

Date 3 OCTOBER 2022

Companies Act 2006

Company limited by guarantee and not having a share capital

**ARTICLES OF ASSOCIATION OF
FRIENDS OF FOLKESTONE ACADEMY LIMITED**

1. Interpretation

In these articles:

'the Act' means the Companies Acts 1985, 1989 and 2006 or any statutory re-enactment or modification of it;

'these articles' means these articles of association;

'Chair' means the chair of the Trustees who is a Trustee and is elected as such by the Trustees;

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

'charitable' means charitable according to the law of England and Wales;

'Charity' means the company governed by these articles;

'Financial Expert' means any authorised person or exempted person within the meaning of the Financial Services and Markets Act 2000;

'general meeting' means a meeting of the members of the Charity;

'Independent Trustee' means a Trustee who has been appointed by the Trustees and is not a School Trustee;

'Material Benefit' means a benefit which may not be financial but which has a monetary value;

'member', 'members' and 'membership' refer to membership of the Charity;

'month' means calendar month;

'the Objects' means the objects set out in article 4;

'School Trustee' means a Trustee recommended in writing by the local governing bodies of Folkestone Academy (as defined in article 4.1) and appointed by the Independent Trustees;

'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;

'Trustee' means a trustee of the Charity and **'Trustees'** means all the Trustees or a duly convened meeting of the Trustees. For the avoidance of doubt, the Trustees are, for the purposes of the Act, the directors of the company;

'written' or **'in writing'** refers (to the extent permissible by law) to a legible document on paper, including a fax message and electronic mail (which is capable of being reproduced in paper form);

'year' means calendar year; expressions defined in the Act have the meaning given to them by the Act.

2. **Name**

The name of the company is 'Friends of Folkestone Academy Ltd.' (the '**Charity**').

3. **Registered Office**

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

4. **Objects**

4.1 The objects of the Charity are:

- (a) the advancement for the public benefit of education in the United Kingdom including, without limitation, to further in whatever manner and by whatever means the aims, objects, activities and enterprises of the schools currently known as Folkestone Academy and Folkestone Primary Academy whose principal premises are situated at Academy Lane, Folkestone, CT19 5FP (**'Folkestone Academy'**);
 - (b) the relief of unemployment for the public benefit in such ways as may be thought fit, including assistance to find employment;
 - (c) the provision of facilities, in the interests of social welfare, for recreation and other leisure-time occupation with the object of improving conditions of life, in particular for the inhabitants of South-East Kent; and
 - (d) the furthering of such other charitable purposes as the Trustees shall think fit;
- (together the '**Objects**').

5. **Powers**

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

- 5.1 to support, assist and co-operate with Folkestone Academy;
- 5.2 to promote and foster an interest in the work of Folkestone Academy or any other charity in England and Wales with similar objects to Folkestone Academy;
- 5.3 to provide financial or other assistance, whether by way of grant, loan, guarantee or otherwise and whether directly or indirectly, to Folkestone Academy or any other charity in England and Wales with similar objects to Folkestone Academy or the Objects (or any of them) including assistance for the provision and maintenance, development or improvement of buildings, playing fields and equipment;
- 5.4 to award, or participate in the award of, scholarships, bursaries or other prizes;
- 5.5 to promote, commission or carry out research, including investigation by site visit, personal interview or otherwise and to hold conferences, lecture classes and training courses on any matter touching upon the Objects;
- 5.6 to promote or carry out the collection, analysis or publication of information of all types and in all forms, on such terms as shall be thought fit;

- 5.7 to consult, advise, co-operate with or assist others (whether local authorities, educational institutions, voluntary organisations or other persons or bodies) in any ventures or initiatives or any other matters which promote, directly or indirectly, all or any the Objects;
- 5.8 to acquire and take over to such an extent as may be thought fit (and permitted by law) the assets, liabilities and undertakings of any person or body whatsoever;
- 5.9 to provide and maintain (or to encourage the provision and maintenance of) information and statistics relating directly or indirectly to the Objects;
- 5.10 to support, administer or set up other charities or other bodies;
- 5.11 to raise funds (but not by means of carrying on a trade or business on a continuing basis which is for the principal purpose of raising funds rather than for the purpose of actually carrying out the Objects, unless the income of the Charity from that trade or business is exempt from tax by reason of any legislation or concession from time to time in force);
- 5.12 to invite, receive and accept financial assistance (whether private or public), subscriptions, donations, gifts, endowments, sponsorship, fees, legacies and bequests of any real or personal estate;
- 5.13 to act as trustee of charitable trusts jointly with one or more other trustees or, where it may legally do so, as sole trustee;
- 5.14 to enter into any funding or other arrangement with any government or any other authority (supreme, municipal, local or otherwise) and to obtain from such government or authority any rights, concessions, privileges, licences and permits;
- 5.15 subject to such consents as may be required by law, to borrow money and give security for loans;
- 5.16 to acquire, hire or charge property and/or any interest in, or relating to, land of such kind and on such terms, and to appoint such advisers, surveyors, managers and builders and other advisers and contractors on such terms as the Trustees shall determine;
- 5.17 subject to such consents or procedures as may be required by law, to let, licence or dispose of all or any assets held from time to time by or on behalf of the Charity;
- 5.18 to set aside funds for special purposes or as reserves against future expenditure;
- 5.19 to deposit or invest the monies of the Charity not immediately required for its operations in any manner as may be thought fit (including but not limited to the establishment of trading or other subsidiaries of any kind), subject to such conditions (if any) and such consents (if any) as may for the time being be imposed or required by law;
- 5.20 to delegate the management of investments to an individual, company or firm who is a Financial Expert, on such terms as the Trustees think fit;
- 5.21 to arrange for investments or other property of the Charity to be held in the name of a nominee under the control of the Trustees or of a Financial Expert acting under their instructions and to pay any reasonable fee required;
- 5.22 to delegate functions to committees, officers and/or employees or other staff of the Charity;
- 5.23 to insure the property of the Charity (including, for the avoidance of doubt any property not owned by the charity but under its control) against any foreseeable risk and take out other insurance policies to protect the Charity when required;

- 5.24 to insure the Trustees against the costs of a successful defence to a criminal prosecution brought against them as company directors and/or 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;
- 5.25 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 by them in defending any proceedings, whether civil or criminal, in which judgment is given in their favour or in which they are acquitted or in connection with any application in which relief is granted to them by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Charity;
- 5.26 to employ or otherwise contract for the services of agents, staff or advisers (upon such terms and conditions as may be thought fit) and, subject to article 6, to remunerate any person, firm or company rendering services to the Charity and provide and contribute to pension and other death-in-service or other benefits for employees and former employees of the Charity and their widows, children or other dependants;
- 5.27 to enter into contracts of any type, including contracts to provide services to or on behalf of other bodies or persons;
- 5.28 to incorporate, establish and promote subsidiary companies (whether or not wholly owned by the Charity) to further the Objects (or any of them), to assist or act as agents for the Charity or otherwise where the incorporation, establishment and promotion of such companies is expedient or generally beneficial and largely in the interests of the Charity;
- 5.29 to amalgamate with any other bodies which are charitable and have objects similar to all or any of the Objects and which prohibit the payment of any dividend or profit to, and the distribution of assets amongst, their members at least to the same extent as is the case in these articles;
- 5.30 to pay out of the funds of the Charity the costs of and incidental to the formation and registration of the Charity;
- 5.31 to do all or any of the above things in any part of the world as principal, agent, contractor, trustee or otherwise, and either alone or in conjunction with or through the medium of others; and
- 5.32 to do anything else within the law which promotes or helps to promote the Objects.

6. Application of Property and Funds

- 6.1 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. No part of the income or capital may be paid or transferred, directly or indirectly, to the members of the Charity, whether by way of dividend or bonus or in any other way that amounts to a distribution of profits or surplus. This does not prevent the payment of:
 - (a) (subject to article 6.2 below) reasonable and proper remuneration to any officer, employee or member of the Charity in return for any services provided to the Charity;
 - (b) a reasonable rate of interest on money lent to the Charity;
 - (c) a reasonable rent or hiring fee for property (including but not limited to works of art of any kind whatsoever) let or hired to the Charity;
 - (d) premiums on the indemnity insurance referred to in article 5;

- (e) charitable grants or other assistance to any member who is a charitable institution where such payment is in furtherance of the Objects;
 - (f) any sum (or the transfer of any asset) to any member who is a charitable institution in accordance with article 19.
- 6.2 A Trustee must not receive (whether directly or indirectly) any payment of money or other Material Benefit from the Charity except:
 - (a) as mentioned in articles 6.1 and 6.3;
 - (b) reimbursement of reasonable out-of-pocket expenses (including hotel and travel costs) actually incurred in carrying out the Charity's business;
 - (c) in exceptional cases, other payments or benefits (but only with the written approval of the Charity Commission in advance).
- 6.3 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 if the procedure in article 6.4 is followed;
 - (c) no more than half of the Trustees are subject to such a contract in any financial year.
- 6.4 Whenever a Trustee has a personal interest in a matter to be discussed at a meeting of the Trustees or a committee the Trustee concerned must:
 - (a) declare an interest as 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.
- 6.5 This article 6 may not be amended without the prior written consent of the Charity Commission.

7. Membership

- 7.1 The Charity must keep a register of members as required by the Act.
- 7.2 The initial member shall be the subscriber to the Charity's memorandum of association.
- 7.3 Such other persons as the members from time to time shall decide, in their absolute discretion, shall be admitted to membership.
- 7.4 Membership of the Charity shall not be transferable and shall terminate immediately upon the occurrence of the following events:
 - (a) if the member resigns by giving notice to the Charity;
 - (b) if, being an individual, the member dies or becomes of unsound mind, or is convicted of any indictable offence for which they are sentenced to a term of imprisonment;
 - (c) if, being a body corporate, the member enters into liquidation or a receiver or administrator is appointed over any of its assets;
 - (d) if, being a Trustee, immediately upon ceasing to be a Trustee for whatever reason.

8. General Meetings

- 8.1 The Trustees may call a general meeting at any time and must call a general meeting if they receive a requisition by the members of the Charity in accordance with the Act.
- 8.2 A general meeting must be called by at least fourteen clear days' notice unless it is called at shorter notice where it is so agreed by members holding at least 90% of the total voting rights at a meeting of all the members.
- 8.3 The notice must specify the place, date and time of the meeting and the general nature of the business to be transacted. The text of all resolutions to be proposed at the meeting must be set out in the notice.
- 8.4 Subject to the provisions of these articles and to any restrictions imposed on voting, the notice shall be given to the members, to the Trustees and to the auditors.
- 8.5 The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by any person entitled to receive notice, shall not invalidate the proceedings at that meeting.

9. Proceedings at General Meetings

- 9.1 A general meeting is not valid unless a quorum of members is present throughout the meeting. The quorum is:
 - (a) one member if there is a sole member;
 - (b) but otherwise is one third of the members or three members (whichever is the greater) provided always that a majority of members present and able to vote shall also be Independent Trustees (unless for any reason the number of Independent Trustees in office is less or equal to the number of School Trustees and in which case, the requirement for a majority of members to be Independent Trustees shall not apply).

- 9.2 If a quorum is not present within half an hour from the time appointed for the meeting, the meeting is automatically adjourned to the same day in the next week, at the same time and place, or to another day, time and place decided by the Trustees.
- 9.3 The Chair will preside as Chair of every general meeting. If there is no Chair, or if they are not present within fifteen minutes after the time set for the meeting, or are unwilling to act, those Trustees present at the meeting must elect one of themselves to be Chair of the meeting. If no Trustee is willing to act as Chair, or if no Trustee is present within fifteen minutes after the time set for the meeting, the members present must choose one of themselves to be Chair of the meeting.
- 9.4 The Chair of the meeting may, with the consent of the members (and shall if so directed by the members) adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least seven clear days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise, it shall not be necessary to give any such notice.
- 9.5 Subject to article 9.6, a resolution put to the vote of a meeting shall be decided on a show of hands of those members entitled to vote. Subject to the provisions of the Act, a poll may be demanded. If a poll is demanded it shall be taken in such manner as the Chair of the meeting, acting reasonably, directs and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The declaration by the Chair of the result of the poll shall be conclusive.
- 9.6 Notwithstanding article 9.5, the members who are Independent Trustees must always have the majority of the votes at a general meeting. If there are a minority of members who are Independent Trustees or an equal number of members who are School Trustees present (where for any reason the board temporarily consists of a minority of Independent Trustees or an equal number of Independent Trustees and School Trustees), those members who are Independent Trustees shall be each be given the minimum number of additional votes required in order to ensure that, in terms of their voting rights, the members who are Independent Trustees remain in the majority and, consequentially, any such decision shall be decided by a poll.
- 9.7 The Chair of the meeting shall have a casting vote in addition to any other vote they may have.
- 9.8 Subject to the provisions of the Act, a written resolution signed by all 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).
- 9.9 Any member may, subject to proper notice having been given or dispensed with, participate in a general meeting by means of telephone, video call or some other oral form of communication, whereby all persons participating in the meeting can hear each other and speak to each other and participation in a general meeting in this manner shall constitute presence in person at such meeting provided that the number of members then present constitutes a quorum for the transaction of the business of the members under these articles.

10. Voting

- 10.1 Subject to article 9.6, every member whose name is entered in the Charity's register of members has one vote at every general meeting. A resolution proposed at any general

meeting will be approved if more than half of the votes cast at the meeting are in favour of the resolution, except where the Act or these articles prescribes a different majority.

- 10.2 No objection shall be raised to the qualification of a voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the Chair of the meeting whose decision shall be final and conclusive.

11. Trustees' Appointment, Numbers and Powers

- 11.1 The Trustees shall have the control of the Charity and its property and funds.

- 11.2 Subject to article 11.10, the Trustees shall be as follows:

- (a) a minority of School Trustees; and
- (b) a majority of Independent Trustees.

- 11.3 Each year, one third of the Trustees in office must retire. If the number of Trustees is not divisible by three, then the number nearest to one-third (rounded up) must retire. A Trustee who retires by rotation is eligible for re-appointment if they are willing to act as a Trustee.

- 11.4 The Trustees to retire by rotation are those who have been longest in office since their last appointment or re-appointment, but where Trustees were appointed or re-appointed on the same day, the Trustees must draw lots to determine who is to retire unless the Trustees in question agree the order of retirement amongst themselves.

- 11.5 If the board does not fill a vacancy left by a Trustee who retires by rotation, the retiring Trustee will, if willing to act, be deemed to have been re-appointed unless at the meeting it is resolved not to fill the vacancy or unless a resolution for the re-appointment of the Trustee is put to the meeting and lost.

- 11.6 Where a Trustee's re-appointment would result in that Trustee having served as a Trustee of the Charity for more than nine years consecutively, the Trustees may re-appoint that Trustee having determined that the Trustee concerned has skills, knowledge and experience of continuing benefit to the Charity in the furtherance of its purposes.

- 11.7 If a retiring Trustee is not re-appointed, the board shall ensure when filling the vacancy that the resulting balance of School Trustees and Independent Trustees is consistent with the requirements of article 11.2.

- 11.8 No person may be appointed or re-appointed as a Trustee at any meeting unless notice signed by that person of their willingness to be appointed has been given to the Charity.

- 11.9 In the case of School Trustees, the local governing bodies of Folkestone Academy shall nominate a candidate by notifying the Charity in writing. The Independent Trustees shall consider the nomination and, at their sole discretion, may decide to appoint the School Trustee. For the purpose of such a decision, the current School Trustees shall not vote nor be counted in the quorum.

- 11.10 If for any reason the Independent Trustees are no longer in the majority, the Trustees shall appoint additional Independent Trustees as soon as possible. Until such appointment(s) is/are made, the remaining Independent Trustee(s) shall be each be given the minimum number of additional votes required in order to ensure that, in terms of their voting rights, the Independent Trustee(s) remain(s) in the majority.

- 11.11 Subject to the provisions of the Act, these articles and any directions given by resolution of the members, the business of the Charity shall be managed by the Trustees who may

exercise all the powers of the Charity. No alteration of these articles and no such direction shall invalidate any prior act of the Trustees 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 Trustees by these articles and a meeting of the Trustees at which a quorum is present may exercise all powers exercisable by the Trustees.

11.12 A technical defect in the appointment of a Trustee does not invalidate a decision taken at a Trustees' meeting if the Trustees present were not aware of the defect at the time of the meeting.

11.13 A Trustee will cease to be Trustee if they:

- (a) resign by written notice to the Charity;
- (b) cease to be a member;
- (c) are unable or unfit to discharge the functions of a Trustee;
- (d) are removed from office by the members pursuant to section 303 of the Act;
- (e) are absent without permission from more than six consecutive meetings of the Trustees;
- (f) become prohibited by law from being a Trustee;
- (g) become bankrupt or makes any arrangement or composition with their creditors generally.

11.14 A Trustee may call a Trustees' meeting at any time and the Secretary must call a Trustees' meeting if requested to do so by a Trustee.

11.15 Subject to article 11.10, the Trustees may convene and regulate their meetings as they think fit. Questions arising at any Trustees' meeting will be decided by a majority of votes.

11.16 The minimum number of Trustees' meetings to be held each year may be fixed by the Trustees from time to time and unless so fixed shall be two.

11.17 A Trustees' meeting is not valid unless a quorum is present throughout the meeting. The quorum is:

- (a) one Trustee if there is a sole Trustee;
- (b) but otherwise is one third of the Trustees or three Trustees (whichever is the greater) with the majority of Trustees being Independent Trustees.

11.18 The Chair, who shall be an Independent Trustee, will preside as Chair of every Trustees' meeting. If there is no Chair, or if they are not present within fifteen minutes after the time set for the meeting, or is unwilling to act, those Trustees present at the meeting must elect one of themselves to be Chair of the meeting.

11.19 The Chair of the Trustees' meeting shall have a casting vote in addition to any other vote they may have.

11.20 A written resolution signed by all the Trustees entitled to receive notice of a meeting of the Trustees is as valid as a resolution actually passed at a meeting of the Trustees duly

convened and held (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).

11.21 Any Trustee may, subject to proper notice having been given or dispensed with, participate in a meeting of the Trustees by means of telephone, video call or some other oral form of communication, whereby all persons participating in the meeting can hear each other and speak to each other and participation in a meeting in this manner shall constitute presence in person at such meeting provided that the number of Trustees then present constitutes a quorum for the transaction of the business of the Trustees under these articles.

12. Delegation of Trustees' Powers

12.1 The Trustees may establish a committee or committees comprising such persons whether Trustees or otherwise as it shall think fit. At least one member of every committee must be a Trustee and all proceedings of committees must be reported promptly to the Trustees.

12.2 The proceedings and powers of committees established by the Trustees shall be governed by such rules as the Trustees may prescribe.

13. Secretary

The Charity must have a Secretary who will be appointed by the Trustees for such term, at such remuneration and upon such conditions as the Trustees may think fit and any Secretary so appointed may be removed by the Trustees. The Secretary may but does not have to be a member or a Trustee.

14. Minutes

The Trustees shall cause minutes to be made in books (or other recordable format) kept for the purpose:

- (i) of all appointments of officers made by the Trustees; and
- (ii) of all proceedings at meetings of the Charity, and of the Trustees, and of committees of the Trustees, including the names of the Trustees present at each such meeting.

15. Notices

15.1 Any notice to be given to or by any person pursuant to these articles shall be in writing.

15.2 The Charity may give any notice to members either personally or by sending it by post in a prepaid envelope addressed to a member at their address or by leaving it at that address. Where a member has given to the Charity a fax number or e-mail address to which notices may be sent electronically, the Charity may give a valid notice by means of fax or e-mail.

15.3 If a member is present at any meeting of the Charity they shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.

16. Indemnity

16.1 Subject to the Act, but without affecting any indemnity to which a Trustee may otherwise be entitled, every Trustee or other officer will be indemnified out of the assets of the Charity in respect of any liabilities properly incurred by them in defending any proceedings (whether civil or criminal) in which judgment is given in their favour or in which they are acquitted or in connection with any application in which relief is granted to them by the Court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Charity.

16.2 Subject to the Act, the Charity may purchase and maintain for any Trustee or for any officer of the Charity, insurance cover against any liability which may attach to them by virtue of any

rule of law in respect of any negligence, default, breach of duty or breach of trust of which they may be guilty in relation to the Charity, and against all costs, charges, losses, expenses and liabilities incurred by them and for which the Trustee is entitled to be indemnified by the Charity under article 16.1.

17. Limited Liability

The liability of the members is limited.

18. Guarantee

If the Charity is wound up while a person is a member or within one year after that person ceases to be a member, every member of the Charity will contribute such amount as may be required not exceeding £1 to the assets of the Charity, for the payment of the Charity's debts and liabilities accrued before the member ceases to be a member, and of the cost and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, to pay up to £1 towards the costs of dissolution and the liabilities incurred by the Charity.

19. Dissolution

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:

- (i) by transfer to one or more other bodies or persons established for exclusively charitable purposes within, the same as or similar to the Objects;
- (ii) directly for the Objects or charitable purposes within, the same as or similar to the Objects.

