duty;

‘informal membership’ refers to a supporter who may be called a ‘member’ but is not a company Member of the Charity;

‘material benefit’ means a benefit which may not be financial but has a monetary value;

‘Member’ and **‘membership’** refer to company membership of the Charity;

‘Memorandum’ means the Charity’s Memorandum of Association;

‘month’ means calendar month;

‘nominee company’ means a corporate body registered or having an established place of business in England and Wales;

‘the Objects’ means the Objects of the Charity as defined in Article 3;

‘Secretary’ means the company secretary of the Charity;

‘taxable trading’ means carrying on a trade or business for the principal purpose of raising funds and not for the purpose of actually carrying out the Objects, the profits of which are subject to corporation tax;

‘term of office’ means 3 years;

‘Trustee’ means a director of the Charity and **‘Trustees’** means the directors.

‘written’ or **‘in writing’** refers to a legible document on paper; and

‘year’ means calendar year.

20.2. Expressions defined in the Companies Act have the same meaning.

20.3. References to an Act of Parliament are to that Act as amended or re-enacted from time to time and to any subordinate legislation made under it.