

THE COMPANIES ACTS 1985 to 2006

MEMORANDUM
AND
ARTICLES OF ASSOCIATION
OF

HARTLEBURY CASTLE PRESERVATION TRUST

COMPANIES ACTS 1985 to 2006

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

**MEMORANDUM OF ASSOCIATION OF
HARTLEBURY CASTLE PRESERVATION TRUST**

1. NAME

The name of the Charity is Hartlebury Castle Preservation Trust ("**the Charity**")

2. REGISTERED OFFICE

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

3. OBJECTS

The objects of the Charity are to preserve for the benefit of the people of Worcestershire and of the Nation Hartlebury Castle, its gardens, grounds, parkland and historic contents including the Hurd Library ("**the Objects**")

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 and by publishing books or pamphlets or in other appropriate manner to make known to the public the existence of buildings of particular beauty or historical, architectural or constructional interest or the features of especial interest of such buildings
- 4.4 To co-operate with other bodies
- 4.5 To support, administer, act as trustee of or set up other charities
- 4.6 To raise funds and trade in the course of carrying out the objects and carry on any other trade which is not expected to give rise to taxable profits and to incorporate subsidiary trading companies to carry-on any trade
- 4.7 To borrow money and give security for loans (but only in accordance with the restrictions imposed by the Charities Act 1993)
- 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 1993), such letting or disposal to be subject to such covenants, conditions and restrictions as are reasonably necessary to ensure the preservation of any buildings or land.
- 4.10 To repair, renovate, restore, rebuild and generally promote the preservation of any buildings or land
- 4.11 To buy or otherwise acquire furniture and other equipment for use in connection with any such buildings or land; and to sell, lease or otherwise dispose of any such furniture or equipment
- 4.12 To make such arrangements as are necessary to enable the public to view and enjoy any buildings or land (whether free or at a charge)
- 4.13 To make planning applications, applications for consent under by-laws or building regulations and other like applications
- 4.14 To make grants or loans of money and to give guarantees
- 4.15 To set aside funds for special purposes or as reserves against future expenditure
- 4.16 To deposit or invest 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)
- 4.17 To delegate the management of investments to a financial expert, but only on terms that:
 - 4.17.1 the investment policy is set down in writing for the financial expert by the Trustees
 - 4.17.2 every transaction is reported promptly to the Trustees
 - 4.17.3 the performance of the investments is reviewed regularly with the Trustees
 - 4.17.4 the Trustees are entitled to cancel the delegation arrangement at any time
 - 4.17.5 the investment policy and the delegation arrangement are reviewed at least once a year
 - 4.17.6 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
 - 4.17.7 the financial expert must not do anything outside the powers of the Trustees
- 4.18 To 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 Trustees or of a financial expert acting under their instructions and to pay any reasonable fee required
- 4.19 To insure the property of the Charity against any foreseeable risk and take out other insurance policies to protect the Charity when required
- 4.20 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
- 4.21 Subject to clause 5, to employ paid or unpaid agents, staff or advisers
- 4.22 To enter into contracts to provide services to or on behalf of other bodies

4.23 To establish and support or aid subsidiary companies and subscribe, lend or guarantee money or other property in furtherance of the Objects.

4.24 To pay the costs of forming the Charity

4.25 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

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 let or hired to the Charity

5.1.4 individual members and Trustees who are 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

5.2.1 as mentioned in clauses 4.20, 5.1.2, 5.1.3 or 5.3

5.2.2 reimbursement of reasonable out-of-pocket expenses (including hotel and travel costs) actually incurred in running 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

5.2.5 in exceptional cases, other payments or benefits (but only with the written approval of the Commission in advance)

5.3 A Trustee may not be an employee of the Charity, but a Trustee or a connected person () 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

5.3.1 the goods or services are actually required by the Charity

5.3.2 the nature and level of the 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

5.3.3 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 the Trustee concerned must:

5.4.1 declare an interest at or before discussion begins on the matter

- 5.4.2 withdraw from the meeting for that item unless expressly invited to remain in order to provide information
- 5.4.3 not be counted in the quorum for that part of the meeting
- 5.4.4 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 wound up while he or she remains a member or within 12 months afterwards, to pay up to £1 towards the costs of winding up and the liabilities incurred by the Charity while he or she was a member

- 8. **WINDING UP**
 - 8.1 If the Charity is wound up or 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:
 - 8.1.1 by transfer to one or more other bodies established for exclusively charitable purposes within, the same as or similar to the Objects
 - 8.1.2 directly for the Objects or charitable purposes within or similar to the Objects
 - 8.1.3 in such other manner consistent with charitable status as the Commission approve in writing in advance
 - 8.2 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 are references to the Act as amended or re-enacted from time to time and to any subordinate legislation made under it

We wish to be formed into a company under this Memorandum of Association

NAMES & ADDRESSES OF SUBSCRIBERS

SIGNATURES OF SUBSCRIBERS

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Mrs Virginia Mary Howard Wagstaff
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Kidderminster
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DY11 7TE

Mr George Albert Ward
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Witness to the above signatures

Dated this 15th day of December 2008

Mr Peter Bernard Copsey
Solicitor
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Vine Lane
Halesowen
B63 3EB

COMPANIES ACTS 1985 TO 2006
COMPANY LIMITED BY GUARANTEE AND
NOT HAVING A SHARE CAPITAL
ARTICLES OF ASSOCIATION OF
HARTLEBURY CASTLE PRESERVATION TRUST

1. MEMBERSHIP

- 1.1 The Charity must maintain a register of members
- 1.2 Membership of the Charity is open to any individual interested in promoting the Objects who
- 1.2.1 applies to the Charity in the form required by the Trustees
- 1.2.2 is approved by the Trustees
- and
- 1.2.3 signs the Register of members or consents in writing to become a member
- 1.3 The Trustees may establish different classes of membership and prescribe their respective privileges and duties and set the amounts of any subscriptions
- 1.4 Membership is terminated if the member concerned
- 1.4.1 gives written notice of resignation to the Charity
- 1.4.2 dies
- 1.4.3 is six months in arrears in paying the relevant subscription (if any) if the Trustee so resolves (but in such a case the member may be reinstated on payment of the amount due)
- or
- 1.4.4 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 (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)
- 1.5 Membership of the Charity is not transferable

2. GENERAL MEETINGS

- 2.1 Members are entitled to attend general meetings either personally or appoint a proxy to attend and vote. General meetings are called on at least clear 14 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 present in person or by proxy and entitled to vote is at least 33% per cent of the members. If a quorum is not present within half an hour from the time appointed for the meeting, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the Trustees may determine and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be a quorum.

- 2.3 In every notice calling a members' general meeting of the Charity there must appear with reasonable prominence a statement informing the member of his or her rights to appoint another person as his or her proxy at a members' general meeting.
- 2.4 The Chairman or (if the Chairman is unable or unwilling to do so) some other member elected by those present presides at a general meeting
- 2.5 Except where otherwise provided by the Companies Acts, every issue is decided by a majority of the votes cast
- 2.6 Except for the chairman of the meeting, who has a second or casting vote, every member present in person or by proxy or through an authorised representative has one vote on each issue
- 2.7 Unless the appointment of a proxy indicates otherwise, it must be treated as:
- 2.7.1 allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting, and
- 2.7.2 appointing that person as a proxy in relation to any adjournment of the members' general meeting to which it relates as well as the meeting itself.
- 2.8 The appointment of a proxy and any authority under which it is executed or a copy of such authority in some way approved by the Trustees may:
- 2.8.1 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
- 2.8.2 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:
- a) in the notice convening the meeting, or
- b) in any instrument of proxy sent out by the Charity in relation to the meeting, or
- c) 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;
- 2.8.3 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
- 2.8.4 where the poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be delivered at the meeting at which the poll was demanded to the chair or to the Secretary (if any) or to any Trustee;
- and an appointment of proxy which is not deposited, delivered or received in a manner so permitted shall be invalid.

- 2.9 An appointment of a proxy may be revoked by delivering to the Charity a notice given by or on behalf of the person by whom or on whose behalf the proxy notice was given. A notice revoking the appointment of a proxy only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates. Attendance by a member in person at a meeting automatically revokes any appointment of a proxy by that member.
- 2.10 Subject to Articles 2.11, a written resolution of the Charity passed in accordance with these Articles 2.10 to 2.15 shall have effect as if passed by the Charity in general meeting.
- 2.10.1 A written resolution is passed as an ordinary resolution if it is passed by a simple majority of the total voting rights of eligible members,
- 2.10.2 A written resolution is passed as a special resolution if it is passed by members representing not less than 75% of the total voting rights of eligible members. A written resolution is not a special resolution unless it states that it was proposed as special resolution.
- 2.10.3 In relation to a resolution proposed as a written resolution of the Charity the eligible members are the members who would have been entitled to vote on the resolution on the circulation date of the resolution.
- 2.11 A members' resolution under the Companies Acts removing a Trustee or an auditor before the expiration of his or her term of office may not be passed as a written resolution.
- 2.12 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' auditors in accordance with the Companies Acts
- 2.13 A member signifies their agreement to a proposed written resolution when the Charity receives from him or her an authenticated document identifying the resolution to which it relates and indicating his or her agreement to the resolution.
- 2.13.1 If the document is sent to the Charity in hard copy form, it is authenticated if it bears the member's signature.
- 2.13.2 If the document is sent to the Charity by electronic means, it is authenticated if the identity of the member is confirmed in a manner specified by the Charity or if it is from an email address specified by the member to the Charity for the purposes or receiving documents or information by electronic means.
- 2.14 A written resolution is passed when the required majority of eligible members have signified their agreement to it.
- 2.15 A proposed written resolution lapses if it is not passed within 28 days beginning with the circulation date.
- 2.16 The Charity must hold an AGM in every year which all members are entitled to attend. The first AGM may be held within 18 months after the Charity's incorporation
- 2.17 At an AGM the members:
- 2.17.1 receive the accounts of the Charity for the previous financial year
- 2.17.2 receive the Trustees' report on the Charity's activities since the previous AGM
- 2.17.3 accept the retirement of those Trustees who wish to retire or who are retiring by rotation
- 2.17.4 elect persons to be Trustees to fill the vacancies arising

- 2.17.5 appoint auditors for the Charity (unless the Charity is entitled to exemption from audit and the Trustees wish to make use of that exemption)
- 2.17.6 may confer on any individual (with his or her consent) the honorary title of Patron, President or Vice-President of the Charity and
- 2.17.7 discuss any issues of policy or deal with any other business put before them
- 2.18 Any general meeting which is not an AGM is an EGM
- 2.19 An EGM may be called at any time by the Trustees and must be called within 21 days on a written request from at least ten members
- 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 at least three and not more than eleven individuals, all of whom must be members
- 3.3 The individuals who signed the form 10 as vouching consent to act as directors are the first Trustees of the Charity.
- 3.4 For the avoidance of doubt, no individual may be appointed a Trustee unless he or she is willing to act as a charity trustee of the Charity.
- 3.5 One third (or the number nearest one third) of the Trustees must retire at each AGM, those longest in office retiring first and the choice between any of equal service being made by drawing lots. If the members at the meeting at which a Trustee retires by rotation does not fill the vacancy, the retiring Trustee shall, if willing to act, be deemed to have been reappointed unless at the meeting it is resolved not to fill the vacancy or unless a resolution for the appointment of the Trustee is put to the meeting and lost
- 3.6 A Trustee's term of office automatically terminates if he or she:
- 3.6.1 is disqualified under the Charities Act 1993 from acting as a charity trustee
- 3.6.2 is in the reasonable belief of the Trustees suffering from mental disorder and incapable of acting and they resolve that he or she be removed from office
- 3.6.3 is absent from three consecutive meetings of the Trustees and the Trustees resolve that he or she should vacate office
- 3.6.4 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 before the next AGM)]
- 3.6.5 resigns by written notice to the Trustees (but only if at least two Trustees will remain in office)
- 3.6.6 is removed by resolution passed by at least sixty per cent 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

- 3.7 The Trustees may at any time 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 until the next AGM
- 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 at least sixty per cent in number of the Trustees
- 4.3 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
- 4.4 The Chairman or (if the Chairman 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 chairman 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 individual (who may be a Trustee) to act as Secretary to the Charity.
- 5.2 to appoint a Chairman, 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 appointed by them (but at least one member of every committee must be a Trustee 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 Companies Acts) to govern proceedings at general meetings
- 5.5 to make Rules consistent with the Memorandum, these Articles and the Companies Acts to govern proceedings at their meetings and at meetings of committees
- 5.6 to make Regulations consistent with the Memorandum, these Articles and the Companies Acts 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.

6. RECORDS & ACCOUNTS

6.1 The Trustees must comply with the requirements of the Companies Acts 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 Commission of:

6.1.1 annual reports

6.1.2 annual returns

6.1.3 annual statements of account

6.2 The Trustees must keep proper records of

6.2.1 all proceedings at general meetings

6.2.2 all proceedings at meetings of the Trustees

6.2.3 all reports of committees and

6.2.4 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 (where the individual concerned has provided an email address for the purpose) by suitable electronic means or posted on a website where the recipient has been notified of such posting in a manner agreed by him or her.

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

7.3.1 24 hours after being sent by electronic means or delivered by hand to the relevant address

7.3.2 two clear days after being sent by first class post to that address

7.3.3 three clear days after being sent by second class or overseas post to that address

7.3.4 on the date of publication of a newspaper containing the notice

7.3.5 on being handed to the member personally or, if earlier,

7.3.6 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. WINDING UP

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

9. INTERPRETATION

In the Memorandum in and in these Articles:

"The Companies Acts" has the meaning given to it in section 2 of the Companies Act 2006

"AGM" means an annual general meeting of the Charity

"area of benefit means Worcestershire

"these Articles" means these articles of association

"Chairman" means the chairman of the Trustees

"the Charity" means the Charity governed by these Articles

"charity trustee" has the meaning prescribed by section 97(1) of the Charities Act 1993

"clear day" means 24 hours from midnight following the relevant event

"the Commission" means the Charity Commission for England and Wales

"Connected person" means any spouse, civil partner, parent, child, brother, sister, grandparent or grandchild of a Trustee; or any other person in a relationship with a Trustee which may reasonably be regarded as equivalent to such a relationship; or any company or firm of which a Trustee is a paid director, partner or employee, or shareholder holding more than 1% of the capital.

"EGM" means an extraordinary general meeting of the Charity

"financial expert" means an individual, company or firm who is an authorised person or an exempted person within the meaning of the Financial Services and Markets Act 2000

"material benefit" means a benefit which may not be financial but has a monetary value

"member" and "membership" refer to membership of the Charity

"Memorandum" means the Charity's Memorandum of Association

"month" means calendar month

"the Objects" means the Objects of the Charity as defined in clause 3 of the Memorandum

"Secretary" means the Secretary of the Charity

"Trustee" means a director of the Charity and "Trustees" means all of the directors.

"written" or "in writing" refers to a legible document on paper including a fax message

"year" means calendar year

- 92 Expressions defined in the Companies Acts have the same meaning
- 93 References to an Act of Parliament are to the Act as amended or re-enacted from time to time and to any subordinate legislation made under it

NAMES & ADDRESSES OF SUBSCRIBERS

SIGNATURES OF SUBSCRIBERS

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Witness to the above signatures

Dated this 15th day of December 2008

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