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**COMPANIES ACT 2006**  
**BIRMINGHAM BOTANICAL AND HORTICULTURAL SOCIETY LIMITED**  
**("the Charity")**  
**(Company number 00248827 and Charity Number 528981)**  
**SPECIAL RESOLUTION**

On the 24 day of September 2018 the following special resolution was agreed and passed by the members of the Charity:

"subject to obtaining any necessary Charity Commission consent, new Memorandum and Articles of Association be adopted in substitution for, and to the exclusion of, the existing Memorandum and Articles of Association in the form attached"

Signed..........

Director

MONDAY



LD4 \*L7K00QWX\* #25  
03/12/2018  
COMPANIES HOUSE

Companies Acts 1929 to 2006

Company limited by guarantee

**MEMORANDUM OF ASSOCIATION**

of

**BIRMINGHAM BOTANICAL AND HORTICULTURAL SOCIETY LIMITED**

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Each subscriber to this Memorandum of Association wishes to form a company under the Companies Acts

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***Name of each subscriber***

***Authentication by each subscriber***

|                   |      |
|-------------------|------|
| W.I. GOOD         | WI   |
| H.BURMAN          | HB   |
| GEORGE DAWSON     | GD   |
| A.L.FRANKLIN      | ALF  |
| WALTER H. GRIMLEY | WHG  |
| T.O. GRAY         | TOG  |
| JOHN W. MOORE     | JWM  |
| JULIAN A. OSLER   | JAO  |
| SYDNEY C. PARISH  | SCP  |
| L. ARTHUR SMITH   | LAS  |
| O.E.B. SMITH      | OEBS |
| OWEN W. THOMPSON  | OWT  |
| S.W.K. WALLIS     | SWKW |
| HAROLD E. CLARKE  | HEC  |

Witness to the signing of all the Subscribers this Third day of June 1930:-

LESLIE D.S. HUDSON – clerk to Musgrove, Lee & Arthur Smith, Solicitor, 18 Newhall Street, Birmingham.

Company Number: 00248827

THE COMPANIES ACTS 1985 to 2006

COMPANY LIMITED BY GUARANTEE AND  
NOT HAVING A SHARE CAPITAL

**ARTICLES OF ASSOCIATION**

of

**BIRMINGHAM BOTANICAL AND HORTICULTURAL SOCIETY LIMITED**

ADOPTED BY SPECIAL RESOLUTION PASSED ON  
THE 24 DAY OF ~~SEPTEMBER~~ 2018

**INTERPRETATION**

1. In these Articles:

|                    |  |
|--------------------|--|
| "the Act"          | means the Companies Act 2006.  |
| "address"          | means a postal address or, for the purposes of electronic communication, a fax number or an e-mail address in each case registered with the Society.   |
| "the Articles"     | means these Articles of Association and the regulations of the Society from time to time in force.   |
| "the Auditors"     | means the auditors for the time being of the Society.  |
| "the CEO"          | means the Chief Executive Officer of the Society from time to time.  |
| "Charities Act"    | means the Charities Act 2011.  |
| "Connected Person" | means any person falling within one of the following categories:<br>(a) any spouse, civil partner, parent, child, brother, sister, grandparent or grandchild of a General Committee Member; or<br>(b) the spouse or civil partner of any person in (a);<br>or<br>(c) any person who carries on business in |

|                                 |   |
|---------------------------------|---|
|                                 | <p>partnership with a General Committee Member or with any person in (a) or (b); or</p> <p>(d) an institution which is controlled by either a General Committee Member, any person in (a), (b) or (c), or a General Committee Member and any person in (a), (b) or (c), taken together; or</p> <p>(e) a corporate body in which a General Committee Member or any person in (a), (b) or (c) has a substantial interest, or two or more such persons, taken together, have a substantial interest.</p> |
| "clear days"                    | <p>in relation to the period of notice means a period excluding:</p> <p>(a) the day when the notice is given or deemed to be given; and</p> <p>(b) the day for which it is given or on which it is to take effect.</p>  |
| "the Commission"                | <p>means the Charity Commission for England and Wales.</p>  |
| "the Full Members"              | <p>means the members of the Society as defined by Article 25 of these Articles.</p>   |
| "the General Committee"         | <p>means the General Committee for the time being of the Society.</p>   |
| "the General Committee Members" | <p>are the members of the General Committee, being the registered directors of the Society and the charity trustees as defined in the Charities Act.</p>  |
| "the Honorary Members"          | <p>means the members of the Society with the rights set out in, and appointed in accordance with, Articles 33 to 37.</p>  |
| "month"                         | <p>means one calendar month.</p>  |
| "the Objects"                   | <p>means the objects of the Society as set out in article 8.</p>  |
| "the Office"                    | <p>means the registered office of the Society.</p>  |
| "the Secretary"                 | <p>means the secretary of the Society, or any other person appointed to perform the duties of the secretary</p>   |

of the Society, including a joint, assistant or deputy secretary.

“the Society”

means the charity intended to be regulated by these Articles and being a company limited by guarantee registered with Companies House under registered company number 00248827 and registered charity number 528981.

“the United Kingdom”

means Great Britain and Northern Ireland.

“Visitor Member”

means a person over the age of 18 years who has the benefit of Visitor Membership in accordance with Article 21.

2. A reference to **writing** or **written** includes email.
3. Words importing one gender shall include all genders and the singular includes the plural and vice versa.
4. The headings in these Articles are inserted for convenience only and shall not affect the construction or interpretation of these Articles.
5. Unless the context otherwise requires words or expressions contained in these Articles have the same meaning as in the Act but excluding any statutory modification not in force when this constitution becomes binding on the Society.
6. Subject to the provisions of the previous paragraph a reference to an Act of Parliament includes a statutory modification or re-enactment of it for the time being in force.
7. The Society is established for the purposes expressed in article 8.

## **OBJECTS**

8. The Objects for which the Society is established are to further public education in botany, horticulture and zoology and to encourage and provide facilities for scientific study and research therein and to increase and diffuse knowledge thereof and interest therein and to provide, maintain and preserve gardens, grounds, buildings and land in or about the City of Birmingham for the said purposes and for the recreation of the public to the extent only that such Objects are charitable and so that these shall be the paramount Objects of the Society.

## **POWERS**

9. The Society has the following Powers, which may be exercised only in promoting the Objects:
- 9.1. To acquire and hold by purchase, lease or otherwise, any land or property of any kind and to develop and/or redevelop any such land or property which may be required by the Society to promote the Objects of the Society and in particular to hold, develop and redevelop land or property of any kind now vested in the Society.
  - 9.2. To let or dispose of property of any kind (but only in accordance with the restrictions imposed by the Charities Act).
  - 9.3. To improve, develop, alter, repair and generally to manage, or otherwise deal with, all or any part or parts of the property, goods, chattels and effects of the Society, subject to such terms and conditions, for such purposes and generally in such manner as the Society shall from time to time determine.
  - 9.4. To promote or carry out research.
  - 9.5. To provide advice.
  - 9.6. To publish or distribute information.
  - 9.7. To build and erect such houses, conservatories, hothouses, cages, pavilions, buildings, premises and other erections (for commercial use or otherwise) as may be required for the purpose of the Society; and to remove, enlarge, or otherwise alter, rebuild, improve, repair, or deal with any such houses, conservatories, hothouses, cages, pavilions, buildings, premises and other erections of the Society.
  - 9.8. To buy, exchange, hire, accept on loan, sell, or otherwise dispose of all or any botanical, horticultural or zoological collections, objects, or specimens; and all or any articles, implements, fixtures, furniture, apparatus and things that were used in connection with the Society, or for the promotion of the Objects.
  - 9.9. To raise funds (but not by means of taxable trading) and to distribute or use the same in furtherance of the Objects of the Society.
  - 9.10. To make grants or loans of money and to give guarantees; and to grant sums of money for awarding prizes, or otherwise in connection with any of the Objects, on such terms as shall be determined by the Society.
  - 9.11. To set aside funds for special purposes or as reserves against future expenditure.
  - 9.12. To administer any property and carry on any activity in accordance with the Objects and in particular to provide a hall and other suitable rooms for meetings, botanical and horticultural exhibitions and lectures.
  - 9.13. To hold, or arrange, or join in holding or arranging, exhibitions, shows, displays, competitions, other functions or events for the purposes of the Society.

- 9.14. To co-operate or join with any person or persons, or body which has the same or similar Objects and is established for charitable purposes only, in any manner and for any purpose, which is in furtherance of the Objects.
- 9.15. To permit and allow any person or body to use and enjoy the property of the Society for such purposes and upon such terms and conditions as shall be determined by the Society.
- 9.16. To grant pensions, allowances, gratuities and bonuses to employees or ex-employees of the Society, or their dependents or connections; and to establish, support, or subscribe to any charitable funds or bodies, which may be deemed directly or indirectly to benefit the Society or the employees of the Society.
- 9.17. To borrow money and give security for loans (but only in accordance with the restrictions imposed by the Charities Act) in such a manner and upon such terms as the Society shall determine.
- 9.18. To deposit or invest in funds in any matter (but to invest only after obtaining such advice from a financial expert as the General Committee Members consider *necessary and having regard to the suitability of investments and the need for diversification*).
- 9.19. To delegate the management of investments to a financial expert, but only on terms that:-
  - 9.19.1. The investment policy is set down in writing for the financial expert by the General Committee Members;
  - 9.19.2. Every transaction is reported promptly to the General Committee Members;
  - 9.19.3. The performance of investments is reviewed regularly with the General Committee Members;
  - 9.19.4. The General Committee Members are entitled to cancel the delegation arrangement at any time;
  - 9.19.5. The investment policy and the delegation arrangement are reviewed at least once a year;
  - 9.19.6. All payments due to the financial expert are on a scale or at a level which is agreed in advance; and
  - 9.19.7. The financial expert must not do anything outside the powers of the General Committee Members.
- 9.20. To arrange for investments or other property of the Society to be held in the name of a nominee company acting under the control of the General Committee Members or of a financial expert acting under their instructions, and to pay any reasonable fee required.

- 9.21. To deposit documents and physical assets with any company registered or having a place of business in England and Wales as custodian, and to pay any reasonable fee required.
- 9.22. To insure the property of the Society against any foreseeable risk and take out other insurance policies to protect the Society when required.
- 9.23.
- 9.23.1. To provide indemnity insurance to cover the liability of the General Committee Members:-
- 9.23.1.1. Which by virtue of any rule of law would otherwise attach to them in respect of any negligence, default, breach of trust, or breach of duty, of which they may be guilty in relation to the Society;
- 9.23.1.2. To make contributions to the assets of the Society in accordance with the provisions of section 214 of the Insolvency Act 1986.
- 9.23.2. Any such insurance in the case of 9.23.1.1 above shall not extend to:-
- 9.23.2.1. Any liability resulting from conduct which the General Committee Members knew, or must be assumed to have known, was not in the best interests of the Society, or where the General Committee Members did not care whether such conduct was in the best interests of the Society or not;
- 9.23.2.2. Any liability to pay the costs of unsuccessfully defending criminal prosecutions or offences arising out of the fraud or dishonesty or willful or reckless misconduct of the General Committee Members;
- 9.23.2.3. Any liability to pay a fine.
- 9.23.3. Any insurance in the case of 9.23.1.2 shall not extend to any liability to make such a contribution where the basis of the General Committee Member's liability is his knowledge prior to the insolvent liquidation of the Society (or reckless failure to acquire that knowledge) that there was no reasonable prospect that the Society would avoid going into insolvent liquidation.
- 9.24. To enter into contracts to provide services to or on behalf of other bodies.
- 9.25. To establish or acquire subsidiary companies to carry on any trade or enterprise, and to assist or act as agents for the Society.
- 9.26. To support, administer or set up other charities
- 9.27. To do anything else within the law which promotes or helps to promote the Objects.

#### **APPLICATION OF INCOME AND PROPERTY**

10. The income and the property of the Society shall be applied solely towards the promotion of the Objects.



11. Except as provided below, no part of the income or property of the Society may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to any member of the Society. This shall not prevent any payment in good faith by the Society to a member of:
  - 11.1. a benefit in the capacity of a beneficiary of the Society;
  - 11.2. reasonable and proper remuneration for any goods or services supplied to the Society, provided that articles 12 to 17 apply if such a member is a General Committee Member;
  - 11.3. interest on money lent by a member to the Society at a reasonable and proper rate;
  - 11.4. reasonable and proper rent for premises demised or let by a member to the Society; and
  - 11.5. any payment to a member who is also a General Committee Member which is permitted under articles 12 to 17.

#### **BENEFITS AND PAYMENTS TO GENERAL COMMITTEE MEMBERS**

12. A General Committee Member:
  - 12.1. is entitled to be reimbursed reasonable out-of-pocket expenses properly incurred when acting on behalf of the Society;
  - 12.2. may benefit from trustee indemnity insurance purchased by the Society in accordance with the Charities Act and/or these Articles;
  - 12.3. may receive payment under an indemnity from the Society in circumstances set out in article 153; and
  - 12.4. may not receive any other benefit or payment from the Society unless it is authorised by articles 13 to 17.
13. Unless the benefit or payment is permitted under article 14, no General Committee Member or Connected Person may:
  - 13.1. buy any goods or services from the Society on terms preferential to those applicable to members of the public;
  - 13.2. sell goods, services, or any interest in land to the Society;
  - 13.3. be employed by, or receive remuneration from, the Society; or
  - 13.4. receive any other financial benefit from the Society.

In this article, a "financial benefit" means a benefit, direct or indirect, which is either money or has a monetary value.

14. A General Committee Member or Connected Person may:

- 14.1. receive a benefit from the Society in the capacity of a beneficiary of the Society provided that a majority of the General Committee Members do not benefit in this way;
- 14.2. enter into a contract for the supply of services, or of goods that are supplied in connection with the provision of services, to the Society where that is permitted in accordance with, and subject to the conditions in, sections 185 and 186 of the Charities Act;
- 14.3. subject to article 15, enter into a contract for the supply of goods to the Society that are not supplied in connection with services provided to the Society by the General Committee Member or Connected Person;
- 14.4. receive reasonable and proper rent for premises let to the Society;
- 14.5. receive interest at a reasonable and proper rate on money lent to the Society;
- 14.6. take part in the normal trading and fundraising activities of the Society on the same terms as members of the public.
15. The Society and its General Committee Members may only rely upon the authority provided by article 14.3 if each of the following conditions is satisfied:
  - 15.1. the amount or maximum amount of the payment for the goods:
    - 15.1.1. is set out in an agreement in writing between the Society and the General Committee Member or Connected Person supplying the goods (the **Supplier**) under which the Supplier is to supply the goods in question to the Society;
    - 15.1.2. does not exceed what is reasonable in the circumstances for the supply of goods in question;
  - 15.2. the other General Committee Members are satisfied that it is in the best interests of the Society to contract with the Supplier rather than someone who is not a General Committee Member or Connected Person. In reaching that decision, which must be recorded in the minutes of the meeting, the General Committee Members must balance the advantages of contracting with a General Committee Member against the disadvantages of doing so;
  - 15.3. the Supplier:
    - 15.3.1. is absent from the part of the meeting at which there is a discussion of the proposal to enter into a contract or arrangement with regard to the supply of goods to the Society by them;
    - 15.3.2. does not vote on any such matter and is not counted when calculating whether a quorum of General Committee Members is present at the meeting; and
  - 15.4. a majority of the General Committee Members then in office are not in receipt of remuneration or payments authorised by articles 12 to 17.
16. In articles 14 and 15 the "Society" includes any company in which the Society:

- 16.1. holds more than 50% of the shares; or
  - 16.2. controls more than 50% of the voting rights attached to the shares; or
  - 16.3. has the right to appoint one or more General Committee Members to the company.
17. A General Committee Member's duty under the Act to avoid a conflict of interest with the Society does not apply to any transaction authorised by articles 12 to 17.

#### **LIABILITY OF MEMBERS AND GUARANTEE**

18. The liability of the members is limited.
- 18.1. Every Full Member of the Society undertakes, if the Society is dissolved while he, she or it remains a Full Member, or within twelve months afterwards, to contribute a nominal amount of £1 towards the costs of dissolution and the liabilities incurred by the Society prior to the Full Member ceasing to be a Full Member.

#### **CLASSES OF MEMBERSHIP (INCLUDING VISITOR MEMBERSHIP)**

19. The Society may establish classes of membership with different rights and obligations .
20. The rights and obligations (if any) attached to a class of membership may only be varied by resolution of the General Committee.
21. The Society shall allow such classes of members as the General Committee shall from time to time determine which shall include non-voting Visitor Membership pursuant to regulations made by the General Committee.
22. Subscriptions for all classes of membership shall be payable initially in the form prescribed for the particular class of membership in question and annually thereafter.
23. The General Committee may prescribe the rates of annual subscriptions of the members of the Society subject to the approval of the Society in general meeting.
24. Membership is not transferable to anyone else.

#### **FULL MEMBERS**

25. The Full Members of the Society for the purposes of the Act shall be the General Committee Members and individuals appointed pursuant to Article 27.
26. Every Full Member shall be expected to further the Objects of the Society.
27. Full Membership of the Society is open to individuals who:
- 27.1. are Visitor Members aged 18 years or over;
  - 27.2. have had the benefit of Visitor Membership for at least 36 consecutive months immediately prior to the date of application (unless the General Committee in their absolute discretion waive this requirement);

- 27.3. who apply to the Society using the application process approved by the General Committee; and
- 27.4. are approved by the General Committee.
28. The General Committee may in their absolute discretion accept or decline to accept any application for membership and need not give reasons for doing so.
29. The Society shall maintain a register of Full Members and any person ceasing to be a Full Member shall be removed from the register.
30. Every Full Member shall notify any change of his address to the Secretary or CEO in writing.
31. All Full Members are required to pay the annual subscription fees due in relation to their Visitor Membership.
32. If a Full Member wishes to withdraw from Full Membership of the Society whilst maintaining their Visitor Membership they shall give written notice to the Society.

#### **HONORARY MEMBERS**

33. Honorary Members shall not be liable for any annual subscription, contribution or otherwise to the funds of the Society.
34. The General Committee may decide from time to time on the form and manner of election and removal of Honorary Members.
35. Honorary Members shall be elected by the General Committee for such period as the General Committee think fit.
36. Honorary Members shall be entitled to attend all general meetings of the Society and to vote at general meetings of the Society.
37. The Society shall maintain a register of Honorary Members and any person ceasing to be an Honorary Member shall be removed from the register.

#### **TERMINATION OF FULL MEMBERSHIP**

38. Full Membership of the Society is automatically terminated if the member dies, is no longer either a Director or Visitor Member, has given notice to the Society pursuant to Article 32 or has been removed pursuant to Article 39
39. The General Committee may review the membership of the Society at every General Committee meeting and may, in their absolute discretion, cancel any membership at that time. Notice of cancellation of Full Membership pursuant to this Article 39 shall be given to any Full Member within seven days of a decision being arrived at by the General Committee.
40. Any Full Member shall be entitled to appeal to the General Committee in writing against the decision to expel them from the Society. The General Committee will

consider all written representations in detail and, following that consideration, will notify the Full Member in writing of their decision, which shall be final and binding.

### **GENERAL MEETINGS**

41. A general meeting shall be held by the Society in every calendar year as its annual *general meeting at such time and place as is determined by the General Committee.*
42. An annual general meeting shall be specified as such in the notices calling it and not more than fifteen months may elapse between successive annual general meetings.
43. All general meetings other than annual general meetings shall be called general meetings. References to "general meetings" in these Articles shall include annual general meetings and all other general meetings unless stated otherwise.
44. The General Committee may convene a general meeting which is not an annual general meeting at any time.
45. The General Committee shall be required on a Full Members' requisition, to convene a general meeting which is not an annual general meeting pursuant to sections 303 to 305 of the Act.

### **NOTICE OF GENERAL MEETINGS**

46. The minimum periods of notice required to hold a general meeting of the Society are:
  - 46.1. twenty-one clear days for an annual general meeting or a general meeting which is not an annual general meeting called for the passing of a special resolution;
  - 46.2. fourteen clear days for all other general meetings.
- 46.3. A general meeting may be called by shorter notice if it is so agreed by a majority in number of members having a right to attend and vote at the meeting who together hold not less than 95% of the total voting rights.
47. The notice must specify the date, time and place of the general meeting and the general nature of the business transacted. If the meeting is to be an annual general meeting, the notice must say so. The notice must include a statement setting out the right of members to appoint a proxy under section 324 of the Act.
48. The notice must be given to all Full Members, including all General Committee Members, Honorary Members and, in the case of an annual general meeting, to the Auditors.
49. The proceedings at a general meeting shall not be invalidated because a person who was entitled to receive notice of the general meeting did not receive it because of an accidental omission by the Society.

## **PROCEEDINGS AT GENERAL MEETINGS**

50. All business transacted at a general meeting (other than an annual general meeting, in relation to which the following provisions of this article 50 shall apply) shall be deemed special. All business transacted at an annual general meeting shall be deemed special, except for the following:
- 50.1. consideration of the income and expenditure account;
  - 50.2. consideration of the balance sheet;
  - 50.3. consideration of the reports of the General Committee;
  - 50.4. consideration of the reports of the Auditors;
  - 50.5. the election of members of the General Committee; and
  - 50.6. the appointment of, and the fixing of the remuneration of, the Auditors.
51. No business shall be transacted at any general meeting unless a quorum is present.
52. Save as otherwise provided in these Articles, the quorum is five Full Members entitled to vote upon the business to be conducted at the general meeting and present in person or by proxy.
53. If:
- 53.1. a quorum is not present within half an hour from the time appointed for the general meeting; or
  - 53.2. during a general meeting a quorum ceases to be present, the general meeting shall be adjourned to the same day in the next week, at the same time and place, or to such other day and time and such other place as the General Committee may determine.
54. At such adjourned general meeting, if a quorum is not present within half an hour from the time specified for the start of the adjourned general meeting, the members present in person or by proxy at that time shall constitute the quorum for that adjourned general meeting.
55. Every general meeting shall be chaired by the Chairman of the General Committee (appointed pursuant to Articles 109 to 116).
- 55.1. If there is no person appointed as Chairman, or if the Chairman is not present within fifteen minutes of the time appointed for the general meeting, the members present in person or by proxy shall choose a General Committee Member to preside as chairman for that general meeting.
  - 55.2. If no such member is present, or if all the General Committee Members present decline to preside as chairman, the members present in person or by proxy at that general meeting shall choose some member of the Society present to preside as chairman for that general meeting.

56. The Chairman may, with the consent of any general meeting at which a quorum is present (and indeed shall do so if directed by the general meeting) adjourn the general meeting from time to time, and from place to place, but no business shall be transacted at any adjourned general meeting other than business which might have been transacted at the general meeting from which the adjournment took place.
57. If a general meeting is adjourned for thirty days or more, notice of the adjourned general meeting shall be given in the same manner as that given for the original general meeting.
58. Save as provided for in these Articles, the members shall not be entitled to any notice of an adjournment, or of the business to be transacted at an adjourned general meeting.

### **VOTES OF MEMBERS**

59. Any vote at a general meeting shall be decided by show of hands.
60. Every Full Member who has paid all subscriptions and other sums and other monies due and payable to the Society in respect of his membership and every Honorary Member present in person or by proxy at a general meeting shall have one vote.
61. If there is an equality of votes, the Chairman, or the person chairing the general meeting in his absence, shall have a second or casting vote in addition to any other vote he may have.
62. A declaration by the Chairman, or the person chairing the general meeting in his absence, of the result of the vote shall be conclusive and the result of the vote must be recorded in the minutes of the Society, although the number or proportion of votes cast need not be recorded.

### **PROXIES**

63. A member is entitled to appoint another person as a proxy to exercise all or any of the member's rights to attend and to speak and vote at a meeting of the Society.
64. Proxies may only be validly appointed by a notice in writing (a **proxy notice**) which:
  - 64.1. states the name and address of the member appointing the proxy;
  - 64.2. identifies the person appointed to be that member's proxy and the general meeting in relation to which that person is appointed;
  - 64.3. is signed by or on behalf of the member appointing the proxy, or is authenticated in such manner as the General Committee Members may determine; and
  - 64.4. is delivered to the Society in accordance with the Articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the

right to vote is exercised and in accordance with any instructions contained in the notice of the general meeting (or any adjourned meeting) to which they relate.

A proxy notice which is not delivered in such manner shall be invalid unless the General Committee Members, in their discretion, accept the notice at any time before the meeting.

65. The Society may require proxy notices to be delivered in a particular form, and may specify *different forms for different purposes*.
66. Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
67. Unless a proxy notice indicates otherwise, it must be treated as:
  - 67.1. allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
  - 67.2. appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates, as well as the meeting itself.
68. A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the Society by or on behalf of that person.
69. An appointment under a proxy notice may be revoked by delivering to the Society a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.
70. A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
71. If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

#### **WRITTEN RESOLUTIONS**

72. A resolution in writing agreed by a simple majority (or in the case of a special resolution, by a majority of not less than 75%) of the members who would have been entitled to vote upon it had it been proposed at a general meeting shall be effective provided that:
  - 72.1. a copy of the proposed resolution has been sent to every eligible member together with a statement informing the member how to signify their agreement to the resolution and the date by which the resolution must be passed if it is not to lapse, which will be 28 days beginning with the circulation date of the resolution;



- 72.2. a simple majority (or in the case of a special resolution, a majority of not less than 75%) of members has signified its agreement to the resolution; and
- 72.3. it is contained in an authenticated document which has been received at the Office within the period of 28 days beginning with the circulation date.
- 73. A resolution in writing may comprise several copies to which one or more members have signified their agreement.

#### **GENERAL COMMITTEE**

- 74. The General Committee shall consist of at least six and not more than eighteen Visitor Members of the Society to be elected as provided for in Articles 79 and 80 below.
- 75. The vote of the majority of the General Committee voting shall be binding on the General Committee.
- 76. The General Committee shall meet not less than eight times during the Society's financial year (or as often as they shall think necessary) and shall keep proper minutes of their proceedings.
- 77. The Society may from time to time appoint in general meeting a President and may also appoint in general meeting one or more Vice Presidents. The role of the President and the Vice Presidents (if appointed) shall be determined by the General Committee from time to time.
- 78. Any provisions of the companies legislation which, subject to these Articles, would have the effect of rendering any person ineligible for appointment as a General Committee Member, or liable to vacate office as a General Committee Member, on account of having reached any specified age, or if requiring special notice or any other special formality in connection with the appointment of any such General Committee Member over a specified age, shall not apply to the Society.
- 79. The General Committee Members shall be elected by ordinary resolution at the annual general meeting of the Society.
- 80. Vacancies occurring amongst the General Committee Members during any year may be filled by the General Committee and those so elected shall retire from office at the next annual general meeting but shall be eligible for immediate re-election.

#### **POWERS OF THE GENERAL COMMITTEE**

- 81. The General Committee shall manage the business of the Society and may exercise all the powers of the Society, and do on behalf of the Society all such acts as may be exercised and done by the Society and as are not required by statute or by these Articles to be exercised or done by the Society in general meeting, unless they are

- subject to any restrictions imposed by the Act, the Memorandum, these Articles or any special resolution.
82. No alteration of the Memorandum, or these Articles, or any special resolution shall have retrospective effect to invalidate any prior act of the General Committee.
  83. No regulation by the Society in general meeting shall invalidate any prior act of the General Committee which would have been valid if such a regulation had not been made.
  84. The General Committee Members for the time being may act notwithstanding any vacancy in their body.
  85. Any meeting of the General Committee at which a quorum is present at the time the relevant decision is made may exercise all the powers exercisable by the General Committee.
  86. If the General Committee Members shall at any time be, or be reduced in number to less than the minimum number prescribed by these Articles, it shall be lawful for the General Committee Members to act for the purposes of admitting persons to membership of the Society, filling up vacancies in the General Committee, or summoning a general meeting, but not for any other purpose.
  87. The General Committee shall make regulations for the admission to the gardens of all classes of members of the Society, schools, scientific and other societies, clubs or institutions and of the general public.
  88. The General Committee shall also make regulations as to the payment of any subscriptions or other sums, and the conditions on which admission may be granted.
  89. The General Committee shall also make such other conditions as may be thought expedient in the case of children and generally as may be necessary and desirable with regard to admission to the gardens.
  90. The General Committee may make, alter and revoke any rules, bye-laws and regulations as they may deem expedient and necessary provided that such rules (new or altered), bye-laws and regulations are not inconsistent with these Articles, or with the Memorandum, or with any regulations laid down by the Society in general meeting.

#### **SEAL**

91. The seal of the Society shall not be used except by the authority of a resolution of the General Committee and in the presence of at least two General Committee Members, or one General Committee Member and the CEO for the time being appointed by the Society.

92. The said two General Committee Members, or the said one General Committee Member and the said CEO, shall sign every instrument to which the seal is affixed in their presence; and in favour of any purchaser or person bona fide dealing with the Society, such signatures shall be conclusive evidence of the fact that the seal has been properly affixed.

#### **DISQUALIFICATION AND REMOVAL OF GENERAL COMMITTEE MEMBERS**

93. A General Committee Member shall cease to hold office if he:
- 93.1. is removed by ordinary resolution of the Society pursuant to the Act;
  - 93.2. ceases to be a General Committee Member by virtue of any provision in the Act, or is prohibited by law from being a director;
  - 93.3. is disqualified from acting as a trustee by virtue of sections 178 and 179 of the Charities Act;
  - 93.4. ceases to be a Visitor Member of the Society;
  - 93.5. in the written opinion of a medical practitioner who is treating the General Committee Member, has become incapable by reason of mental disorder, illness or injury of acting as a General Committee Member and may remain so for 3 months;
  - 93.6. resigns as a General Committee Member by notice to the Society in writing (but only if at least two General Committee Members will remain in office when the notice of resignation is to take effect); or
  - 93.7. is removed from his position by a resolution of the General Committee that it is in the best interests of the Society that his position be vacated passed at a meeting at which at least half of the General Committee Members are present. Such a resolution must not be passed unless:
    - 93.7.1. the General Committee Member has been given at least 14 clear days' notice in writing of the meeting of the General Committee at which the resolution will be proposed and the reasons why it will be proposed; and
    - 93.7.2. the General Committee Member has been given a reasonable opportunity to make representations to the meeting either in person or in writing. The other General Committee Members must consider any representations made by the General Committee Member (or his representative) and inform the General Committee of their decision following such consideration.

#### **ROTATION OF THE GENERAL COMMITTEE MEMBERS**

94. At the first annual general meeting after the adoption of these Articles and at the annual general meeting to be held in every subsequent year, one-third of the General

- Committee Members for the time being, or if their number is not three or a multiple of three, the number nearest to one-third, must retire from office.
95. The General Committee Members to retire by rotation shall be those who have been the longest in office since their last election or appointment.
  96. If any General Committee Members became or were appointed General Committee Members on the same day, those to retire shall (unless they otherwise agree amongst themselves) be determined by drawing lots.
  97. If a General Committee Member is required to retire at an annual general meeting by a provision of these Articles, the retirement shall take effect upon the conclusion of the annual general meeting.
  98. A retiring General Committee Member shall be eligible for re-election.
  99. No person other than a General Committee Member retiring at a general meeting shall be eligible for election to membership of the General Committee at any general meeting (unless recommended by the General Committee), unless notice is given to the Secretary in writing within the prescribed time limits and before the day appointed for the general meeting.
  100. The notice required pursuant to Article 99 above is to be given by a member duly qualified to be present and vote at the general meeting for which such notice is given and shall include confirmation of that member's intention to propose such person for election. In addition notice in writing shall be given by the person to be proposed confirming his willingness to be elected. The prescribed time within which such notice must be given to the Secretary, between the date when the notice is served or deemed to be served and the day appointed for the general meeting, shall be not less than four, nor more than twenty clear days.
  101. An alphabetical list of persons available for re-election and nominated for election shall be available at the Office or at such other place as the General Committee may decide from time to time.

#### **PROCEEDINGS OF THE GENERAL COMMITTEE**

102. The General Committee may regulate their proceedings as they think fit, subject to the provisions of the Articles.
103. The General Committee shall determine the quorum necessary for the transaction of business at a meeting of the General Committee. Unless otherwise determined, the quorum for a meeting of the General Committee shall be four.
104. At a General Committee meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.

105. Questions arising at any meeting of the General Committee shall be decided by a majority of votes, and in the case of an equality of votes, the Chairman (elected in accordance with article 109) shall have a second or casting vote.
106. A General Committee Member may at any time request a meeting of the General Committee and, on such request, the Secretary shall summon a meeting of the General Committee by notice given to all of the General Committee Members. The proceedings at such meeting shall not be invalidated because a person who was entitled to receive notice did not receive it because of an accidental omission or misdirection by the Secretary.
107. A General Committee Member who is absent from the United Kingdom shall not be entitled to notice of a meeting of the General Committee.
108. A meeting of the General Committee at which a quorum is present shall be competent to exercise all the authorities, powers and discretions by or under the regulations of the Society for the time being vested in the General Committee generally.

#### **CHAIRMAN**

109. The General Committee shall elect a Chairman who shall be entitled to preside at all meetings of the General Committee at which he shall be present.
110. The Chairman of the General Committee will be appointed for an initial fixed two-year term of office.
111. At the end of the two-year term the Chairman may offer himself for re-election and if the General Committee accepts his offer for re-election, he shall be reappointed for a second two-year term of office.
112. In the event that the General Committee considers it in the best interests of the Society to do so, the Chairman's second two-year term of office may be extended for a further period of twelve months. In the event that the Chairman agrees to the extension of his second two-year term of office by this period of twelve months, that further twelve months of office shall run contemporaneously from the end of his second two-year term of office.
113. At the end of the second two-year term of office, or further twelve months of office as the case may be, the Chairman shall resign as Chairman of the General Committee, although he will remain as a General Committee Member until he resigns or retires or is disqualified or removed as a General Committee Member in accordance with Article 93.
114. A period of two years shall elapse between the end of the Chairman's term of office (whether that be his first two-year term of office or if re-appointed, his second two-

year term of office or, if his second two-year term of office is extended in accordance with Article 112, his extended twelve month term of office) and any further appointment as Chairman.

115. If no Chairman is elected, or if at any meeting of the General Committee the Chairman is not present within five minutes of the time appointed for holding the meeting of the General Committee, the Deputy Chairman shall chair the meeting.
116. In the absence of both the Chair and Deputy Chair, the General Committee Members present shall choose one of their number to be the chairman of that meeting of the General Committee.

#### **DEPUTY CHAIRMAN**

117. The General Committee shall elect up to two Deputy Chairmen, one of whom (as determined by the General Committee) shall in the absence of the Chairman be entitled to preside at all meetings of the General Committee at which he shall be present.
118. Each Deputy Chairman of the General Committee will be appointed for a two-year term of office.
119. At the end of the two-year term a Deputy Chairman may offer himself for re-election and if the General Committee accept his offer for re-election, he shall be reappointed for a second two-year term of office.
120. In the event that the General Committee considers it in the best interests of the Society to do so, a Deputy Chairman's second two-year term of office may be extended for a further period of twelve months. In the event that the Deputy Chairman agrees to the extension of his second two-year term of office by this period of twelve months, that further twelve months of office shall run contemporaneously from the end of his second two-year term of office.
121. At the end of the second two-year term of office (or further twelve months of office, as the case may be), the Deputy Chairman shall resign as Deputy Chairman of the General Committee, although he will remain as a General Committee Member until he resigns or retires or is disqualified or removed as a General Committee Member in accordance with Article 93.
122. The Deputy Chairman may be appointed Chairman by the General Committee on the position of Chairman becoming vacant and may offer himself for election at the first Annual General meeting on the position of Chairman becoming available.

#### **TREASURER/SECRETARY**

123. The General Committee shall elect from amongst their number a treasurer and a secretary and any such other honorary officer or officers as the General Committee may decide from time to time.
124. Any such treasurer, secretary or honorary officer shall be elected on such terms and conditions as the General Committee shall from time to time determine.

## **DELEGATION**

125. The General Committee may delegate any of their powers or functions to a committee or committees of two or more General Committee Members as they think fit.
126. Any sub-committee so formed shall have the power to co-opt onto it any persons whether they are General Committee Members, or members of the Society or not, provided that such co-opted persons shall be less in number than the members appointed to the sub-committee by the General Committee.
127. Any sub-committee shall, in the exercise of its delegated powers, conform to any regulations imposed on it by the General Committee.
128. The General Committee may impose conditions when delegating to a sub-committee including the conditions that:
  - 128.1. the relevant powers are to be exercised exclusively by the sub-committee to whom they delegate; and
  - 128.2. no expenditure may be incurred on behalf of the Society except in accordance with the budget previously agreed with the General Committee.
129. The General Committee may revoke or alter a delegation.
130. The meetings and proceedings of any sub-committee shall be governed by the terms of reference for such sub-committee as agreed by the General Committee from time to time,
131. All acts and proceedings of any sub-committee must be fully and promptly reported to the General Committee.
132. All acts bona fide done by any meeting of the General Committee, or of any sub-committee of the General Committee, or by any person acting as a General Committee Member, shall be valid notwithstanding the participation in any vote of a General Committee Member:
  - 132.1. who is disqualified from holding office;
  - 132.2. who had previously retired or who had been obliged by the Articles to vacate office; and
  - 132.3. who was not entitled to vote on the matter, whether by reason of a conflict of interest or otherwise.

## **CONFLICTS OF INTEREST**

133. A General Committee Member must declare the nature and extent of any interest, direct or indirect, which they have in a proposed transaction or arrangement with the Society or in any transaction or arrangement entered into by the Society which has not previously been declared.
134. A General Committee Member must absent themselves from any discussions of the General Committee in which it is possible that a conflict will arise between their duty to act solely in the interests of the Society and any personal interest (including, but not limited to, any personal financial interest).
135. If a conflict of interest arises for a General Committee Member because of a duty of loyalty owed to another organisation or person and the conflict is not authorised by virtue of any other provision in the Articles, the unconflicted General Committee Members may authorise such a conflict of interests where the following conditions apply:
  - 135.1. the conflicted General Committee Member is absent from the part of the meeting at which there is discussion of any arrangement or transaction affecting that other organisation or person;
  - 135.2. the conflicted General Committee Member does not vote on any such matter and is not to be counted when considering whether a quorum of General Committee Members is present at the meeting; and
  - 135.3. the unconflicted General Committee Members consider it is in the best interests of the Society to authorise the conflict of interests in the circumstances applying.
136. In article 135, a conflict of interests arising because of a duty of loyalty owed to another organisation or person only refers to such a conflict which does not involve a direct or indirect benefit of any nature to a General Committee Member or to a Connected Person.

## **MINUTES**

137. The General Committee shall cause the Society to keep the following records in writing and in permanent form:
  - 137.1. minutes of proceedings at general meetings;
  - 137.2. particulars of appointments of officers made by the General Committee;
  - 137.3. minutes of meetings of the General Committee and sub-committees of the General Committee including the names of the General Committee Members (or, as the case may be, members of the sub-committee of the General Committee) present at the



meeting, the decisions made at the meeting, and where appropriate, the reasons for the decisions.

138. The minutes of any meetings shall be signed by the Chairman of the meeting, or by the Chairman of the next succeeding meeting, and shall be sufficient evidence without any further proof of the facts therein stated.

#### **WRITTEN RESOLUTION**

139. A resolution in writing signed by all the General Committee Members for the time being, or of a sub-committee of the General Committee, entitled to receive notice of a meeting of the General Committee, or of a sub-committee of the General Committee, shall be as valid and effectual as if it had been passed at a meeting of the General Committee or of the sub-committee of the General Committee duly convened and held.
140. The resolution in writing may comprise several documents containing the text of the resolution in like form each signed by one or more of the General Committee Members, or the members of the sub-committee of the General Committee (if applicable).

#### **ACCOUNTS**

141. The General Committee must prepare for each financial year accounts as required by the Act. The accounts must be prepared to show a true and fair view and follow accounting standards issued or adopted by the Accounting Standards Board or its successors and adhere to the recommendations of applicable Statements of Recommended Practice.
142. *The General Committee must keep accounts and records as required by the Act.*

#### **AUDIT**

143. Once at least in every year, the accounts of the Society shall be examined by a properly qualified Auditor or Auditors who will then prepare a report in accordance with the Act.
144. Auditors shall be appointed and their duties regulated in accordance with the Act, with the members of the General Committee being treated as the directors mentioned in those sections.

#### **ANNUAL REPORT AND RETURN AND REGISTER OF CHARITIES**

145. The General Committee must comply with the requirements of the Charities Act with regard to:

- 145.1. the preparation of an annual report and statements of account and their transmission to the members;
- 145.2. the submission of an annual report and statements of account to the Commission; and
- 145.3. the preparation of an annual return and its submission to the Commission.
146. The General Committee must notify the Commission promptly of any changes to the Society's entry of the Central Register of Charities.

## **NOTICES**

147. Any notice to be given to or by any person pursuant to the Articles must be in writing or given using electronic communications.
148. The Society may give any notice to a member either:
  - 148.1. personally; or
  - 148.2. by sending it by post in a pre-paid envelope addressed to the member at his address; or
  - 148.3. by leaving it at the address of the member; or
  - 148.4. by giving it using electronic communications to the member's address.
149. A member who does not register an address with the Society or who registers only a postal address which is not within the United Kingdom shall not be entitled to receive any notice from the Society.
150. A member present in person at any meeting of the Society shall be deemed to have received notice of the meeting and of the purpose for which it was called.
151. Proof that an envelope containing a notice was properly addressed, pre-paid and posted shall be conclusive evidence that the notice was given.
152. A notice shall be deemed to be given:
  - 152.1. forty-eight hours after the envelope containing it was posted; or
  - 152.2. in the case of an electronic communication, twenty-four hours after it was sent.

## **INDEMNITY**

153. The Society shall indemnify a relevant General Committee Member against any liability incurred in that capacity, to the extent permitted by sections 232 to 234 of the Act.
154. In this article a 'relevant General Committee Member' means any General Committee Member or former General Committee Member of the Society.

## **RULES**

155. The General Committee may from time to time make such reasonable and proper rules or bye-laws as they may deem necessary or expedient for the proper conduct and management of the Society.
156. The bye-laws may regulate the following matters but are not restricted to them:
  - 156.1. the admission of members of the Society and the rights and privileges of such members, and the entrance fees, subscriptions and other fees or payments to be made by members;
  - 156.2. the conduct of members of the Society in relation to one another and to the Society's employees and volunteers;
  - 156.3. the setting aside of the whole or any part or parts of the Society's premises at any particular time or times, or for any particular purpose or purposes;
  - 156.4. the procedure at general meetings and meetings of the General Committee insofar as such procedure is not regulated by the Act or by these Articles; and
  - 156.5. generally, all such matters as are commonly the subject matter of company rules.
157. The Society in general meeting has power to alter, add to, or repeal the rules or bye-laws.
158. The General Committee must adopt such means as they think sufficient to bring the rules and bye-laws to the notice of members of the Society.
159. The rules or bye-laws shall be binding on all members of the Society.
160. No rule or bye-law shall be inconsistent with, or shall affect, or repeal anything contained in, the Articles.

## **DISSOLUTION**

161. If the Society is dissolved, the assets (if any) remaining after provision has been made for all its liabilities, shall not be paid to or distributed among the members of the Society, but must be applied in one or more of the following ways:
  - 161.1. by transfer to one or more other bodies established for exclusively charitable purposes within, the same as, or similar to the Objects;
  - 161.2. directly for the Objects, or for charitable purposes which are within, the same as, or similar to the Objects;
  - 161.3. in such other manner consistent with charitable status as the Commission approve in writing in advance.
162. A final report and statement of account must be sent to the Commission.