

Companies Acts 1985 to 2006

Company limited by guarantee

**ARTICLES OF ASSOCIATION OF
YORKSHIRE GARDENS TRUST**

1. Objects

1.1 The **Objects** of the **Charity** are:

- (1) to promote the education of the public on matters connected with **garden land**.
- (2) to promote the protection, conservation and appropriate treatment of whatever **garden land** may exist or have existed in and around the counties of North Yorkshire, South Yorkshire, East Yorkshire and West Yorkshire for the education and enjoyment of the public.

1.2 This provision may be amended by **special resolution** but only with the prior written consent of the **Commission**.

2. Powers

The Charity has the following powers, which may be exercised only in promoting the Objects:

- 2.1 to provide advice or information;
- 2.2 to carry out research;
- 2.3 to co-operate with other bodies;
- 2.4 to support, administer or set up other charities;
- 2.5 to accept gifts and to raise funds (but not by means of **taxable trading**);
- 2.6 to borrow money;
- 2.7 to give security for loans or other obligations (but only in accordance with the restrictions imposed by the **Charities Act**);
- 2.8 to acquire or hire property of any kind;

- 2.9 to let or dispose of property of any kind (but only in accordance with the restrictions imposed by the Charities Act);
- 2.10 to set aside funds for special purposes or as reserves against future expenditure;
- 2.11 to deposit or invest its funds in any manner (but to invest only after obtaining such advice from a **financial expert** as the **Trustees** consider necessary and having regard to the suitability of investments and the need for diversification);
- 2.12 to delegate the management of investments to a financial expert, but only on terms that:
- (1) the investment policy is set down **in writing** for the financial expert by the Trustees;
 - (2) timely reports of all transactions are provided to the Trustees;
 - (3) the performance of the investments is reviewed regularly with the Trustees;
 - (4) the Trustees are entitled to cancel the delegation arrangement at any time;
 - (5) the investment policy and the delegation arrangement are reviewed at least once a year;
 - (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; and
 - (7) the financial expert must not do anything outside the powers of the Charity;

- 2.13 to arrange for investments or other property of the Charity to be held in the name of a **nominee company** acting under the direction of the Trustees or controlled by a financial expert acting under their instructions, and to pay any reasonable fee required;
- 2.14 to deposit documents and physical assets with any company registered or having a place of business in England or Wales as **custodian**, and to pay any reasonable fee required;
- 2.15 to insure the property of the Charity against any foreseeable risk and take out other insurance policies to protect the Charity when required;
- 2.16 subject to **Article** 6.3, to employ paid or unpaid agents, staff or advisers;
- 2.17 to enter into contracts to provide services to or on behalf of other bodies;
- 2.18 to establish or acquire subsidiary companies;
- 2.19 to do anything else within the law which promotes or helps to promote the Objects.

3. The Trustees

- 3.1 The Trustees as **charity trustees** have control of the Charity and its property and funds.
- 3.2 Trustees are elected by the Members or co-opted by the Trustees.
- 3.3 The Trustees when complete consist of at least five and not more than twelve individuals aged 18 or over, all of whom must support the Objects. If the number of Trustees falls below five, the remaining Trustees may act to appoint further Members and/or Trustees as required, circulate a written resolution to the Members and/or call a general meeting.
- 3.4 A Trustee may not act as a Trustee unless he/she

- (1) is a Member; and
 - (2) has agreed to act as a charity trustee of the Charity.
- 3.5 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.
- 3.6 A retiring Trustee who is eligible under Article 3.3 may be reappointed.
- 3.7 A Trustee's term of office automatically terminates if he/she:
 - (1) is disqualified under the Charities Act from acting as a charity trustee;
 - (2) is incapable, whether mentally or physically, of managing his/her own affairs;
 - (3) is asked in writing by a majority of the other Trustees to resign;
 - (4) resigns by one month's written notice to the Trustees (but only if at least three Trustees will remain in office); or
 - (6) is removed by the Members at a general meeting under the Companies Act.
- 3.8 The Trustees may at any time co-opt any individual who is eligible under Article 3.3 as a Trustee to fill a vacancy in their number or (subject to the maximum number permitted by Article 3.3) as an additional Trustee, but a co-opted Trustee holds office only until the next AGM.
- 3.9 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.
4. Trustees' proceedings
 - 4.1 The Trustees must hold at least two meetings each year.
 - 4.2 A quorum at a meeting of the Trustees is three Trustees.

- 4.3 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.
- 4.4 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.
- 4.5 Any issue may be determined by a simple majority of the votes cast at a meeting, but a resolution **in writing** agreed by all the Trustees (other than any Conflicted Trustee who has not been authorised to vote) is as valid as a resolution passed at a meeting. For this purpose the resolution may be contained in more than one document.
- 4.6 Every Trustee has one vote on each issue but, in case of equality of votes, the chairman of the meeting has a second or casting vote.
- 4.7 A procedural defect of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

5. Trustees' powers

The Trustees have the following powers in the administration of the Charity in their capacity as Trustees:

- 5.1 To appoint (and remove) any person (who may be a Trustee) to act as **Secretary** in accordance with the **Companies Act**.
- 5.2 To appoint a Chairman, a Treasurer and other honorary officers from among their number.
- 5.3 To delegate any of their functions to committees consisting of two or more individuals appointed by them. At least one member of every committee must

be a Trustee and all proceedings of committees must be reported promptly to the Trustees.

- 5.4 To make standing orders consistent with the Articles and the Companies Act to govern proceedings at general meetings.
- 5.5 To make rules consistent with the Articles and the Companies Act to govern their proceedings and proceedings of committees.
- 5.6 To make regulations consistent with the Articles and the Companies Act to govern the administration of the Charity and the use of its seal (if any).
- 5.7 To establish procedures to assist the resolution of disputes or differences within the Charity.
- 5.8 To exercise any powers of the Charity which are not reserved to the Members.

6. Benefits and Conflicts

6.1 The property and funds of the Charity must be used only for promoting the Objects and do not belong to the Members but:

(1) Members who are not Trustees or **Connected Persons** may be employed by or enter into contracts with the Charity and receive reasonable payment for goods or services supplied; and,

Subject to compliance with Article 6.4:

- (2) Members, Trustees and Connected Persons may be paid interest at a reasonable rate on money lent to the Charity;
- (3) Members, Trustees and Connected Persons may be paid a reasonable rent or hiring fee for property let or hired to the Charity; and
- (4) Members, Trustees and Connected Persons may receive charitable benefits on the same terms as any other beneficiary.

6.2 A Trustee must not receive any payment of money or other **material benefit** (whether directly or indirectly) from the Charity except:

- (1) as mentioned in Articles 6.1 or 6.3;
- (2) reimbursement of reasonable out-of-pocket expenses (including hotel and travel costs) actually incurred in running the Charity;
- (3) the benefit of **indemnity insurance** as permitted by the Charities Act;
- (4) an indemnity in respect of any liabilities properly incurred in running the Charity (including the costs of a successful defence to criminal proceedings);
- (5) payment to any company in which a Trustee or Connected Person has a no more than 1 per cent shareholding;
- (6) in exceptional cases, other payments or benefits (but only with the written consent of the Commission in advance and where required by the Companies Act the approval or affirmation of the Members).

6.3 No Trustee or Connected Person may be employed by the Charity except in accordance with Article 6.2(6), but any Trustee or Connected Person may enter into a contract with the Charity to supply goods and/or services in return for a payment or other material benefit but only if:

- (1) the goods and/or services are actually required by the Charity, and the Trustees decide that it is in the best interests of the Charity to enter into such a contract;
- (2) the nature and level of the remuneration is no more than is reasonable in relation to the value of the goods and/or services and is set in accordance with the procedure in Article 6.4; and

- (3) no more than half of the Trustees are subject to such a contract in any financial year.
- 6.4 Subject to Clause 6.5, any Trustee who becomes a **Conflicted Trustee** in relation to any matter must:
- (1) declare the nature and extent of his or her interest before discussion begins on the matter;
 - (2) withdraw from the meeting for that item after providing any information requested by the Trustees;
 - (3) not be counted in the quorum for that part of the meeting; and
 - (4) be absent during the vote and have no vote on the matter.
- 6.5 When any Trustee is a Conflicted Trustee, the Trustees who are not Conflicted Trustees, if they form a quorum without counting the Conflicted Trustee and are satisfied that it is in the best interests of the Charity to do so, may by resolution passed in the absence of the Conflicted Trustee authorise the Conflicted Trustee, notwithstanding any conflict of interest or duty which has arisen or may arise for the Conflicted Trustee, to:
- (1) continue to participate in discussions leading to the making of a decision and/or to vote, or
 - (2) disclose to a third party information confidential to the Charity, or
 - (3) take any other action not otherwise authorised which does not involve the receipt by the Conflicted Trustee or a Connected Person of any payment or material benefit from the Charity or
 - (4) refrain from taking any step required to remove the conflict.
- 6.6 This provision may be amended by special resolution but, where the result would be to permit any material benefit to a Trustee or Connected Person,

only with the prior written consent of the Commission.

7. Records and Accounts

7.1 The Trustees must comply with the requirements of the Companies Act and of the Charities Act as to keeping records, the audit or independent examination of accounts and the preparation and transmission to the Registrar of Companies and the Commission of information required by law including:

- (1) annual returns;
- (2) annual reports; and
- (3) annual statements of account.

7.2 The Trustees must also keep records of:

- (1) all proceedings at meetings of the Trustees;
- (2) all resolutions in writing;
- (3) all reports of committees; and
- (4) all professional advice obtained.

7.3 Accounting records relating to the Charity must be made available for inspection by any Trustee at any time during normal office hours and may be made available for inspection by Members who are not Trustees if the Trustees so decide.

7.4 A copy of the Charity's **constitution** and latest available statement of account must be supplied on request to any Trustee. Copies of the latest accounts must also be supplied in accordance with the Charities Act to any other person who makes a written request and pays the Charity's reasonable costs.

8. Membership

- 8.1 The Charity must maintain a register of Members.
- 8.2 **Membership** is open to any person interested in furthering the Objects and approved by the Trustees.
- 8.3 The form and the procedure for applying for Membership is to be prescribed by the Trustees.
- 8.4 Membership is not transferable.
- 8.5 The Trustees may:
- (1) establish different classes of Members and recognise one or more classes of supporters who are not Members (but who may nevertheless be termed ‘members’) and set out their respective rights and obligations; and
 - (2) confer on any member (with their consent) the honorary title of President, Vice-President or Patron. They will not be Trustees but may (at the invitation of the Trustees) attend meetings of the Trustees without any right to vote.
- 8.6 Membership is automatically terminated if the Member concerned:
- (1) gives written notice of resignation to the Charity;
 - (2) dies, or in the case of an organisation ceases to exist;
 - (3) is more than six months in arrears in paying the relevant subscription, if any (but in such case the Trustees may resolve to reinstate the Member on payment of the amount due); or
 - (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. The Trustees may only pass such a resolution after notifying the Member in writing and considering the matter in the light of any written representations which the Member concerned puts forward within 14 clear days after receiving notice.

9. General Meetings

- 9.1 Members are entitled to attend general meetings in person or by proxy (but only if the appointment of a proxy is in writing and notified to the Charity before the commencement of the meeting).
- 9.2 General meetings are called on at least 14 and not more than 28 **clear days'** written notice indicating the business to be discussed and (if a special resolution is to be proposed) setting out the terms of the proposed special resolution.
- 9.3 There is a quorum at a general meeting if the number of Members present in person or by proxy is five Members. If a quorum of Members is not present within half an hour from the time appointed for the meeting, the meeting shall:
- (1) (if convened upon the requisition of the Members) be dissolved:
 - (2) (if not convened upon the requisition of the Members) stand adjourned to the same day in the next week at the same time and place, and the Members present at the adjourned meeting shall be deemed to be a quorum and may carry out all business which a full quorum might have done.
- 9.4 The chairman at a general meeting is the Chairman of the Trustees. If the Chairman is not present within fifteen minutes after the appointed start time, the Members present in person or by proxy may elect as chairman of the general meeting:
- (1) one of the other Trustees, or
 - (2) if no Trustee is present or willing, one of the Members.
- 9.5 Except where otherwise provided by the Articles or the Companies Act, every issue is decided by **ordinary resolution**.
- 9.6 Every Member present in person or by proxy has one vote on each issue.

- 9.7 Except where otherwise provided by the Articles or the Companies Act, a written resolution (whether an ordinary or a special resolution) is as valid as an equivalent resolution passed at a general meeting. For this purpose the written resolution may be set out in more than one document.
- 9.8 The Charity must hold an **AGM** in every year and not more than fifteen months after the previous AGM.
- 9.9 Members must annually at the AGM:
- (1) receive the accounts of the Charity for the previous **financial year**;
 - (2) receive a written report on the Charity's activities;
 - (3) be informed of the retirement of those Trustees who wish to retire or who are retiring by rotation;
 - (4) elect Trustees to fill the vacancies arising;
 - (5) appoint reporting accountants or auditors for the Charity;
- 9.10 Members may determine any issues of policy or deal with any other business put before them by the Trustees.
- 9.11 A general meeting may be called by the Trustees at any time and must be called within 21 days of a written request from one or more Trustees, at least 10% of the Membership or (where no general meeting has been held within the last year) at least 5% of the Membership.
- 9.12 A technical defect in the appointment of a Member of which the Members are unaware at the time does not invalidate a decision taken at a general meeting or a Written Resolution.

10. Limited Liability

The liability of Members is limited.

11. Guarantee

Every Member promises, if the Charity is dissolved while he/she remains a Member or within one year after he/she ceases to be a member, to pay up to £1 towards:

- 11.1 payment of those debts and liabilities of the Charity incurred before he/she ceased to be a Member;
- 11.2 payment of the costs, charges and expenses of winding up; and
- 11.3 the adjustment of rights of contributors among themselves.

12. Communications

12.1 Notices and other documents to be served on Members or Trustees under the Articles or the Companies Act may be served:

- (1) by hand;
- (2) by post;
- (3) by suitable electronic means; or

through publication in the Charity's newsletter or on the Charity's website.

12.2 The only address at which a Member is entitled to receive notices sent by post is an address in the U.K. shown in the register of Members.

12.3 Any notice given in accordance with these Articles is to be treated for all purposes as having been received:

- (1) 24 hours after being sent by electronic means, posted on the Charity's website or delivered by hand to the relevant address;
- (2) two clear days after being sent by first class post to that address;
- (3) three clear days after being sent by second class to that address;

(4) immediately on being handed to the recipient personally;
or, if earlier,

(5) as soon as the recipient acknowledges actual receipt.

12.4 A technical defect in service of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

13. Dissolution

13.1 If the Charity is dissolved, the assets (if any) remaining after providing for all its liabilities must be applied in one or more of the following ways:

(1) by transfer to one or more other bodies established for exclusively charitable purposes within, the same as or similar to the Objects;

(2) directly for the Objects or for charitable purposes which are within or similar to the Objects;

(3) in such other manner consistent with charitable status as the Commission approves in writing in advance.

13.2 This provision may be amended by special resolution but only with the prior written consent of the Commission.

14. Interpretation

14.1 The Articles are to be interpreted without reference to the model articles under the Companies Act, which do not apply to the Charity.

14.2 In the Articles, unless the context indicates another meaning:

‘AGM’ means an annual general meeting of the Charity;

‘the Articles’ means the Charity’s Articles of Association and ‘Article’ refers to a particular Article;

‘amenity and educational value’ in relation to garden land means land which has interest:

- for its aesthetic value or its value as a work of art;
- for its historic interest. Garden land is of historic interest when:
 - it demonstrates some significant aspect of the history of garden lands.
 - it has significant historical associations.
 - it has group value with buildings, monuments or other land and the group is of historic interest.
- for its horticultural, arboricultural, silvicultural qualities or potential.
- for its architecture.
- for its scenic value.
- for its nature conservation quality or potential.
- for its archaeological value.
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‘Chairman’ means the chairman of the Trustees;

‘the Charity’ means the company governed by the Articles;

‘the Charities Act’ means the Charities Acts 1992 to 2006;

‘charity trustee’ has the meaning prescribed by the Charities Act;

‘clear day’ does not include the day on which notice is given or the day of the meeting or other event;

‘the Commission’ means the Charity Commission for England and Wales or any body which replaces it;

‘the Companies Act’ means the Companies Acts 1985 to 2006;

‘Conflicted Trustee’ means a Trustee in respect of whom a conflict of interest arises or may reasonably arise because the Conflicted Trustee or a Connected Person is receiving or stands to receive a benefit (other than payment of a premium for indemnity insurance) from the Charity, or has some separate interest or duty in a matter to be decided, or in relation to information which is confidential to the Charity;

‘Connected Person’ means, in relation to a Trustee, a person with whom the Trustee shares a common interest such that he/she may

reasonably be regarded as benefiting directly or indirectly from any material benefit received by that person, being either a member of the Trustee's family or household or a person or body who is a business associate of the Trustee, and (for the avoidance of doubt) does not include a company with which the Trustee's only connection is an interest consisting of no more than 1% of the voting rights and/or share capital;

'constitution' means the Memorandum and the Articles and any special resolutions relating to them;

'custodian' means a person or body who undertakes safe custody of assets or of documents or records relating to them;

'electronic means' refers to communications addressed to specified individuals by telephone, fax or email or, in relation to meetings, by telephone conference call or video conference;

'financial expert' means an individual, company or **firm** who is authorised to give investment advice under the Financial Services and Markets Act 2000;

'financial year' means the Charity's financial year;

'firm' includes a limited liability partnership;

'garden land' means garden, park and designed landscape and places used for recreation of high **amenity and educational value** in a national, regional, county or local context. It includes enclosures, boundaries, earthworks, park and garden buildings, other structures and erections and associated plant, machinery and systems, sculpture, garden and park furniture, ornamental woodland, planting, gates, ironwork, drives, paths and roadways, lakes, water courses, meadows, and includes land associated by view, management or otherwise with garden land.

‘indemnity insurance’ means insurance against personal liability incurred by any Trustee for an act or omission which is or is alleged to be a breach of trust or breach of duty, unless the act or omission amounts to a criminal offence or the Trustee concerned knew that, or was reckless whether, the act or omission was a breach of trust or breach of duty;

‘material benefit’ means a benefit, direct or indirect, which may not be financial but has a monetary value;

‘Member’ and ‘Membership’ refer to company Membership of the Charity;

‘Memorandum’ means the Charity’s Memorandum of Association;

‘month’ means calendar month;

‘nominee company’ means a corporate body registered or having an established place of business in England and Wales which holds title to property for another;

‘ordinary resolution’ means a resolution agreed by a simple majority of the Members present and voting at a general meeting or in the case of a written resolution by Members who together hold a simple majority of the voting power. Where applicable, ‘Members’ in this definition means a class of Members;

‘the Objects’ means the Objects of the Charity as defined in Article 1;

‘Resolution in writing’ means a written resolution of the Trustees;

‘Secretary’ means a company secretary;

‘**special resolution**’ means a resolution of which at least 14 days’ notice has been given agreed by a 75% majority of the Members

present and voting at a general meeting or in the case of a written resolution by Members who together hold 75% of the voting power.

Where applicable, 'Members' in this definition means a class of Members;

'taxable trading' means carrying on a trade or business in such manner or on such a scale that some or all of the profits are subject to corporation tax;

'Trustee' means a director of the Charity and 'Trustees' means the directors;

'written' or 'in writing' refers to a legible document on paper or a document sent by electronic means which is capable of being printed out on paper;

'written resolution' refers to an ordinary or a special resolution which is in writing;

'year' means calendar year.

14.3 Expressions not otherwise defined which are defined in the Companies Act have the same meaning.

14.4 References to an Act of Parliament are to that Act as amended or re-enacted from time to time and to any subordinate legislation made under it.