

# **Memorandum and Articles of Association**

**COMPANY LIMITED BY GUARANTEE**

**AND NOT HAVING A SHARE CAPITAL**

**ARTICLES OF ASSOCIATION**

**OF**

**THE FOUNDATION FOR EMOTIONAL THERAPEUTIC COUNSELLING**

**LIMITED**

Registered Company No. 2820673 Registered Charity No. 1022341

## **INTERPRETATION**

1. In these articles:-

“the Act” means the Companies Act, 1985

“the Trustees” means the Board of Directors

“the Council” means the Management Council

“member” means advanced diploma, diploma, associate or probationer member as defined in Schedule I

“the seal” means the common seal of the Company

“secretary” means any person appointed to perform the duties of the secretary of the Company

“the United Kingdom” means Great Britain and Northern Ireland

“Code of Ethics and Practice” means the code of ethics and practice adopted by the Council from time to time

Words importing the singular number shall include the plural number and vice versa.

Words importing persons shall include corporations and firms and other unincorporated bodies or associations.

Words importing masculine gender only shall include the feminine gender.

Expressions referring to writing shall, unless the contrary intention appears, be construed as including reference to printing, lithography, photography, and other modes of representing or reproducing words in a visible form.

Unless the context otherwise requires, words or expressions contained in these articles shall bear the same meaning as in the Act or any statutory modification thereof in force at the date at which these Articles become binding on the Company.

## **OBJECTS**

2. The Company is established for the object expressed in the Memorandum of Association.

## **MEMBERS**

3. The number of members with which the Company proposes to be registered is four, but the Council may from time to time register an increase of members.

4. The subscribers to the Memorandum of Association and other such persons as the Council shall admit to membership shall be members of the Company and shall be subject to the Code of Ethics and Practice amended from time to time by the Council.

5. Membership of the Company shall be in accordance with the criteria laid down by the Council from time to time.

6. Unless the members of the Council of the Company in General Meeting shall make other provision pursuant to the powers contained in Article 54, the Council members may in their absolute discretion permit any member of the Company to resign provided that after such resignation the number of members is not less than three.

## **GENERAL MEETINGS**

7. The Company shall each year hold a General Meeting as its Annual General Meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one Annual General Meeting of the Company and that of the next. Provided that so long as the Company holds its first Annual General Meeting within eighteen months of its incorporation, it need not hold it in the year of its incorporation or in the following year. The Annual General Meeting shall be held at such time and place as the Council shall appoint. All General Meetings other than Annual General Meetings shall be called Extraordinary General Meetings.

8. The Council may, whenever it thinks fit, convene an Extraordinary General Meeting, and Extraordinary General Meetings shall also be convened by such requisitions, as provided by the Act. If at any time there are not within the United Kingdom sufficient members of the Council to form a quorum, any member of the Council or any two members may convene an Extraordinary General Meeting in the same manner as nearly as possible as that which meetings may be convened by the Council.

9. The Company in General meeting shall have the power to alter or repeal any part of these articles by a vote of two-thirds majority of those attending provided that at least twenty-five percent of those eligible to vote and who is present at the said meeting. Any such resolution must be approved by the Charity Commissioners, if so required by law, and may not take effect until such agreement has been received in writing by the secretary.

## **NOTICE OF GENERAL MEETINGS**

10. An Annual General Meeting and a meeting called for the passing of a special resolution shall be called by at least twenty-one days notice in writing. Other meetings shall be called by at least fourteen days' notice in writing. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day of the meeting and shall specify the place, the day and the hour of the meeting and, in the case of special business, the general nature of that business and shall be given, in manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the Company, entitled to receive such notices from the Company:

Provided that a meeting of the Company shall, notwithstanding that it is called by shorter notice than that specified in this Article be deemed to have been duly called if it is so agreed:

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a) in the case of the Annual General Meeting, by all the members entitled to attend and vote; and b) in the case of any other meeting, by a majority of the members having the right to attend and vote at the meeting, being a majority together representing not less than ninety-five percent of the total voting rights at that meeting of all the members.

11. 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.

## **PROCEEDINGS AT GENERAL MEETINGS**

12. The business to be transacted at an Annual General Meeting shall include the consideration of the accounts, balance sheets, and the reports of the Council and auditors, the election of members of the Council in the place of those retiring and the appointment of, and the fixing of the remuneration of, the auditors.

13. No business shall be transacted at any General Meeting unless a quorum of members is present at the time when the meeting proceeds to business: three members present in person or one-tenth of the membership, whichever is greater, shall be a quorum. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall be adjourned to the same day in the next week at the same time and place, or to such other day and at such time and place as the Council may determine.

14. The Chairman, if any, of the Council shall chair every General Meeting of the Company, or if there is no such chairman, or if he shall not be present within fifteen minutes after the time appointed for the holding of the meeting or is unwilling to act, the members of the Council present shall elect one of their number to chair the meeting

15. If at any meeting no Council member is willing to act as chairman or if no Council member is present within fifteen minutes of the time appointed for holding the meeting, the members present shall choose one of their number to hold the meeting.

16. The Chairman may, with the consent of the meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business

left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Otherwise it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

17. At any General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll (before or on the declaration of the result of the show of hands) is demanded:

a) by the Chairman; or b) by at least two members present; or c) by any member or members present in person and representing not less than one-third of the total voting rights of all members having the right to vote at the meeting.

Unless a poll is so demanded, a declaration by the Chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, an entry to that effect in the minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour or against such resolution.

The demand for a poll may be withdrawn

18. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting shall be entitled to a second or casting vote.

19. A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken immediately. A poll demanded on any other question shall be taken at such a time and in such a manner as the Chairman of the meeting directs, and any business other than that upon which a poll has been demanded may proceed pending the taking of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

20. Subject to the provision of the Act, a resolution in writing signed by all the members entitled to receive notice of and to attend and vote at General Meetings shall be as valid and effective as if it had been passed at a General Meeting of the Company duly convened and held. Any such resolution in writing may consist of two or more documents in like form each signed by one or more members.

## **VOTES OF MEMBERS**

21. Every member shall have one vote.

22. No member shall be entitled to vote at any General Meeting unless all moneys presently payable by him to the Company have been paid.

## **MANAGEMENT COUNCIL**

23. The maximum number of Council members shall be determined by the Company in General Meeting, but unless and until so fixed there shall be no maximum number. The minimum number of Council members shall be three.

24. The Council members shall be paid all reasonable out-of-pocket expenses properly incurred by them in attending and returning from Council meetings or General Meetings of the Company or in connection with the business of the Company.

### **BORROWING POWERS**

25. The Council may exercise all powers of the Company to borrow money, and to mortgage or charge its undertaking and property, or any part thereof, and to issue debentures, debenture stock and other securities, whether outright or as security for any debt, liability or obligation of the Company or of any third party, subject to any restrictions to such powers as required by law. The Foundation for Emotional Therapeutic Counselling: Articles of Association

### **POWERS AND DUTIES OF THE COUNCIL**

26. The business of the Company shall be managed by the Council who may pay all expenses incurred in the formation of the Company and who may exercise all such powers of the Company as are not required to be exercised by the Company in General Meeting. Any such requirement may be imposed either by the Act or by these Articles or by any regulation made by the Company in General Meeting; but no such regulation shall invalidate any prior act of the Council which would have been valid if that regulation had not been made.

27. All cheques and other negotiable instruments, and all receipts for moneys paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Council shall from time to time in writing determine.

28. The Council shall cause minutes to be made and circulated to all Council members, Patrons, Co-founders and Trustees

a) of all appointments of officers made by the Council

b) of the names of the Council members present at each Council meeting

c) of all resolutions and proceedings at all meetings of the Company, and of the Council.

29. Notwithstanding the above, should the Trustees decide that any action taken or proposed to be taken by the Council does not pursue the objects of the Company; they may veto such action absolutely. Similarly, if the Trustees disagree with any resolution passed at General Meeting of the Company on the grounds that it does not pursue the objects of the Company, they may veto such resolution absolutely. In each case, the Trustees must clearly state the reason for their decision within 28 days of receiving notice of such action or proposed action.

### **DISQUALIFICATION OF COUNCIL MEMBERS**

30. The office of a Council member shall be vacated if the Council member: -

a) becomes bankrupt or makes any arrangement or composition with his creditors generally, subject to the provision of Section 45 of the Charities Act 1992 for application to the Charity Commissioners to waive this requirement.

or

b) becomes prohibited from being a Council member by reason of any order made under Section 295 of the Act, subject to the provision of Section 45 of the Charities Act 1992 for application to the Charities Commissioners to waive this requirement;

or

c) becomes incapable by reason of mental disorder, illness or injury of managing or administering his property and affairs;

or

d) resigns his office by written notice to the Company;

or

e) is directly or indirectly interested in any contract with the Company and fails to declare the nature of his interest as required by Section 317 of the Act.

31. A Council member shall not vote in respect of any contract in which he is interested or any matter arising there out, and if he does so vote his vote shall not be counted.

### **ELECTION OF COUNCIL MEMBERS**

32. The election of Council members shall be in accordance with the procedure described in Schedule II to these Articles. The procedure may be amended prior to the first Annual General Meeting by a simple decision of the Council. The Schedule must then be formally adopted by members of the Company at the first Annual General Meeting.

### **PROCEEDINGS OF THE COUNCIL**

33. The Council may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In the case of equality of votes the chairman shall have a second or casting vote. A Council member shall, at any time summon a Council meeting. It shall not be necessary to give notice of a Council meeting to any member for the time being absent from the United Kingdom.

34. The quorum necessary for the transaction of the business of the Council may be fixed by the Council and unless so fixed shall be one-third of the membership of the Council, subject to a minimum of three.

35. The Council may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the Articles of the Company as the necessary quorum of members, the Council may act for the purpose of increasing the number of members to that number, or of summoning a General Meeting of the Company, but for no other purpose.

36. The Council may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or at any meeting the chairman is not present within fifteen minutes after the time appointed for holding the same, the Council members present may choose one of their number to chair the meeting.

37. The Council may delegate any of their powers to sub-committees consisting of such persons as they think fit, provided always that the majority of any such sub-committee shall be members of the Council; any sub-committee so formed shall conform to any regulations that may be imposed on it by the Council and shall report all acts and proceedings to the Council as soon as it is reasonably practicable.

38. A sub-committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within fifteen minutes after the time appointed for holding the same, the Council members present may choose one of their number to chair the meeting.

39. A sub-committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes the chairman shall have a second or casting vote.

40. All acts done by any meeting of the Council or of a sub-committee, or by any person acting as a Council member, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such member or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Council member.

41. A resolution in writing, signed by all the council members entitled to receive notice of a Council meeting, shall be as valid and effectual as if it had been passed at a Council meeting duly convened and held, and may consist of several documents in like form each signed by one or more Council members.

## **SECRETARY**

42. Subject to Section 283 of the Act, the secretary shall be appointed by the Council for such term at such remuneration and upon such conditions as the Committee may think fit; and any secretary so appointed may be removed by it: provided always that no Council member may occupy the same salaried position of secretary.

43. A provision of the Act or these Articles requiring or authorising a thing to be done by or to a Council member and the secretary shall not be satisfied by its being done by or to the same person acting both as Council member and as, or in place of, the secretary.

## **THE SEAL**

44. The Council shall provide for the safe custody of the seal, which shall only be used by the authority of the Council or of a sub-committee authorised by the Council in that behalf and every instrument to which the seal shall be affixed shall be signed by a Council member and shall be countersigned by the secretary or by a second Council member or by some other person appointed by the Council for the purpose.

## **ACCOUNTS**

45. The Council shall cause accounting records to be kept in accordance with sections 221-222 of the Act.

46. The accounting records shall be kept at the registered office of the Company or, subject to section 222 of the Act, at such other place or places as the Council thinks fit, and shall always be open to the inspection of the officers of the Company.

47. The Council shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the Company or any of them shall be open to inspection of members not being Council members, and no member (not being a Council member) shall have any right of inspecting any account or book or document of the Company except as conferred by statute or authorised by the Council or by the Company in General Meeting. A Trustee shall have the right to inspect any account or book or document of the Company at any time on giving reasonable notice to the Secretary of his wish to do so.

48. The Council shall from time to time in accordance with Sections 238-242 of the Act cause to be prepared and to be laid before the Company in General Meeting such profit and loss accounts, balance sheets, group accounts (if any) and reports as are referred to in those sections, as modified by the regulations for small companies.

49. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the Company in General Meeting, and the Councils report, shall not less than twenty-one days before the date of the meeting be sent to every Trustee and member of, and every holder of debentures of, the Company. Provided that this article shall not require a copy of those documents to be sent to any person of whose address the Company is not aware or to more than one of the joint holders of any debentures.

## **AUDIT**

50. Where required by law Auditors shall be appointed and their duties regulated in accordance with Sections 248-392 of the Act.

## **NOTICES**

51. A notice may be given by the Company to any member either personally or by sending it by post to him or to his registered address, or (if he has no registered address within the United Kingdom) to the address, if any, within the United Kingdom supplied by him to the Company for the giving of notice to him. Proof that an envelope containing a notice properly addressed, prepared and posted shall be conclusive evidence that the notice was given. A notice shall, unless the contrary is proved, be deemed to be given at the expiration of 48 hours after the envelope containing it was posted.

52. Notice of every General Meeting shall be given in any manner therein before authorised to: -



a) every member except those members who (having no registered address within the United Kingdom) have not supplied to the Company an address within the United Kingdom for the giving of notices to them;

b) every person being a legal personal representative or a trustee in bankruptcy of a member where the member but for his death or bankruptcy would be entitled to receive notice of the meeting;

c) the auditor for the time being of the Company;

d) each Council member; and

e) all Trustees and Patrons.

No other person shall be entitled to receive notices of General Meetings.

## DISSOLUTION

53. Clause 7 of the Memorandum of Association relating to the winding up and dissolution of the Company shall have effect as if the provisions thereof were repeated in these Articles.

## RULES OR BYE-LAWS

54. a) The Council may from time to time make such Rule or Bye-Laws as it may deem necessary or convenient for the proper conduct and management of the Company and for the purposes of prescribing classes of and conditions of membership, and in particular but without prejudice to the generality of the foregoing, it may by such Rules or Bye-Laws regulate:

i) the admission and classification of members of the Company and the rights and privileges of such members, and the conditions of membership and the terms on which members may resign or have their membership terminated and the entrance fees, subscriptions and other fees or payments to be made by members.

ii) the conduct of the members of the Company in relation to one another and to the Company's employees and to members of the general public.

iii) The setting aside of the whole or any part or parts of the Company's premises at any particular time or times or for any particular purpose or purposes.

iv) The procedure at General Meetings and the meetings of the Council and sub-committees in so far as such procedure is not regulated by these Articles.

v) And, generally, all such matters as are commonly the subject matter of Company rules.

b) The Company in General Meeting shall have power to alter or repeal the Rules or Bye-Laws and to make additions to them and the Council shall adopt such means as they deem sufficient to bring to the notice of members of the Company all such Rules and Bye-Laws, which so long as they shall be in force shall be binding on all members of the Company.

Provided, nevertheless, that no Rule or Bye-Law shall be inconsistent with, or shall affect or repeal anything contained in, the Memorandum or Articles of Association of the Company.

## **SCHEDULE I** to the Articles of Association

### **CLASSES OF MEMBERSHIP**

The Foundation has the following membership categories:

1. **Advanced Diploma Member (AD)** A Diploma holder who had been practising for a minimum of 1 year, amassed a total of not less the 200 supervised client hours and been recommended by a Viva Board for Advanced Diploma Status.

This category entitles the Advanced Diploma Holder to receive all newsletters, their name on the register for referrals, to participate in the Foundation's activities and to receive the full support of the Foundation.

2. **Diploma Member (D)** An individual who has satisfactorily completed the Diploma Course, (minimum 350 training hours) been independently assessed within the Foundation and licensed by the Foundation to practise.

This category entitles the Diploma Holder to receive all newsletters, their name on the register for referrals, to participate in the Foundation's activities and to receive the full support of the Foundation.

3. **Associate Member. (AS)** A Diploma holder or Advanced Diploma holder who for varying reasons is not currently practising as a therapist. This category entitles the Associate Member to receive all newsletters and access to training information to participate in the Foundation's activities, and to receive the full support of the Foundation.

4. **Student Member (SM)** An individual who, has satisfactorily completed the Foundation Course and been invited to join the Diploma Course

This category entitles the Student Member to receive all newsletters and participate in all the Foundation activities and to receive the full support of the Foundation.

5. **Friend (FD)** (i) An individual who has completed the Foundation Course but has not been invited, or does not wish, to undertake further training with the Foundation but nevertheless wishes to remain a member of the Foundation .

(ii) Any member of the public who wishes to support the work of the Foundation and who would like to donate to the Foundation

This category will receive all newsletters.

6. **Honorary Member** An individual who has made a significant contribution to the work and development of the Foundation. The decision to extend an invitation to an individual to become an Honorary Member rests with the Management Council.

This category will receive all newsletters and a full list of other members, to participate in the Foundation's activities and to receive the full support of the Foundation.

## **SCHEDULE II** to the Articles of Association

### **ELECTION TO THE MANAGEMENT COUNCIL**

1. All certificated and practising members of the Company shall be eligible to be elected to the Council.
2. Each such member of the Company shall have one vote.
3. One-third (or the nearest equivalent) of the Council shall retire at each Annual General Meeting and may stand for re-election provided that no member, if re-elected, shall have served on the Council for more than nine years continuously. A member shall then be barred from standing for election to Council again for three years unless members of the Company vote to waive this rule at an Annual General Meeting in respect of one particular member and in exceptional circumstances. Lots shall be drawn to decide which non-office bearing members shall retire at the second and at the third Annual General Meetings.
4. The number of non-office bearing members of the Council will normally at least equal the number of office bearers.
5. The honorary office bearers will be: chairman, secretary, treasurer and other honorary officers. The number and position of office bearers may be varied by Council according to the perceived needs of the Foundation provided always that the number of non-office bearing members does not fall below six. If the number of office bearers is increased, further non-office bearing members may be co-opted on to the Council, if required to balance numbers, until the next Annual General Meeting at which time an election shall be held for the additional place(s) on the Council.
6. Office bearers will normally be appointed by election within Council from among their elected members to hold office for a period of two years. An office bearer may stand for re-election but may not be an office bearer for more than eight consecutive years, after which time he must not stand for election to Council for two years, unless members of the Company at an Annual General Meeting vote to waive this rule in respect of one particular member and in exceptional circumstances.
7. The chairman of the Council will normally have held at least one of the other offices on the Council prior to election to the chair.
8. Other office bearers will normally have been members of the Council for at least one year prior to assuming office.
9. The above rules will become operative with affect from the first Annual General Meeting.
10. The office bearers and members of the Council as at the date of incorporation may continue in office until the second Annual General Meeting.

11. No later than the end of the first full year from the date of incorporation, the number of non-office bearing Council members shall be increased to six through co-option or by election at the first Annual General Meeting.

12. The retiring chairman may be invited to remain in office as an ex-officio member of Council for one year after ceasing to hold office.

13. The Secretary of the Company, or someone appointed by the Secretary as his/her deputy, shall be in attendance at all Council Meetings and at all General Meetings. Unless the Secretary of the Company nominates an alternative, the secretary to the Council will act, as deputy for the Secretary of the Company at any meetings where the Secretary of the Company is not present in person and his/her presence would normally be required.