

COMPANIES ACT 2014
CONSTITUTION
OF
MERCY UNIVERSITY HOSPITAL CORK
COMPANY LIMITED BY GUARANTEE

As amended by Special Resolution dated 23rd September 2016



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Schedule 1: Governance Charter

MEMORANDUM OF ASSOCIATION
OF
MERCY UNIVERSITY HOSPITAL CORK
COMPANY LIMITED BY GUARANTEE

As amended by Special Resolution dated 23th September 2016

- 1 The name of the company is **MERCY UNIVERSITY HOSPITAL CORK COMPANY LIMITED BY GUARANTEE**
- 2 The Company is a company limited by guarantee registered under Part 18 of the Act.
- 3 The main object for which the Company is established (the “Main Object”) is:
 - 3.1 the relief, cure and the prevention of sickness and to provide, construct and continue the governance, management, control and development of the Mercy University Hospital Cork and all ancillary services and facilities within and associated with the Hospital in accordance with the Mercy Care South Governance Charter (hereinafter referred to as the “Governance Charter”) appended hereto as Schedule 1.
4. As objects incidental and ancillary to the attainment of the Main Object, the Company shall have the following subsidiary objects:
 - 4.1. To provide, endow, furnish and fit out with all necessary furniture, instruments and other equipment and maintain and manage a hospital with or without a medical school and nursing institute or either of them for the treatment of all patients.
 - 4.2. To carry on business in all accessories and supplies required for use in the treatment and care of the sick and to buy, sell, manufacture and deal in all articles, goods, wares, materials, substances and things normally dealt with by persons carrying on the above-mentioned businesses, or any of them, as are or likely to be required in connection with any of the said businesses.
 - 4.3. To promote opportunities for education and research having regard to Company’s Main Object and the Governance Charter.
 - 4.4. To provide such services connected with the above main object and in accordance with the Governance Charter as are considered to be of assistance and benefit for furthering the Main Object of the Company.
5. The Company shall in addition to the powers conferred on it by law have the following powers which are exclusively subsidiary and ancillary to the Main Object and which powers may only be exercised in promoting the Main Object. Any income generated by the exercise of these powers is to be applied to the promotion of the Main Object;
 - 5.1. To organise, sponsor and conduct (whether alone or with others) (having regard to Company’s main object and the Governance Charter) educational and training courses,

meetings, conferences and exhibitions concerned with the Main Object of the Company. To collect, co-ordinate and make available, (by publication or any form of communication) information relative to the activities of the Company.

- 5.2. To employ all such officers and servants as may be required for the purposes of the Company and to make all reasonable and necessary provisions for the payment of wages, salaries, pensions and superannuation to or on behalf of such officers or servants (including former officers or servants), their widows and dependants.
- 5.3. To grant pensions, gratuities, allowances or charitable aid to any person who may have served the body as an employee, or to the wives, husbands, children or other dependents of such person provided that such pensions, gratuities, allowances or charitable aid shall be no more than that provided by a pension scheme covered by Part 30 of the Taxes Consolidation Act 1997 and provided that such pension scheme has been operated by the body and the beneficiary of the pensions, gratuities, allowances or charitable aid, or their spouse or parent, has been a member of the pension scheme while employed by the Company; and to make payments towards insurance and to form and contribute to provident and benefit funds for the benefit of any persons employed by the Company and to subscribe to guarantee money for charitable objects.
- 5.4. To receive and administer and allocate public funds, grants and gifts made available to the Company for its aforesaid main object (and whether or not such grants or gifts are made from such public funds or otherwise) under the terms and conditions attached to such public funds, grants and gifts (having regard to Company's main object and the Governance Charter).
- 5.5. To accept and receive any donation of property of any nature and any devise, legacy, annuity, description, contribution of funds for the purpose of furthering the Company's main object and enter into such arrangements with the Mercy University Hospital Cork Foundation (a company limited by guarantee incorporated in Ireland under registered number 43550) (or any other company or organisation) with respect to the raising of and administration of such funds for the Company.
- 5.6. To establish, promote, amalgamate, co-operate or federate with, affiliate or become affiliated to, act as trustee or agent for or manage or lend money or assistance to any association, society, company or other body whether or not incorporated, with similar main object but so that none of the funds of the Company shall be paid to any federated, affiliated or co-operative association, society or other body which does not prohibit the distribution of its income and property among its Members.
- 5.7. To establish and support or aid in the establishment or support of any charitable association or institution, trust or fund, and to subscribe or guarantee money for any charitable purpose which the Company will consider calculated to promote its main object (having regard to Company's main object and the Governance Charter).
- 5.8. To undertake, accept, execute and administer without any remuneration any charitable trust which is in accord with (i) the main object of the Company; and/or (ii) the Governance Charter).

- 5.9. To borrow or raise any money that may be required by the Company upon such terms as may be desirable and in particular by way of unsecured loan or mortgage or by way of charge on all or any part of the property of the Company subject to the approval of Mercy Care South.
- 5.10. To draw, make, accept, endorse, discount, execute and issue negotiable or transferable instruments for any charitable purpose which the Company shall consider necessary to promote its main object.
- 5.11. To invest the money of the Company not immediately required for its purpose in or upon such investments, securities or property as the Board shall think fit, and in accord with the Company's ethical policy (having regard to Company's main object and the Governance Charter), subject nevertheless to such conditions (if any) and such consents (if any) as may for the time being be imposed or required by law. Prior permission to be obtained from the Revenue Commissioners where it is intended to accumulate funds over a period in excess of (2) two years.
- 5.12. To purchase, take on or lease or in exchange, hire or otherwise acquire any real property and any rights or privileges and to construct, erect, alter, improve and maintain any buildings which may be required from time to time by the Company and to manage, develop, sell, demise, let, dispose of, turn to account or otherwise deal with all or any part of the same.
- 5.13. To transfer (whether or not for valuable consideration) any part of the property or assets of the Company not required for the purposes for which it is formed to any charitable body or a charitable purpose having similar main objects to those of the Company provided that such body is not carrying on business for profit or gain and does not distribute its income or property by way of dividend, bonus or otherwise amongst Members.
- 5.14. To sell, let, mortgage, dispose of or otherwise deal with all or any of the property or assets of the Company as may be thought expedient with a view to the furtherance of its main object.
- 5.15. To effect insurances and to take such other measures as may be considered necessary or expedient for the purposes of safeguarding and securing the Company and its Directors, Mercy Care South, employees and people using its premises and any property of which the Company may be a Trustee, Manager, Agent or Custodian, against liability, loss and damage of every description.
- 5.16. To grant pensions, gratuities, allowances or charitable aid to any person who may have served the body as an employee, or to the wives, husbands, children or other dependents of such person provided that such pensions, gratuities, allowances or charitable aid shall be no more than that provided by a pension scheme covered by Part 30 of the Taxes Consolidation Act 1997 and provided that such pension scheme has been operated by the body and the beneficiary of the pensions, gratuities, allowances or charitable aid, or their spouse or parent, has been a member of the pension scheme while employed by the Company; and to make payments towards insurance and to form and contribute to provident and benefit funds for the benefit of any persons employed by the Company and to subscribe to guarantee money for charitable objects.

- 5.17. To obtain sponsorship, which is to be considered to be of benefit in furthering the main object of the Company, and is in accord with the Company's ethical policy (having regard to Company's main object and the Governance Charter).
- 5.18. To raise funds for the main object of the Company by public subscription and appeals in conjunction with the Mercy University Hospital Cork Foundation (a company limited by guarantee incorporated in Ireland under registered number 43550).
- 5.19. To pay all expenses preliminary or incidental to the formation of the Company and its registration and all other expenses, which it shall from time to time, consider necessary or expedient for the lawful objects of the Company.
- 5.20. To do all or any of the above things as principals, agents, trustees or otherwise and by or through trustees, agents or otherwise.
- 5.21. To enter into any agreement with any government or local or other authority that may seem conducive to the Company's main object and to obtain from any such government or authority any rights, privileges and concessions which the Company may think desirable to obtain and carry out and to exercise and to comply with same.
- 5.22. To promote programmes and to provide a working environment for staff development and appraisal by means of teaching, continuing education and training activities, in each case in a manner which is in conformity with (i) the Governance Charter; and (ii) the Company's main object.
- 5.23. To promote and secure the values and philosophies enshrined in the Governance Charter.
- 5.24. To promote the provision of Health Care Services for those who are disadvantaged in a manner which is in conformity with the values and philosophies enshrined in the Governance Charter.
- 5.25. To delegate to the Management such powers and rights to operate and run the relevant Health Care Facility as the Board shall determine, subject always to such Health Care Facility being operated and run at all times in a manner which is in conformity with the Governance Charter.
- 5.26. To allow for the delivery of and holding in all or any of the Company's premises (including Health Care Facilities) or elsewhere (if desired), lectures, exhibitions, musical and dramatic performances, liturgical and/para-liturgical events, public meetings, classes, conferences and social or other events which (i) will advance the main object of the Company and (ii) are compatible with the Governance Charter.
- 5.27. To provide for, organise and/or arrange for the financing of education and training courses concerned with any of the main object of the Company (including to provide and/or arrange educational facilities for any person attending a Health Care Facility). To create, endow, establish or otherwise found or grant aid for educational research, educational scholarships, exhibitions, prizes and/or awards which (i) will advance the main object of the Company and (ii) are compatible with the Governance Charter.

- 5.28. To act in partnership in the provision of services that are compatible with the Company's main object; and (ii) the Governance Charter.
- 5.29. To oppose any proceedings, application(s), order(s), law(s), regulation(s) and/or statute(s) which the Board determines to be prejudicial to the interests of the Company.
- 5.30. To apply for, promote and/or obtain any order, law, regulation or statute to enable the Company to carry its main object and purposes into effect or for any other purpose the Board determines to be expedient.
- 5.31. To foster, through each Health Care Facility and/or the provision of Health Care Services, respect and care for all natural persons in a manner which is in conformity with the Governance Charter.
- 5.32. To cause the Company to be wound up or dissolved if legislation has been enacted in the State which the Board determines is in conflict with the main object of the Company set out at clause 3 of this Memorandum of Association and/or which the Board determines is likely to make the Governance Charter inoperable or ultra vires the Company.
- 5.33. To do all such other lawful things as are incidental or conducive to the attainment of the above main object.
- 5.34. To procure the Company to be registered in any part of the world.
- 5.35. To transact or carry on any other business which may seem to the Company capable of being conveniently carried on in connection with its main object.
- 5.36. To do all or any of the above things in any part of the world, either alone or in conjunction with others and either as principals, agents, contractors, factors, trustees or otherwise and either by or through agents, contractors, factors, trustees or otherwise.

The word "company" in this clause except where used in reference to this Company, where the context so admits, shall be deemed to include any partnership or other body of persons whether incorporated or not incorporated or whether domiciled or registered in Ireland or elsewhere and the intention is that in the construction of this clause the objects set forth in each of the foregoing sub-paragraphs shall, except where otherwise expressed in the same paragraph, be regarded as independent objects and accordingly shall in no way be limited or restricted by reference to or inference from the terms of any other sub-clause or the name of the Company, but may be carried out in as full and ample a manner and construed in as wide a sense as if each defined the objects of a separate and distinct company.

Provided always that the provisions of this clause shall be subject to the Company obtaining, where necessary for the purpose of carrying any of its objects into effect, such licence, permit or authority as may be required by law.

Limited Liability

- 5 The liability of the Members is limited.

- 6 Every Member of the Company undertakes to contribute to the assets of the Company, if the Company is wound up while he or she is a Member or is wound up within one year after the date on which he or she ceases to be a Member, for:
- 6.1 the payment of the debts and liabilities of the Company contracted before he or she ceases to be a Member, and the costs, charges and expenses of winding up; and
- 6.2 the adjustment of the rights of contributories among themselves,
such amount as may be required, not exceeding EUR1.00.

Winding Up

- 7 If upon the winding up or dissolution of the Company there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the Members of the Company. Instead such property shall be given or transferred to:
- 7.1 Mercy Care South for its charitable purposes; or
- 7.2 in the event that Mercy Care South ceases to exist the Southern Province; or
- 7.3 in the event the Southern Province ceases to exist, the Congregation for its charitable purpose; or
- 7.4 in the event that the Congregation ceases to exist, to the Roman Catholic Bishop of Cork and Ross (or such other title as may be substituted for the Roman Catholic Bishop of Cork and Ross within the Roman Catholic Church from time to time) for his charitable purposes and failing such, to some other charitable institution or institutions having main objects similar to the main object of the Company. The institution or institutions to which the property is to be given or transferred shall prohibit the distribution of their income and property among their Members to an extent at least as great as is imposed on the Company under or by virtue of Clause 9 hereof. Members of the Company shall select the relevant institution or institutions at or before the time of dissolution, and if and so far as effect cannot be given to such provisions, then the property shall be given or transferred to some charitable object with the agreement of the Charities Regulatory Authority for the time being or its successors and if and so far as effect cannot be given to the aforesaid provision then to some charitable object which is consistent with the ethos of the Roman Catholic Church. Final accounts will be prepared and submitted that will include a section that identifies and values any assets transferred along with the details of the recipients and the terms of the transfer.

Income and Property

- 8 The income and property of the Company shall be applied solely towards the promotion of main object(s) as set forth in this Constitution. No portion of the Company's income and property shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever by way of profit to Members of the Company. No Director shall be appointed to any office of the Company paid by salary or fees, or receive any remuneration or other benefit in money or money's worth from the Company. However, nothing shall prevent any payment in good faith by the Company of:

- 8.1 reasonable and proper remuneration to any Member or servant of the Company (not being a Director) for any services rendered to the Company;
- 8.2 interest at a rate not exceeding 1% above the Euro Interbank Offered Rate (Euribor) per annum on money lent by Directors or other Members of the Company to the Company;
- 8.3 reasonable and proper rent for premises demised and let by any Member of the Company (including any Director) to the Company;
- 8.4 reasonable and proper out-of-pocket expenses incurred by any Director in connection with their attendance to any matter affecting the Company;
- 8.5 fees, remuneration or other benefit in money or money's worth to any Company of which a Director may be a Member holding not more than one hundredth part of the issued capital of such Company;
- 8.6 Nothing shall prevent any payment by the company to a person pursuant to an agreement entered into in compliance with section 89 of the Charities Act, 2009 (as for the time being amended, extended or replaced).

Alteration and Amendment

- 9 The Company must ensure that the Charities Regulatory Authority has a copy of its most recent governing instrument. If it is proposed to make an amendment to the Constitution of the Company which requires the prior approval of the Charities Regulatory Authority, advance notice in writing of the proposed changes must be given to the Charities Regulator Authority for approval, and the amendment shall not take effect until such approval is received.

Accounts

- 10.1 Annual audited accounts shall be kept and made available to the Revenue Commissioners on request.
- 10.2 True accounts shall be kept of the sums of money received and expended by the Company and the matters in respect of which such receipt and expenditure take place and of the property, credits and liabilities of the Company and subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed in accordance with the Regulations of the Company for the time being in force, shall be open to inspection of the Members or any of them. Once at least in every year the accounts of the Company shall be examined and the correctness of those accounts shall be ascertained by one or more properly qualified auditor or auditors.

ARTICLES OF ASSOCIATION
OF
MERCY UNIVERSITY HOSPITAL CORK
COMPANY LIMITED BY GUARANTEE

As amended by Special Resolution dated 23rd September 2016

1 Interpretation

1.1 In this Constitution:

“**Act**” means the Companies Act 2014 and every statutory modification or re-enactment thereof for the time being in force;

“**Annual General Meeting**” means the Annual General Meeting of the Company;

“**Articles**” means these Articles of Association of the Company (and as same may be amended from time to time);

“**Auditor**” means the qualified accountant and/or firm of accountants who conduct an annual audit to verify the accuracy of the financial records and accounting practices of the Company;

“**Auditors Report**” means the annual financial report of the Company prepared by the Auditor to verify the accuracy of the financial records and accounting practices of the Company;

“**Board**” means the Board of Directors of the Company from time to time;

“**Chairperson**” means any person appointed pursuant to Regulation 24 (or Regulation 25, as the case may be) to perform the duties of the ‘chairperson of the Board’;

“**Charities Act**” means the Charities Act 2009 and every statutory modification or re-enactment thereof for the time being in force;

“**Charities Regulatory Authority**” means the Charities Regulatory Authority established under the Charities Act;

“**Chief Executive Officer**” means, in respect of the Hospital any person appointed pursuant to Regulation 26 to perform the duties of the ‘chief executive officer’ of the Hospital;

“**Clear days**” in relation to the period of a notice means that period excluding: (i) the day when the notice is given or deemed to be given; and (ii) the day for which it was given or on which it is to take effect;

“**Committee**” means any committee established in accordance with the Articles as the context so requires;

“**Company**” means this company, being Mercy University Hospital Cork Company Limited by Guarantee incorporated in Ireland under registered number 353064;

“Congregation” means the Congregation of the Sisters of Mercy in Ireland;

“Constitution” has the meaning set out in Regulation 1.2;

“Director” means the Directors of the Company from time to time, and each a **Director**;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels on 17 March 1993;

“EEA state” means a state, including the State, which is a contracting party to the EEA Agreement;

“Electronic Communication”, “Electronic Signature” and “Advanced Electronic Signature” each has the meaning set out in the Electronic Commerce Act 2000;

“Executive Management Committee” means, in respect of a Health Care Facility, the ‘executive management committee’ for the Hospital as referred to in Regulation 26.6;

“Extraordinary General Meeting” means an ‘Extraordinary General Meeting’ of the Company (as the context requires);

“General Meeting” means the ‘Annual General Meeting’ or an ‘Extraordinary General Meeting’ of the Company (as the context requires);

“Governance Charter” means Mercy Care South Governance Charter as appended hereto as Schedule 1 and as notified in writing by Mercy Care South to the Company from time to time;

“Health Care Services” means any mission, endeavour, service, project, research, enterprise, venture, undertaking, scheme or the like (including, but not limited to, the establishment and provision of hospitals, staff, clinics, surgical and other health care facilities) which is directed to the service, cure and/or care of the sick, the aged, the dying, the afflicted and/or the weak in the community in general, the promotion of the well-being of the human person (both physical and mental), research into the promotion of health, the relief, cure and/or prevention of sickness and/or disability and/or into the causes and healing of illness in any of its forms (including, but not limited to, the promotion, establishment and/or provision of medical advice, healthcare facilities, staff, health care treatment and/or any hospital, hospice, nursing home, retirement village and/or community health care service), and the provision of health care education including but not limited to medical school and/or nursing education;

“Health Care Facility” means a facility providing Health Care Services and which is owned, governed, conducted, operated, managed and/or controlled by the Company either alone or jointly or in conjunction with another healthcare provider;

“Hospital” means the Mercy University Hospital Cork;

“In writing” means written, printed or lithographed or partly one or partly the other and other modes of representing or reproducing words in visible form (including Electronic Mail);

“Management” means in respect of a Health Care Facility, the Executive Management Committee of that Health Care Facility (or its equivalent);

“Members” mean the Members of the Company from time to time;

“Memorandum of Association” means the Memorandum of Association of the Company (and as same may be amended from time to time);

“Mercy Care South” means Mercy Care South Company Limited by Guarantee incorporated in Ireland under registered number 588962;

“Mercy Companies” means Mercy Care South and its Subsidiaries from time to time and each a Mercy Company;

“Month” means calendar month;

“Ordinary resolution” means a resolution passed by a simple majority of the votes cast by Members of the Company as, being entitled to do so, vote in person or by proxy at a General Meeting of the Company;

“Registered person” means such person as is authorised to bind the Company in accordance with section 39 of the Act;

“Registered Office” means the registered office of the Company from time to time;

“Regulations” means provisions of these Articles, as amended from time to time;

“Seal” means the common seal of the Company;

“Secretary” means the Secretary of the Company or any other person appointed under Regulation 11 to perform the duties of the Secretary of the Company, including a joint, assistant or deputy Secretary;

“Southern Province” means the Southern Province of the Congregation;

“Special resolution” means a resolution passed by not less than 75 per cent of the votes cast by such Members of the Company as, being entitled to do so, vote in person or by proxy at a General Meeting of the Company;

“State” means the Republic of Ireland;

“Subsidiary” has the same meaning as Section 7 of the Act;

“Vice-Chairperson” means any person appointed pursuant to Regulation 25 to perform the duties of the vice chairperson of the Board;

1.2 The optional provisions of the Act (as defined by section 54 of the Act) shall apply to the Company save to the extent that they are excluded or modified by this Constitution and such optional provisions (as so excluded or modified) together with the Regulations contained in this Constitution shall constitute the Regulations of the Company (the **“Constitution”**);

- 1.3 Words denoting the singular number include the plural number and vice versa and words denoting a gender include each gender;
- 1.4 Words or expressions contained in this Constitution which are not defined in this Constitution but are defined in the Act have the same meaning as in the Act at the date of adoption of this Constitution unless inconsistent with the subject or context;
- 1.5 Headings are inserted for convenience only and do not affect the construction of this Constitution;
- 1.6 Any reference to a “person” shall be construed as a reference to any individual, firm, company, corporation, undertaking, government, state or agency of a state or any association or partnership (whether or not having separate legal personality);
- 1.7 Powers of delegation shall not be restrictively construed but the widest interpretation shall be given to them and except where expressly provided by the terms of delegation, the delegation of a power shall not exclude the concurrent exercise of that power by any other body or person who is for the time being authorised to exercise it under this Constitution or under another delegation of the power;
- 1.8 References to “writing” mean the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, and “written” shall be construed accordingly; and
- 1.9 Any reference to any statute, statutory provision or to any order or Regulation shall (save as expressly provided in this Constitution) be construed as a reference to the statute, provision, order or Regulation as extended, modified, amended, replaced or re-enacted from time to time (whether before or after the date of adoption of this Constitution) and all statutory instruments, Regulations and orders from time to time made thereunder or deriving validity therefrom (whether before or after the date of adoption of this Constitution).

MEMBERSHIP

2 Membership of the Company

- 2.1 The initial subscribers of which there was eight (8), shall be the first Members of the Company.
- 2.2 Subject to Regulation 2.3, the Members with the consent of Mercy Care South may from time to time register an increase or decrease of Members.
- 2.3 If and when the number of Members becomes reduced to less than three (3), steps will be taken immediately by the remaining Members to increase the number to amend this.
- 2.4 The Members of the Company shall be the following:
 - 2.4.1 Mercy Care South;
 - 2.4.2 The Chairperson of the Board of Directors of Mercy Care South;
 - 2.4.3 The Vice Chairperson of the Board of Directors of Mercy Care South; and

- 2.4.4 Such other persons as Mercy Care South shall appoint.
- 2.5 The Secretary shall keep an accurate Register of Members;
- 2.6 The Board may authorise the payment by the Company to the Members or any of them of any reasonable and proper out of pocket expenses incurred by it in performance of duties or otherwise in connection with the affairs of the Company;
- 2.7 Membership of the Company shall cease:
 - 2.7.1 on the Members death;
 - 2.7.2 if the Member resigns by notice in writing to the Secretary;
 - 2.7.3 if the Member becomes of unsound mind;
 - 2.7.4 on removal by Mercy Care South;
 - 2.7.5 if the Member ceases to be the Chairperson or Vice Chairperson of the Board of Directors of Mercy Care South;
 - 2.7.6 if the Member is adjudicated bankrupt or being a bankrupt has not obtained a certificate of discharge in the relevant jurisdiction;
 - 2.7.7 If the Member is disqualified from being a charity trustee of any charitable organisation pursuant to section 55 of the Charities Act.

RESERVED POWERS TO THE MERCY CARE SOUTH

3. Reserved Powers

- 3.1. Notwithstanding the powers of the Board, and/or anything else contained within the Memorandum of Association and/or within these Articles, each of the following matters are specifically and exclusively reserved to Mercy Care South and shall not be valid or effected unless and until approved by Mercy Care South in writing:
 - 3.1.1 any amendment or alteration of the Memorandum of Association of the Company, the Memorandum of Association of any subsidiary of the Company from time to time, the Articles of Association of the Company and/or the Articles of Association of any subsidiary of the Company from time to time;
 - 3.1.2 without prejudice to Regulation 3.1.8 below, the approval of any financial transaction (including contractual or sequential transactions) in circumstances where that financial transaction (including contractual or sequential transactions):
 - 3.1.2.1 occurs outside the day to day business of the Company; and
 - 3.1.2.2 exceeds the figure notified to the Company by Mercy Care South from time to time in writing (the "Threshold Figure").

(For the purposes of this Regulation 3.1.2.2 '**occurs outside the day to day business of the Company**' means any financial transaction (including charging and/or creating a encumbrance over any equipment owned by the Company) that is not normal routine within the context of the management of the day to day management and operations of a Health Care Facility;

- 3.1.3. the merger, consolidation or amalgamation of the Company, any subsidiary of the Company from time to time and/or any Health Care Facility (including the entering into of any partnership, joint venture or other enterprise) with another entity (including without limitation any person, charitable trust, religious congregation or company);
- 3.1.4. the approval of any change in the vision, mission and ethos (having regard to the Governance Charter), of all or any of the facilities (including Health Care Facility) operated, owned and/or controlled by the Company and/or by any subsidiary of the Company;
- 3.1.5. the liquidation or winding-up of the Company, and/or any subsidiary of the Company from time to time;
- 3.1.6. any amendment or alteration of the Governance Charter;
- 3.1.7. the issuing of any direction by the Company, including to a Mercy Company, as regards the interpretation of the Governance Charter or any part(s) of it and/or the implementation of the Governance Charter, or any part(s) of it, by a Mercy Company from time to time and/or any Health Care Facility (or any of them);
- 3.1.8. any proposed sale, transfer and/or alienation of any land(s) and/or building(s) owned by the Company, and/or any subsidiary of the Company from time to time. (For the purposes of this Regulation 3.1.8, 'alienation' shall (without limitation) include charging, hiring, leasing, mortgaging, renting and/or selling);
- 3.1.9. any decision of the Board whatsoever if at the meeting of the Board at which the relevant matter is raised: (i) the Chairperson; and (ii) at least any two Directors, advise the meeting that the matter should be referred to Mercy Care South; and
- 3.1.10. such other matters as may be notified in writing by Mercy Care South to the Board from time to time.

Where a matter is one that is reserved to Mercy Care South pursuant to this Regulation 3, the Board shall prepare a written statement of the issue and the reasons in support of the Board's decision and shall forward it to Mercy Care South for consideration.

COMPANY ETHOS

4. Company Ethos and Governance Charter

- 4.1 The ethos, values and policies of the Company shall at all times be in accordance with the Governance Charter. The Company shall at all times carry on its business and

undertaking (including, for the avoidance of doubt, the provision of Health Care Services), and shall ensure that each and any of its subsidiary companies from time to time, and each and any Health Care Facility, shall carry on its business and undertaking (including, for the avoidance of doubt, the provision of Health Care Services), in a manner which is in conformity with the Governance Charter.

4.2 The Board shall be responsible for ensuring: (i) the implementation of the Governance Charter by the Company in respect of each of its Health Care Services and Health Care Facilities; and (ii) the compliance by the Company, and of each of the Health Care Facilities, with the Governance Charter. In this regard, the Board shall, at all times, ensure that:

4.2.1 adequate processes and procedures are in place to ensure that each Health Care Facility, and its Management, is familiar with the Governance Charter;

4.2.2 adequate processes and procedures are in place to monitor each Health Care Facility's compliance with the Governance Charter; and

4.2.3 the services, including all Health Care Services, provided by each Health Care Facility are consistent with the Governance Charter

5. Interpretation of the Governance Charter

5.1 If at any time the Board, or a majority of the Board, is uncertain as to: (a) the interpretation of the Governance Charter or any part(s) of it; and/or (b) whether any service, or Health Care Service, is, or would if provided by a Health Care Facility be, contrary to the Governance Charter, then the matter shall be referred in writing to Mercy Care South for consideration. Once notified to the Board in writing, Mercy Care South's decision on the matter: (i) shall be binding on the Company and the Board; and (ii) shall not be open to challenge (including without prejudice to the generality of the foregoing, by the Company, the Board and/or any member(s) of the Board).

5.2 Notwithstanding Regulation 5.1 above, Mercy Care South shall at any time, and from time to time, on its own initiative be entitled to issue a direction to the Company as regards: (a) the interpretation of the Governance Charter or any part(s) of it; and/or (b) the implementation of the Governance Charter, or any part(s) of it, by the Company and/or the Health Care Facilities (or any of them) (a Direction). Once notified to the Board in writing, a Direction: (i) shall be binding on the Company and the Board; and (ii) shall not be open to challenge (including, without prejudice to the generality of the foregoing, by the Company, the Board and/or any member(s) of the Board). Where a Direction requires any action to be taken by the Company and/or any Health Care Facility, the Company shall take, and/or shall procure that each relevant Health Care Facility shall take, such action as is required to comply in full with the Direction. Where a Direction requires the Company and/or any Health Care Facility to refrain from taking any action, the Company shall refrain from taking, and/or shall procure that each relevant Health Care Facility shall refrain from taking, any such action.

CORPORATE CAPACITY AND AUTHORITY

6 Registered Person

- 6.1 Where the Board of Directors authorises any person as being a person entitled to bind the Company (not being an entitlement to bind that is, expressly or impliedly, restricted to a particular transaction or class of transactions), the Company may notify the Registrar of the authorisation in accordance with section 39 of the Act.

7 Powers of Attorney

- 7.1 The Company may empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds or do any other matter on its behalf in any place whether inside or outside the State for the time being. A deed signed by such attorney on behalf of the Company shall bind the Company and have the same effect as if it were under its common seal.

8 The Common Seal

- 8.1 The Company shall have a common seal or seals that shall state the Company's name, engraved in legible characters.
- 8.2 The Company's seal shall be used only by the authority of its Directors, or of a Committee of its Directors authorised by its Directors in that behalf. Any instrument to which the Company's seal shall be affixed shall be:
- 8.2.1 signed by a Director and be countersigned by the Secretary or by a second Director of it or by some other person appointed for the purpose by its Directors or by a foregoing committee of them; or
- 8.2.2 signed by a person (including a Director) appointed for the purpose by its Directors or a committee of its Directors authorised by its Directors in that behalf.
- 8.3 If there is a Registered person in relation to the Company, the Company's seal may be used by such person and any instrument to which the Company's seal shall be affixed when it is used by the Registered person shall be signed by that person and countersigned:
- 8.3.1 by the Secretary or a Director; or
- 8.3.2 by some other person appointed for the purpose by its Directors or a committee of its Directors authorised by its Directors in that behalf.
- 8.4 Any instrument to which the common seal is affixed shall not be signed by the same person acting both as Director and Secretary.
- 8.5 Section 43(2) and section 43(3) of the Act do not apply.

9 Power for Company to have Official Seal for use Abroad

- 9.1 The Company may have for use in any place abroad (being a territory, district or place not situate in the State) an official seal which shall resemble the common seal of the Company with the addition on its face of the name of every place abroad where it is to be used.
- 9.2 A deed or other document to which an official seal is duly affixed shall bind the Company as if it had been sealed with the common seal of the Company.
- 9.3 If the Company has an official seal for use in any place abroad it may, by writing under its common seal, authorise any person appointed for the purpose in that place (the "agent") to affix the official seal to any deed or other document to which the Company is party in that place.
- 9.4 The authority of the agent shall, as between the Company and any person dealing with the agent, continue during the period, if any, mentioned in the instrument conferring the authority, or, if no period is there mentioned, then until the notice of revocation or determination of the agent's authority has been given to the person dealing with him or her.
- 9.5 The person affixing an official seal shall, by writing under his or her hand, certify on the deed or other instrument to which the seal is affixed, the date on which and the place at which it is affixed.

10 Debentures

- 10.1 The Company shall:
- 10.1.1 neither apply to have securities (or interests in them) admitted to trading or to be listed on; nor
- 10.1.2 have securities (or interests in them) admitted to trading or listed on,
- any market, whether a regulated market or not, in the State or elsewhere; however nothing in this Regulation prohibits the admission to trading or listing (or an application being made therefor) on any market of debentures (or interests in them) for the purposes of any of paragraphs (a) to (e) of section 68(3) of the Act.

CORPORATE GOVERNANCE

11 Company Secretary

- 11.1 The Secretary shall be appointed by the Directors for such term, at such remuneration (unless the Secretary is also a Director in which case the Secretary cannot be remunerated) and upon such conditions as they may think fit and any Secretary so appointed may be removed by them.
- 11.2 The Secretary shall be responsible for the maintenance and custody of the records and books required by the Acts. The Secretary may attend all meetings and all General Meetings of the Company as requested and may also attend meetings of such other committees as may be determined by the Board.

- 11.3 The provisions of the Act or these Articles requiring or authorising a matter to be done by or to a Director and the Secretary, shall not be satisfied by its being done by or to the same person acting both as Director and as or in place of the Secretary.

12 Directors

- 12.1 The Company shall have at least three (3) Directors but not more than twelve (12) Directors, the majority of whom must be resident in the State for the time being.
- 12.2 The affairs of the Company shall be managed by the Board, which shall be responsible to the Members of the Company.
- 12.3 The objective of the Board is to achieve a process of decision-making which will provide for the needs of all working within the Company and those served by the Company
- 12.4 The role of the Board shall be to :
- 12.4.1. Set a clear strategy for the Company and monitor the implementation of the strategy by Management; and
- 12.4.2. Determine the appropriate policies for the Company and ensure all such policies are being effectively implemented by Management.

13 Appointment of Director

- 13.1 Any purported appointment of a Director without that Director's consent shall be void.
- 13.2 The first Director of the Company shall be deemed to be appointed in accordance with Section 144(2) of the Act. Thereafter the Directors of the Company shall be appointed in accordance with these Regulations.
- 13.3 Mercy Care South shall have the sole and exclusive right, by notice in writing to the Board, to appoint the Directors of the Company. Only those persons who have been approved by Mercy Care South by notice in writing to the Board (a "**Directors Approval**") shall be eligible to be appointed as Directors. A person shall be, and shall be deemed to have been, appointed as a Director immediately with effect from the time their Directors Approval has been received by the Board. Without prejudice to the foregoing, the Company and the Board shall, on receipt of a Directors Approval, appoint as a Director each person the subject of a Directors Approval.

Provided however, nothing in this Regulation 13.3 shall act to invalidate the appointment of a Director who has been appointed prior to the date of adoption of these Articles. All such persons shall continue as Directors unless and until that person resigns or is removed under Regulation 14.1 in accordance with these Articles.

It shall be a condition of each person's appointment as a Director that their appointment as Director is conditional on the approval, and the continued approval, of Mercy Care South as such, Mercy Care South shall have the sole and exclusive right, at any time by notice in writing to the Board (a "**Director's Revocation Notice**"), to immediately revoke and terminate a Director's appointment and to remove that Director. Any Director who is the subject of a Director's Revocation Notice shall resign, and shall be deemed to have

resigned and been removed as a Director of the Company, with effect from the time the Director's Revocation Notice is received by the Board. On receipt of a Director's Revocation Notice the Board shall: (i) instruct the Company Secretary to remove such person's name from the 'Register of Directors' and to take all such other steps and file all such documents and/or forms as are required to record and/or effect the said resignation; and (ii) notify the relevant person that their appointment as a Director of the Company has ceased. There shall be no right to appeal a Director's Revocation Notice and no person the subject of a Director's Revocation Notice shall be entitled to prior notice of the Director's Revocation Notice. For the avoidance of doubt, Mercy Care South may, at any time by serving a Director's Revocation Notice, remove any Director from office before the expiration of his/her period of office, notwithstanding anything in any agreement between the Company and such Director.

Upon receipt of a Director's Revocation Notice, the Company and the Board shall take all such steps, and do all such things (including, where necessary, the passing of all and any resolutions), as are necessary and/or required to give effect to the Director's Revocation Notice.

Each Director the subject of a Director's Revocation Notice shall within 3 days of a written request by the Company execute all such documentation required by the Company to effect his/her resignation. If the relevant Director has not executed the required documentation within the said 3 days then the relevant Director shall be deemed to have appointed the Company Secretary as his/her attorney to execute the said documentation on his/her behalf.

The issuing of a Directors Approval in respect of the proposed appointment of any person as a Director of the Company, and/or the serving of a Director's Revocation Notice, shall be at the sole and absolute discretion of Mercy Care South.

Mercy Care South, the Board and/or the Company shall not be required to give any reason or explanation whatsoever regarding any failure or refusal to issue a Directors Approval (as the case may be) in respect of the proposed appointment of any person as a Director of the Company and/or the serving of a Director's Revocation Notice

- 13.4 All Directors shall be chosen on the basis of their willingness to serve, ability, experience, and support of the ethos, mission and philosophy of the Company.
- 13.5 The term of office of each Director under these Articles shall be for a period of three years and a Director may not be reappointed for more than three successive terms.
- 13.6 The Board may appoint a person who is willing to act as a member of the Board, either to fill a vacancy or as an additional member provided that the appointment should not cause the number of the members of the Board to exceed any number fixed by or in accordance with these Articles as the maximum number of Board members. Provided however, in order for any such appointment to be valid it must first be approved in writing by Mercy Care South. The Board member so appointed shall hold office only until the next following Annual General Meeting and shall not be taken into account when determining the members of the Board who are to retire by rotation at the meeting. If not re-appointed at such an Annual General Meeting he/she shall vacate office at the

conclusion thereof.

- 13.7 Subject as aforesaid, a member of the Board who retires at an Annual General Meeting may, if willing to act be re-appointed without the need for the approval of Mercy Care South. If he / she is not re-appointed, he/she shall retain office until the meeting appoints someone in his/her place or if it does not do so, until the end of the meeting.
- 13.8 Mercy Care South may by serving a Director's Revocation Notice remove any Director before the expiration of his/her period of office, notwithstanding anything in these Articles of Association or in any agreement between the Company and such Director.
- 13.9 Mercy Care South may by notice in writing to the Board appoint another person in place of a Director removed from office under Regulation 13.8. Without prejudice to the powers of the Board under Regulation 16.3, Mercy Care South may appoint any person to be a Director, either to fill a casual vacancy or as additional Director. A person appointed in place of a Director so removed or to fill such a vacancy shall be subject to retirement at the same time as if he had become a Director on the day on which the Director in whose place he is appointed was last elected a Director.
- 13.10 No member of the Board shall be an employee of the Company or any other Mercy Company or hold a consultative post within a Health Care Facility under the control of the Company. Any member of the Board appointed to such a role is required to resign from the Board within a period of one month of taking up such a post or employment.
- 13.11 The acceptance by an individual of appointment to the Board is deemed to be an undertaking that that member of the Board will serve the best interest of the Company by reference to the attainment of the main object of the Company and the promotion of the values and philosophies enshrined in the Governance Charter.
- 13.12 The Company may, by ordinary resolution, appoint another person in place of a Director removed from office under section 146 of the Act and, without prejudice to the powers of the Directors under Regulation 13, the Company in General Meeting may appoint any person to be a Director either to fill a casual vacancy or as an additional Director.
- 13.13 The Company may from time to time by Ordinary resolution increase or reduce the number of Directors.
- 13.14 The application of section 144(3) of the Act shall be modified accordingly.

14 Removal of Directors

- 14.1 In accordance with section 146 of the Act, the Company may by Ordinary resolution remove a Director before the expiration of his period of office notwithstanding any agreement between the Company and that Director.

15 Vacation of Office

- 15.1 The office of Director shall be vacated if:

- 15.1.1 the Director is adjudicated bankrupt or being a bankrupt has not obtained a certificate of discharge in the relevant jurisdiction; or
- 15.1.2 the Director becomes or is deemed to be subject to a disqualification order within the meaning of the Act; or
- 15.1.3 the Director resigns his or her office by notice in writing to the Company or if he or she resigns his or her office by spoken declaration at any Board meeting and such resignation is accepted by resolution of that meeting, in which case such resignation shall take effect at the conclusion of such meeting; or
- 15.1.4 the health of the Director is such that he or she can no longer be reasonably regarded as possessing an adequate decision making capacity; or
- 15.1.5 a declaration of restriction is made in relation to the Director;
- 15.1.6 the Director is sentenced to a term of imprisonment following conviction of an indictable offence; or
- 15.1.7 is absent from four consecutive meetings of the Board without the permission of the Board; or
- 15.1.8 the Director is disqualified from being a charity trustee of any charitable organisation pursuant to Section 55 of the Charities Act; or
- 15.1.9 The application of section 148(2) of the Act shall be modified accordingly.

16 Remuneration of Directors

- 16.5 The Directors of the Company shall not be entitled to remuneration.
- 16.6 Subject to clause 8 of the memorandum of association the Directors may however be paid reasonable and proper travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors, or General Meetings of the Company, or otherwise in connection with the business of the Company.
- 16.7 Without prejudice to the provisions of Regulation 16.6, the Directors may exercise all the powers of the Company to purchase and maintain insurance for or for the benefit of any person who is or was:
 - 16.7.1 a Director, other officer, employee or auditor of the Company, or of any body which is or was the holding company or subsidiary of the Company, or in which the Company or such holding company or subsidiary has or had any interest (whether direct or indirect) or with which the Company or such holding company or subsidiary is or was in any way affiliated or associated; or
 - 16.7.2 a trustee of any pension fund in which employees of the Company or any other body referred to in Regulation 16.7.1 is or has been interested,

including without limitation insurance against any liability incurred by such person in respect of any act or omission in the actual or purported execution or discharge of his duties or in the exercise or purported exercise of his powers or otherwise in relation to his duties, powers or offices in relation to the relevant body or fund.

16.8 The application of section 1197 shall be modified accordingly.

17 Powers and duties of the Board

17.1 Subject to the provisions of the Act, the Memorandum and the Articles and to any directions given by Mercy Care South in writing, the business of the Company shall, subject to Regulation 13, be managed by the Board who may exercise all the powers of the Company. No alteration of the Memorandum or Articles and no such direction shall invalidate any prior act of the Board which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Regulation shall not be limited by any special power given to the Board by the Articles and a meeting of the Board at which a quorum is present may exercise all powers exercisable by the Board.

17.2 Every Director shall use his/her reasonable endeavours to promote the objects and interests of the Company, and shall observe all the Company's Regulations affecting him/her.

17.3 The Board may from time to time as they see fit promulgate rules and regulations for the conduct and management of the Company, provided always that same shall not be in conflict with these Articles and/or the Governance Charter. The Board shall have specific responsibility in relation to:

- (i) the preparation and monitoring of rules and/or regulations for the conduct of the policy of the Company, and/or each Health Care Facility and/or the behaviour of its officers and/or employees (such rules and/or regulations being in accordance with, and not being in conflict with, the Governance Charter);
- (ii) ensuring that provision is made for the ongoing training and development of the Management, Directors, employees and/or officers of the Company by reference to the attainment of the main objects of the Company and the promotion of the values and philosophies enshrined in the Governance Charter; and
- (iii) the convening of an Extraordinary General Meeting of the Company for the purposes of considering what measures should be taken (including whether or not the Company should be wound up or dissolved), if legislation has been enacted in the State which the Board determines is in conflict with the main objects of the Company set out at clause 3 of the Memorandum of Association, and/or which the Board determines is likely to make the Governance Charter inoperable or ultra vires the Company.

17.4 The Board may, by power of attorney or otherwise, appoint any person to be the agent of the Company for such purposes and on such conditions as they determine.

- 17.5 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts from moneys paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by such person or persons and in such manner as the Board shall from time to time by resolution determine.
- 17.6 All acts done by a meeting of the Board, or of a committee of the Board, or by a person acting as a Governor shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any Director or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Governor and had been entitled to vote.
- 17.7 Subject to Regulation 3, the Board may exercise all the powers of the Company to borrow money and to mortgage or charge its undertakings, property or any part thereof and to issue debentures, debenture stock and other securities whether outright or as security for any debt, liability obligations of the Company or of any third party.
- 17.8 The Board shall ensure the premises of the Company are used in accordance with the main object of the Company.

18 Specific Responsibilities of the Board

- 18.1 Subject to Regulation 26, the Board will have specific responsibility:-
- 18.1.1 the appointment of the Chief Executive Officer of the Company in consultation with Mercy Care South;
 - 18.1.2 the appointment of the Director of Nursing of the Hospital in consultation with Mercy Care South;
 - 18.1.3 the approval of all appointments to the Executive Management Committee of the Company;
 - 18.1.4 the approval of appointments of Medical Consultants to Hospital;
 - 18.1.5 the approval of strategic plans and annual budgets for the Company; and
 - 18.1.6 the approval of key policies of the Hospital
- 18.2 The Board shall have the right and obligation to oversee the use and display of the "Mercy University Hospital Cork" name and logo and any derivation thereof that may be established by or under the control of the Company.

PROCEEDINGS OF DIRECTORS

19 General Power of Management and Delegation

- 19.1 The business of the Company shall be managed by its Directors, who may pay all expenses incurred in promoting and registering the Company and may exercise all such powers of the

Company as are not, by the Act or by this Constitution, required to be exercised by the Company in General Meeting, but subject to:

- 19.1.1 any Regulations;
 - 19.1.2 the provisions of the Act; and
 - 19.1.3 such directions, not being inconsistent with the foregoing Regulations or provisions, as the Company in General Meeting may (by special resolution) give.
- 19.2 The Directors may delegate any of their powers to such person or persons as they think fit, including committees. Any such committee shall, in the exercise of the powers so delegated, conform to any Regulations that may be imposed on it by the Directors.

20 Meetings of Directors

- 20.1 The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.
- 20.2 Questions arising at any such meeting shall be decided by a majority of votes and where there is an equality of votes, the Chairperson shall have a second or casting vote.
- 20.3 A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors.
- 20.4 All Directors shall be entitled to reasonable notice of any meeting of the Directors but it shall not be necessary to give notice of a meeting of Directors to any Director who, being resident in the State, is for the time being absent from the State.
- 20.5 At every meeting of the Board, the Quorum for the transaction of the business of the Board shall be five Members in attendance.
- 20.6 Mercy Care South (by notice in writing to the Board) or the Chairperson of the Board shall have the power to convene a special meeting of the Board at any specific time or for any specific purpose (such purpose to be set out in writing in the notice convening such a meeting which, subject to Regulation 43, shall be delivered to each Director not less than 48 hours prior to such a meeting).
- 20.7 The continuing Directors may act notwithstanding any vacancy in their number but, if and so long as their number is reduced below the number fixed by or pursuant to this Constitution as the necessary quorum of Directors, the continuing Directors or Director may act for the purpose of increasing the number of Directors to that number or of summoning a General Meeting of the Company but for no other purpose.
- 20.8 Any decision of the Board shall be determined by the majority of those present and voting. In the event of a tie the Chairperson shall have a second casting vote.
- 20.9 All acts done by a meeting of the Board, or of a Committee of the Board, or by a person acting as a member of the Board shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any member of the Board or that any of

them were disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a member of the Board and had been entitled to vote.

- 20.10 The business of the Board shall be conducted in private and no disclosure of the business shall be made without the authority of the Chairperson.
- 20.11 The Board's policies and proceedings shall be in accordance with the mission and philosophy of the Company and in keeping with the Governance Charter.
- 20.12 The application of section 160 of the Act shall be modified accordingly.

21 Written Resolutions of Directors

- 21.1 A resolution in writing signed by all the Directors of the Company, or by all the members of a committee of them, and who are for the time being entitled to receive notice of a meeting of the Directors or, as the case may be, of such a committee, shall be as valid as if it had been passed at a meeting of the Directors or such a committee duly convened and held. A resolution executed by an alternate Director need not also be signed by his appointer.
- 21.2 A resolution referred to in Regulation 21.1 may be signed by electronic signature, advanced electronic signature or otherwise as approved by the Directors.
- 21.3 Subject to Regulation 21.4, where one or more of the Directors (other than a majority of them) would not, by reason of:
 - 21.3.1 the Act or any other enactment;
 - 21.3.2 the Constitution; or
 - 21.3.3 a rule of law,be permitted to vote on a resolution such as is referred to in Regulation 21.1, if it were sought to pass the resolution at a meeting of the Directors duly convened and held, then such a resolution, notwithstanding anything in Regulation 21.1, shall be valid for the purposes of that Regulation if the resolution is signed by those of the Directors who would have been permitted to vote on it had it been sought to pass it at such a meeting.
- 21.4 In a case falling within Regulation 21.3, the resolution shall state the name of each Director who did not sign it and the basis on which he or she did not sign it.
- 21.5 For the avoidance of doubt, nothing in the preceding Regulations dealing with a resolution that is signed by other than all of the Directors shall be read as making available, in the case of an equality of votes, a second or casting vote to the one of their number who would, or might have been, if a meeting had been held to transact the business concerned, chairperson of that meeting.
- 21.6 The application of section 161 of the Act shall be modified accordingly.

22 Meetings of Directors by Conference

- 22.3 A meeting of the Directors or of a committee of them may consist of a conference between some or all of the Directors or, as the case may be, members of the committee who are not all in one place, but each of whom is able (directly or by means of telephonic, video or other electronic communication) to speak to each of the others and to be heard by each of the others and:
- 22.3.1 a Director or member of a committee taking part in such a conference shall be deemed to be present in person at the meeting and shall be entitled to vote and be counted in a quorum accordingly; and
- 22.3.2 such a meeting shall be deemed to take place in such location as the Directors, or members of the committee, decide and failing that where the chairperson of the meeting is located.
- 22.4 A Director may vote in respect of any contract, appointment or arrangement in which he or she is interested or any matter arising therefrom provided that prior to that vote the Director shall have disclosed his interest and the nature thereof in accordance with the Act, and he or she shall be counted in the quorum present at the meeting.
- 22.5 The application of section 161 of the Act shall be modified accordingly.

23 Duty of Director to Disclose his or her Interest in Contracts made by Company

- 23.1 In accordance with section 231 of the Act, it shall be the duty of a Director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Company, to declare the nature of his or her interest to the Company.

24 Chairperson of the Board

- 24.1 Mercy Care South shall, by notice in writing to the Board, be entitled to appoint one of the Directors to be the Chairperson of the Board and at any time (by notice in writing to the Board) to substitute another Director as the Chairperson in his / her place. In the event that Mercy Care South does not exercise its right to appoint the Chairperson of the Board pursuant to this Regulation 24.1 then the Board shall appoint one of the Directors to be the Chairperson of the Board and such person shall, for the purposes of this Regulation 24.1, be deemed to have been appointed by Mercy Care South (and Mercy Care South shall be entitled at any time to substitute another Director as the Chairperson in his / her place). No person shall be entitled to be appointed as Chairperson of the Board for more than six years in succession (the '**Chair Successive Term Limitation**') without the prior written consent of Mercy Care South. For the purposes of this Regulation 24 and the calculation of the Chair Successive Term Limitation, the term of the Chairperson who has been appointed prior to the date of adoption of these Articles shall be deemed to have first commenced on the date of adoption of these Articles.
- 24.3 The Chairperson shall preside at all meetings of the Board and shall have the power on behalf of the Company to perform all acts and execute all documents to make effective the action of

the Board. The Chairperson shall be the primary representative of the Board and shall oversee that the orders and resolutions of the Board are carried into effect.

- 24.4 If at any meeting of the Board, neither the Chairperson nor the Vice-Chairperson is present, the members of the Board present may choose one of the other members a Chairperson for that particular meeting.
- 24.5 The Chairperson shall also perform other such duties as may be assigned from time to time by the Board. The Chairperson shall report to the Board at each of its meetings on all matters of significance requiring the Board's consideration and advice.
- 24.6 The Chairperson will meet regularly with the Chief Executive Officer and will represent the Company in consultation or discussion with the Department of Health or any other State Bodies or other external agencies on matters of policy, strategy or capital expenditure.
- 24.7 Mercy Care South shall, by notice in writing to the Board, be entitled to remove the Chairperson of the Board if they see fit.

25 Vice Chairperson of the Board

- 25.3 The Vice-Chairperson of the Board may be appointed by Mercy Care South for such period(s) as Mercy Care South shall decide.
- 25.4 The Vice-Chairperson shall assist the Chairperson and act on the Chairperson's behalf in all cases of absence or inability to act. Service as Vice-Chairperson shall not be a condition precedent to service as Chairperson and Vice-Chairpersons shall not automatically succeed Chairpersons.
- 25.5 Mercy Care South shall, by notice in writing to the Board, be entitled to remove the Vice - Chairperson of the Board if they see fit.

26 The Chief Executive Officer

- 26.3 Subject to Regulation 18.1.1, the Chief Executive Officer ("CEO") shall be appointed by the Board upon such terms and conditions as the Board may think fit.
- 26.4 The Chief Executive Officer may be required to attend the meetings of the Board or any part thereof.
- 26.5 The Chief Executive Officer shall be responsible to the Board for the day to day management of the Company, the execution of the decisions of the Board and the implementation of the policies of the Board and such other matters as delegated by the Board.
- 26.6 Subject to Regulation 18.1.3, the Chief Executive Officer shall establish an Executive Management Committee (EMC) to manage the Company on a day to day basis with the approval of the Board.

27 Establishment of Committees

- 27.3 The Board may delegate any of their powers to Committees consisting of at least two members of the Board as they think fit, and to others that the Board deems necessary to assist the Committee to perform its duties effectively. Any Committee so formed shall, in exercise of the powers so delegate, conform to any Regulations that may be imposed on it by the Board.
- 27.4 The Board shall determine the composition, structure and role of all committees and shall impose on any such Committee such (if any) Regulations and restrictions as the Board think fit.
- 27.5 The Board may appoint the Chairperson of any such Committee(s). A Committee may elect a Chairperson of its meetings if no Chairperson has been appointed by the Board, or if at any meeting the Chairperson is not present within fifteen minutes after the time appointed for holding the meeting, the members present may choose one of their numbers to be Chairperson of the meeting.
- 27.6 The Chairperson of any such Committee shall ensure that a report of the proceeding of the committee is made available to the Board.
- 27.7 A Committee may meet and adjourn as it thinks proper provided that the quorum necessary for any meeting of a Committee so formed shall be two, both of whom must be Board members.
- 27.8 Questions arising at any meeting shall be determined by a majority of votes of the members present and where there is an equality of votes of the members present the Chairperson of the committee shall have a second or casting vote.
- 27.9 All acts done by any meeting of the Board or of a Committee of the Board or by any person acting as a Director shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Director or person acting aforesaid, or that they or any of them were disqualified, be as valid as if every person had been duly appointed and was qualified to the Director.
- 27.10 The minutes of every Committee meeting shall be submitted to the Secretary of the Board and be available to every Director as requested.

28 Minutes of Proceedings of Directors

- 28.1 The Company shall cause minutes to be entered in books kept for that purpose of:
- 28.1.1 all appointments of officers made by its Directors;
- 28.1.2 the names of the Directors present at each meeting of its Directors and of any Committee of the Directors; and
- 28.1.3 all resolutions and proceedings at all meetings of its Directors and of Committees of Directors.

GENERAL MEETINGS AND RESOLUTIONS

29 Annual General Meeting

- 29.1 Subject to Regulation 29.2, the Company shall in 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 15 months shall elapse between the date of one Annual General Meeting of the Company and that of the next.
- 29.2 So long as the Company holds its first Annual General Meeting within 18 months after the date of its incorporation, it need not hold it in the year of its incorporation or in the following year.
- 29.3 The financial statements and report of the Directors and the statutory auditors for a financial year shall be laid before a General Meeting of the Company not later than nine months after the financial year end date..

30 Location and Means for Holding General Meetings

- 30.1 An Annual General Meeting of the Company or an Extraordinary General Meeting of the Company may be held inside or outside of the State.
- 30.2 If the Company holds its Annual General Meeting or any Extraordinary General Meeting outside of the State then, unless all of the Members entitled to attend and vote at such meeting consent in writing to its being held outside of the State, the Company shall make, at the Company's expense, all necessary arrangements to ensure that Members can by technological means participate in any such meeting without leaving the State.
- 30.3 A meeting referred to in the foregoing Regulation may be held in two or more venues (whether inside or outside of the State) at the same time using any technology that provides Members, as a whole, with a reasonable opportunity to participate.

31 Extraordinary General Meetings

- 31.1 The Board may whenever it thinks fit convene an Extraordinary General Meeting and Extraordinary General Meetings shall also be convened on requisition of Mercy Care South and / or any two Members pursuant to the provisions of the Act. If at any time there are not within Ireland sufficient Directors capable of acting to form a quorum, any Director or any Member may convene an Extraordinary General Meeting in the same manner as near as possible as that in which meetings may be convened by the Board.
- 31.2 Notice of every General Meeting of the Company shall be given in the manner hereinafter mentioned to such persons as are under these Articles entitled to receive notices from the Company.

32 Persons entitled to Notice of General Meetings

- 32.1 Notice of every General Meeting of the Company shall be given to:
- 32.1.1 Every Member;

32.1.2 the Directors and Secretary of the Company.

32.2 Unless the Company is entitled to and has availed itself of the audit exemption under sections 360 or 365 of the Act (and, where relevant, section 399 has been complied with in that regard), the statutory auditors of the Company shall be entitled to:

32.2.1 attend any General Meeting of the Company;

32.2.2 receive all notices of, and other communications relating to, any General Meeting which any Member of the Company is entitled to receive; and

32.2.3 be heard at any General Meeting which they attend on any part of the business of the meeting which concerns them as statutory auditors.

33 Notice of General Meetings

33.1 A meeting of the Company, other than an adjourned meeting, shall be called:

33.1.1 in the case of the Annual General Meeting or an Extraordinary General Meeting for the passing of a special resolution, by not less than 21 days' notice;

33.1.2 in the case of any other Extraordinary General Meeting, by not less than seven days' notice.

33.2 A meeting of the Company shall, notwithstanding that it is called by shorter notice than that specified in Regulation 33.1, be deemed to have been duly called if it is so agreed by:

33.2.1 all the Members entitled to attend and vote at the meeting; and

33.2.2 unless no statutory auditors of the Company stand appointed in consequence of the Company availing itself of the audit exemption under sections 360 or 365 of the Act (and, where relevant, section 399 has been complied with in that regard), the statutory auditors of the Company.

33.3 A resolution may be proposed and passed as a special resolution at a meeting of which less than 21 days' notice has been given if it is so agreed by Mercy Care South.

33.4 Where notice of a meeting is given by posting it by ordinary prepaid post to the registered address of a Member, then, for the purposes of any issue as to whether the correct period of notice for that meeting has been given, the giving of the notice shall be deemed to have been effected on the expiration of 24 hours following posting.

33.5 In determining whether the correct period of notice has been given by a notice of a meeting, neither the day on which the notice is served nor the day of the meeting for which it is given shall be counted.

33.6 The notice of a meeting shall specify:

33.6.1 the place, the date and the time of the meeting;

33.6.2 the general nature of the business to be transacted at the meeting;

33.6.3 in the case of a proposed Special Resolution, the text or substance of that proposed Special Resolution; and

33.6.4 with reasonable prominence a statement that:

33.6.4.1 a Member entitled to attend and vote is entitled to appoint a proxy using the form set out in section 184 of the Act to attend, speak and vote instead of him or her;

33.6.4.2 the time by which the proxy must be received at the Company's registered office or some other place within the State as is specified in the statement for that purpose.

33.7. 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 the meeting.

34 Quorum

34.1. No business shall be transacted at any General Meeting of the Company unless a quorum of Members is present at the time when the meeting proceeds to business.

34.2. Save as herein otherwise provided, two Members present or by proxy one of which is Mercy Care South shall be a quorum.

34.3. If within 15 minutes after the time appointed for a General Meeting a quorum is not present, then:

34.3.1 where the meeting has been convened upon the requisition of Members or by Mercy Care South, the meeting shall be dissolved;

34.3.2 in any other case:

34.3.2.1. the meeting shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the Directors may determine; and

34.3.2.2. if at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the Members present shall be a quorum.

35 Proxies

35.1 Subject to Regulation 35.3, any member of the Company entitled to attend and vote at a meeting of the Company shall be entitled to appoint another person as his or her proxy to attend and vote instead of him / her. A proxy must be a Director of Mercy Care South

35.2 A proxy so appointed shall have the same right as the Member to speak at the meeting and to vote on a show of hands and on a poll.

- 35.3 A Member of the Company shall not be entitled to appoint more than one proxy to attend on the same occasion.
- 35.4 The instrument appointing a proxy (the “instrument of proxy”) shall be in writing:
- 35.4.1 under the hand of the appointer or of his or her attorney duly authorised in writing;
or
- 35.4.2 if the appointer is a body corporate, either under seal of the body corporate or under the hand of an officer or attorney of it duly authorised in writing.
- 35.5 The instrument of proxy and the power of attorney or other authority, if any, under which it is signed, or a notarially certified copy of that power or authority, shall be deposited at the registered office of the Company concerned or at such other place within the State as is specified for that purpose in the notice convening the meeting, and shall be so deposited not later than the ‘appointed time’ as defined in Regulation 35.6.
- 35.6 The appointed time is:
- 35.6.1 immediately before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
- 35.6.2 in the case of a poll, immediately before the time appointed for the taking of the poll,
- and the application of section 183(6) of the Act shall be modified accordingly.
- 35.7 The depositing of the instrument of proxy referred to in Regulation 35.5 may, rather than it being effected by sending or delivering the instrument, be effected by communicating the instrument to the Company by electronic means, and this Regulation likewise applies to the depositing of anything else referred to in Regulation 35.5.
- 35.8 If Regulation 35.5 or Regulation 35.6 is not complied with, the instrument of proxy shall not be treated as valid.
- 35.9 Subject to Regulation 35.10, a vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the appointer or revocation of the proxy or of the authority under which the proxy was executed.
- 35.10 Regulation 35.9 does not apply if notice in writing of the occurrence of one of the events mentioned in that Regulation is received by the Company concerned at its registered office before the commencement of the meeting or adjourned meeting at which the proxy is used.
- 35.11 Subject to Regulation 35.12, if, for the purpose of any meeting of the Company, invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the Company’s expense to some only of the Members entitled to be sent a notice of the meeting and to vote at it by proxy, any officer of the Company who knowingly and intentionally authorises or permits their issue in that manner shall be guilty of a category 3 offence.

35.12 An officer shall not be guilty of an offence under Regulation 35.11 by reason only of the issue to a Member, at his or her request in writing, of a form of appointment naming the proxy or of a list of persons willing to act as proxy if the form or list is available on request in writing to every Member entitled to vote at the meeting by proxy.

36 Form of Proxy

36.1 An instrument appointing a proxy shall be in the following form or a form as near to it as circumstances permit:

Mercy University Hospital Cork Company Limited by Guarantee (“the Company”)

[name of Member] (“the Member”) of [address of Member] being a Member of the Company hereby appoint/s [name and address of proxy] or failing him or her

[name and address of alternative proxy] as the proxy of the Member to attend, speak and vote for the Member on behalf of the Member at the (annual or extraordinary, as the case may be) General Meeting of the Company to be held on the [date of meeting] and at any adjournment of the meeting.

The proxy is to vote as follows:

Voting instructions to Proxy (choice to be marked with an “X”)			
Number or description of resolution	In favour	Abstain	Against
1.			
2.			
3.			
Unless otherwise instructed the proxy will vote as he or she thinks fit.			
Signature of Member			
Date:			

37 Representation of Bodies Corporate at Meetings of Companies

37.1 A body corporate may, if it is a Member of the Company, by resolution of its Directors or other governing body authorise such person (in this section referred to as an “authorised person”) as it thinks fit to act as its representative at any meeting of the Company or at any meeting of any class of Members of the Company.

- 37.2 A body corporate may, if it is a creditor (including a holder of debentures) of the Company, by resolution of its Directors or other governing body authorise such person (in this section also referred to as an “authorised person”) as it thinks fit to act as its representative at any meeting of any creditors of the Company held in pursuance of the Act or the provisions contained in any debenture or trust deed, as the case may be.
- 37.3 An authorised person shall be entitled to exercise the same powers on behalf of the body corporate which he or she represents as that body corporate could exercise if it were an individual Member of the Company, creditor or holder of debentures of the Company.
- 37.4 The chairperson of a meeting may require a person claiming to be an authorised person within the meaning of this section to produce such evidence of the person’s authority as such as the chairperson may reasonably specify and, if such evidence is not produced, the chairperson may exclude such person from the meeting.

38 Proceedings at Meetings

- 38.1 The Chairperson, if any, of the Board of Directors shall preside as chairperson at every General Meeting of the Company, or if there is no such chairperson, or if he is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act, Mercy Care South shall be entitled to appoint any other person to act as the chairperson for that meeting.
- 38.2 The chairperson shall be the primary representative of the General Meeting and shall see that orders and resolutions of the General Meeting are carried into effect.
- 38.3 The chairperson may, with the consent of any 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. A Director shall, notwithstanding that he/she is not a Member of the Company, be entitled to attend and speak at any General Meeting.
- 38.4 When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting but, subject to that, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 38.5 Unless a poll is demanded in accordance with section 189 of the Act, at any General Meeting:
- (i) a resolution put to the vote of the meeting shall be decided on a show of hands; and
 - (ii) a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing 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 of or against such resolution.

38.6 Where there is an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote in addition to any other vote he or she may have.

The application of section 187 of the Act shall be modified accordingly.

39 General Meetings by Conference

39.1 A General Meeting may take place by way of a conference between some or all of the Members or, as the case may be, Members who are not all in one place, but each of whom is able (directly or by means of telephonic, video or other electronic communication) to speak to each of the others and to be heard by each of the others;

a Member taking part in such a conference shall be deemed to be present in person at the meeting and shall be entitled to vote and be counted in a quorum accordingly and such a meeting shall be deemed to take place in such location as the Members decide and failing that where the chairperson of the meeting is located.

40 Votes of Members

40.1 Every Member present in person or by proxy shall have one vote.

40.2 Where a matter is being decided (whether on a show of hands or on a poll), every Member present in person and every proxy shall have one vote, but so that no individual Member shall have more than one vote unless that Member has been appointed as a proxy for another Member.

40.3 Each of the following:

- a) a Member of unsound mind;
- b) a Member who has made an enduring power of attorney;
- c) a Member in respect of whom an order has been made by any court having jurisdiction in cases of unsound mind;

may vote, whether on a show of hands or on a poll, by his or her committee, donee of a registered enduring power of attorney, receiver, guardian or other person appointed by the foregoing court.

40.4 Any such committee, donee of an enduring power of attorney, receiver, guardian, or other person may speak and vote by proxy, whether on a show of hands or on a poll.

40.5 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes.

40.6 Any such objection made in due time shall be referred to the chairperson of the meeting, whose decision shall be final and conclusive.

40.7 The application of section 188 of the Act shall be modified accordingly.

41 Unanimous Written Resolutions

41.1 A resolution in writing signed by all the Members of the Company for the time being entitled to attend and vote on such resolution at a General Meeting (or being bodies corporate by their duly appointed representatives) shall be as valid and effective for all purposes as if the resolution had been passed at a General Meeting of the Company duly convened and held and if described as a special resolution shall be deemed to be a special resolution.

41.2 A resolution passed in accordance with Regulation 41.1 shall be deemed to have been passed at a meeting held on the date on which it was signed by the last Member to sign, and, where the resolution states a date as being the date of his or her signature thereof by any Member, the statement shall be prima facie evidence that it was signed by such member on that date.

41.3 If a resolution passed in accordance with Regulation 41.1 is not contemporaneously signed, the Company shall notify the Members, within 21 days after the date of delivery to it of the documents referred to in Regulation 41.4, of the fact that the resolution has been passed.

41.4 The signatories of a resolution passed in accordance with Regulation 41.1 shall, within 14 days after the date of its passing, procure delivery to the Company of the documents constituting the written resolution; without prejudice to the use of the other means of delivery generally permitted by the Act, such delivery may be effected by electronic mail or the use of a facsimile machine.

41.5 This Regulation does not apply to a resolution to remove a director or a resolution to effect the removal of a statutory auditor from office, or so as not to continue her in office.

41.6 A resolution referred to in Regulation 41.1 may be signed by electronic signature or advanced electronic signature.

42 Minutes of Proceedings of Meetings of the Company

42.1. The Company shall, as soon as may be after their holding or passing, cause minutes of all proceedings of General Meetings of it, and the terms of all resolutions of it, to be entered in books kept for that purpose. All such books kept by the Company in pursuance of this Regulation shall be kept at the same place.

43 Service of Notices on the Members

43.1 Any notice to be given, served, sent or delivered pursuant to this Constitution (save where it is to be given, served, sent or delivered by electronic means) shall be in writing.

43.2 A notice or document to be given, served, sent or delivered in pursuance of this Constitution may be given to, served on, sent or delivered to the Member by the Company:

- a) by hand delivering it to the Member or her authorised agent or where the Member is a body corporate, to any officer of that body corporate;

- b) by leaving it at the registered address of the Member;
 - c) by sending it by post in a pre-paid letter addressed to the Member at the registered address of the Member;
 - d) by sending it by courier in a pre-paid letter addressed to the Member at the registered address of the Member;
 - e) by sending it by means of electronic mail or facsimile or other means of electronic communication approved by the directors to the address of the Member notified to the Company by the Member for such purpose (or if not so notified, then to the address of the Member last known to the Company).
- 43.3 Any notice served, given, sent or delivered in accordance with the foregoing Regulations shall be deemed, in the absence of any agreement to the contrary between the Company (or, as the case may be, the officer of it) and the Member, to have been served, given sent or delivered:
- 43.3.1 in the case of hand delivery, at the time of delivery (or, if delivery is refused, when tendered);
 - 43.3.2 in the case of it being left, at the time that it is left;
 - 43.3.3 in the case of its being posted or couriered on any day other than a Friday, Saturday or Sunday, 24 hours after despatch and in the case of its being posted or couriered:
 - 43.3.3.1 on a Friday – 72 hours after despatch; or
 - 43.3.3.2 on a Saturday or Sunday – 48 hours after despatch;
 - 43.3.3.3 in the case of electronic means being used in relation to it, 12 hours after despatch.
- 43.4 Every Member shall be bound by a notice served, given, sent or delivered as aforesaid.
- 43.5 Notwithstanding anything contained in these Regulations the Company shall not be obliged to take account of or make any investigations as to the existence of any suspension or curtailment of postal services within or in relation to all or any part of any jurisdiction or other area other than Ireland.
- 43.6 The signature (whether electronic signature, an advanced electronic signature or otherwise) to any notice to be given by the Company may be written (in electronic form or otherwise) or printed.
- 43.7 In this Regulation “registered address” in relation to a Member, means the address of the Member as entered in the register of Members.
- 43.8 Section 218 of the Act does not apply.

44 Accounts

- 44.1 The Directors shall cause proper books of account to be kept relating to: -
- (a) all sums of money received and expended by the Company and the matters in respect of which the receipt and expenditure takes place;
 - (b) all sales and purchases of goods by the Company; and
 - (c) the assets and liabilities of the Company.
- 44.2 Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the Company's affairs and to explain its transactions.
- 44.3 Subject to section 283 of the Act the books of account shall be kept at the Registered Office or at such other place as the Directors think fit, and shall at all reasonable times be open to the inspection of the Directors.
- 44.4 The Directors 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 the inspection of Members not being Directors, and no Member (not being a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by statute or authorised by the Directors or by the Company in a General Meeting.
- 44.5 The Directors shall from time to time in accordance with the Act cause to be prepared and to be laid before the Annual General Meeting of the Company such profit and loss accounts, balance sheets, group accounts and reports as are required by the Act to be prepared and laid before the Annual General Meeting of the Company.
- 44.6 A copy of every Balance Sheet (including every document required by law to be annexed thereto) which is to be laid before the Annual General Meeting of the Company together with a copy of the Directors' Report and Auditors' Report shall, not less than 21 days before the date of the Annual General Meeting, be sent to every person entitled under the provisions of the Act to receive them.

45 Audit

- 45.1 The Auditor shall be appointed in accordance with the Act. Subject to the provisions of the Act, all acts done by any person acting as Auditor shall, as regards all persons dealing in good faith with the Company be valid notwithstanding if there was some defect in his/her appointment or that he/she was at the time of his/her appointment not qualified for appointment.
- 45.2 The Audit Committee shall be established by and be accountable to the Board and shall report to the Board and liaise with the Auditor of the Company.

LIABILITY OF OFFICERS

46 Fiduciary Duties of Directors

- 46.1 For the purposes of section 228(1) of the Act but subject to clause 8 of the Memorandum of Association, the reasonable use by a Director for his or her own benefit, or anyone else's benefit, of any of the Company's property where such use is directly or indirectly connected with the business objectives of the Company shall be permitted.

47 Indemnity for Officers

- 47.1 Subject to the provisions of the Act, the Company may indemnify any officer of the Company against any liability incurred by him or her in defending proceedings, whether civil or criminal, in which judgment is given in his or her favour or in which he or she is acquitted, or in connection with any proceedings or application under statute for which relief is granted to him or her by the court.

AMENDMENT OF MEMORANDUM AND ARTICLES OF ASSOCIATION

48 Amendment and Alteration

- 48.1 No addition, alteration or amendment shall be made to or in the provisions of this Memorandum of Association for the time being in force and / or the Articles, unless the same shall have been previously submitted to and approved in writing by Mercy Care South;
- 48.2 The Company must ensure that the Charities Regulatory Authority has a copy of its most recent governing instrument. If it is proposed to make an amendment to the Constitution of the Company which requires the prior approval of the Charities Regulatory Authority, advance notice in writing of the proposed changes must be given to the Charities Regulator Authority for approval, and the amendment shall not take effect until such approval is received.
- 48.3 Notwithstanding the above and Sections 32(2), 1184(1), 1186 and 1188(1) of the Act, no addition, alteration or amendment of any kind whatsoever shall be made to the Articles to the extent that any such addition, alteration or amendment would:
- (i). alter the effect of clauses 3, 4, 7, 8 and/or 9, 10, 11 or 12 of the Memorandum of Association,
 - (ii). conflict with the values and philosophies as enshrined in the Governance Charter;
 - (iii). amend Regulation 3 or this Regulation 51 of the Articles; and/or
 - (iv). amend the definition of 'Governance Charter' contained in Regulation 1 of the Articles.

Mercy Care South shall have the right to object to any addition, alteration or amendment which in the sole opinion of Mercy Care South would: (i) alter the effect of clauses 3, 7 and/or 9 of the Memorandum of Association, and/or (ii) conflict with the values and philosophies as enshrined in the Governance Charter.

WINDING UP

49 WINDING UP

49.1 If upon the winding up or dissolution of the Company there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall, in accordance with Section 92 of the Charities Act 2009, not be paid to or distributed among the Members of the Company, but shall be given or transferred to:

- 49.1.1 Mercy Care South for its charitable purposes; or
- 49.1.2 in the event Mercy Care South ceases to exist, the Southern Province; or
- 49.1.3 in the event the Southern Province ceases to exist, the Congregation for its charitable purposes;
- 49.1.4 in the event that the Congregation ceases to exist, to the Roman Catholic Bishop of Cork and Ross (or such other title as may be substituted for the Roman Catholic Bishop of Cork and Ross within the Roman Catholic Church from time to time) for his charitable purposes and failing such, to some other charitable institution or institutions having main object similar to the main object of the Company. The institution or institutions to which the property is to be given or transferred shall prohibit the distribution of their income and property among their Members to an extent at least as great as is imposed on the Company under or by virtue of Clause 8 of the Memorandum & Articles of Association. Members of the Company shall select the relevant institution or institutions at or before the time of dissolution, and if and so far as effect cannot be given to such provisions, then the property shall be given or transferred to some charitable object with the agreement of the Charities Regulatory Authority for the time being or its successors and if and so far as effect cannot be given to the aforesaid provision then to some charitable object which is consistent with the ethos of the Roman Catholic Church. Final accounts will be prepared and submitted that will include a section that identifies and values any assets transferred along with the details of the recipients and the terms of the transfer.

We, the several persons whose names and addresses are subscribed, wish to be formed into a company in pursuance of this constitution.

Names, Addresses and Descriptions of Subscribers

- Sr Mary Jo Sheehy, Sister in Religion, Provincial Office, Bishop Street, Cork
- Sr Anne Maria Carroll, Sister in Religion, Provincial Offices, Bishop Street, Cork
- Sr Patricia O’ Donovan, Sister in Religion, Provincial Office, Bishop Street, Cork
- Sr Bernadette Ryan, Sister in Religion, Provincial Offices, Bishop Street, Cork
- Sr Ann Coughlan, Sister in Religion, Provincial Offices, Bishop Street, Cork
- Sr Margaret Loretto Crowley, Sister in Religion, Provincial Offices, Bishop Street, Cork
- Sr Maria Goretti Comerford, Sister in Religion, Provincial Offices, Bishop Street, Cork
- Sr Mary Conway, Sister in Religion, Eblana Avenue, Dun Laoghaire, Co Dublin

Dated the 15th day of November 2001

Witness to the above signature:

Nicola Keogh

Solicitor

Dublin 6

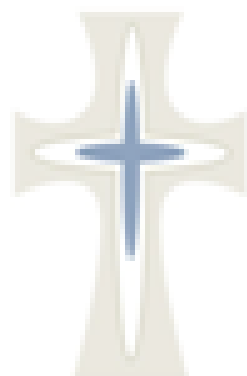
SCHEDULE 1:

A MISSION IN HEALTHCARE

MERCY CARE SOUTH

GOVERNANCE CHARTER

17th June 2016



PREAMBLE

Canon Law defines Juridic Person as an aggregate of persons or things ordered for a purpose which is in keeping with the mission of the Church and which transcends the purpose of the individual. Arising from this, the purpose of the Mercy Care South Juridic Person is to promote and sustain the Healthcare Ministry of the Congregation of the Sisters of Mercy as an expression of Christ's healing ministry to people in need.

Change in leadership to a new Juridic Person is not merely the effect of the diminished number of Sisters of Mercy (although this is a factor). It is rather an affirmation of the call that all Christians share witness to the Gospel by deeds of love and service to others. The concept of faith based initiatives on behalf of the poor is as old as recorded history. Among such initiatives were the healthcare institutions established by the Sisters of Mercy in the nineteenth century. Over the decades since then, lay colleagues who worked alongside the Sisters, not only imbibed their ethos but strongly subscribed and committed themselves to it. It is this ethos which has inspired, influenced and guided their healthcare institutions since their establishment. It has continued to be reflected in their work up to the present and in the years to come those who will provide the service will continue to accompany the patients with compassion and excellence along their journey towards healing.

This Governance Charter will serve as a source and guide for those entrusted with the on-going governance role in our Healthcare Ministry. Governance will be conducted in accordance with the teachings of the Catholic Church, the principles of Catholic Healthcare and in the spirit of Catherine McAuley, Foundress of the Sisters of Mercy. In faithfulness to their tradition the Sisters of Mercy believe it is essential that the distinctive characteristics of that tradition should be as clear as possible for those taking on the onerous responsibility of the healing ministry of the Church.

This Charter sets out the Vision, Mission, Ethos and Core Values of Mercy Care South. It will remain an essential component of the governance function. While taking cognizance of the changing nature of healthcare, it is important to remember the foundational and enduring nature of the organisation's Core Purpose, Care for the Sick, and of its Core Values. Living the Mission, or Core Purpose, is shaped by the Core Values. These determine how the Mission is consistently expressed by a dedicated staff through their attitudes, behaviours and decisions. As a whole they create and sustain the ethos of the organisation.

VISION, MISSION AND ETHOS STATEMENTS

Vision

Our vision is of a just and caring society where 'life to the full' (John 10:10) as promised by Jesus Christ is enabled for all regardless of their circumstances. Central to this vision is a special concern for those who are most vulnerable and are struggling with sickness.

Mission

In our governance role we will exercise responsible stewardship of the Mission, Values and Ethos of our Healthcare Services. This will support staff as they continue to provide excellent patient services to maintain and improve the health and well-being of those they serve. Our stewardship will be exercised in accordance with Catholic teaching, Canon Law and Civil Law.

Ethos

Ethos is that which characterises the spirit and values of our Healthcare Services. It is an expression of the way we choose to live its identity, tradition, Mission and Values.

CORE VALUES

Core values enable all within the organisation to live the Core Purpose, Care for the Sick, more fully and faithfully. They help to identify what is important; how to respond and act; what to prioritise. They influence decisions in a way that promote the best outcome. They are timeless, transcultural and non-negotiable. They are the unifying centre for all regardless of role or status and will enhance the standards of excellence that are the hallmark of the service. Poor clarity around values can lead to ethical decision-making dilemmas; to the breakdown of communication and to organisational confusion.

While the internal culture of the organisation embodies the values and beliefs enshrined in this Charter the impact of the external culture with its many complexities cannot be underestimated. Achieving the correct balance between the two realities in the best interest of those we care for and our staff is a key area of management's responsibility.

The attitudes, behaviours and standards which are expected of all Mercy associates, whether Board members, staff, or volunteers, reflect the following values as identified by Management and Staff:

Our Core Values are:

Respect which we collectively understand as honouring the dignity of others by treating them as respectfully as we would like to be treated ourselves.

"Our mutual respect is to be cordial." (C. McAuley)

Justice which is honouring the rights and responsibilities of each person in light of the common good.

"The poor need help today, not next week." (C. McAuley)

Compassion calls us to empathise with the other as we try to understand his/her suffering

"The kind word, the gentle compassionate look and the patient hearing of sorrows – these cost the giver nothing." (C. McAuley)

Excellence derives from giving of our very best within the resources available to us.

"Take short, careful steps, not great strides." (C. McAuley)

Partnership/Team Spirit means co-operating and working together to achieve our common purpose.

"The spirit of Union is the greatest blessing on a community." (C. McAuley)

Acknowledging that the needs of the communities to be served are always likely to exceed available resources, situations may arise where the values aspired to could be in conflict. In these circumstances the challenge is to advocate consistently and strongly for those most vulnerable and in need of care.

LIVING THE MISSION AND CORE VALUES AT ALL TIMES

Articulation of the organisation's Vision, Mission and Core Values becomes a futile exercise unless they are clearly reflected in the attitudes, behaviours and decisions of all involved as they go about their work on a daily basis. Their implementation applies equally at individual and institutional levels.

This document illustrates and clarifies some of the practical ways in which the Core Values find daily expression in the healthcare environment. For example, in the case of the Mercy Hospital they will be supported by the Mission Effectiveness Leader.

Having Respect for Human Dignity

Recognition of the dignity of each person is central to the Christian faith. This dignity is innate from conception to natural death, and is based on the belief that all men and women have the right to life and are made in the image and likeness of God. In this context the person is both sacred and social.

Respect for human dignity is demonstrated by:

- ❖ Respecting the innate dignity of each person regardless of their behaviours
- ❖ Listening empathically and communicating appropriately while striving to be open and honest in all things at all times throughout the services.
- ❖ Being conscious that body language is as important as the words used
- ❖ Acknowledging each patient's right to be involved in making informed decisions about his/her health, to give consent to the extent that this is possible, to privacy and confidentiality
- ❖ Providing a caring and welcoming ambience that gives concrete expression to respect for others and contributes to the wellbeing of all
- ❖ Fostering a culture which responds to the physical, emotional and spiritual needs of others and ensuring that it is characterised by hospitality, trust and a sense of belonging for all
- ❖ Welcoming diversity and showing respect in all relationships and decisions
- ❖ Assuming ecological responsibility through practices which promote respect and care for the environment
- ❖ Demonstrating a passion for serving others.

Upholding Justice

Justice is upheld by:

- ❖ Acting with integrity, honesty and truthfulness at all times
- ❖ Managing resources fairly and prudently with particular attention to those in most need
- ❖ Advocating for a more equitable and accessible health service based on the principle of each person's universal right to healthcare

- ❖ Evaluating choices with sensitivity and compassion when the demands of a more complex external environment compete with our Vision, Mission and Core Values
- ❖ Promoting social inclusion through ensuring that services are accessible to all without discrimination and enabling those with disabilities to function as fully as their condition permits regardless of their starting point
- ❖ Creating an environment where forgiveness and reconciliation are possible
- ❖ Being accountable for the highest standard of performance.

Being Compassionate

Compassion calls us to recognise and empathise with people's individual suffering and needs.

Compassion is expressed by:

- ❖ Fostering an attitude of openness and sensitivity to the suffering of others and responding to them with tenderness and care
- ❖ Empathising with, listening to and trying to understand the individual's personal situation
- ❖ Standing in solidarity with those most in need, particularly those who are poor or marginalised and those whose voices are not always heard
- ❖ Being conscious of the impact our non-verbal communication can have on others
- ❖ Creating an environment for the patients and their families that is caring and conducive to a transforming, healing process, especially with reference to crisis moments and end of life
- ❖ Promoting a strong pastoral service which is authentic, sensitive and respectful.

Working for Excellence

This means that at all times we give of our very best within the resources available to us.

Excellence is sought by:

- ❖ Trying always to exceed and not just meet, the expectations of the patients who are the organisation's principal stakeholders
- ❖ Maintaining high standards of quality, excellence and performance in all aspects of the organisation's services which include patient care, education, training and research in accordance with the organisation's designation as an academic teaching healthcare institution
- ❖ Working with staff to ensure continuous quality improvement
- ❖ Evaluating safety improvements throughout the institution
- ❖ Implementing where necessary, improvement plans that are based on best practice, innovative technology, knowledge and skill
- ❖ Seeking to be reflective in practice as a means of identifying creative responses to the needs of those we serve
- ❖ Viewing challenges as opportunities for resourcefulness and creativity
- ❖ Affirming achievements and good practice

- ❖ Promoting research into possible solutions to illnesses for which there is no current remedy.

Developing Partnership/Team Spirit in all endeavours

This means working in partnership to foster a team spirit in the interests of our common purpose and enhanced job satisfaction for staff.

Partnership & Team Spirit are created by:

- ❖ Adopting a partnership approach
- ❖ Investing in team building to generate passion and commitment around the organisation's core purpose
- ❖ Creating a supportive environment
- ❖ Recognising and acknowledging each other's strengths and weaknesses
- ❖ Keeping a strong focus on the organisation's Core Purpose and Core Values
- ❖ Having clear, regular and purposeful communication
- ❖ Respecting and valuing the opinions of each person
- ❖ Working to achieve consensus
- ❖ Not allowing prejudice to cloud our judgement in the delivery of care.