

**MEMORANDUM AND ARTICLES OF ASSOCIATION  
FOR A BUILDING PRESERVATION TRUST**

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**AHF Guidance for the Formation of a Building Preservation Trust  
in England and Wales**

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# AHF GUIDANCE FOR THE FORMATION OF A BUILDING PRESERVATION TRUST IN ENGLAND AND WALES

## **1. Introduction**

With this paper is a standard governing document for a building preservation trust (BPT). It is based on a model form of Memorandum and Articles of Association for a charitable company limited by guarantee which is approved by the Charity Commission for registration as a charity in England and Wales following the changes introduced by the Companies Act 2006 which came into effect on 1 October 2009.

You will need to obtain or download guidance from Companies House on how to incorporate the BPT as a company limited by guarantee, and the Charity Commission's registration information pack which provides guidance on the procedure to be followed to register the company as charity. Please see sections 3.5 and 4.1 for addresses and links.

### **HEALTH WARNING**

The Architectural Heritage Fund has prepared this Guidance to assist people seeking to establish a building preservation trust (BPT). Whilst every effort has been made to ensure that it is accurate, up-to-date and appropriate for most BPTs, the AHF cannot accept responsibility for consequences of any kind arising from its use. The promoters of all new BPTs are **strongly recommended** to take independent legal advice.

## **2. Completing the model form of Memorandum and Articles of Association**

2.1 You will need to add to the Memorandum the name of the charity, its area of benefit and some other details. Before doing so, please consider and follow carefully the Charity Law Association's Guidance attached.

## **3. Incorporating the BPT**

3.1 When you have completed the model Memorandum and Articles of Association we recommend that you ask an experienced charity solicitor to review the Memorandum and Articles before signing the Memorandum and incorporating the company.

3.2 The first trustees will need to sign at the end of the Memorandum in the presence of a witness.

3.3 The first trustees will also need to complete Companies House Form IN01. This can be obtained from their website

[www.companieshouse.gov.uk/forms/generalForms/IN01\\_application\\_to\\_register\\_a\\_company.pdf](http://www.companieshouse.gov.uk/forms/generalForms/IN01_application_to_register_a_company.pdf)

3.4 Having completed 3.1-3.3 above, you should send the Memorandum and Articles of Association and the Companies House forms to Companies House with a cheque for £20 (January 2010) for the company to be incorporated. (A "same day" incorporation service is available, but the fee for this is £50.) The address to send it to is:

Companies House  
Crown Way  
Cardiff CF4 3UZ  
(DX 33050 Cardiff)

3.5 When the BPT has been incorporated you will receive a Certificate of Incorporation from Companies House.

#### **4. Confirmation of charitable status**

4.1 Complete form CC5a and trustee declaration form CC5c included in the Charity Commission's registration information pack, which can be obtained from their website [www.charity-commission.gov.uk/registration/regpack.asp](http://www.charity-commission.gov.uk/registration/regpack.asp) or your nearest branch of the Charity Commission:-

30 Millbank, London, SW1P 4DU

12 Princes Dock, Princes Parade, Liverpool L3 1DE

Woodfield House, Tangier, Taunton TA1 4BL

8<sup>th</sup> Floor, Clarence House, Clarence Place, Newport, NP19 7AA

The Charity Commission's telephone number is 0845 3000 218. Fax: 0151 7031 555

4.2 Send the completed forms together with two certified copies of the Memorandum and Articles of Association and one copy of the Certificate of Incorporation to:

Charity Commission Direct  
PO Box 1227  
Liverpool  
L69 3US

or apply online at: [www.charity-commission.gov.uk/registration/olarreg.asp](http://www.charity-commission.gov.uk/registration/olarreg.asp)

4.3 The Charity Commission needs to be assured before registering a BPT as a charity that its objects are charitable and that it will operate in a manner that will realise those objects. The application should therefore be accompanied by a written statement confirming that:

- a) the governing document adopted is the model agreed between the Charity Commission and The Architectural Heritage Fund. Any deviation, other than the completion of the blank spaces, must be brought to the attention of the Charity Commission;
- b) the BPT will follow the advice given in the United Kingdom Association of Preservation Trust's Guidance Notes. The Charity Commission is particularly concerned that BPTs can demonstrate a public benefit by making available material about the work they have carried out even after individual properties may have passed into other hands. Good record keeping and engagement with the general public are best practice for a BPT and strongly supported by the UK Association of Preservation Trusts and The Architectural Heritage Fund;
- c) confirmation that the BPT, once registered, will be eligible for funding from The Architectural Heritage Fund (e.g. "In accordance with what has already been agreed with the Commission as sufficient evidence to enable registration to proceed, we confirm that the BPT intends to apply to the AHF for an Options Appraisal Grant of £n in respect of *a specified property* and has been informed by the AHF that it is eligible in principle to do so").

## **5. Once the BPT is incorporated and registered as a charity**

### 5.1 Buy a seal, if desired

5.1.1 Like other companies limited by guarantee, BPTs may adopt a seal (it is no longer compulsory). If a BPT adopts a seal, documents are formally executed by affixing the seal in the presence of a trustee and the Company Secretary (or two trustees) who then sign the document.

5.1.2 If a BPT does not adopt a seal, the following words should be used in the execution documents: "Signed and Delivered as a Deed of [full name of the Trust] by [name of trustee] and [name of trustee/company secretary/witness]". Those concerned should then sign the document.

5.2 Display Certificate of Incorporation at Registered Office.

5.3 Display Name Plate at Registered Office: it should say "Registered Office of [BPT Name]".

5.4 Draw up Company Membership Forms.

5.5 Acquire and complete "Statutory Books":-

- (1) Register of Members.
- (2) Register of Directors (and Secretary if applicable).

(3) Register of charges.

(4) Minute Books/File for Meetings of the Company and its Directors.

5.6 Print stationery for the BPT (see 8 below).

## **6. Matters to be dealt with at the first meeting of the trustees**

6.1 Election of the Chair of the meeting.

6.2 Tabling of Certificate of Incorporation, Form IN01, Memorandum and Articles, charity registration letter.

6.3 Confirmation of the BPT's registered office and company secretary, if applicable [*unless otherwise resolved at the board meeting, these will reflect what was set out in the Form IN01*]; also initial trustees (as named in the Form IN01). N.B. Since the Companies Act 2006 it is no longer necessary for private companies to have a company secretary unless the Articles specifically provide for one. If a company dispenses with its secretary, anything required to be done by or to the secretary can only be done by or to a director. These articles do provide for a company secretary so that it is clear who is to fulfill the statutory duties required.

6.4 Admission of additional members [*if any applications for membership have been received*].

6.5 Appointment of additional trustees [*if applicable*].

6.6 Appointment of auditors [*though this can be left over if e.g. it is intended to invite tenders*].

6.7 Selection of an accounting reference date (financial year end) [*again, this can be left over, but the form AA01 must be filed with Companies House before the filing deadline of the first accounts. If no form is filed a deemed accounting reference date (end of the month in which the company was incorporated) will apply*]

6.8 Authorities for opening and operation of a bank account [*you should obtain the bank's standard excerpt minute in advance of the board meeting, to ensure that all details are covered in the decisions made by the trustees*]

6.9 Any other business.

## **7. Other procedures**

7.1 Complete and file Form AA01 (accounting date).

7.2 Open the bank account. The bank will generally require a copy of the Memorandum and Articles of Association and of a resolution to open the account passed

at a meeting of the trustees. Most banks have their own standard form for this purpose. They will probably also require personal identification for each trustee.

## **8. Stationery**

The following must be shown in legible characters on the stationery of a charitable company including emails and website (see Notes A to E below):-

8.1 The BPT's full registered name including "Limited" or "Ltd", but if when you were incorporating the company you ticked the box in form IN01 to avoid having to use the word "Limited", then the words "a company limited by guarantee" should be shown. *[N.B. It is generally preferable not to have the word "Limited" in the name, as this is often synonymous in the public mind with profit-making, as opposed to charitable, activity].*

8.2 Place of registration (i.e. "registered in England and Wales").

8.3 Company registration number.

8.4 The address of the BPT's registered office.

8.5 The BPT may (but does not need to) list the names of its directors (trustees) but if it does list their names, it must give the names of all of the directors (see Notes C and F below).

8.6 It is traditional to include the phrase "Registered Charity No....." . The law requires:-

- (a) all registered charities having an income of more than £10,000 to state the fact of being a registered charity (s.5 Charities Act 1993); and
- (b) a corporate charity whose name does not include the word "charity" or "charitable" to state the fact that the company is a charity (s.68 Charities Act 1993).

It is considered the requirements of both sections are satisfied by the use of the traditional phrase.

8.7 VAT registration number (optional except for invoices).

### **Notes to Section 8**

A There is no requirement for printing but writing must be legible.

B 8. 1 above must be shown on all of the following:-

- (a) business letters
- (b) notices and other official publications

(c) bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the BPT

(d) bills of parcels, invoices, receipts and letters of credit.

C Items 8.1, 8.2, 8.3 and 8.4 must be shown on business letters, emails, websites and order forms of the BPT.

D Section 5 Charities Act 1993 applies in relation to all of the following:

(a) notices, advertisements and other documents issued by or on behalf of the BPT and soliciting money or other property for the benefit of the BPT

(b) bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed on behalf of the BPT

(c) bills, invoices, receipts and letters of credit.

E Section 68 Charities Act 1993 applies in relation to all of the following:

(a) business letters

(b) notices and other official publications

(c) bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed on behalf of the BPT

(d) conveyances purporting to be executed by the BPT

(e) bills, invoices, receipts and letters of credit.

F BPTs whose trustees change regularly often decide, for reasons of expense, not to list the names of their trustees on their stationery to save the need to reprint each time there is a change of trustee.

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**Charity Law Association Guidance**

**[note: some adjustments to the Charity Law Association  
Guidance have been incorporated in the text that follows]**

- **Details Needed to Complete the Model**
- **Using this Model**
- **Notes**

## Model Documents

### MEMORANDUM AND ARTICLES OF ASSOCIATION FOR A CHARITABLE COMPANY

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A charity needs to have its objects and powers and administrative arrangements set out clearly in its governing document. If it does not, it is likely to be less well governed. I am pleased to recommend the use of this model. It incorporates the essential powers and provisions and expresses them in plain English with explanatory notes. It will prove of great assistance to those intending to set up a charitable company.

Richard Fries  
*former Chief Charity Commissioner*

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The first and certainly one of the most important decisions facing individuals who want to establish a new charity is choosing which legal structure will be right for the charity. Although there are a quite a few structures to choose from, most charities are established as trusts, companies or associations. The Charity Commission's registration information pack explains the factors to be considered in choosing between them. The Charity Commission's registration information pack also contains guidance on the objects or purposes which are recognised by law as charitable.

Many worthwhile not-for-profit organisations have objects which are not charitable so it is wise to make sure that your objects are charitable before you spend time working on this document.

## DETAILS NEEDED TO COMPLETE THE MODEL

Before you can complete the model you will need to have made decisions or collected information on the following matters. It may help you in this process to refer to the appropriate clause (shown in the right-hand column below) and the accompanying notes.

### (A) The Memorandum

Clause

The name of the charity.

Full names and residential addresses of the Subscribers to the Memorandum and Articles (who will be the charity's first Trustees).

### (B) The Articles

Article

1.	The name of the charity.	1
2.	The objects or purposes of the charity.	5
3.	If the charity is to operate in a limited geographical area, a description of that area.	2 & 5
1.	Membership structure.	8.2, 8.3
2.	Quorum for general meetings of the members.	11.2
3.	Number of members to call a general meeting.	9.5
4.	Minimum and maximum number of Trustees.	14.2
5.	Whether any qualification is going to be required for Trustees.	14.2, 14.7.8
6.	Number of consecutive meetings a Trustee may miss before ceasing to hold office.	14.7.4
7.	Required majority of members to approve removing a Trustee.	14.7.7
8.	Minimum number of Trustee meetings each year.	15.1
9.	Quorum for Trustee meetings.	15.2

For the purpose of completing the Companies House forms to incorporate the charitable company you will also require the following additional information for each of the Trustees:

- Title
- Full Name
- Any previous surname/s
- Date of Birth
- Nationality
- Service Address (and usual residential address if not the same)
- Occupation
- Directorships of other UK companies held now or in the last five years.

## USING THIS MODEL

This model is intended for use by individuals wishing to establish a charitable company in England and Wales. Different documents are required for use in Scotland or Northern Ireland (see AHF Guidance for these countries).

Every effort has been made to make the model clear and easy to use. However it is a legal document and so considerable care must be taken to ensure that it is completed in a manner which is appropriate for the intended charity. The Architectural Heritage Fund cannot accept any responsibility for its use and neither can the Charity Law Association nor the Charity Commission. If in doubt, seek help from a charity lawyer!

Whilst it is possible for the model to be adopted by simply completing the gaps in the text in writing we do not recommend it - it is intended that the text of the model should be reproduced as a new document and a complete word processing document is available by email or on disk to make this easier.

This document contains notes to assist you to complete the model. The notes may also be useful when the new charity has been established, as a guide to the interpretation of the document: for this reason we recommend that you retain them.

On the previous page we have included a checklist of all the details that you will need to complete the model. This list shows the clauses where the details are required in case you need to refer to them or to the corresponding notes.

If you are not a lawyer the task of completing the model may at first sight seem daunting but we have included various aids to help you:

- Where a word or phrase needs to be inserted a brief description appears [*in italics in square brackets*].
- Where there is a suggestion or choice between alternatives it appears [in normal type in square brackets].
- There is an interpretation clause at section 2 of the articles.

Items in square brackets should not appear in the final document. In preparing the document you should also remember that:

- If you do not wish to include an optional clause or if you wish to add in new provisions, you will need to adjust the clause numbering accordingly.
- If you decide to redesignate a term (e.g. changing "Chairman" to "Chair"), you will need to make the change every time the term appears in the document.

You may also wish to include a contents page or index for ease of reference.

When you have completed the document and it has been signed by the Trustees (at the end of the Memorandum) you will be ready to incorporate the company. For this you will need various forms which can be obtained from:

Companies House, Crown Way, Maindy, Cardiff CF4 3UZ (Tel: 0870 3333 636)  
or downloaded from [www.companieshouse.gov.uk/forms](http://www.companieshouse.gov.uk/forms).

When you have completed these forms you will need to return them (with a cheque for the incorporation fee) to Companies House.

After the company has been incorporated you will be ready to begin the process of registering the charity. The Charity Commission's registration information pack explains this process and contains copies of the forms which you will need to complete.

## NOTES

### (A) THE MEMORANDUM OF ASSOCIATION

The memorandum simply states the details of the subscribers and their desire to form a company.

### (B) ARTICLES OF ASSOCIATION

The Articles set out the name and the basic principles by which the charity is governed and the procedures for running it.

#### 1. NAME

The name and objects are fundamental to the identity and purposes of the charity. The charity's name should be chosen with care. It should be consistent with the purposes of the charity. It must also comply with Company Law. It must not be misleading, e.g. by misrepresenting the purposes or status of the charity, or cause confusion with other companies or charities (see the guidance on the Charity Commission website regarding sensitive names). The Charity Commission can require a charity to change its name: see sections 6 and 7 of the Charities Act 1993 and the Charities (Misleading Names) Regulations 1992. It is worth making simple internet searches, including the Companies House and Charity Commission websites, to see whether a charity or a company has been registered with the same or a similar name before making a final choice.

Private companies are required by law to include the word "Limited" in their name. Charities can (and most do) elect not to use the word in their name by ticking the box on the Companies House form when applying for registration.

In the model the charity is called "the Charity": if preferred it can be called "the Company", the "Society" or some other designation, but it is important to be consistent throughout.

#### 2. INTERPRETATION

Various terms used in the Articles are defined in article 2 of the model.

#### 3 & 4. LIMITATION OF LIABILITY, GUARANTEE

These provisions are required by company law.

## 5. OBJECTS

The Objects (i.e. the main purposes) of the charity must be exclusively charitable under English law, or the company will not be a charity and registration as a charity will therefore be refused. The Objects should clearly accurately reflect the true purposes of the charity's intended activities. It may be appropriate to refer to a geographical area as the "area of benefit" of the charity and/or to describe the people the charity will benefit as the "beneficiaries" (see Article 2 of the model). Legal advice may be required to be certain that the Objects are correctly expressed.

## 6. POWERS

The powers are not themselves charitable objects, but consist of the legal means by which the Objects in clause 5 are to be promoted. It must be stressed that the powers cannot be exercised for any other purpose. Thus, any research carried out under 6.5 or advice or information supplied under 6.6 or 6.7, must be about a subject which is relevant to the Objects. Under 6.8 the charity can only co-operate in a project relevant to the Objects, so the other organisation involved must also have some concern with the Objects. Any new charity set up or supported under 6.9 or 6.23 needs to have the same or similar objects, or come within the Objects.

The powers included in this clause are those most commonly required by charities, but if it is known that the charity will be engaged in specific activities which are not mentioned it is advisable to insert an additional provision to cover them.

- 6.10** Trustees should ensure that the Charity does not pay more than is reasonable for the purchase of land or other property. This may involve obtaining professional advice before the agreement is made.
- 6.11** The restrictions on sales, exchanges and leases of charity land are contained in sections 36 and 37 of the Charities Act 1993. In some cases the Charity Commission's consent is required. In others, a special procedure must be followed. Legal advice will normally be required.
- 6.12** Funds can be raised (or gifts accepted) either for the objects as a whole or for any purpose within the objects (in which case the sums received must be separately identified as a restricted fund). The Trustees should be aware of the law relating to the activities the charity is to undertake. Where professionals are employed, for example, The Charitable Institutions (Fund-Raising) Regulations 1994 will apply, and there are special rules governing public collections, lotteries and the sale of alcohol. No tax is payable on trading that directly furthers the charity's objects, such as charging an entry fee to see a heritage building. However, some fundraising is non-charitable trading and should be run through a separate non-charitable trading company unless it is covered by a specific tax exemption. Specialist legal or accounting advice should be taken.
- 6.13** The restrictions on mortgaging charity land are contained in sections 38 and 39 of the Charities Act 1993. In some cases the Charity Commission's consent is required. In others, a special procedure must be followed. Legal advice may be required.
- 6.14** **This clause** sets out ways in which financial assistance can be given, whether to individual beneficiaries (where the charity is set up to help individuals) or to other bodies. It will be necessary to consider the need for a licence under Consumer Credit legislation if the charity is to make loans to individuals. In setting the amount of any grant or loan or the extent of any guarantee (which is a potential liability) the Trustees should consider the resources of the charity as well as the requirements of the recipient.
- 6.15** This clause enables the Trustees to designate funds for particular purposes, or as reserves. It is prudent for a charity to maintain reserves to cover planned expenditure (e.g. repairs to buildings) and to meet the kind of expenditure which may be required at short notice, but reserves are not an end in themselves and should not be built up without a deliberate policy decision, or be excessive in relation to the amount known or reasonably estimated to be required. The Charity is required to have a written reserves policy.

- 6.16** This clause is designed to confer a wide power of investment but to ensure that it is exercised responsibly. An "investment" is an asset which (i) is capable of producing income and (ii) may also increase in capital value. In setting an investment policy and selecting investments the Trustees should have regard to the needs of the charity for both income and capital growth, and act prudently. They should avoid trading and speculation. "Financial Expert" is defined in Article 2.
- 6.17** The Charity Commission consider that if discretionary powers are to be given to investment managers an express power to delegate the management of investments is required. It should always be accompanied by safeguards, as here.
- 6.19** Charity property, whether buildings, equipment or other property, should normally be insured up to its full reinstatement value. Depending on the nature of the charity, other kinds of insurance may be necessary or desirable (e.g. public liability, employers' liability).
- 6.20** This type of insurance requires a special clause because it provides a benefit to the Trustees as charity trustees (see clause 7.2.3). It may be helpful where the charity is involved in particular commercial risks, but it will not necessarily protect the Trustees from liability towards third parties in the event that the charity operates while technically insolvent. They should therefore be sure never to commit the charity to expenditure it cannot afford.
- 6.21** This clause covers employees, independent contractors and volunteers, and enables salaries and pensions, or fees, or expenses (or none of these) to be provided. All necessary advice about employment law should be obtained. A charity should not pay more than a reasonable rate for the task, but should aim to be a good employer. Special care is required if it is proposed to employ a Trustee (see clause 7.3).
- 6.22** This clause will be relevant in the increasing number of cases in which charities enter into contracts to provide services to local authorities. A charity can only enter into a contract of this kind if the work it will be doing will promote its Objects.
- 6.23** This power is not intended for use where a trading company is to be set up, but only where a separate company is regarded as necessary or desirable for purposes which could be carried out by the charity itself.
- 6.25** This "blanket provision" is intended to cover any other power not expressly mentioned. It is still restricted to promoting the Objects.

## **7. BENEFITS TO MEMBERS AND TRUSTEES**

This clause reflects the legal position that although a charitable company is a legal person and owns its property, the assets are treated in many ways as though they were held on trust for the Objects rather than belonging to the members (as would be the case in a non-charitable company). It is therefore necessary to restrict the occasions on which a Trustee may benefit from the charity, and avoid conflicts of interest and duty as far as possible. It cannot be amended without the Charity Commission's consent (see clause 7.6).

- 7.1 & 7.2** These clauses reflect the legal principle that the Trustees as charity trustees (and to a lesser extent the members, who are also in a fiduciary position) must not benefit from the charity except so far as expressly permitted by the Memorandum of Association.
- 7.3 & 7.5** These provisions permit up to one half of the Trustees in any financial year to enter into a contract to supply goods or services to the charity, and provide additional safeguards to protect the charity. Please note that Trustees cannot be employed by the charity or paid to act as Trustees.

## 8. MEMBERSHIP

Members are essential to a company: it cannot function without them.

- 8.1** The register of members is required by company law. Data protection legislation may be applicable.
- 8.2** This clause provides for an “open” membership. This is essential if the members are to receive benefits, and do not simply exist to support the charity. The model follows the most usual approach in confining membership to individuals, and does not therefore provide for member organisations. If the intention is to have other organisations as members, then additional provisions will be required (including wording that allows individuals nominated by member organisations to be elected as Trustees); in that event, it may also be necessary to include provision for individuals to become members on the basis of nomination by unincorporated bodies, since unincorporated bodies cannot be members in their own name.
- 8.3** In addition to the core membership, it may be considered helpful to provide for e.g. associate, junior or honorary membership. Members of a company have certain rights under company law (e.g. to vote at general meetings and to receive copies of the company's accounts). It can be expensive and time consuming for a charitable company to comply with the company law requirements for a large membership. In cases where a high proportion of the members do not wish to participate in decision-making at general meetings (for example, where they wish to be members only for the purpose of being informed of the charity's activities) it may be appropriate for the charity to establish one or more categories of "supporter members" who are not members under company law, especially when there are different categories of company law members. Legal advice may be required.
- 8.5.4** It is uncommon for a member of a charity to be removed from membership, but if this happens it must only be done for a good reason. Under the rules of natural justice, the member concerned must be given an opportunity of stating his or her case before a final decision is taken and any decision to remove a member must be justifiable.

## 9. GENERAL MEETINGS

A general meeting is a formal gathering of the members. Company law contains detailed provisions related to the convening of and the nature and conduct of business at general meetings.

- 9.1-3** Under the Companies Act 2006 an Annual General Meeting (AGM) is no longer required, but these articles provide for one as any Building Preservation Trust is likely to regard the AGM as an important opportunity to report on its activities to its members and supporters.
- 9.3.5** A Patron, President or Vice-President has no constitutional responsibilities but may be invited to address the members or represent the charity on formal occasions or when seeking public support.
- 9.4 & 9.5** Where an urgent or important matter (such as the amendment of the Constitution) which must be decided at a general meeting cannot conveniently be dealt with at an AGM, a general meeting may be specially called for the purpose. Company law contains detailed provisions related to the convening of and the nature and conduct of business at general meetings. There are also provisions which define the types of resolution that are required to effect various changes. The two main types of resolution are:
- a “special resolution” – 14 clear days’ notice to be given to the members, setting out the precise terms of the resolution and stating that it will be proposed as a special resolution; and 75% or more of the votes cast need to be in favour
  - an “ordinary resolution” – 14 days’ clear notice setting out the general nature of the resolution (the precise terms do not need to be stated); and more than 50% of the votes cast need to be in favour.

A special resolution is needed to change the name, amend the objects clause, or alter any provision of the articles (or adopt new articles). If none of the Trustees have experience in this area legal advice or authoritative guidance on the subject will be required.

- 10** This article states the minimum period of notice for a general meeting and who has a right to receive notice and hence to attend general meetings, i.e. individual members or their appointed proxy. The charity may invite others to observe or participate, but not to vote..
- 10.3** Every notice of a meeting must include a prominent statement of the right to appoint a proxy – failure to do this is a criminal offence committed by every director or trustee of the company.
- 11.2** The quorum chosen should be realistic and achievable. A high quorum requirement can create difficulty in validly holding meetings and passing resolutions.
- 11.6** Many charities prefer Chair or Chairperson to Chairman (see articles 11.6 & **16.2**). Others may wish to use "convenor" or some other term. The choice of term used is not vital, but it is important to be consistent throughout the document. It should be noted that, under the Companies Act 2006, any provision in the articles giving the chair a casting vote at members' meetings is void for companies formed after 1st October 2007.
- 11.15** Members have a statutory right to appoint proxies to vote on their behalf at general meetings.
- 12** It may be possible for members to pass resolutions in writing without holding a meeting. Written resolutions can be passed by a majority of all the members. Ordinary resolutions will be valid if a simple majority agrees. Special resolutions require approval by not less than 75% of members entitled to vote. It should be noted that trustees and auditors cannot be removed by written resolutions.
- 12.17 & 12.2** Written resolutions must be circulated to all members. These articles set out the procedure for passing a written resolution. The practical value of these articles, which avoid the need for a general meeting if the requisite number of the members sign the resolution, depends on there being a relatively small number of members.

#### **14. THE TRUSTEES**

This clause sets out the composition of the charity's governing body, i.e. the people who are the directors of the company and the charity trustees (see articles **2** and **14.1**). They are all required, in terms of the model, to be members of the charity. Here they are called the Trustees but they could equally well be called the "Directors", the "Council" or some other term. Whatever term is chosen should be used throughout the document.

- 14.2** The minimum number of Trustees should be at least three. It is possible to make provision for some or all of the Trustees to be appointed by outside bodies instead of being elected at the AGM but this will require bespoke amendments to the model. Every Trustee is a charity trustee, however appointed, and owes a duty towards the charity rather than to the person or body who makes the appointment. There should therefore be no power for the appointing body to remove the person appointed. Special qualifications which may be appropriate include eg residence in the area of benefit. Co-option is dealt with in article **3.7**.
- 14.6** Retirement by rotation helps to ensure continuity.
- 14.7** Various events can terminate trusteeship.
- 14.7.2** Disqualification occurs under section 72 of the Charities Act 1993 if a charity trustee is involuntarily removed by the Court or the Charity Commission, in the event of bankruptcy or the like, where the Trustee is disqualified under the Company Directors Disqualification Act or the Insolvency Act, and where the Trustee has been convicted of an offence involving dishonesty.
- 14.7.4** The length of absence which gives rise to automatic termination of a Trustee's term of office will depend on the normal frequency of meetings.

**14.7.6** The law does not allow charity trustees to walk away from their responsibilities leaving no-one in charge of the charity.

**14.7.7** Provision for the removal of a Trustee by the members in general meeting will not be appropriate in all cases.

**14.7.8** This provision will only be necessary if a special qualification has been included in article **14.2**.

**14.8** Co-opted Trustees have exactly the same voting powers and responsibilities as those elected at the AGM.

**14.9** Occasionally a mistake occurs in appointment procedures. If a mistake of this kind is discovered it does not retrospectively invalidate previous decisions but should be put right before further decisions are taken.

## **15. PROCEEDINGS OF TRUSTEES**

This article deals with the meetings and proceedings of the Trustees.

**15.1** The number of meetings per year will depend on (i) the nature of the charity's activities and (ii) the extent to which work is delegated to committees and/or staff. Two is a minimum; but four would be more in line with principles of good practice.

**15.2** Bearing in mind that decisions may be taken on a majority vote (article **15.7**), the quorum should normally be fixed at (at least) one more than the number nearest to one third of the Trustees – preferably with reference to a minimum quorum of three irrespective of the numbers of Trustees in office.

**15.4** Many charities wish to have a provision for a telephone or video conference. It is often useful to include it, especially if difficulty in arranging meetings is possible (e.g. where the Trustees are geographically scattered). If the provision is included it should be borne in mind that (i) a conference call is not the same as a series of separate telephone calls, which do not amount to a meeting; and (ii) the same rules about notice of meetings, the quorum, chairmanship, voting, minutes etc apply to a telephone or video conference as to a meeting in person.

**15.7** An alternative to a decision taken at a meeting is a written resolution, but this will not be valid unless signed by all the Trustees. The written resolution can take the form of a number of copies, with each Trustee signing his/her copy i.e. the signatures do not have to be on the same copy. The resolution is passed on the date the last Trustee signs.

## **16. POWERS OF TRUSTEES**

**16.1** Since the Companies Act 2006, there is no longer a requirement for a company secretary. However, all the duties carried out by the company secretary still need to be done. It is often best for the secretary's role to be undertaken by a paid employee rather than one of the Trustees.

**16.2** Here the Chairman and other honorary officers are appointed by the Trustees. In some charities these officers, or some of them, are appointed by the AGM. It is unusual, though not essential – to provide for a Treasurer. There may also be a membership secretary or holders of other specified offices, which may alter from year to year according to the charity's activities.

**16.3** A specific provision is essential if the Trustees are to be able to delegate to committees. The Trustees will be legally responsible for the committees' acts, and for this reason it is prudent for at least one Trustee to be a member of each committee. The Trustees may wish, for this reason, to define the terms of reference with care. It is essential in all cases to provide for reporting back. Although the power of delegation is not limited to specific functions it is generally appropriate for decisions on major matters of policy or resources to be reserved to the Trustees themselves.

**16.4 & 16.5 & 16.6** These articles allow the Trustees to make rules of various kinds to govern different aspects of the running of the charity. There is no need to call them "Standing Orders" "Rules" and "Regulations": they can all be called "rules" if preferred.

**16.7** This provision is designed to place the responsibility for finding a solution to internal disputes on the Trustees, given the damage which can result to a charity from such arguments, especially when they become public.

**16.8** See note to article 9.

## **20. ACCOUNTS**

**20.1 & 20.2** The keeping of adequate records is essential if a charity is to be properly run. In addition, there is detailed legislation in the Companies Acts and the regulations made under it, and in the relevant charities legislation, as well as guidance in the Charity SORP, about accountability. The rules cover accounting records and the provision of an annual report, statement of account and an annual return, which have to be sent to the Charity Commission and/or Companies House, as appropriate.

## **22. MEANS OF COMMUNICATION**

The provisions of the Companies Act 2006 in relation to communications are complex but do allow for notices and other documents to be sent to members by email or by making them available on a website, provided the recipient agrees. These provisions are only likely to be useful or needed where membership of the charity is large. Where the charity makes documents available on a website, it must still contact the member to let them have details of the website and explain how they can access the documents. If email communications are used, thought will need to be given to when documents sent by email are deemed to be served, and what should happen if documents are returned undelivered.

## **23. NOTICES**

Reference is made to the giving of notice in various places in the Articles (see articles **2, 10, 11** and **14**). This clause deals with the practical problems which could otherwise arise about when a notice was received by a member (or the charity). Where a number of clear days" notice is mentioned each "day" starts at midnight, and the days on which notice is given or received do not count (see article **2**). Some charities may prefer not to have the option of notice to the members by fax or e-mail (article **23.2.1**), in which case the relevant words should be omitted. It may also be desirable to save postage by restricting postal service to the members' addresses in the United Kingdom (article **23.2.2**).

## **25. DISSOLUTION**

It is not unusual for charitable companies to reach the end of their useful life and decide to wind up. If so, the debts and liabilities must be provided for and there may be assets remaining. Those assets must be used for the Objects or charitable purposes within or similar to the Objects, and this clause sets out various alternatives. The Trustees will not be relieved of their responsibilities as charity trustees until they have completed their task, and sent in a final report and statement of account to the Charity Commission. The Commission will then remove the charity from the register of charities. Removal from the register of companies is a separate matter and guidance is available on the Companies House website.

**MEMORANDUM AND ARTICLES OF ASSOCIATION  
FOR A BUILDING PRESERVATION TRUST**

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**AHF Standard Governing Document  
for the Formation of a Building Preservation Trust  
in England and Wales**

**Company No:**

**Charity No:**

**THE COMPANIES ACT 2006**

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**MEMORANDUM  
AND  
ARTICLES OF ASSOCIATION  
OF**

---

*[name]*

---

**Incorporated on**

*[date]*

**COMPANIES ACT 2006**  
**COMPANY LIMITED BY GUARANTEE**  
**MEMORANDUM OF ASSOCIATION OF**

\_\_\_\_\_ *[Name]*

Each subscriber to this Memorandum of Association wishes to form a company under the Companies Act 2006 and agrees to become a member of the company.

NAMES & ADDRESSES OF SUBSCRIBERS	SIGNATURES OF SUBSCRIBERS
<i>[List the full name of each of the subscribers]</i>	<i>[signature of each of the subscribers]</i>

Date \_\_\_\_\_ *[Date]*

Witness to the above signatures

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*[Name and address of witness]*

\_\_\_\_\_  
*[Signature of witness]*

**COMPANIES ACT 2006**  
**COMPANY LIMITED BY GUARANTEE**  
**ARTICLES OF ASSOCIATION OF**

\_\_\_\_\_ [Name]

**1. NAME**

The name of the Company is \_\_\_\_\_

\_\_\_\_\_ [Name] ("**the Charity**")

**2. INTERPRETATION**

In these Articles:

"Address" means a postal address or, for the purposes of electronic communication, a fax number, an e-mail or postal address or a telephone number for receiving text messages in each case registered with the Charity

"AGM" means an annual general meeting of the Charity

"area of benefit" means \_\_\_\_\_ [geographical area]

"the Articles" means these articles of association

"Chairman" means the chairman of the Trustees

"the Charity" means the company intended to be regulated by these Articles

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

"clear days" in relation to a period of notice means a period excluding:

1. The day when notice is given or deemed to be given; and
2. The day for which it is given or on which it is to take effect

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

"Companies Acts" means the Companies Acts (as defined in section 2 of the Companies Act 2006) insofar as they apply to the Charity

"Connected Person" means:

1. any spouse, civil partner, parent, child, brother, sister, grandparent or grandchild of a Trustee; or
2. any other person in a relationship with a Trustee which may reasonably be regarded as equivalent to such a relationship; or
3. any person carrying on business in partnership with the Trustee or with any person falling within 1. or 2. above; or

4. an institution which is controlled –
  - 4.1 by the Trustee or any Connected Person falling within paragraph 1., 2. or 3. above; or
  - 4.2 by two or more persons falling within sub-paragraph(i), when taken together; or
  - 4.3 any company or firm of which a Trustee or any Connected Person falling within paragraph 1., 2. or 3. above is a paid director, partner or employee, or shareholder holding more than 1% of the capital.

"the Directors" means the directors of the Charity. The directors are charity trustees as defined by section 97 of the Charities Act 1993

"document" includes, unless otherwise specified, any document sent or supplied in electronic form

"EGM" means an extraordinary general meeting of the Charity

"electronic form" has the meaning given in section 1168 of the Companies Act 2006

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

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

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

"Memorandum" means the Charity's Memorandum of Association

"month" means calendar month

"the Objects" means the Objects of the Charity as defined in clause 5 of the Articles

"Secretary" means any person appointed to perform the duties of the secretary of the Charity

"Trustee" means a Director of the Charity and "Trustees" means all of the Directors.

"the United Kingdom" means Great Britain and Northern Ireland

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

"year" means calendar year

**2.2** Words importing one gender shall include all genders, and the singular includes the plural and vice versa

**2.3** Unless the context otherwise requires words or expressions contained in the Articles have the same meaning as in the Companies Acts but excluding any statutory modification not in force when these articles become binding on the Charity

**2.4** Apart from the exception mentioned in the previous paragraph a reference to an Act of Parliament includes any statutory modification or re-enactment of it for the time being in force.

### **3. LIMITED LIABILITY**

The liability of members is limited.

#### 4. GUARANTEE

Every member promises, if the Charity is dissolved while he or she is a Member or within twelve months after he or she ceases to be a Member, to contribute such sum (not exceeding £10) as may be demanded of him or her towards the payment of the debts and liabilities of the Charity incurred before he or she ceases to be a member, and of the costs charges and expenses of winding up, and the adjustment of the rights of the contributories amongst themselves.

#### 5. OBJECTS

The objects of the Charity are specifically restricted to the following:

to preserve for the benefit of the people of \_\_\_\_\_ [*insert the name of the city, town or area in which the charity is to operate, i.e. the area of benefit*] and of the Nation, the historical, architectural and constructional heritage that may exist in and around \_\_\_\_\_ [*repeat the area of benefit*] in buildings (including any structure or erection, and any part of a building as so defined) of particular beauty or historical, architectural or constructional interest.

#### 6. POWERS

The Charity has the power to do anything which is calculated to further its Objects or is conducive or incidental to doing so. In particular, the Charity has power:

- 6.1 to repair, renovate, restore, rebuild and generally promote the preservation of any buildings or land
- 6.2 to buy or otherwise acquire furniture and other equipment for use in connection with any such buildings or land; and to sell, lease or otherwise dispose of any such furniture or equipment
- 6.3 to make such arrangements as are necessary to enable the public to view and enjoy any buildings or land (whether free or at a charge)
- 6.4 to make planning applications, applications for consent under by-laws or building regulations and other like applications
- 6.5 to promote or carry out research
- 6.6 to provide advice
- 6.7 to publish or distribute information and by publishing books or pamphlets or in other appropriate manner to make known to the public the existence of buildings of particular beauty or historical, architectural or constructional interest or the features of especial interest of such buildings
- 6.8 to co-operate with other bodies
- 6.9 to support, administer, act as trustee of or set up other charities
- 6.10 to acquire or hire property of any kind
- 6.11 To let or dispose of property of any kind (but only in accordance with the restrictions imposed by the Charities Act 1993 as amended by the Charities Act 2006), such letting or disposal to be subject to such covenants, conditions and restrictions as are reasonably necessary to ensure the preservation of any buildings or land.
- 6.12 to raise funds and trade in the course of carrying out the objects and carry on any other trade which is not expected to give rise to taxable profits and to incorporate subsidiary trading companies to carry on any trade

- 6.13 to borrow money and to charge the whole or any part of the property belonging to the Charity as security for repayment of the money borrowed or as security for a grant or the discharge of an obligation. The Charity must comply as appropriate with sections 38 and 39 of the Charities Act 1993, as amended by the Charities Act 2006, if it wishes to mortgage land
- 6.14 to make grants or loans of money and to give guarantees
- 6.15 to set aside funds for special purposes or as reserves against future expenditure but only in accordance with a written policy about reserves
- 6.16 to deposit or invest funds in any manner (but to invest only after obtaining advice from a financial expert and having regard to the suitability of investments and the need for diversification)
- 6.17 to delegate the management of investments to a financial expert, but only on terms that:
  - 6.17.1 the investment policy is set down in writing for the financial expert by the Trustees
  - 6.17.2 every transaction is reported promptly to the Trustees
  - 6.17.3 the performance of the investments is reviewed regularly with the Trustees
  - 6.17.4 the Trustees are entitled to cancel the delegation arrangement at any time
  - 6.17.5 the investment policy and the delegation arrangement are reviewed at least once a **year**
  - 6.17.6 all payments due to the financial expert are on a scale or at a level which is agreed in advance and are notified promptly to the Trustees on receipt
  - 6.17.7 the financial expert must not do anything outside the powers of the Trustees
- 6.18 to arrange for investments or other property of the Charity to be held in the name of a nominee (being a corporate body registered or having an established place of business in England and Wales) under the control of the Trustees or of a financial expert acting under their instructions and to pay any reasonable fee required
- 6.19 to insure the property of the Charity against any foreseeable risk and take out other insurance policies to protect the Charity when required
- 6.20 to provide indemnity insurance for the Trustees in accordance with, and subject to the conditions in, section 73F of the Charities Act 1993
- 6.21 subject to Article 7, to employ paid or unpaid agents, staff or advisers (the Charity may employ or remunerate a Trustee only to the extent it is permitted to do so by Article 7 and provided it complies with the conditions in that article)
- 6.22 to enter into contracts to provide services to or on behalf of other bodies
- 6.23 to establish and support or aid subsidiary companies and subscribe, lend or guarantee money or other property in furtherance of the Objects.
- 6.24 to pay the costs of forming the Charity.
- 6.25 to do anything else within the law which promotes or helps to promote the Objects

## 7. BENEFITS TO MEMBERS AND TRUSTEES

- 7.1 The property and funds of the Charity must be used only for promoting the Objects and do not belong to the **members** of the Charity but:
- 7.1.1 members who are not Trustees may be employed by or enter into contracts with the Charity and receive reasonable payment for goods or services supplied
  - 7.1.2 members (including Trustees) may be paid interest at a reasonable rate on money lent to the Charity
  - 7.1.3 members (including Trustees) may be paid a reasonable rent or hiring fee for property let or hired to the Charity
  - 7.1.4 individual members and Trustees who are beneficiaries may receive charitable benefits in that capacity
- 7.2 No Trustee or Connected Person may:
- 7.2a buy any goods or services from the Charity on terms preferential to those applicable to members of the public;
  - 7.2b sell goods, services or any interest in land to the Charity;
  - 7.2c be employed by, or receive any remuneration from, the Charity; or
  - 7.2d receive any payment of money or other material benefit (whether directly or indirectly) from the Charity; except
    - 7.2.1 as mentioned in clauses 6.20, 7.1.2, 7.1.3 or 7.3
    - 7.2.2 reimbursement of reasonable out-of-pocket expenses (including hotel and travel costs) actually incurred in running the Charity
    - 7.2.3 an indemnity in respect of any liabilities properly incurred in running the Charity (including the costs of a successful defence to criminal proceedings)
    - 7.2.4 payment to any company in which a Trustee or Connected Person has no more than a one per cent shareholding
    - 7.2.5 in exceptional cases, other payments or benefits (but only with the written approval of the **Commission** in advance)
- 7.3 A Trustee may not be an employee of the Charity, but a Trustee or a Connected Person may enter into a contract with the Charity to supply goods or services in return for a payment or other material benefit but only if
- 7.3.1 the goods or services are actually required by the Charity
  - 7.3.2 the nature and level of the remuneration is no more than is reasonable in relation to the value of the goods or services and is set in accordance with the procedure in clause 7.5
  - 7.3.3 the amount or maximum amount of the payment for the goods is set out in an agreement in writing between:
    - 7.3.3a the Charity or its Trustees (as the case may be); and

7.3.3b the Trustee or Connected Person supplying the goods (“the Supplier”) under which the Supplier is to supply the goods in question to or on behalf of the Charity.

7.3.4 the other Trustees are satisfied that it is in the best interests of the Charity to contract with the Supplier rather than with someone who is not a Trustee or Connected Person. In reaching that decision the Trustees must balance the advantage of contracting with a Trustee or Connected Person against the disadvantages of doing so

7.3.5 the reason for their decision is recorded by the Trustees in the minute book.

7.3.6 no more than one half of the Trustees are subject to such a contract in any financial year

7.4 In sub-clauses 2 and 3 of this Article 7 “Charity” shall include any company in which the Charity:

7.4.1 holds more than 50% of the shares; or

7.4.2 controls more than 50% of the voting rights attached to the shares; or

7.4.3 has the right to appoint one or more directors to the board of the company.

7.5 Whenever a Trustee has a personal interest in a matter to be discussed at a meeting of the Trustees or a committee the Trustee concerned must:

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

7.5.2 withdraw from the meeting for that item unless expressly invited to remain in order to provide information

7.5.3 not be counted in the quorum for that part of the meeting

7.5.4 withdraw during the vote and have no vote on the matter

7.6 This clause may not be amended without the prior written consent of the **Commission**

## 8. MEMBERSHIP

8.1 The Charity must maintain a register of names and addresses of the members

8.2 Membership of the Charity is open to any individual interested in promoting the Objects who:

8.2.1 applies to the Charity in the form required by the Trustees;

8.2.2 is approved by the Trustees; and

8.2.3 signs the Register of members or consents in writing to become a member

8.3 The Trustees may establish different classes of membership and prescribe their respective rights and obligations and shall record the rights and obligations in the register of members. The Trustees may not directly or indirectly alter the rights and obligations attached to a class of membership unless:

8.3.1 three-quarters of the members of that class consent in writing to the variation: or

8.3.2 a special resolution is passed at a separate general meeting of the members of that class agreeing to the variation.

- 8.4 The Trustees may set the amounts of any subscriptions
- 8.5 Membership is terminated if the member concerned:
- 8.5.1 gives written notice of resignation to the Charity, unless, after the resignation, there would be less than two members;
  - 8.5.2 dies;
  - 8.5.3 is six **months** in arrears in paying the relevant subscription (if any) if the Trustee so resolves (but in such a case the member may be reinstated on payment of the amount due); or
  - 8.5.4 is removed from membership by resolution of the Trustees on the ground that in their reasonable opinion the member's continued membership is harmful to the Charity.
- 8.6 Membership of the Charity is not transferable

## 9. GENERAL MEETINGS

- 9.1 The Charity must hold its first AGM within eighteen months after the date of its incorporation
- 9.2 An AGM must be held in each subsequent year and not more than fifteen months may elapse between successive AGMs.
- 9.3 At an AGM the members:
- 9.3.1 receive the accounts of the Charity for the previous financial year;
  - 9.3.2 receive the Trustees' report on the Charity's activities since the previous AGM;
  - 9.3.3 accept the retirement of those Trustees who wish to retire or who are retiring by rotation;
  - 9.3.4 elect persons to be Trustees to fill the vacancies arising
  - 9.3.5 may confer on any individual (with his or her consent) the honorary title of Patron, President or Vice-President of the Charity and
  - 9.3.6 discuss any issues of policy or deal with any other business put before them.
- 9.4 A general meeting may be called at any time by the Trustees and must be called within 21 days on a written request from at least \_\_\_\_\_ *[number]* members
- 9.5 Any meeting relating to the variation of the rights of any class of members shall be subject to the provisions in these Articles about general meetings.

## 10. NOTICE OF GENERAL MEETINGS

- 10.1 The minimum periods of notice required to hold a general meeting is fourteen clear days.
- 10.2 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, being a majority who together hold not less than 90% of the total voting rights
- 10.3 The notice must specify the date time and place of the meeting and the general nature of the business to be transacted. If the meeting is to be an AGM, the notice must say so. The notice must

also contain a statement setting out the rights of members to appoint a proxy under section 324 of the Companies Act 2006 and Articles 11.15 and 11.16.

- 10.4 The notice must be given to all the members and to the Trustees and auditors.
- 10.5 The proceedings at a meeting shall not be invalidated because a person who was entitled to receive notice of the meeting did not receive it because of an accidental omission by the Charity.

## 11. PROCEEDINGS AT GENERAL MEETINGS

- 11.1 No business shall be transacted at any general meeting unless a quorum is present.
- 11.2 A quorum is:
  - 11.2.1 [ ] members present in person or by proxy and entitled to vote upon the business to be conducted at the meeting; or
  - 11.2.2 [one tenth] of the total membership at any timewhichever is the greater.
- 11.3 If:
  - 11.3.1 a quorum is not present within half an hour from the time appointed for the meeting; or
  - 11.3.2 during a meeting a quorum ceases to be present:the meeting shall be adjourned to such time and place as the Trustees shall determine.
- 11.4 The Trustees must reconvene the meeting and must give at least seven clear days' notice of the reconvened meeting stating the date, time and place of the meeting.
- 11.5 If no quorum is present at the reconvened meeting within fifteen minutes of the time specified for the start of the meeting the members present in person or by proxy at that time shall constitute the quorum for that meeting.
- 11.6 General meetings shall be chaired by the person who has been appointed to chair meetings of the Trustees.
- 11.7 If there is no such person or he or she is not present within fifteen minutes of the time appointed for the meeting a Trustee nominated by the Trustees shall chair the meeting.
- 11.8 If there is only one Trustee present and willing to act, he or she shall chair the meeting.
- 11.9 If no Trustee is present and willing to chair the meeting within fifteen minutes after the time appointed for holding it, the members present in person or by proxy and entitled to vote must choose one of their number to chair the meeting.
- 11.10 The members present in person or by proxy at a meeting may resolve by ordinary resolution that the meeting shall be adjourned.
- 11.11 The person chairing the meeting must decide the date, time and place at which the meeting is to be reconvened unless those details are specified in the resolution.
- 11.12 No business shall be conducted at a reconvened meeting unless it could properly have been conducted at the meeting had the adjournment not taken place.

- 11.13** If a meeting is adjourned by a resolution of the members for more than seven days, at least seven clear days' notice shall be given of the reconvened meeting stating the time, date and place of the meeting.
- 11.14.1** Any vote at a meeting shall be decided by a show of hands unless before, or on the declaration of the result of, the show of hands a poll is demanded:
- 11.14.1a** by the person chairing the meeting; or
- 11.14.1b** by at least two members present in person or by proxy and having the right to vote at the meeting; or
- 11.14.1c** by a member or members present in person or by proxy representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting.
- 11.14.2a** The declaration by the person who is chairing the meeting of the result of a vote shall be conclusive unless a poll is demanded.
- 11.14.2b** the result of the vote must be recorded in the minutes of the Charity but the number or proportion of the votes cast need not be recorded.
- 11.14.3a** A demand for a poll may be withdrawn before the poll is taken, but only with the consent of the person who is chairing the meeting.
- 11.14.3b** If the demand for a poll is withdrawn the demand shall not invalidate the result of a show of hands declared before the demand was made.
- 11.14.4a** A poll must be taken as the person who is chairing the meeting directs, who may appoint scrutineers (who need not be members) and who may fix a time and place for declaring the results of that poll.
- 11.14.4b** The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 11.14.5a** A poll demanded on the election of a person to chair a meeting or on a question of adjournment must be taken immediately
- 11.14.5b** A poll demanded on any other question must be taken either immediately or at such time and place as the person who is chairing the meeting directs.
- 11.14.5c** The poll must be taken within thirty days after it is demanded.
- 11.14.5d** If the poll is not taken immediately at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.
- 11.14.5e** If a poll is demanded the meeting may continue to deal with any other business that may be conducted at the meeting.

**11.15 Content of Proxy Notices**

- 11.15.1** Proxies may only validly be appointed by a notice in writing (a "proxy notice") either in the following form:

"[Insert name of Charity]

Name of member appointing the proxy:

Address:

I/We hereby appoint [name of proxy] of [address of proxy] as my/our proxy to vote in my/our name(s) and on my/our behalf at the meeting of the Charity to be held on [date], and at any adjournment thereof.

This form is to be used in respect of the resolutions mentioned below as follows:

Resolution 1 \*for \*against \*abstain \*as the proxy thinks fit  
Resolution 2 \*for \*against \*abstain \*as the proxy thinks fit  
All other resolutions properly put to the meeting \*for \*against \*abstain \*as the proxy thinks fit  
\*Strike out whichever is not desired.

Unless otherwise instructed, the proxy may vote as he or she thinks fit or abstain from voting.

Signed: .....

Dated: ....."

or in any other form which the Trustees may approve. Every proxy notice must:

- 11.15.1a** states the name and address of the member appointing the proxy;
- 11.15.1b** identifies the person appointed to be that member's proxy and the general meeting in relation to which that person is appointed;
- 11.15.1c** is signed by or on behalf of the member appointing the proxy, or is authenticated in such manner as the Trustees may determine; and
- 11.15.1d** is delivered to the Charity in accordance with the articles and any instructions contained in the notice of the general meeting to which they relate.

**11.15.2** The Charity may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.

**11.15.3** 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.

**11.15.4** Unless a proxy indicates otherwise, it must be treated as:

- 11.15.4a** 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
- 11.15.4b** 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.

**11.16 Delivery of Proxy Notices**

**11.16.1** 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 Charity by or on behalf of that person.

**11.16.2** An appointment under a proxy notice may be revoked by delivering to the Charity a notice in writing given by or on behalf of the person to whom or on whose behalf the proxy notice was given.

- 11.16.3** 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.
- 11.16.4** 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.

## **12. WRITTEN RESOLUTIONS**

**12.1** 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:

**12.1.1** a copy of the proposed resolution has been sent to every eligible member;

**12.1.2** a simple majority (or in the case of a special resolution by a majority of not less than 75%) of the members has signified its agreement to the resolution;

**12.1.3** it is contained in an authenticated document which has been received at the registered office within 28 days beginning with the circulation date.

**12.2** A resolution in writing may comprise several copies to which one or more members have signified their agreement.

## **13. VOTES OF MEMBERS**

**13.1** Subject to Article 8.3, every member shall have one vote

**13.2** Any objection to the qualification of any voter must be raised at the meeting at which the vote is tendered and the decision of the person who is chairing the meeting shall be final.

## **14. THE TRUSTEES**

**14.1** The Trustees have control of the Charity and its property and funds.

**14.2** The Trustees when complete consist of at least [three] and not more than \_\_\_\_\_ [number] individuals, [all of whom must be members \_\_\_\_\_ [specify any special qualification]]

**14.3** The individuals who signed the form IN01 as vouching consent to act as directors are the first Trustees of the Charity.

**14.4** For the avoidance of doubt, no individual may be appointed a Trustee unless he or she is willing to act as a charity trustee of the Charity.

**14.5** Any person who is willing to act as a Trustee, and who is not disqualified from acting as a Trustee, may be appointed as a Trustee by ordinary resolution of the members.

**14.6** At the first AGM all the Trustees shall retire from office. At each subsequent AGM one third (or the number nearest one third) of the Trustees must retire at each AGM, those longest in office retiring first and the choice between any of equal service being made by drawing lots. If the members at the first AGM or at a meeting at which a Trustee retires by rotation do not fill the vacancy, the retiring Trustee shall, if willing to act, be deemed to have been reappointed unless at the meeting it is resolved not to fill the vacancy or unless a resolution for the appointment of the Trustee is put to the meeting and lost

- 14.7** A Trustee's term of office automatically terminates if he or she:
- 14.7.1** ceases to be a Director by virtue of any provision in the Companies Acts or is prohibited by law from being a Director
  - 14.7.2** is disqualified by virtue of section 72 of the Charities Act 1993 (or any statutory re-enactment or modification of that provision) from acting as a charity trustee
  - 14.7.3** is in the reasonable belief of the Trustees suffering from mental disorder and incapable of acting and they resolve that he or she be removed from office
  - 14.7.4** is absent from \_\_\_\_\_ [*number*] consecutive meetings of the Trustees and the Trustees resolve that he or she should vacate office
  - 14.7.5** ceases to be a member [(but such a person may be reinstated by resolution passed by all the other Trustees on resuming membership of the Charity before the next AGM)]
  - 14.7.6** resigns by written notice to the Trustees (but only if at least two Trustees will remain in office)
  - 14.7.7** is removed by resolution passed by at least \_\_\_\_\_ [*number or percentage*] of the members present and voting at a general meeting after the meeting has invited the views of the Trustee concerned and considered the matter in the light of any such views]

or

[14.7.8 ceases to \_\_\_\_\_ [*have the required qualification*]]

- 14.8** The Trustees may at any time co-opt any person duly qualified to be appointed as a Trustee to fill a vacancy in their number or as an additional Trustee, but a co-opted Trustee holds office only until the next AGM .
- 14.9** A technical defect in the appointment of a Trustee of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.
- 14.10** The Trustees must not be paid any remuneration unless it is authorised in accordance with Article 7.

## **15. PROCEEDINGS OF TRUSTEES**

- 15.1** The Trustees must hold at least \_\_\_\_\_ [*number*] meetings each year.
- 15.2** A quorum at a meeting of the Trustees is \_\_\_\_\_ [*number*] Trustees. A Trustee shall not be counted in the quorum present when any decision is made about a matter upon which that Trustee is not entitled to vote.
- 15.3** If the number of Trustees is less than the number fixed as the quorum the continuing Trustees or Trustee may act only for the purpose of filling vacancies or of calling a general meeting.
- [15.4** A meeting of the Trustees may be held either in person or by suitable electronic means agreed by the Trustees in which all participants may communicate with all the other participants.]
- 15.5** No decision may be made by a meeting of the Trustees unless a quorum is present at the time the decision is purported to be made. ["Present" includes being present by suitable electronic means agreed by the Trustees in which a participant or participants may communicate with all the other participants.]

- 15.6** The Chairman or (if the Chairman is unable or unwilling to do so) some other Trustee chosen by the Trustees present presides at each meeting.
- 15.7** Every issue may be determined by a simple majority of the votes cast at a meeting.
- 15.8.1** A resolution in writing or in electronic form agreed by a simple majority of all the Trustees entitled to receive notice of a meeting of the Trustees or of a committee of Trustees and to vote upon the resolution shall be as valid and effectual as if it had been passed at a meeting of the Trustees or (as the case may be) a committee of Trustees duly convened and held provided that:
- 15.8.1a** a copy of the resolution is sent or submitted to all the Trustees eligible to vote; and
- 15.8.1b** a simple majority of the Trustees has signified its agreement to the resolution in an authenticated document or documents which are received at the registered office within the period of 28 days beginning with the circulation date.
- 15.8.2** The resolution in writing may comprise several documents containing the text of the resolution in like form to each of which one or more of the Trustees has signified their agreement.
- 15.9** Except for the chairman of the meeting, who has a second or casting vote, every Trustee has one vote on each issue.
- 15.10** A procedural defect of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.
- 15.11** A Trustee may not appoint an alternate trustee or anyone to act on his or her behalf at meetings of the Trustees.
- 15.12.1** Subject to Article 15.12.2 all acts done by a meeting of Trustees or of a committee of Trustees shall be valid notwithstanding the participation in any vote of a Trustee:
- 15.12.1a** who was disqualified from holding office;
- 15.12.1b** who had previously retired or who had been obliged by these Articles to vacate office;
- 15.12.1c** who was not entitled to vote on the matter whether by reason of conflict of interest or otherwise;
- If without:
- 15.12.1d** the vote of that Trustee; and
- 15.12.1e** the Trustee being counted in the quorum;
- the decision has been made by a majority of the Trustees at a quorate meeting.
- 15.12.2** Article 15.12.1 does not permit a Trustee or a Connected Person to keep any benefit that may be conferred upon him or her by a resolution of the Trustees or a committee of Trustees if but for Article 15.12.1 the resolution would have been void or if the Trustee has not complied with Article 17.

## **16. POWERS OF TRUSTEES**

The Trustees have the following powers in the administration of the Charity:

- 16.1 to appoint (and remove) any individual (who may be a Trustee) to act as Secretary to the Charity.
- 16.2 to appoint a Chairman, Treasurer and other honorary officers from among their number
- 16.3.1 to delegate any of their functions to committees consisting of two or more individuals appointed by them but the terms of any delegation must be recorded in the minute book.
- 16.3.2 The Trustees may impose conditions when delegating, including the conditions that:
  - 16.3.2a the relevant powers are to be exercised exclusively by the committee to whom they delegate;
  - 16.3.2b no expenditure may be incurred on behalf of the Charity except in accordance with a budget previously agreed with the Trustees.
- 16.3.3 The Trustees may revoke or alter a delegation.
- 16.3.4 All acts and proceedings of any committees must be fully and promptly reported to the Trustees.
- 16.4 to make Standing Orders consistent with the Companies Acts, **these Articles** and any special resolution to govern proceedings at general meetings
- 16.5 to make Rules consistent with the Companies Acts, these Articles and any special resolution to govern proceedings at their meetings and at meetings of committees
- 16.6 to make Regulations consistent with the Companies Acts, these Articles and any special resolution to govern the administration of the Charity and the use of its seal (if any)
- 16.7 to establish procedures to assist the resolution of disputes within the Charity
- 16.8 to exercise any powers of the Charity which are not reserved to a general meeting.
- 16.9 No alteration of the Articles or any special resolution shall have retrospective effect to invalidate any prior act of the Trustees.
- 16.10 Any meeting at which a quorum is present at the time the relevant decision is made may exercise all the powers exercisable by the Trustees.

## 17. **DECLARATION OF TRUSTEES' INTERESTS**

A Trustee must declare the nature and extent of any interest, direct or indirect, which he or she 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. A Trustee must 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 interests of the Charity and any personal interest (including but not limited to any personal financial interest)

## 18. **CONFLICTS OF INTERESTS**

- 18.1 If a conflict of interests arises for a Trustee 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 these Articles the unconflicted Trustees may authorise such a conflict of interests where the following conditions apply:
  - 18.1.1 the conflicted Trustee is absent from the part of the meeting at which there is discussion of any arrangement or transaction affecting that other organisation or person;

**18.1.2** the conflicted Trustee does not vote on any such matter and is not to be counted when considering whether a quorum of Trustees is present at the meeting; and

**18.1.3** the unconflicted Trustees consider it is in the interests of the Charity to authorise the conflict of interests in the circumstances applying.

**18.2** In this Article 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 Trustee or to a Connected Person.

## **19. MINUTES**

The Trustees must keep minutes of all:

**19.1** appointments of officers made by the Trustees;

**19.2** proceedings of meetings of the Charity;

**19.3** meetings of the Trustees and committees of the Trustees including:

**19.1.1** the names of Trustees present at the meeting;

**19.1.2** the decisions made at the meetings; and

**19.1.3** where appropriate the reasons for the decisions.

## **20. ACCOUNTS**

**20.1** The Trustees must prepare for each financial year accounts as required by the Companies Acts. The accounts must be prepared to show a true and fair view and follow the accounting standards issued or adopted by the Accounting Standards Board or its successors and adhere to the recommendations of any applicable Statements of Recommended Practice.

**20.2** The Trustees must keep accounting records as required by the Companies Acts.

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

**21.1** The Trustees must comply with the requirements of the Charities Act 1993 with regard to the:

**21.1.1a** transmission of statements of account of the Charity;

**21.1.1b** preparation of an Annual Report and its transmission to the Commission;

**21.1.1c** preparation of an Annual Return and its transmission to the Commission.

## **22. MEANS OF COMMUNICATION TO BE USED**

**22.1.1** Subject to the Articles anything sent or supplied by or to the Charity under the Articles may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the Charity.

**22.1.2** Subject to the Articles any notice or document to be sent or supplied to a Trustee in connection with the taking of decisions by Trustees may also be sent or supplied by the means by which that Trustee has asked to be sent or supplied with such notices for the time being.

## **23. NOTICES**

**23.1** Any notice to be given to or by any person pursuant to the Articles:

**23.1.1** must be in writing; or

**23.1.2** must be given in electronic form.

**23.2.1** The Charity may give notice to any member either:

**23.2.1a** personally; or

**23.2.1** by sending it by post in a prepaid envelope addressed to the member at his or her address;  
or

**23.2.1c** by leaving it at the address of the member; or

**23.2.1d** by giving it in electronic form to the member's address.

**23.2.2** A member who does not register an address with the Charity or who registers only a postal address that is not within the United Kingdom shall not be entitled to receive any notice from the Charity.

**23.3** A member present in person at any meeting of the Charity shall be deemed to have received notice of the meeting and of the purposes for which it was called.

**23.4** Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given.

**23.5** Proof that an electronic form of notice was given shall be conclusive where the Charity can demonstrate that it was properly addressed and sent in accordance with section 1147 of the Companies Act 2006.

**23.6** In accordance with section 1147 of the Companies Act 2006 notice shall be deemed to be given:

**23.6.1** 48 hours after the envelope containing it was posted; or

**23.6.2** in the case of an electronic form of communication 48 hours after it was sent.

## **24. INDEMNITY**

**24.1** The Charity shall indemnify any Trustee against any liability incurred by him or her in that capacity, to the extent permitted by sections 232 to 234 of the Companies Act 2006.

**24.2** In this article a "Trustee" means any Trustee or former Trustee of the Charity.

## **25. DISSOLUTION**

**25.1** 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:

**25.1.1** directly for the objects; or

**25.1.2** by transfer to any charity or charities for purposes similar to the Objects; or

**25.1.3** to any charity or charities for use for particular purposes that may fall within the Objects.

**25.2** 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 nett assets of the Charity after all its debts have been paid or provision made for them shall on or before dissolution of the Charity be applied or transferred:

**25.2.1** directly for the Objects; or

**25.2.2** by transfer to any charity or charities for purposes similar to the Objects; or

**25.2.3** to any charity or charities for use for particular purposes that may fall within the Objects.

**25.3** In no circumstances shall the nett assets of the Charity be paid to or distributed among the members of the Charity and if no resolution in accordance with Articles 25.1 or 25.2 is passed by the members or the Trustees the nett assets of the Charity shall be applied for charitable purposes as directed by the Court or the Commission.