

**COMPANY LIMITED BY GUARANTEE**

**THE COMPANIES ACT 2006**

**ARTICLES OF ASSOCIATION**

**OF**

**LIBRARIES UNLIMITED SOUTH WEST**

**Company No: 9822597**

**Charity No: 1170092**

**Incorporated: 13 October 2015**

**as amended by resolutions dated 8 March 2016,**

**13 October 2016,**

**21 May 2020, and**

**20 October 2020**

THURSDAY



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## ARTICLES OF ASSOCIATION

### LIBRARIES UNLIMITED SOUTH WEST

#### 1. INTERPRETATION

##### 1.1 In the Articles:

|                                             |                                                                                                                                                                                                                          |
|---------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>“Address”</b>                            | means a postal address or, for the purposes of electronic communication, an email or postal address or a telephone number for receiving text messages in each case registered with the Charity;                          |
| <b>“the Articles”</b>                       | means the Charity's Articles of Association;                                                                                                                                                                             |
| <b>“the Chair”</b>                          | means the person appointed in accordance with Article 29.11 to chair meetings of the Trustees;                                                                                                                           |
| <b>“the Charity”</b>                        | means the company intended to be regulated by the Articles;                                                                                                                                                              |
| <b>“Chief Executive Ex Officio Trustee”</b> | means the Chief Executive from time to time appointed as a Trustee of the Charity, pursuant to Article 24;                                                                                                               |
| <b>“Clear Days”</b>                         | <p>in relation to the period of a notice means a period excluding:</p> <p>(a) the day when the notice is given or deemed to be given; and</p> <p>(b) the day for which it is given or on which it is to take effect;</p> |
| <b>“the Commission”</b>                     | means the Charity Commission for England and Wales;                                                                                                                                                                      |
| <b>“Community Membership Group”</b>         | means the community membership group which a Friends' Group shall be entitled to join;                                                                                                                                   |
| <b>“Community Trustee”</b>                  | means a Trustee who is a member of one of the Friends' Groups;                                                                                                                                                           |
| <b>“Companies Acts”</b>                     | means the Companies Acts (as defined in Section 2 of the Companies Act 2006) insofar as they apply to the Charity;                                                                                                       |
| <b>“Deputy Chair”</b>                       | means the person appointed as deputy chair of the board of Trustees pursuant to Article 29.11;                                                                                                                           |
| <b>“Document”</b>                           | includes, unless otherwise specified, any document sent or supplied in electronic form;                                                                                                                                  |
| <b>“Electronic form”</b>                    | has the meaning given in Section 1168 of the Companies Act 2006;                                                                                                                                                         |

|                                   |                                                                                                                                                                                                                                                                                                |
|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>“Friends’ Group”</b>           | means a constituted Devon or Torbay Libraries Friends’ Group established to support a particular library or libraries recognised by the Trustees;                                                                                                                                              |
| <b>“Independent Trustee”</b>      | means a Trustee who is not a Staff or Community Trustee;                                                                                                                                                                                                                                       |
| <b>“the Memorandum”</b>           | means the Charity’s Memorandum of Association;                                                                                                                                                                                                                                                 |
| <b>“Officers”</b>                 | includes the Trustees and the secretary (if any);                                                                                                                                                                                                                                              |
| <b>“the Seal”</b>                 | means the common seal of the Charity if it has one;                                                                                                                                                                                                                                            |
| <b>“Secretary”</b>                | means any person appointed to perform the duties of the secretary of the Charity;                                                                                                                                                                                                              |
| <b>“Staff Membership Group”</b>   | means the staff membership group which an employee of the Charity shall be entitled to join;                                                                                                                                                                                                   |
| <b>“Staff Trustee”</b>            | means a Trustee who is an employee of the Charity;                                                                                                                                                                                                                                             |
| <b>“the Trustees”</b>             | means the Trustees of the Charity. The Trustees are charity trustees, as defined by Section 177 of the Charities Act 2011 and which shall, for the avoidance of doubt, include the Staff Trustees, the Community Trustee, the Independent Trustees and the Chief Executive Ex Officio Trustee; |
| <b>“Trustee Membership Group”</b> | means the trustee membership group which the Trustees shall be entitled to join;                                                                                                                                                                                                               |
| <b>“the United Kingdom”</b>       | means Great Britain and Northern Ireland                                                                                                                                                                                                                                                       |

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

1.3 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 this constitution becomes binding on the Charity.

1.4 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.

## 2. OBJECTS

2.1 The Charity has been established for public benefit to:

2.1.1 promote the advancement of education by the establishment and/or maintenance of a library and/or library service; and/or

2.1.2 without prejudice to the generality of the above, establish and/or maintain a library and/or library service in and throughout Devon, including, but not limited to, rural communities and with a particular focus on children and young people; and/or

- 2.1.3 provide or assist in the provision of community facilities referred to as "Community Hubs" to be available to all sections of the community without distinction, including use for meetings, learning, reading, sharing and/or for other educational and/or recreational or leisure time activities provided in the interests of social welfare, with the object of improving the conditions of life for all those who use the facilities; and/or
- 2.1.4 promote the advancement of education of the arts by the establishment and maintenance of a museum and/or art gallery; and/or
- 2.1.5 develop the capacity and skills of the members of the local community, and particularly children and young people, who are socially or economically disadvantaged in such a way that they are better able to identify, and help meet, their needs and to participate more fully in society; and/or
- 2.1.6 pursue such other charitable purposes consistent with the above as the Trustees, in their absolute discretion, shall determine (together the "**Objects**").

### **3. POWERS**

- 3.1 The Charity has power to do anything which is calculated to further its Object(s) or is conducive or incidental to doing so. In particular, the Charity has power:
  - 3.1.1 to manage and operate libraries and/or provide a library service;
  - 3.1.2 to manage and operate community facilities;
  - 3.1.3 to manage and operate a museum and/or art gallery;
  - 3.1.4 to provide a range of activities to promote community capacity building;
  - 3.1.5 to provide a range of activities to promote and/or support public health and social care initiatives;
  - 3.1.6 to raise funds provided that the Charity must not undertake any taxable permanent trading activity through the main charity vehicle and must comply with any relevant statutory regulations
  - 3.1.7 to buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;
  - 3.1.8 to sell, lease or otherwise dispose of all or any part of the property belonging to the Charity. In exercising this power, the Charity must comply, as appropriate, with Sections 117 and 122 of the Charities Act 2011;
  - 3.1.9 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 124-126 of the Charities Act 2011 if it wishes to mortgage land;
  - 3.1.10 to co-operate with other charities, voluntary bodies and statutory authorities and to exchange information and advice with them;
  - 3.1.11 to enter into arrangements with local, regional and/or central government in the delivery of the Charity's Objects;

- 3.1.12 to establish or support any charitable trusts, associations or institutions formed for any of the charitable purposes included in the Charity's Objects;
- 3.1.13 to acquire, merge with or to enter into any partnership or joint venture arrangement with any other Charity;
- 3.1.14 to set aside income as a reserve against future expenditure but only in accordance with a written policy about reserves;
- 3.1.15 to employ and remunerate such staff as are necessary for carrying out the work of the Charity. The Charity may employ or remunerate a Trustee only to the extent it is permitted to do so by Article 4.2.2 and Article 5 and provided it complies with the conditions in those Articles;
- 3.1.16 to:
  - 3.1.16.1 deposit or invest funds;
  - 3.1.16.2 employ a professional fund manager; and
  - 3.1.16.3 arrange for the investments or other property of the Charity to be held in the name of a nominee;

in the same manner and subject to the same conditions as the trustees of a trust are permitted to do by the Trustee Act 2000;
- 3.1.17 to provide indemnity insurance for the Trustees, in accordance with, and subject to, the conditions in Section 189 of the Charities Act 2011;
- 3.1.18 to pay out of the funds of the Charity the costs of forming and registering the Charity both as a company and as a Charity;
- 3.1.19 to amalgamate and/or merge with any organisation which is charitable at law and which has Objects which are the same or similar to those of the Charity and which prohibit the payment of any dividend or profit to and the distribution of any of their assets amongst their members, at least to the same extent as such payments or distributions are prohibited in the case of Members of the Charity by these Articles;
- 3.1.20 to do all such other lawful things as shall further the above Objects or any of them.

#### **4. APPLICATION OF INCOME AND PROPERTY**

- 4.1 The income and property of the Charity shall be applied solely towards the promotion of the Objects.
- 4.2 Save that nothing herein shall prevent any payment in good faith by the Charity in the following circumstances:
  - 4.2.1 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;
  - 4.2.2 a Staff Trustee or Chief Executive Ex Officio Trustee may benefit from reasonable and proper remuneration as an employee of the Charity PROVIDED

THAT the Staff Trustees and Chief Executive Ex Officio Trustee shall not participate in any discussions at which their terms and conditions are discussed or those of any other employee (save in general terms) and shall not vote or count towards the quorum on any such matter and PROVIDED FURTHER THAT at no time shall the Staff Trustees together with the Chief Executive Ex Officio Trustee be in the majority on the Board;

- 4.2.3 a Trustee may benefit from trustee indemnity insurance cover purchased at the Charity's expense in accordance with, and subject to, the conditions in Section 189 of the Charities Act 2011;
  - 4.2.4 a Trustee may receive an indemnity from the Charity in the circumstances specified in Article 37;
  - 4.2.5 a Trustee may not receive any other benefit or payment unless it is authorised by Article 5.
- 4.3 Subject to Article 5, 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:
- 4.3.1 a benefit from the Charity in the capacity of a beneficiary of the Charity;
  - 4.3.2 reasonable and proper remuneration for any goods or services supplied to the Charity.

## **5. BENEFITS AND PAYMENTS TO CHARITY TRUSTEES AND CONNECTED PERSONS**

### **5.1 General Provisions**

No Trustee or Connected Person may:

- 5.1.1 buy any goods or services from the Charity on terms preferential to those applicable to members of the public;
- 5.1.2 sell goods, services, or any interest in land to the Charity;
- 5.1.3 be employed by, or receive any remuneration from, the Charity;
- 5.1.4 receive any other financial benefit from the Charity;

unless the payment is permitted by sub-clause 5.2 of this Article or, in the case of an employee of the Charity who is a Trustee, is permitted by Article 4.2.2, or authorised by the court or the Charity Commission.

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

### **5.2 Scope and powers permitting Trustees' or Connected Persons' benefits**

- 5.2.1 A Trustee or Connected Person may receive a benefit from the Charity in the capacity of a beneficiary of the Charity, provided that a majority of the Trustees do not benefit in this way.

- 5.2.2 A Trustee or Connected Person may enter into a contract for the supply of services, or of goods that are supplied in connection with the provision of services, to the Charity where that is permitted in accordance with, and subject to, the condition in Sections 185 and 186 of the Charities Act 2011.
- 5.2.3 Subject to sub-clause 5.3 of this Article, a Trustee or Connected Person may provide the Charity with goods that are not supplied in connection with services provided to the Charity by the Trustee or Connected Person.
- 5.2.4 A Trustee or Connected Person may receive interest on money lent to the Charity at a reasonable and proper rate which must be not more than the Bank of England bank rate (also known as the base rate).
- 5.2.5 A Trustee or Connected Person may receive rent for premises let by the Trustee or Connected Person to the Charity. The amount of the rent and the other terms of the lease must be reasonable and proper. The Trustee concerned must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion.
- 5.2.6 A Trustee or Connected Person may take part in the normal trading and fundraising activities of the Charity on the same terms as members of the public.

### **5.3 Payment for supply of goods only - controls**

The Charity and its Trustees may only rely upon the authority provided by sub-clause 5.2.3 of this Article if each of the following conditions is satisfied:

- 5.3.1 The amount or maximum amount of the payment for the goods is set out in an agreement in writing between the Charity or its Trustees (as the case may be) and 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.
- 5.3.2 The amount or maximum amount of the payment for the goods does not exceed what is reasonable in the circumstances for the supply of the goods in question.
- 5.3.3 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.
- 5.3.4 The supplier is absent from the part of any meeting at which there is discussion of the proposal to enter into a contract or arrangement with them or it with regard to the supply of goods to the Charity.
- 5.3.5 The supplier 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.
- 5.3.6 The reason for their decision is recorded by the Trustees in the minute book.
- 5.3.7 A majority of the Trustees then in office are not in receipt of remuneration or payments authorised by Article 5.

### **5.4 In sub-clauses 5.2 and 5.3 of this Article:**

5.4.1 "Charity" includes any company in which the Charity:

5.4.1.1 holds more than 50% of the shares; or

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

5.4.1.3 has the right to appoint one or more Trustees to the board of the company.

5.4.2 "Connected Person" includes any person within the definition in Article 41 "Interpretation".

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

6.1 A Trustee must declare the nature and extent of any interest, direct or indirect, which they have 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.

6.2 A Trustee must absent themselves from any discussions of the Charity Trustees in which it is possible that a conflict will arise between their duty to act solely in the interests of the Charity and any personal interest (including, but not limited to, any personal financial interest).

## **7. CONFLICTS OF INTERESTS AND CONFLICTS OF LOYALTIES**

7.1 If a conflict of interest 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 the Articles, the unconflicted Trustees may authorise such a conflict of interests where the following conditions apply:

7.1.1 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;

7.1.2 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

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

7.2 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.

## **8. MEMBERSHIP**

8.1 The subscribers to the memorandum are the first members of the Charity.

8.2 Subject to Article 10, membership shall be open to those individuals and organisations identified in Article 10 who:

8.2.1 apply to the Charity in the form required by the Trustees; and

8.2.2 are approved by the Trustees.

**8.3 The Trustees:**

- 8.3.1 may only refuse an application for membership if, acting reasonably and properly, they consider it to be in the best interests of the Charity to refuse the application;
- 8.3.2 must inform the applicant in writing of the reasons for the refusal within twenty-one days of the decision;
- 8.3.3 must consider any written representations the applicant may make about the decision. The Trustees' decision following any written representations must be notified to the applicant in writing but shall be final.

**8.4** It is the duty of each member of the Charity to exercise their powers as a member of the Charity in the way they decide in good faith would be most likely to further the purposes of the Charity.

**8.5** Membership is not transferable.

**8.6** The Trustees must keep a register of names and addresses of the members.

**9. LIABILITY OF MEMBERS**

**9.1** The liability of the members is limited to a sum not exceeding £1, being the amount that each member undertakes to contribute to the assets of the Charity in the event of its being wound up while they are a member or within one year after they cease to be a member, for:

- 9.1.1 payment of the Charity's debts and liabilities incurred before they cease to be a member;
- 9.1.2 payment of the costs, charges and expenses of winding up; and
- 9.1.3 adjustment of the rights of the contributories among themselves.

**10. CLASSES OF MEMBERSHIP**

**10.1** The Company shall have the following membership classes:

- 10.1.1 Staff Membership Group;
- 10.1.2 Community Membership Group;
- 10.1.3 Trustee Membership Group.

**10.2** Any member of staff employed by the Charity shall be entitled to apply to become a member of the Charity in the Staff Membership Group.

**10.3** Any Friends' Group shall be entitled to apply to be a member of the Charity (as an organisation) in the Community Membership Group.

**10.4** All Trustees shall be members of the Charity.

**10.5** No individuals or organisations shall be eligible to apply for membership of the Charity except as set out in Articles 10.2, 10.3 and 10.4,

- 10.6 The Trustees may not directly or indirectly alter the rights or obligations attached to a class of membership.
- 10.7 The rights attached to a class of membership may only be varied if:
- 10.7.1 three-quarters of the members of that class consent in writing to the variation; or
  - 10.7.2 a special resolution is passed at a separate general meeting of the members of that class agreeing to the variation.
- 10.8 The provisions in the Articles about general meetings shall apply to any meeting relating to the variation of the rights of any class of members.

## **11. TERMINATION OF MEMBERSHIP**

- 11.1 Membership is terminated if:
- 11.1.1 the member dies or, if it is an organisation, ceases to exist;
  - 11.1.2 the member resigns by written notice to the Charity unless, after the resignation, there would be less than two members;
  - 11.1.3 any sum due from the member to the Charity is not paid in full within six months of it falling due;
  - 11.1.4 the member is removed from membership by a resolution of the Trustees that it is in the best interests of the Charity that their membership is terminated. A resolution to remove a member from membership may only be passed if:
    - 11.1.4.1 the member has been given at least twenty-one days' notice in writing of the meeting of the Trustees at which the resolution will be proposed and the reasons why it is to be proposed;
    - 11.1.4.2 the member or, at the option of the member, the member's representative (who need not be a member of the Charity) has been allowed to make representations to the meeting;
  - 11.1.5 if the member is a member of a Friend's Group, the Friends' Group ceases to exist or be a member of the Charity;
  - 11.1.6 if the member is a member of staff employed by the Charity and admitted to the Staff Membership Group, that individual ceases to be employed by the Charity for whatever reason;
  - 11.1.7 if the member is a Trustee and admitted to the Trustee Membership Group, that individual ceases to be a Trustee of the Charity for whatever reason.

## **12. GENERAL MEETINGS**

- 12.1 An annual general meeting must be held in each year and not more than fifteen months may elapse between successive annual general meetings.
- 12.2 The Trustees may call a general meeting at any time.

## **13. NOTICE OF GENERAL MEETINGS**

- 13.1 The minimum periods of notice required to hold a general meeting of the Charity are:
- 13.1.1 twenty-one clear days for an annual general meeting or a general meeting called for the passing of a special resolution;
  - 13.1.2 fourteen clear days for all other general meetings.
- 13.2 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 and the meeting, being a majority who together hold not less than 90 per cent of the total voting rights.
- 13.3 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 annual general meeting, the notice must say so. The notice must also contain a statement setting out the right of members to appoint a proxy under Section 324 of the Companies Act 2006 and Article 18.
- 13.4 The notice must be given to all the members and to the Trustees and auditors.
- 13.5 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.

#### **14. PROCEEDINGS AT GENERAL MEETINGS**

- 14.1 No business shall be transacted at any general meeting unless a quorum is present.
- 14.2 A quorum is ten members present in person or by proxy and entitled to vote upon the business to be conducted at the meeting, provided that for a meeting to be quorate there must be at least one representative from each of the Membership Classes present. At any adjourned meeting, the meeting should be quorate if the quorum requirements as set out above have been complied with without the requirement for there to be a representative from each of the Membership Classes present.
- 14.3 The authorised representative of a member organisation shall be counted in the quorum.
- 14.4 If:
- 14.4.1 a quorum is not present within half an hour from the time appointed for the meeting; or
  - 14.4.2 during a meeting a quorum ceases to be present
- the meeting shall be adjourned to such time and place as the Trustees shall determine.
- 14.5 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.
- 14.6 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.
- 14.7 General meetings shall be chaired by the Chair or, in their absence, by the Deputy Chair.

- 14.8 If there is no Chair or Deputy Chair, or neither of them are present within fifteen minutes of the time appointed for the meeting, a Trustee nominated by the Trustees shall chair the meeting.
- 14.9 If there is only one Trustee present and willing to act, he or she shall chair the meeting.
- 14.10 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.
- 14.11 The members present in person or by proxy at a meeting may resolve by ordinary resolution that the meeting shall be adjourned.
- 14.12 The person who is 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.
- 14.13 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.
- 14.14 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 date, time and place of the meeting.
- 14.15 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:
- 14.15.1 by the person chairing the meeting; or
- 14.15.2 by at least two members present in person or by proxy and having the right to vote at the meeting; or
- 14.15.3 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.
- 14.16 The declaration by a person who is chairing the meeting of the result of a vote shall be conclusive unless a poll is demanded.
- 14.17 The result of the vote must be recorded in the minutes of the Charity but the number or proportion of votes cast need not be recorded.
- 14.18 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. 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.
- 14.19 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 the poll.
- 14.20 The result of the poll shall be deemed to be the resolution of the meeting at which the poll is demanded.
- 14.21 A poll demanded on the election of a person to chair a meeting or on a question of adjournment must be taken immediately. 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.

- 14.22 The poll must be taken within thirty days after it has been demanded.
- 14.23 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.
- 14.24 If a poll is demanded the meeting may continue to deal with any other business that may be conducted at the meeting.

## **15. CONTENT OF PROXY NOTICES**

- 15.1 Proxies may only validly be appointed by a notice in writing (a "proxy notice") which:
  - 15.1.1 states the name and address of the member appointing the proxy;
  - 15.1.2 identifies the person appointed to be that member's proxy and the general meeting in relation to which that person is appointed;
  - 15.1.3 is signed by or on behalf of the member appointing the proxy, or is authenticated in such manner as the Trustees may determine; and
  - 15.1.4 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.
- 15.2 The Charity may require proxy notice to be delivered in a particular form, and may specify different forms for different purposes.
- 15.3 Proxy notices may specify how the proxy appointed under then is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- 15.4 Unless a proxy notice indicates otherwise, it must be treated as:
  - 15.4.1 allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
  - 15.4.2 appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

## **16. DELIVERY OF PROXY NOTICES**

- 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.
- 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 a person by whom or on whose behalf the proxy notice was given.
- 16.3 A notice revoking a proxy appointment only takes effect if it is delivered before the start of a meeting or adjourned meeting to which it relates.

- 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.

## **17. WRITTEN RESOLUTIONS**

- 17.1 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:

- 17.1.1 a copy of the proposed resolution has been sent to every eligible member;
  - 17.1.2 a simple majority (or in the case of a special resolution a majority of not less than 75%) of members has signified its agreement to the resolution; and
  - 17.1.3 it is contained in an authenticated document which has been received at the registered office within the period of 28 days beginning with the circulation date.
- 17.2 A resolution in writing may comprise several copies to which one or more members have signified their agreement.
- 17.3 In the case of a member that is an organisation, its authorised representative may signify its agreement.

## **18. VOTES FOR MEMBERS**

- 18.1 Every member, whether an individual or an organisation, shall have one vote on a show of hands or on a poll vote and each vote cast by each Membership Class shall carry the following weighting:
- 18.1.1 Staff Membership Group: 33%;
  - 18.1.2 Community Membership Group: 33%;
  - 18.1.3 Trustee Membership Group: 34%.
- 18.2 For the avoidance of doubt, each Friends' Group (however constituted) which is a member of the Charity shall have one vote. Further, the Staff Trustees and Community Trustees shall vote in the Trustee Membership Group (only) and not in the Staff Membership Group or Community Membership Group.
- 18.3 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.
- 18.4 Any organisation that is a member of the Charity may nominate any person to act as its representative at any meeting of the Charity.
- 18.5 The organisation must give written notice to the Charity of the name of its representative. The representative shall not be entitled to represent the organisation at any meeting unless the notice has been received by the Charity. The representative may continue to represent the organisation until written notice to the contrary is received by the Charity.
- 18.6 Any notice given to the Charity will be conclusive evidence that the representative is entitled to represent the organisation or that their authority has been revoked. The Charity shall not be required to consider whether the representative has been properly appointed by the organisation.

## **19. HONORARY OFFICERS**

- 19.1 The Trustees shall have the power, at its sole discretion, to appoint honorary officers, including, but not limited to, a President or a Patron ("**Honorary Officers**").
- 19.2 Honorary Officers shall not be entitled to attend meetings of the Board but may attend if invited by the Board, and shall be entitled to attend general meetings of the Charity but not to vote at the same or count towards the quorum.
- 19.3 The Board shall be entitled to appoint Honorary Officers for life or such other term of appointment as the Board may decide.

## **20. TRUSTEES**

- 20.1 The Charity aims to demonstrate its commitment to diversity in all areas of its work and specifically in the representation of its Board of Trustees. Decision-making in relation to recruitment of suitable new Trustees will consider at all times maintaining an appropriate representation of all relevant stakeholder groups (including staff, Friends' Groups and the wider public) from which Trustees can be recruited. As a minimum, Trustees will aim to ensure, so far as is practicable, that no less than one third who identify as male and no less than one third who identify as female. The Board will undertake appropriate positive action to encourage a diverse range of applicants.
- 20.2 A Trustee must be a natural person aged 16 years or older and no one may be appointed a Trustee if they would be disqualified from acting under the provisions of Article 27.
- 20.3 The minimum number of Trustees (unless otherwise determined by ordinary resolution) shall be three and the maximum shall be twelve and shall comprise as follows:
  - 20.3.1 up to two Staff Trustees;
  - 20.3.2 up to two Community Trustees;
  - 20.3.3 the Chief Executive Ex Officio Trustee;
  - 20.3.4 up to seven Independent Trustees.
- 20.4 The current Trustees shall be those persons notified to Companies House as the Trustees of the Charity as at the date of adoption of this version of the Articles.
- 20.5 A Trustee may not appoint an alternate Trustee or anyone to act on their behalf at meetings of the Trustees.

## **21. POWERS OF TRUSTEES**

- 21.1 The Trustees shall manage the business of the Charity and may exercise all the powers of the Charity unless they are subject to any restrictions imposed by the Companies Act, the Articles or any special resolution.
- 21.2 No alteration of the Articles or any special resolution shall have retrospective effect to invalidate any prior act of the Trustees.
- 21.3 Any meeting of Trustees at which a quorum is present at the time the relevant decision is made may exercise all the powers exercisable by the Trustees.

## **22. APPOINTMENT OF STAFF TRUSTEES**

- 22.1 The Staff Trustees shall be appointed for a fixed term of three years.
- 22.2 The Staff Trustees shall be appointed by a majority vote of the members of staff of the Charity in accordance with such election procedures as shall be determined by the Trustees from time to time. If only one applicant for a vacant staff Trustee position is forthcoming, the appointment shall not be made until the vacancy is re-advertised and additional steps taken to seek two or more nominees from whom to choose. Staff Trustees should, as far as is practicable, reflect the diversity of the employees of the Charity. Such diversity will be actively encouraged when such positions are advertised.
- 22.3 The Staff Trustees may be re-appointed (if elected), subject to a normal maximum of three terms. In exceptional circumstances the Trustees may resolve that a Staff Trustee who has already served three terms may serve for a further period of up to one year if the Trustees consider it is in the best interests of the Charity.

### **23. APPOINTMENT OF COMMUNITY TRUSTEES**

- 23.1 The Community Trustees shall be appointed for a fixed term of three years.
- 23.2 The Community Trustees shall be appointed by a majority vote of the Friends' Groups appointed as members of the Charity in accordance with such election procedures as shall be determined by the Trustees from time to time. If only one applicant for a vacant Trustee position is forthcoming, the appointment shall not be made until the vacancy is re-advertised and additional steps taken to seek two or more nominees from whom to choose. Community Trustees should, as far as is practicable, reflect the diversity of the Friends' Groups. Such diversity will be actively encouraged when such positions are advertised.
- 23.3 The Community Trustees may be re-appointed (if elected), subject to a normal maximum of three terms. In exceptional circumstances the Trustees may resolve that a Community Trustee who has already served three terms may serve for a further period of up to one year if the Trustees consider it is in the best interests of the Charity.

### **24. APPOINTMENT OF EX OFFICIO TRUSTEES**

- 24.1 The Chief Executive (the "**Office Holder**") for the time being of the Charity shall automatically, by virtue of holding that office ("**Ex Officio**") be a Charity Trustee.
- 24.2 If unwilling to act as a Trustee, the Office Holder may:
- 24.2.1 before accepting appointment as a Trustee, give notice in writing to the Trustees of their unwillingness to act in that capacity; or
- 24.2.2 after accepting appointment as a Trustee, resign under the provisions of Article 27.
- 24.3 The office of the Chief Executive Ex Officio Trustee will then remain vacant until the office holder ceases to hold office.

### **25. APPOINTMENT OF INDEPENDENT TRUSTEES**

- 25.1 The Charity may by ordinary resolution appoint a person who is willing to act to be an Independent Trustee.
- 25.2 Independent Trustees shall be appointed for a fixed term of three years, such term to expire at the end of the AGM in the third year following their appointment.

- 25.3 Independent Trustees may be re-appointed, subject to a normal maximum of three terms (excluding any period in which they are co-opted to the Board pursuant to Article 25.6). In exceptional circumstances the Trustees may resolve that an Independent Trustee who has already served three terms may serve for a further period of up to one year if the Trustees consider it is in the best interests of the Charity.
- 25.4 No person other than an Independent Trustee coming to the end of their term of office and offering themselves for re-election, may be appointed an Independent Trustee at any general meeting unless.
- 25.4.1 he or she is recommended for re-election by the Trustees; or
- 25.4.2 not less than fourteen nor more than thirty five clear days before the date of the meeting, the Charity is given a notice that;
- 25.3.3.1. is signed by a member entitled to vote at the meeting;
- 25.3.3.2. states the member's intention to propose the appointment of a person as an Independent Trustee;
- 25.3.3.3. contains the details that, if the person were to be appointed, the Charity would have to file at Companies House; and
- 25.3.3.4. is signed by the person who is to be proposed to show their willingness to be appointed.
- 25.5 All members who are entitled to receive notice of a general meeting must be given not less than seven nor more than twenty-eight clear days' notice of any resolution to be put to the meeting to appoint an Independent Trustee other than an Independent Trustee who is coming to the end of their term of office and is offering themselves for re-election.
- 25.6 The Trustees may appoint a person who is willing to be an Independent Trustee.
- 25.7 An Independent Trustee appointed by a resolution of the Trustees must retire at the next annual general meeting.
- 25.8 The appointment of a Trustee, whether by the Charity in general meeting or by the other Trustees, must not cause the number of Trustees to exceed any number fixed as the maximum number of Trustees.
- 25.9 When appointing a Trustee both the Trustees and the Members of the Charity shall have regard to the existing range of skills and expertise of the Board, the skills and expertise of that individual and how he or she will contribute to the success of the Company. Further, the Trustees shall follow best practice in relation to Trustee recruitment, including the Charity Governance Code and any guidance issued by the Charity Commission from time to time. For the avoidance of doubt, the Trustees shall follow a transparent and rigorous Trustee recruitment process, exercising due diligence, with a formal induction for all Trustees.

## **26. RETIREMENT OF INDEPENDENT TRUSTEES**

- 26.1 At each annual general meeting those of the Independent Trustees coming to the end of their term of office, must retire from office.

- 26.2 If an Independent Trustee is required to retire at an annual general meeting by a provision of the Articles the retirement shall take effect upon the conclusion of the meeting.

**27. RESIGNATION, DISQUALIFICATION AND REMOVAL OF TRUSTEES**

- 27.1 A Trustee shall cease to hold office if they:

- 27.1.1 cease to be a Trustee by virtue of any provision in the Companies Acts or are prohibited by law from being a Trustee;
- 27.1.2 are disqualified from acting as a trustee by virtue of sections 178 and 179 of the Charities Act 2011 (or any statutory re-enactment or modification of those provisions);
- 27.1.3 cease to be a member of the Charity;
- 27.1.4 in the written opinion, given to the Charity, of a registered medical practitioner treating that person, have become physically or mentally incapable of acting as a Trustee and may remain so for more than three months;
- 27.1.5 resign as a Trustee by notice to the Charity (but only if at least two Trustees will remain in office when the notice of resignation is to take effect);
- 27.1.6 are absent without the permission of the Trustees from all their meetings held within a period of six consecutive months and the Trustees resolve that their office be vacated; or
- 27.1.7 being a Staff Trustee, cease to be an employee of the Charity, for whatever reason;
- 27.1.8 being a Community Trustee, cease to be a member of any Friends' Group member of the Charity;
- 27.1.9 being the Chief Executive Ex Officio Charity Trustee, is unwilling to act as a Trustee and resigns as a Trustee pursuant to this Article 27 or ceases to be the Chief Executive of the Charity for whatever reason;
- 27.1.10 are removed from office for failure to adhere to any code of conduct as may be adopted from time to time by the Trustees, or for failure to discharge their duties , or for acting in a manner otherwise prejudicial to the best interests of the Charity and/or its stakeholders, by a resolution of the Trustees called for that purpose and properly convened in accordance with these Articles, and the resolution is passed by at least a 75% majority of the other Trustees. A resolution to remove a Trustee in accordance with this Article shall not take effect unless the Trustee concerned has been given at least 14 clear days' notice in writing that the resolution is to be proposed, specifying the circumstances alleged to justify removal from office, and has been given reasonable opportunity of making oral and/or written representations to the other Trustees.

- 27.2 For the avoidance of doubt, a Trustee who is removed or disqualified or who resigns or otherwise ceases to be a Trustee, for whatever reason, shall automatically cease to be a member of the Charity.

## **28. REMUNERATION OF TRUSTEES**

The Trustees must not be paid any remuneration unless it is authorised by Article 4.2.2 or Article 5.

## **29. PROCEEDINGS OF TRUSTEES**

- 29.1 The Trustees may regulate their proceedings as they think fit, subject to the provisions of the Articles.
- 29.2 Any Trustee may call a meeting of the Trustees.
- 29.3 The secretary (if any) must call a meeting of the Trustees if requested to do so by a Trustee.
- 29.4 Questions arising at a meeting shall be decided by a majority of votes.
- 29.5 In the case of an equality of votes, the person who is chairing the meeting shall have a second or casting vote.
- 29.6 A meeting may be held by suitable electronic means agreed by the Trustees in which each participant may communicate with all the other participants.
- 29.7 No decision may be made by a meeting of the Trustees unless 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.
- 29.8 The quorum shall be three Trustees, or such larger number as may be decided from time to time by the Trustees, provided that at all times the Independent and Community Trustees shall be in the majority.
- 29.9 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.
- 29.10 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.
- 29.11 The Trustees shall appoint a Trustee to chair their meetings ("the **Chair**") and may at any time revoke such appointment. The Trustees may also appoint a Trustee to be Deputy Chair ("the **Deputy Chair**"). If a Deputy Chair is appointed, the Trustees shall aim to ensure that so far as practicable one of the following key positions (Chair, Deputy Chair, Chief Executive) shall be held by a person who identifies as male, and one by a person who identifies as female.
- 29.12 If no-one has been appointed to chair meetings of the Trustees or if the person appointed, or the Deputy Chair is unwilling to preside or is not present within ten minutes after the time appointed for the meeting, the Trustees present may appoint one of their number to chair that meeting.
- 29.13 The person appointed to chair meetings of the Trustees, or the Deputy Chair, shall have no functions or powers except those conferred by the Articles or delegated to him or her by the Trustees.

- 29.14 A resolution in writing or in electronic form agreed by all of the Trustees entitled to receive notice of a meeting of the Trustees and to vote upon the resolution shall be valid and effectual as if it had been passed at a meeting of the Trustees duly convened and held.
- 29.15 The resolution in writing may comprise several documents containing the text of the resolution in like form to each of which one or more Trustees has signified their agreement.
- 29.16 The Trustees shall appoint two or more of their number to have particular regard for safeguarding issues within the Charity.

### **30. DELEGATION**

- 30.1 The Trustees may delegate any of their powers or functions to a committee of two or more Trustees but the terms of any delegation must be recorded in the minute book.
- 30.2 The Trustees may impose conditions when delegating, including the conditions that:
- 30.2.1 the relevant powers are to be exercised exclusively by the committee to whom they delegate;
  - 30.2.2 no expenditure may be incurred on behalf of the Charity except in accordance with a budget previously agreed with the Trustees.
- 30.3 The Trustees may revoke or alter a delegation.
- 30.4 All acts and proceedings of any committees must be fully and promptly reported to the Trustees.

### **31. VALIDITY OF TRUSTEES' DECISIONS**

- 31.1 Subject to Article 31.2, 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:
- 31.1.1 who was disqualified from holding office;
  - 31.1.2 who had previously retired or who had been obliged by the constitution to vacate office;
  - 31.1.3 who was not entitled to vote on the matter, whether by reason of a conflict of interests or otherwise;
- if without:
- 31.1.4 the vote of that Trustee; and
  - 31.1.5 that Trustee being counted in the quorum;
- the decision has been made by a majority of the Trustees at a quorate meeting.
- 31.2 Article 31.1 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 of a committee of Trustees if, but for Article 31.1 the resolution would have been void, or if the Trustee has not complied with Article 4.2.2 or Article 5.

### **32. SEAL**

If the Charity has a seal it must only be used by the authority of the Trustees or of a committee of Trustees authorised by the Trustees. The Trustees may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a Trustee and by the secretary (if any) or by a second Trustee.

### **33. MINUTES**

33.1 The Trustees must keep minutes of all:

33.1.1 appointments of officers made by the Trustees;

33.1.2 proceedings at meetings of the Charity;

33.1.3 meetings of the Trustees and committees of Trustees including:

33.1.3.1 the names of the Trustees present at the meeting;

33.1.3.2 the decision made at the meetings; and

33.1.3.3 where appropriate the reasons for the decisions.

### **34. ACCOUNTS**

34.1 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 following accounting standards issued or adopted by the Accounting Standards Board or its successors and adhere to the recommendations of applicable Statements of Recommended Practice.

34.2 The Trustees must keep accounting records as required by the Companies Act.

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

35.1 The Trustees must comply with the requirements of the Charities Act 2011 with regard to the:

35.1.1 transmission of a copy of the statements of account to the Commission;

35.1.2 preparation of an Annual Report and the transmission of a copy of it to the Commission;

35.1.3 preparation of an Annual Return and its transmission to the Commission.

35.2 The Trustees must notify the Commission promptly of any changes to the Charity's entry on the Central Register of Charities.

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

36.1 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.

36.2 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 or documents for the time being.

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

36.3.1 must be in writing; or

36.3.2 must be given in electronic form.

36.4 The Charity may give any notice to a member either:

36.4.1 personally; or

36.4.2 by sending it by post in a prepaid envelope addressed to the member at their address; or

36.4.3 by leaving it at the address of the member; or

36.4.4 by giving it in electronic form to the member's address;

36.4.5 by placing the notice on a website and providing the person with a notification in writing or in electronic form of the presence of the notice on the website. The notification must state that it concerns a notice of a company meeting and must specify the place, date and time of the meeting.

36.5 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.

36.6 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.

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

36.8 Proof that an electronic form of notice was given shall be conclusive where the company can demonstrate that it was properly addressed and sent, in accordance with Section 1147 of the Companies Act 2006.

36.9 In accordance with Section 1147 of the Companies Act 2006 notice shall be deemed to be given:

36.9.1 48 hours after the envelope containing it was posted; or

36.9.2 in the case of an electronic form of communication, 48 hours after it was sent.

### **37. INDEMNITY**

37.1 The Charity shall indemnify a relevant Trustee against any liability incurred in successfully defending legal proceedings in that capacity, or in connection with any application in which relief is granted by the Court from liability for negligence, default or breach of duty or breach of trust in relation to the Charity.

37.2 In this Article a "relevant Trustee" means any Trustee or former Trustee of the Charity.

### **38. RULES**

- 38.1 The Trustees may, from time to time, make such reasonable and proper rules or bye laws as they may deem necessary or expedient for the proper conduct and management of the Charity.
- 38.2 The bye laws may regulate the following matters but are not restricted to them:
- 38.2.1 the admission of members of the Charity (including the admission of organisations to membership) and the rights and privileges of such members, and the entrance fees, subscriptions and other fees or payments to be made by members;
  - 38.2.2 the conduct of members of the Charity in relation to one another, and to the Charity's employees and volunteers;
  - 38.2.3 the setting aside of the whole or any part or parts of the Charity's premises at any particular time or times or for any particular purpose or purposes;
  - 38.2.4 the procedure at general meetings and meetings of the Trustees insofar as such procedure is not regulated by the Companies Acts or by the Articles;
  - 38.2.5 generally, all such matters as are commonly the subject matter of company rules.
- 38.3 The Charity in general meeting has the power to alter, add to or repeal the rules or bye laws.
- 38.4 The Trustees must adopt such means as they think sufficient to bring the rules and bye laws to the notice of members of the Charity.
- 38.5 The rules or bye laws shall be binding on all members of the Charity. No rule or bye law shall be inconsistent with, or shall affect or repeal anything contained in, the Articles.

#### **39. DISPUTES**

If a dispute arises between members of the Charity about the validity or propriety of anything done by the members of the Charity under these Articles, and the dispute cannot be resolved by agreement, the parties to the dispute must first try in good faith to settle the dispute by mediation before resorting to litigation.

#### **40. DISSOLUTION**

- 40.1 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:
- 40.1.1 directly for the Objects; or
  - 40.1.2 by transfer to any Charity or charities for purposes similar to the Objects; or
  - 40.1.3 to any Charity or charities for use for particular purposes that fall within the Objects.
- 40.2 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 or before dissolution of the Charity be applied or transferred:

40.2.1 directly for the Objects; or

40.2.2 by transfer to any Charity or charities for purposes similar to the Objects; or

40.2.3 to any Charity or charities for use for particular purposes that fall within the Objects.

40.3 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 resolution in accordance with Article 40.1 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.

#### **41. INTERPRETATION**

41.1 In Article 5 and subclause 2 of Article 7 “**Connected Person**” means:

41.1.1 a child, parent, grandchild, grandparent, brother or sister of the Trustee;

41.1.2 the spouse or civil partner of the Trustee or of any person falling within subclause 41.1.1 above;

41.1.3 a person carrying on business in partnership with the Trustee or with any person falling within subclause 41.1.1 or 41.1.2 above;

41.1.4 an institution which is controlled:

41.1.4.1 by the Trustee or any Connected Person falling within subclauses 41.1.1, 41.1.2 or 41.1.3 above; or

41.1.4.2 by two or more persons falling within subclause 41.1.4.1, when taken together;

41.1.5 a body corporate which:

41.1.5.1 the Trustee or any Connected Person falling within subclauses 41.1.1 to 41.1.3 has a substantial interest; or

41.1.5.2 two or more persons falling within subclause 41.1.5.1 who, when taken together, have a substantial interest;

41.1.5.3 sections 350-352 of the Charities Act 2011 apply for the purposes of interpreting the terms used in this Article.