

Company No. 05547805

THE COMPANIES ACT 2006
COMPANY NOT HAVING A SHARE CAPITAL

ARTICLES OF ASSOCIATION
of
THE FRIENDS OF OXFORD BOTANIC GARDEN & ARBORETUM
Adopted on [DATE]

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1 Name and status

- 1.1 The name of the Charity is **The Friends of Oxford Botanic Garden & Arboretum**.
- 1.2 The Charity is registered under the Companies Act 2006 as a company limited by guarantee in England and Wales (Company Number: 05547805).

2 Disapplication of Model Articles

- 2.1 The Articles alone shall constitute the regulations of the Charity. The regulations contained in The Model Articles for Private Companies Limited by Guarantee (contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) shall not apply to the Charity.

3 Definitions and interpretation

- 3.1 In these Articles, the following expressions have the following meanings and interpretations unless the context indicates another meaning:
 - 3.1.1 **Act** means the Companies Act 2006;
 - 3.1.2 **Articles** means the Articles of Association of the Charity;
 - 3.1.3 **the Chair** means the person appointed as chair of the Trustees in accordance with article 15.1;
 - 3.1.4 **Charities Acts** means the Charities Acts 1992 to 2016;
 - 3.1.5 **Conflicted Trustee** means a Trustee in respect of whom a conflict of interest arises or may reasonably arise because the Conflicted Trustee or a Connected Person is receiving or stands to receive a benefit (other than payment of a premium for indemnity insurance) from the Charity, or has some separate interest or duty in a matter to be decided by the Charity, or in relation to information which is confidential to the Charity;
 - 3.1.6 **Connected Person** means:
 - (a) A child, parent, grandchild, grandparent, brother or sister of a Trustee;
 - (b) The spouse or civil partner of a Trustee or any person specified in article 3.1.6(a) above;
 - 3.1.7 **Members** means a person or body corporate that is admitted to membership of the Charity in accordance with these Articles, and whose name is recorded on the Charity's register of members;
 - 3.1.8 **Objects** means the objects of the Charity as set out in article 4;

- 3.1.9 **Ordinary Resolution** means a resolution agreed by a simple majority of the Members present and eligible to vote at a general meeting or in the case of a Written Resolution by Members who together hold a simple majority of the voting power;
- 3.1.10 **Special Resolution** means a resolution of which at least 14 days' notice has been given agreed by a 75% majority of the Members present and eligible to vote at a general meeting or in the case of a Written Resolution by Members who together hold 75% of the voting power;
- 3.1.11 **Trustees** means the trustees of the Charity at the date of adoption of these Articles. For the avoidance of doubt, Trustees are also directors of the Charity;
- 3.1.12 **writing or written** means a legible document on paper or a document sent by electronic means which is capable of being printed out on paper; and
- 3.1.13 **Written Resolution** refers to an Ordinary or Special Resolution which is in writing.
- 3.2 Any reference to **persons** includes natural persons, firms, partnerships, companies, corporations, limited liability partnerships, associations, organisations, governments, states, foundations and trusts (in each case whether or not having separate legal personality).
- 3.3 A reference to an Act of Parliament includes any statutory modification or re-enactment of that Act, and any subordinate legislation made under it.
- 3.4 Unless inconsistent with the context words and phrases that are defined in the Act or in the Charities Acts shall have the same meaning when used in these Articles.

4 **Objects**

- 4.1 The Charity's Objects are to support, for the benefit of the public the horticultural, scientific, educational and all other activities of the Oxford Botanic Garden (which term shall connote the University of Oxford Botanic Garden, the Harcourt Arboretum and any other park or garden owned or managed by the Oxford Botanic Garden) and in furtherance of that purpose:
 - 4.1.1 To seek financial support by way of subscription, fund raising through special events, voluntary contribution, appeals sponsorship, grant, advertising, legacies and such other means as shall seem conducive to the Objects of the Charity;
 - 4.1.2 To make grants to the Garden consistent with the Objects of the Charity;
 - 4.1.3 To organise visits to the Oxford Botanic Garden and other parks, gardens and landscapes of educational, botanic, historic or aesthetic interest;
 - 4.1.4 To promote the gathering, exchange and dissemination of information through newsletters and other publications (including electronic communication) concerning the Oxford Botanic Garden.

5 Powers

5.1 In addition to any other powers which they have, the Trustees may exercise any of the following powers in order to further the object of the Charity:

- 5.1.1 To raise funds, provided that the Trustees must not undertake any permanent taxable trading activity and must comply with any relevant statutory regulations;
- 5.1.2 To buy, take on lease or in exchange, hire or otherwise acquire property and to maintain and equip it for use;
- 5.1.3 To sell, lease or otherwise dispose of all or any part of the property belonging to the Charity, in accordance with the restrictions set out in ss117-122 Charities Act 2011;
- 5.1.4 To borrow money;
- 5.1.5 To charge the whole or any part of the property belonging to the Charity as security for repayment of any loan, in accordance with the restrictions set out in ss124-126 Charities Act 2011 (insofar as applicable);
- 5.1.6 To effect such policies of insurance as shall be necessary for the proper protection of the Charity's employees, officers and property;
- 5.1.7 To co-operate with other charities, voluntary bodies and statutory authorities and to exchange information and advice with them;
- 5.1.8 To establish or support any charitable trusts, associations or institutions formed for any of the charitable purposes included in the object;
- 5.1.9 To acquire, merge with or enter into any partnership or joint venture arrangement with any other charity;
- 5.1.10 To create such advisory committees as the Trustees think fit;
- 5.1.11 To employ and remunerate such staff as are necessary for carrying out the work of the Charity; and
- 5.1.12 To do any other lawful thing that is necessary or desirable for the achievement of the object.

6 Application of Charity property

6.1 The income and property of the Charity shall be applied solely towards the promotion of the Objects.

6.2 A Trustee is entitled to be reimbursed from the property of the Charity or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the Charity.

- 6.3 A Trustee may benefit from trustee indemnity insurance cover purchased at the Charity's expense.
- 6.4 None of the income or property of the Charity may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to any Member of the Charity. This does not prevent a Member who is not also a Trustee receiving:
- 6.4.1 A benefit from the Charity in the capacity of a beneficiary of the Charity;
- 6.4.2 Reasonable and proper remuneration for any goods or services supplied to the Charity.
- 6.5 No Trustee may:
- 6.5.1 Buy any goods or services from the Charity;
- 6.5.2 Sell goods, services or any interest in land to the Charity;
- 6.5.3 Be employed by, or receive any remuneration from the Charity;
- 6.5.4 Receive any other financial benefit from the Charity unless:
- (a) The payment is permitted by clauses 6.6 – 6.10 below and the Trustees follow the procedure and observe the conditions set out in clauses 6.11 - 13; or
- (b) The Trustees obtain the prior written approval of the Charity Commission and fully comply with any procedures it prescribes.

Permitted Trustees' Benefits:

- 6.6 A Trustee may receive a benefit from the Charity in the capacity of a beneficiary of the Charity.
- 6.7 A Trustee may be employed by the Charity or enter into a contract for the supply of goods or services to the Charity, other than for acting as a Trustee.
- 6.8 A Trustee may receive interest on money lent to the Charity at a reasonable and proper rate not exceeding 2% per annum below the base rate of a clearing bank to be selected by the Trustees.
- 6.9 A company of which a Trustee is a member may receive fees, remuneration or other benefit in money or money's worth provided that the shares of the company are listed on a recognised stock exchange and the Trustee holds no more than 1% of the issued share capital of that company.
- 6.10 A Trustee may receive rent for premises let by the Trustee to the Charity if the amount of the rent and the other terms of the lease are reasonable and proper.

Limitation

- 6.11 The Charity and its Trustees may only rely upon the authority provided by clauses 6.6 – 6.10 above if each of the following conditions is satisfied:
- 6.11.1 The remuneration or other sums paid to the Trustee do not exceed an amount which is reasonable in the circumstances;
 - 6.11.2 The Trustee is absent from the part of any meeting at which there is discussion of:
 - (a) His or her employment or remuneration, or any other matter concerning the contract, or
 - (b) His or her performance in the employment, or his or her performance of the contract, or
 - (c) Any proposal to enter into any other contract or arrangement with him or her or to confer any benefit upon him or her that would be permitted under clauses 6.6 – 6.10, or
 - (d) Any other matter relating to a payment or the conferring of any benefit permitted by clauses 6.6 – 6.10.
 - 6.11.3 The Trustee does not vote on any such matter and is not to be counted when calculating whether a quorum of Trustees is present at the meeting;
 - 6.11.4 The other Trustees are satisfied that it is in the interests of the Charity to employ or contract with that Trustee rather than with someone who is not a Trustee. In reaching that decision, the Trustees must balance the advantage of employing a Trustee against the disadvantages of doing so (especially the loss of the Trustee's services as a result of dealing with the Trustee's conflict of interest);
 - 6.11.5 The reason for their decision is recorded in the minute book;
 - 6.11.6 A majority of the Trustees then in office have received no such payments.
- 6.12 The employment or remuneration of a Trustee includes the engagement or remuneration of any firm or company in which the Trustee is:
- 6.12.1 A partner;
 - 6.12.2 An employee;
 - 6.12.3 A consultant;
 - 6.12.4 A director; or
 - 6.12.5 A shareholder, unless the shares of the company are listed on a recognised stock exchange and the Trustee holds less than 1% of the issued share capital.
- 6.13 In this article 6, "**company**" shall include any company in which the Charity:
- (a) Holds more than 50% of the shares; or

- (b) Controls more than 50% of the voting rights attached to the shares; or
- (c) Has the right to appoint one or more trustees to the board of the company.

6.14 In this article 6, "**Trustee**" includes any Connected Person.

7 Liability of Members

7.1 The liability of the Members is limited.

7.2 Every Member of the Charity undertakes to contribute to the assets of the Charity, in the event of the same being wound up while he or she is a Member, or within one year after he or she ceases to be a Member, for payment of the debts and liabilities of the Charity contracted before he or she ceases to be a Member and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding one pound (£1).

8 Members

8.1 The Charity must maintain a register of Members.

8.2 Membership is open only to the Trustees.

8.3 Membership is not transferable.

8.4 The form and procedure for applying for Membership is as prescribed by the Trustees.

8.5 Membership is terminated if the Member concerned:

- 8.5.1 Gives written notice of resignation provided that, on their resignation, at least three Members remain;
- 8.5.2 Ceases to be a Trustee; or
- 8.5.3 Dies.

9 General meetings

9.1 Members are entitled to:

- 9.1.1 Receive the accounts of the Charity for each financial year;
- 9.1.2 Receive an annual written report on the Charity 's activities; and
- 9.1.3 Appoint reporting accountants or auditors for the Charity (unless such accountants or auditors are automatically deemed reappointed under the Act).

10 Notice of general meetings

- 10.1 Unless otherwise stated in these Articles or the Act, a general meeting shall be called by at least fourteen Clear Days' notice in writing unless the Members consent to a shorter period of notice in accordance with the Act, and subject to any specific provisions of the Act in relation to a requirement for longer periods of notice.
- 10.2 The notice shall specify the time and place of the meeting, the general nature of the business to be transacted, and the rights of a Member to appoint a proxy.
- 10.3 Every notice concerning a general meeting shall be given in accordance with the Act that is, in hard copy, electronic form or by means of a website.
- 10.4 The Charity may send a notice of a meeting by making it available on a website or sending it in electronic form and if notice is sent in either way it will be valid provided it complies with the relevant provisions of the Act.
- 10.5 The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

11 Proceedings at general meetings

- 11.1 No business shall be transacted at any general meeting unless a quorum of Members is present. There is a quorum if the number of Members present in person or by proxy is at least two.
- 11.2 If within half an hour from the time appointed for the general meeting a quorum is not present the general 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 Trustees may determine; and if at the adjourned general meeting a quorum is not present within half an hour from the time appointed therefore the member or members present in person or (being a body corporate) by representative and entitled to vote upon the business to be transacted shall constitute a quorum and shall have power to decide upon all matters which could properly have been disposed of at the meeting from which the adjournment took place.
- 11.3 The Chair shall preside as chairperson at every general meeting of the Charity, or if there is no such chairperson, or if he or she shall not be present within fifteen minutes after the time appointed for the holding of the meeting or is unwilling to act, the Trustees present shall elect one of their number to be chairperson of the meeting.
- 11.4 If at any meeting no Trustee is willing to act as Chair or if no Trustee is present within fifteen minutes after the time appointed for holding the general meeting, the Members present shall choose one of their number to be chairperson of the meeting.
- 11.5 The Chair 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, but no business shall be transacted at any adjourned meeting other than the business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as

in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

- 11.6 Except where otherwise provided by the Articles or the Act, every matter proposed at a general meeting is decided by Ordinary Resolution.
- 11.7 Every Member present in person or by proxy has one vote on each matter.
- 11.8 Except where otherwise provided by the Articles or the Act, a Written Resolution (whether an Ordinary or a Special Resolution) is as valid as an equivalent resolution passed at a general meeting. For this purpose the Written Resolution may be set out in more than one document.
- 11.9 A technical defect in the appointment of a Member of which the Members are unaware at the time does not invalidate a decision taken at a general meeting or a Written Resolution.

12 Appointment of Trustees

- 12.1 There must be at least three Trustees.
- 12.2 Every new Trustee must be appointed for a term of no greater than three years by a resolution passed in accordance with article 12.4 below. A retiring Trustee (whether appointed before or after the adoption of these Articles) shall be eligible for reappointment. Those Trustees currently in office as at the date of the adoption of these Articles shall be deemed to have been appointed in accordance with this article 12.2 from the date of their last appointment or re-appointment.
- 12.3 In selecting individuals for appointment as Trustees, the Trustees must have regard to the balance of skills, knowledge and experience needed for the effective administration of the Charity, and the standards of integrity required of its Trustees.
- 12.4 No one shall be appointed as a Trustee if:
 - 12.4.1 He or she is under 18 years of age; or
 - 12.4.2 He or she would be disqualified from office under the provisions of article 13.
- 12.5 No person will be appointed as a Trustee unless he or she provides written consent to the Charity that they are willing to act.

13 Termination of trusteeship

- 13.1 A Trustee shall cease to hold office if he or she:
 - 13.1.1 Is disqualified from acting as a Trustee under ss178-179 Charities Act 2011;
 - 13.1.2 Is disqualified from acting as a company director;
 - 13.1.3 Has become physically or mentally incapable of acting as a Trustee and may remain so for more than three months (as determined by a registered medical practitioner who is treating the Trustee and provides a written opinion to that effect);

- 13.1.4 Is absent from three successive Trustee meetings, and the remaining Trustees resolve that he or she should be removed;
- 13.1.5 Is guilty of conduct which jeopardises the Charity's ability to promote the Objects or seriously risks undermining the Charity's reputation or goodwill, and the remaining Trustees resolve that he or she should be removed, save that the Trustee in question shall be given reasonable opportunity to make representations in their defence; or
- 13.1.6 Notifies the Trustees in writing that he or she wishes to resign (but only if there are sufficient remaining Trustees for any meeting of the Trustees to be quorate).

14 Proceedings of Trustees

- 14.1 Save as set out in these Articles, the Trustees may regulate their proceedings as they see fit, in the best interests of the Charity.
- 14.2 The Trustees must hold at least one meeting in each calendar year. Meetings may be held by any electronic means agreed in advance by the Trustees in which all participants may communicate with all the other participants.
- 14.3 Meetings of the Trustees may be called by the Chair of Trustees or by a third of the Trustees.
- 14.4 At least 10 days' written notice shall be given of any meeting of the Trustees (except as provided otherwise in these Articles).
- 14.5 Except as provided below, no business shall be conducted at a meeting of the Trustees unless at least three Trustees are present.
- 14.6 At a meeting of the Trustees, decisions must be made by a majority of the Trustees who are present and entitled to vote on the matter. In the event of an equality of votes, the person chairing the meeting shall have a casting vote in addition to any vote he or she may already have exercised, but otherwise no Trustee shall have more than one vote.
- 14.7 A resolution in writing agreed by all the Trustees (other than any Conflicted Trustee who is not authorised to vote on the matter) is as valid as a resolution passed at a meeting. For this purpose the resolution may be contained in more than one document.

15 Appointment of Chair/Officers

- 15.1 The Trustees shall appoint a Chair and may appoint other officers from among their number. Any such appointment shall be for a period of one year and may be renewed annually up to a maximum of three years in total.
- 15.2 The person appointed as Chair shall have no functions or powers except those conferred by this deed or delegated to him or her by the Trustees.
- 15.3 If the appointed Chair is not present within 15 minutes after the time appointed for the start of the meeting, or is otherwise unable or unwilling to act, the Trustees present must choose one of their number to chair the meeting.

16 Delegation of Trustees' powers

16.1 The Trustees may delegate any of their powers or functions to:

16.1.1 Any person who is employed or engaged by the Trustees in connection with the operations and management of the Charity, on such terms as the Trustees see fit and subject to the proper oversight of the Trustees; and

16.1.2 Any committee of two or more Trustees, subject to the provisions of article 16.2 below.

16.2 Any committee of the Trustees:

16.2.1 Must act only in accordance with the delegation made to it by the Trustees, and incur expenditure only in accordance with a budget previously agreed by the Trustees;

16.2.2 Shall report its activities fully and promptly to the Trustees;

16.2.3 May co-opt additional members to the committee, provided that the names of any co-opted members are authorised by the Trustees at their next meeting;

16.2.4 Shall be chaired by a Trustee, and shall only be quorate if at least one Trustee is present;

16.2.5 Shall otherwise be governed in its proceedings in accordance with the provisions of these Articles, insofar as it is capable of applying, save that any Trustee appointed to any committee may exercise a right of veto over any decision made by the committee of which he or she is not in favour, in which case the committee shall refer the matter to the Trustees for resolution.

17 Conflicts of interests and conflicts of loyalties

17.1 The property and funds of the Charity must be used only for promoting the Object and do not belong to the members of the Charity. A Trustee must not receive any payment of money or other material benefit (whether directly or indirectly) from the Charity except:

17.1.1 As described in article 6; or

17.1.2 In exceptional cases, other payments or benefits (but only with the written consent of the Commission in advance and where required by the Companies Act the approval or affirmation of the members of the Charity).

17.2 A Trustee must:

17.2.1 Declare the nature and extent of any interest, direct or indirect, which he or she, or a Connected Person, has in a proposed transaction or arrangement with the Charity or in any transaction or arrangement entered into by the Charity which has not previously been declared; and

- 17.2.2 Absent himself or herself from any discussions of the Trustees in which it is possible that a conflict will arise between his or her duty to act solely in the best interests of the Charity and any personal interest (including but not limited to any personal financial interest or interest as a trustee or member of another body).
- 17.3 Any Trustee absenting himself or herself from any discussions in accordance with this article must not vote or be counted as part of the quorum in any decision of the Trustees on the matter.
- 17.4 When any Trustee is a Conflicted Trustee, the Trustees who are not Conflicted Trustees, if they form a quorum without counting the Conflicted Trustee and are satisfied that it is in the best interests of the Charity to do so, may by resolution passed in the absence of the Conflicted Trustee authorise the Conflicted Trustee, notwithstanding any conflict of interest or duty which has arisen or may arise for the Conflicted Trustee, to:
 - 17.4.1 Continue to participate in discussions leading to the making of a decision and/or to vote; or
 - 17.4.2 Disclose to a third party information confidential to the Charity; or
 - 17.4.3 Take any other action not otherwise authorised which does not involve the receipt by the Conflicted Trustee or a Connected Person of any payment or material benefit from the Charity; or
 - 17.4.4 Refrain from taking any step required to remove the conflict.
- 17.5 This provision may be amended by special resolution of the members of the Charity but, where the result would be to permit any material benefit to a Trustee or Connected Person, only with the prior written consent of the Charity Commission.

18 Validity of Trustees' decisions

- 18.1 Subject to article 18.2, all decisions of the Trustees, or of a committee of the Trustees, shall be valid notwithstanding the participation in any vote of a Trustee who:
 - 18.1.1 Is disqualified from office;
 - 18.1.2 Had previously retired or been obliged to vacate office;
 - 18.1.3 Was not entitled to vote on the matter, whether by reason of a conflict of interests or otherwise, if, discounting the vote and participation in the quorum of the Trustee in question, the decision would have been validly made by a majority of the Trustees at a quorate meeting.
- 18.2 Article 18.1 does not permit a Trustee to keep any benefit that may be conferred on him by a resolution of the Trustees or a committee of the Trustees if, but for article 18.1, the resolution would have been void, or if the Trustee has not complied with article 17.

19 Regulations

- 19.1 The Trustees may from time to time make regulations for the management of the Charity and the conduct of their business, including:
- 19.1.1 The calling and conduct of meetings, and the keeping and approval of minutes of those meetings;
 - 19.1.2 Methods of making decisions in matters of urgency when calling a meeting is impractical;
 - 19.1.3 The deposit of cash at bank, and bank mandates or signatories required for cheques and orders for payments of money from any account held in the name of the Charity;
 - 19.1.4 The custody of documents;
 - 19.1.5 The keeping and authenticating of records, and if regulations made under this article permit records of the Charity to be kept in electronic form, the regulations may specify the method of recording Trustees' signatures which enable them to be properly authenticated.
- 19.2 The Trustees must not make regulations which are inconsistent with anything in this constitution.

20 Administration

- 20.1 The Trustees must keep minutes, in books kept for the purpose or such other means as the Trustees decide, of:
- 20.1.1 the proceedings at their meetings;
 - 20.1.2 any decisions or resolutions made by them outside meetings; and
 - 20.1.3 the proceedings of any committees.
- 20.2 The Trustees must comply with their obligations under the Act and the Charities Act 2011 with regard to the keeping of accounting records, and the preparation, auditing or inspection and transmission to the Charity Commission and the Registrar of Companies of annual accounts and an annual report.

21 Amendment

- 21.1 No amendment of article 4 (Objects), 6 (Application of Charity Property) or 22 (Winding Up or Dissolution) or this article may be made without the prior written consent of the Charity Commission.
- 21.2 No amendment to these Articles may be made that would have the effect of making the Charity cease to be a charity at law.

22 Winding up or dissolution

22.1 The Members of the Charity may at any time before, and in expectation of, its dissolution resolve that any net assets of the Charity after all its debts and liabilities have been paid, or provision has been made for them, shall on or before the dissolution of the Charity be applied or transferred in any of the following ways:

22.1.1 Directly for the Objects; or

22.1.2 By transfer to the University of Oxford for purposes similar to the Objects.

22.2 Subject to any such resolution of the members of the Charity, the Trustees of the Charity may at any time before and in expectation of its dissolution resolve that any net assets of the Charity after all its debts and liabilities have been paid, or provision made for them, shall on dissolution of the Charity be applied or transferred:

22.2.1 Directly for the Objects; or

22.2.2 By transfer to any charity or charities for purposes similar to the Objects; or

22.2.3 To any charity or charities for use for particular purposes that all within the Objects.

22.3 In no circumstances shall the net assets of the Charity be paid to or distributed among the Members of the Charity (except to a Member that is itself a charity) and if no such resolution is passed by the Members or the Trustees, the net assets of the Charity shall be applied for charitable purposes as directed by the court or the Commission.