

Company No: 3565051
Charity No: 1069681

THE COMPANIES ACTS 1985 - 2006

MEMORANDUM
AND
ARTICLES OF ASSOCIATION
OF
BARROW FOUNDATION (UK)

as amended by Special Resolutions dated
23 February 1999, 15 March 1999,
8 November 1999, 29 April 2002, 25 April 2007,
12 December 2007 and 19 April 2011

Incorporated on 12 May 1998

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**MEMORANDUM AND ARTICLES OF ASSOCIATION
OF CHARITABLE COMPANY**

**Companies Acts 1985 - 2006
Company limited by guarantee and not having a share capital**

**MEMORANDUM OF ASSOCIATION OF
BARROW FOUNDATION (UK)
as amended by Special Resolutions dated
23 February 1999, 15 March 1999,
8 November 1999, 29 April 2002, 25 April 2007,
12 December 2007 and 19 April 2011**

1 Name

The name of the company is Barrow Foundation (UK)

2 Registered Office

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

3 Objects

3 1 The objects of the Charity are the relief of sickness and promotion of education generally, in accordance with the moral and ethical principles of the Roman Catholic Church

3 2 The **Objects** include but are not limited to

- (a) the provision of neuroscience services (including in particular, but without limitation to, the treatment of seizure disorders) in the United Kingdom and continental Europe and also throughout the international community,
- (b) the provision and promotion of research into all aspects of neuroscientific medicine, health care and rehabilitation and the dissemination of the useful results of such research, and
- (c) the promotion of education and learning (including the provision and funding of training for members of the medical profession and others) relating to the causes, prevention and treatment (including surgical and other procedures) of illnesses, injuries and diseases, particularly neurological and related disorders

4 Powers

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

4 1 to support the **charitable** work of

- (a) St Joseph's Hospital and Medical Center ('**St Joseph's**') including in particular the provision of clinical services at **Barrow Neurological Institute** and of all necessary ancillary care and assistance (including transportation from wherever in the world) for patients in need of such services, or
- (b) other healthcare institutions which are **associated** with St Joseph's

- 4 2 to promote or carry out research,
- 4 3 to provide advice,
- 4 4 to publish or distribute information,
- 4 5 to co-operate with other bodies,
- 4 6 to support, administer or set up other charities,
- 4 7 to raise funds (but not by means of **taxable trading**),
- 4 8 to borrow money and give security for loans (but only in accordance with the restrictions imposed by the Charities Act 1993),
- 4 9 to acquire or hire property of any kind,
- 4 10 to let or dispose of property of any kind (but only in accordance with the restrictions imposed by the Charities Act 1993),
- 4 11 to make grants or loans of money and to give guarantees,
- 4 12 to set aside funds for special purposes or as reserves against future expenditure,
- 4 13 to deposit or invest in funds in any manner (but to invest only after obtaining advice from a **financial expert** and having regard to the suitability of investments and the need for diversification),
- 4 14 to delegate the management of investments to a financial expert, but only on terms that
 - (a) the investment policy is set down in **writing** for the financial expert by the **Trustees**,
 - (b) every transaction is reported promptly to the Trustees,
 - (c) the performance of the investments is reviewed regularly with the Trustees,
 - (d) the Trustees are entitled to cancel the delegation arrangement at any time,
 - (e) the investment policy and the delegation arrangement are reviewed at least once a **year**,
 - (f) 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,
 - (g) the financial expert must not do anything outside the powers of the Trustees,
- 4 15 to arrange for investments or other property of the Charity to be held in the name of custodians or nominees (being corporate bodies registered or having established places of business in England and Wales or in any of the states of the United States of America) under the control of the Trustees or of a financial expert acting under their instructions 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 insure the Trustees against the costs of a successful defence to a criminal prosecution brought against them as charity trustees or against personal liability incurred in respect of any 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,
- 4 18 to indemnify out of the assets of the Charity every Trustee, other officer or auditor of the Charity in respect of any liabilities properly incurred in running the Charity, including the costs of a successful defence to criminal proceedings (to which indemnity each such Trustee, other officer or auditor of the Charity shall, in respect of the liabilities described, be entitled),
- 4 19 subject to clause 5, to employ paid or unpaid agents, staff or advisers,
- 4 20 to enter into contracts to provide services to or on behalf of other bodies,
- 4 21 to establish subsidiary companies to assist or act as agents for the Charity,
- 4 22 to pay the costs of forming the Charity, and
- 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** of the Charity but, provided the procedure in clause 5 4 is followed
 - (a) members (including the Founder Member) who are not Trustees may enter into contracts with the Charity and receive reasonable payment for goods or services supplied,
 - (b) individual members (including Trustees) may be paid interest on money lent to the Charity at such reasonable and proper rate (not to exceed 2% less than base lending rate of a clearing bank to be selected by the Trustees) as the Trustees shall determine,
 - (c) members who are not Trustees but who are also beneficiaries may receive charitable benefits in that capacity
- 5 2 A Trustee must not receive any payment of money or other material benefit (whether directly or indirectly) from the Charity except
 - (a) as mentioned in clauses 4 17, 4 18, 5 1(b) or 5 3,
 - (b) reimbursement of reasonable out-of-pocket expenses (including hotel and travel costs) actually incurred in running the Charity,
 - (c) payment to any company in which a Trustee has no more than a 1 per cent shareholding,
 - (d) in exceptional cases, other payments or benefits (but only with the written approval of the Commission in advance)

5 3 Any Trustee (or any firm or company of which a Trustee is a member or employee) may enter into a contract with the Charity to supply goods or services in return for a payment or other material benefit but only if

- (a) the goods or services are actually required by the Charity,
- (b) the nature and level of remuneration is no more than is reasonable in relation to the value of the goods or services and is set in accordance with the procedure in clause 5 4,
- (c) no more than one half of the Trustees are subject to such a contract in any financial year

5 4 Whenever a Trustee has a personal interest in a matter to be discussed at a meeting of the Trustees or a committee or, in connection with clause 5 1(a) or (c), whenever the Trustee is the employee of or is in any way associated with the member or with any institution connected with the member the Trustee concerned must

- (a) declare an interest at or before discussion begins on the matter,
- (b) withdraw from the meeting for that item unless expressly invited to remain in order to provide information,
- (c) not be counted in the quorum for that part of the meeting,
- (d) withdraw during the vote and have no vote on the matter

5 5 This clause may not be amended without the prior written consent of the Commission

6 Limited Liability

The liability of members is limited

7 Guarantee

Every member promises, if the Charity is dissolved while he, she or it remains a member or within 12 months afterwards, to contribute up to £100 towards the costs of dissolution and the liabilities incurred by the Charity while he, she or it was a member

8 Dissolution

8 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

- (a) by transfer to one or more other bodies established for exclusively charitable purposes within, the same as or similar to the Objects,
- (b) directly for the Objects or charitable purposes within or similar to the Objects,
- (c) in such other manner consistent with charitable status as the Commission approve in writing in advance

8 2 On or following dissolution, a final report and statement of account must be sent to the Commission

9 Interpretation

- 9 1 Words and expressions defined in the Articles have the same meanings in this Memorandum
- 9 2 References to an Act of Parliament or to a US Statute are references to the Act or Statute as amended or re-enacted from time to time and to any subordinate legislation made under it

Companies Acts 1985 - 2006
Company limited by guarantee and not having a share capital

**ARTICLES OF ASSOCIATION OF
BARROW FOUNDATION (UK)**
as amended by Special Resolutions dated
23 February 1999, 15 March 1999,
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1 Membership

- 1 1 The number of members with which the Company proposes to be registered is unlimited
- 1 2 The Charity must maintain a register of members
- 1 3 **Membership** of the Charity is open to any individual or organisation interested in promoting the Objects who
- (a) applies to the Charity in the form required by the Trustees,
 - (b) is approved by the Trustees, and
 - (c) signs the Register of members or consents in writing to become a member either personally or (in the case of a member organisation) through an **authorised representative**
- 1 4 The Trustees may establish different classes of membership and prescribe their respective privileges and duties and set the amounts of any subscriptions, but may not affect the role of the **Founder Member**
- 1 5 Membership is terminated if the member concerned
- (a) gives written notice of resignation to the Charity,
 - (b) dies or (in the case of an organisation) ceases to exist,
 - (c) having been a Trustee, ceases to be a Trustee (but such a person may be reinstated by resolution passed by the Trustees),
 - (d) is six **months** in arrear in paying the relevant subscription (if any) (but in such a case the member may be reinstated on payment of the amount due), or
 - (e) is (save in the case of the Founder Member to whom this Article 1 5(e) shall not apply) 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 (but only 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)

- 1 6 Save insofar as provided by Article 1 7 below, membership of the Charity is not transferable
- 1 7 The Founder Member may from time to time in its absolute discretion nominate to be its successor as Founder Member any charitable organisation or any other organisation (wherever established) which although not registered as a charity in England and Wales includes amongst its objects those which are the same as or similar to the Charity provided that, if the Founder Member is an organisation, such nomination shall be made in accordance with its constitution or other governing document or documents
- 1 8 Any nomination duly made in accordance with Article 1 7, notice of which shall be given to the Charity, shall be conclusive to vest all the privileges and duties of the Founder Member which subsist in relation to the Charity in the Founder Member's nominated successor

2 General Meetings

- 2 1 Members are entitled to attend general meetings either personally or (in the case of a member organisation) by an authorised representative General meetings are called on at least 14 clear days' written notice specifying the business to be discussed
- 2 2 There is a quorum at a general meeting if the number of members or authorised representatives personally present is at least three (or one-half of the members if greater), provided that such quorum must include the Founder Member or its authorised representative
- 2 3 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
- 2 4 Except where otherwise provided by the **Act**, every issue is decided by a majority of the votes cast
- 2 5 Save as provided in Article 2 4 every member present in person or through an authorised representative has one vote on each resolution
- 2 6 Votes may be given either personally or by proxy The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing or if the appointor is a corporate body either under seal or under the hand of an officer or attorney duly authorised A proxy need not be a member of the Charity
- 2 7 Subject to the provisions of the Act, a written resolution signed by all (or such other proportion as may be required by the Act) of those entitled to attend and vote at a general meeting is as valid as a resolution actually passed at a general meeting (and for this purpose the written resolution may be set out in more than one document and will be treated as passed on the date of the last signature)

- 2 8 The Charity may hold an **AGM** in every year which all members are entitled to attend
- 2 9 At an AGM the members
- (a) receive the accounts of the Charity for the previous financial year,
 - (b) receive the Trustees' report on the Charity's activities since the previous AGM,
 - (c) accept the retirement of those Trustees who wish to retire,
 - (d) elect persons to be Trustees to fill the vacancies arising,
 - (e) appoint auditors for the Charity,
 - (f) may confer on any individual (with his or her consent) the honorary title of Patron, President or Vice President of the Charity, and
 - (g) discuss any issues of policy or deal with any other business put before them
- 2 10 Any general meeting which is not an AGM is an **EGM**
- 2 11 An EGM may be called at any time by the Trustees and must be called on a written request by the members (or from the Founder Member alone) in accordance with the Act

3 The Trustees

- 3 1 The Trustees as **charity trustees** have control of the Charity and its property and funds
- 3 2 The Trustees when complete consist of
- (a) The Service Area President (or acting Service Area President) of Catholic Healthcare West Arizona and President of St Joseph's ex officio or such other person for such term as the Service Area President (or acting Service Area President) shall designate,
 - (b) the physician serving as the medical director of the Barrow Neurological Institute ex officio,
 - (c) at least three other but not more than ten individuals or organisations or a combination of each, all of whom must be members
- 3 3 The subscribers to the Memorandum are the first Trustees of the Charity
- 3 4 Every Trustee or (in the case of a trustee which is an organisation) its authorised representative must sign a declaration of willingness to act as a charity trustee of the Charity before he, she or it is eligible to vote at any meeting of the Trustees
- 3 5 A Trustee's term of office automatically terminates if he or she
- (a) is disqualified under the Charities Act 1993 from acting as a charity trustee,

- (b) is incapable, whether mentally or physically, of managing his or her own affairs or (in the case of an organisation) ceases to exist,
 - (c) is absent from two consecutive meetings of the Trustees,
 - (d) ceases to be a member (but such a person may be reinstated by resolution passed by all the other Trustees on resuming membership of the Charity),
 - (e) resigns by written notice to the Trustees (but only if at least two Trustees will remain in office), or
 - (f) is removed by resolution passed by the members (provided these include the Founder Member or its authorised representative) present and voting at a general meeting
- 3 6 The Trustees may at any time, with the prior written approval of the Founder Member, co-opt any person duly qualified to be appointed as a Trustee to fill a vacancy in their number or as an additional Trustee, but a co-opted Trustee holds office only for a period of one calendar year from the date of his or her appointment
- 3 7 Without prejudice to the powers of the Trustees under Article 3 8, the Founder Member has the power by written notice duly signed by the Founder Member or its authorised representative, a copy of which is lodged at the Charity's registered office, to appoint any person or persons as a Trustee or Trustees to fill a vacancy in the Trustees' number or as an additional Trustee
- 3 8 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

4 Proceedings of Trustees

- 4 1 The Trustees must hold at least two meetings each year
- 4 2 A quorum at a meeting of the Trustees is one-half of the number of Trustees then in office
- 4 3 A meeting of the Trustees may be held either in person or by suitable electronic or other means agreed by the Trustees in which all participants may communicate with all the other participants
- 4 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
- 4 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 (and for this purpose the resolution may be contained in more than one document and will be treated as passed on the date of the last signature)

4 6 Except for the chair of the meeting, who has a second or casting vote, every Trustee has one vote on each issue

4 7 A procedural defect of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting

5 **Powers of Trustees**

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

5 1 to appoint (and remove) any member (who may be a Trustee) to act as Secretary to the Charity in accordance with the Act,

5 2 to appoint a Chair, Treasurer and other honorary officers from among their number,

5 3 to delegate any of their functions to committees consisting of two or more individuals or organisations appointed by them (but at least one-half of the members of every committee must be Trustees and all proceedings of committees must be reported promptly to the Trustees),

5 4 to make Standing Orders consistent with the Memorandum, these Articles and the Act to govern proceedings at general meetings,

5 5 to make Rules consistent with the Memorandum, these Articles and the Act to govern proceedings at their meetings and at meetings of committees,

5 6 to make Regulations consistent with the Memorandum, these Articles and the Act to govern the administration of the Charity and the use of its seal (if any),

5 7 to establish procedures to assist the resolution of disputes within the Charity,

5 8 to exercise any powers of the Charity which are not reserved to a general meeting

but the Trustees shall not have the power to establish subsidiary companies, other charities or set up or accept specific trusts unless not fewer than 75% of the Trustees agree to do so

6 **Records and Accounts**

6 1 The Trustees must comply with the requirements of the Act and of the Charities Act 1993 as to keeping financial records, the audit of accounts and the preparation and transmission to the Registrar of Companies and the Commissioners of

(a) annual reports,

(b) annual returns,

(c) annual statements of account

6 2 The Trustees must keep proper records of

(a) all proceedings at general meetings,

(b) all proceedings at meetings of the Trustees,

- (c) all reports of committees,
- (d) all professional advice obtained

- 6 3 Accounting records relating to the Charity must be made available for inspection by any Trustee at any reasonable time during normal office hours and may be made available for inspection by members who are not Trustees if the Trustees so decide
- 6 4 A copy of the Charity's latest available statement of account must be supplied on request to any Trustee or member, or to any other person who makes a written request and pays the Charity's reasonable costs, within two months

7 Notices

- 7 1 Notices under these Articles may be sent by hand, or by post or by suitable electronic means
- 7 2 The only address at which a member is entitled to receive notices is the address shown in the register of members
- 7 3 Any notice given in accordance with these Articles is to be treated for all purposes as having been received
- (a) 24 hours after being sent by electronic means or delivered by hand to the relevant address,
 - (b) two clear days after being sent by first class post to that address,
 - (c) three clear days after being sent by second class or overseas post to that address,
 - (d) on the date of publication of a newspaper containing the notice,
 - (e) on being handed to the member (or, in the case of a member organisation, its authorised representative) personally or, if earlier,
 - (f) as soon as the member acknowledges actual receipt
- 7 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

8 Dissolution

The provisions of the Memorandum relating to dissolution of the Charity take effect as though repeated here

9 Interpretation

In the Memorandum and in these Articles

- 9 1 '**the Act**' means the Companies Act 1985 and any provisions of the Companies Act 2006 for the time being in force,