

5th February 2018

Constitution of Friends of Windmill Gardens

Registered charity number: 1176991

**Charitable Incorporated Organisation with voting
members other than its Charity Trustees**

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Ref: 46590.0001

1 INTERPRETATION

In this Constitution:

- “Charity Trustee”** means a charity trustee of the CIO
- “Communications Provisions”** means the Communications Provisions in the General Regulations
- “Connected Person”** means:
- (a) a child, parent, grandchild, grandparent, brother or sister of a Charity Trustee;
 - (b) the spouse or civil partner of a Charity Trustee;
 - (c) a person carrying on business in partnership with a Charity Trustee or with any person falling within (a) above;
 - (d) an institution which is controlled by:-
 - (i) a Charity Trustee or any Connected Person falling within (a) or (b); or
 - (ii) two or more persons falling within (a) or (b) when taken together.
 - (e) a body corporate in which:-
 - (i) a Charity Trustee or any Connected Person falling within (a) or (b) has a substantial interest; or
 - (ii) two or more persons falling within (a) or (b) who, when taken together, have a substantial interest.
- “Dissolution Regulations”** means the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012.
- “General Regulations”** means the Charitable Incorporated Organisations (General) Regulations 2012.
- “Member”** means a member of the CIO admitted in accordance with clause 10.1.
- “Objects”** means the charitable objects of the CIO set out in clause 4.
- “Poll”** means a counted vote or ballot, usually (but not necessarily) in writing.

References to legislation, regulations, determinations and directions include all amendments, replacements or re-enactments and references to legislation (where appropriate) include all regulations, determinations and directions made or given under it.

References to the singular include the plural and vice-versa and to the masculine include the feminine and neuter and vice-versa.

For the avoidance of doubt the system of law governing this Constitution is the law of England and Wales.

2 NAME

The name of the Charitable Incorporated Organisation is Friends of Windmill Gardens ("the CIO").

3 NATIONAL LOCATION OF PRINCIPAL OFFICE

The principal office of the CIO is in England.

4 OBJECTS

The Objects of the CIO are, for the public benefit:-

- 4.1 to advance the education of the public through the preservation, restoration and display of Brixton Windmill; and
- 4.2 to further or benefit the residents of Lambeth and the neighbourhood, by associating together the said residents and the local authorities, voluntary and other organisations in a common effort to advance education and to provide facilities in the interests of social welfare for recreation and leisure time occupation with the objective of improving the conditions of life for the residents.

In furtherance of these objects but not otherwise, the trustees shall have power:

To establish or secure the establishment of a community centre and park and to maintain or manage or co-operate with any statutory authority, voluntary or other organisations in the maintenance and management of such a centre and park for activities promoted by the CIO in furtherance of the Objects.

For the purposes of this clause, the CIO will carry out its activities without distinction of age, disability, sexual orientation, race or of religious or other beliefs.

5 POWERS

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

- 5.1 borrow money and charge the whole or any part of its property as security for the repayment of the money borrowed. The CIO must comply as appropriate with sections 124 and 125 of the Charities Act 2011 if it wishes to mortgage land;
- 5.2 buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;

- 5.3 sell, lease or otherwise dispose of all or any part of the property belonging to the CIO. In exercising this power, the CIO must comply as appropriate with sections 117 and 119 -123 of the Charities Act 2011;
- 5.4 employ and remunerate such staff as are necessary for carrying out the work of the CIO. The CIO may employ or remunerate a Charity Trustee only to the extent that it is permitted to do so by clause 7 (Benefits and payments to Charity Trustees and Connected Persons) and provided it complies with the conditions of that clause;
- 5.5 deposit or invest funds, employ a professional fund-manager and arrange for the investments or other property of the CIO 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; and
- 5.6 cooperate with other charities, voluntary bodies and statutory authorities operating with broadly the same Objects and to exchange information and advice with them;
- 5.7 establish or support any charitable trusts, associations or institutions formed for any or all of the Objects;
- 5.8 appoint and constitute such advisory committees as the Charity Trustees may think fit;
- 5.9 make donations to the responsible authority for the park, windmill and community buildings of such finance and other matters as the Charity Trustees may from time to time determine; and
- 5.10 do anything else within the law which is incidental and conducive to the Objects.

6 APPLICATION OF INCOME AND PROPERTY

- 6.1 The income and property of the CIO must be applied solely towards the promotion of the Objects.
- 6.2 A Charity Trustee is entitled to be reimbursed from the property of the CIO or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the CIO.
- 6.3 A Charity Trustee may benefit from trustee indemnity insurance cover purchased at the CIO's expense in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011.
- 6.4 None of the income or property of the CIO may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to any Member. This does not prevent a Member who is not also a Charity Trustee receiving:
 - 6.4.1 a benefit from the CIO as a beneficiary of the CIO; and/or

6.4.2 reasonable and proper remuneration as an employee or for any goods or services supplied to the CIO.

6.5 Nothing in this clause shall prevent a Charity Trustee or Connected Person receiving any benefit or payment which is authorised by clause 7.

7 BENEFITS AND PAYMENTS TO CHARITY TRUSTEES AND CONNECTED PERSONS

7.1 General Provisions

7.1.1 In furtherance of the Objects the CIO may provide benefits to the Charity Trustees and Connected Persons where those benefits are the same as or similar to benefits provided to other beneficiaries of the CIO.

7.1.2 No Charity Trustee or Connected Person may:

7.1.2.1 buy or receive any goods or services from the CIO on terms preferential to those applicable to members of the public;

7.1.2.2 sell goods, services or any interest in land to the CIO;

7.1.2.3 be employed by or receive any remuneration from, the CIO;

7.1.2.4 receive any other financial benefit from the CIO;

unless the payment or benefit is permitted by clause 7.2, clause 7.3 or clause 7.4 or is authorised by the court or the Charity Commission. In this clause, a "financial benefit" means a benefit, direct or indirect, which is either money or has a monetary value.

7.2 Scope and powers permitting Charity Trustees' or Connected Persons' benefits

7.2.1 A Charity Trustee or Connected Person may receive a benefit from the CIO as a beneficiary of the CIO in accordance with clause 7.1.1.

7.2.2 A Charity 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 CIO where that is permitted in accordance with, and subject to the conditions in, section 185 to 188 of the Charities Act 2011.

7.2.3 Subject to clause 7.3 a Charity Trustee or Connected Person may be employed (other than as a Charity Trustee) by the CIO.

7.2.4 Subject to clause 7.4 a Charity Trustee or Connected Person may provide the CIO with goods that are not supplied in connection with services provided to the CIO by the Charity Trustee or Connected Person.

7.2.5 A Charity Trustee or Connected Person may receive interest on money lent to the CIO at a reasonable and proper rate which must be not more than the Bank of England bank rate (also known as the base rate).

- 7.2.6 A Charity Trustee or Connected Person may receive rent for premises let by the Charity Trustee or Connected Person to the CIO. The amount of the rent and other terms of the lease must be reasonable and proper. The Charity Trustee concerned must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion.
- 7.2.7 A Charity Trustee or Connected Person may take part in the normal trading and fundraising activities of the CIO on the same terms as members of the public.

7.3 Payment for employment – controls

The CIO and its Charity Trustees may only rely upon the authority provided by clause 7.2.3 if each of the following conditions is satisfied:-

- 7.3.1 the terms of the employment are set out in a written agreement between the CIO and the Charity Trustee or Connected Person who is the employee ("the employee");
- 7.3.2 the remuneration or other sums paid to the employee do not exceed an amount that is reasonable in all the circumstances;
- 7.3.3 the other Charity Trustees are satisfied that it is in the best interests of the CIO to employ the employee rather than someone who is not a Charity Trustee or Connected Person. In reaching that decision the Charity Trustees must balance the advantage of contracting with the employee against the disadvantages of doing so (especially the loss of any employee's services as a result of dealing with the employee's conflict of interests);
- 7.3.4 the employee is absent from the part of any meeting at which there is discussion of his or her employment or remuneration or any matter concerning the contract, his or her performance in the employment or his or her performance of the contract, any proposal to enter into any other contract or arrangement with him/her or to confer any benefit upon him or her or of any other matter relating to payment or the conferring of any benefit to him or her;
- 7.3.5 the employee does not vote on any such matter and is not counted when calculating whether a quorum of Charity Trustees is present at the meeting;
- 7.3.6 the reason for their decision is recorded by the Charity Trustees in the minute book; and
- 7.3.7 a majority of the Charity Trustees then in office are not in receipt of remuneration or payments authorised by clause 7 and for clarification remuneration or payment of a Connected Person is only deemed to be remuneration or payment of a Charity Trustee where it might result in a Charity Trustee obtaining a benefit.

7.4 Payment for supply of goods only - controls

The CIO and its Charity Trustees may only rely upon the authority provided by clause 7.2.4 of this clause if each of the following conditions is satisfied:

- 7.4.1 the amount or maximum amount of the payment for the goods is set out in an agreement in writing between the CIO and the Charity 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 CIO;
 - 7.4.2 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;
 - 7.4.3 the other Charity Trustees are satisfied that it is in the best interests of the CIO to contract with the supplier rather than with someone who is not a Charity Trustee or Connected Person. In reaching that decision the Charity Trustees must balance the advantage of contracting with the Supplier against the disadvantages of doing so;
 - 7.4.4 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 him or her with regard to the supply of goods to the CIO;
 - 7.4.5 the supplier does not vote on any such matter and is not to be counted when calculating whether a quorum of Charity Trustees is present at the meeting;
 - 7.4.6 the reason for their decision is recorded by the Charity Trustees in the minute book; and
 - 7.4.7 a majority of the Charity Trustees then in office are not in receipt of remuneration or payments authorised by clause 7 and for clarification remuneration or payment of a Connected Person is only deemed to be remuneration or payment of a Charity Trustee where it might result in a Charity Trustee obtaining a benefit.
- 7.5 The provisions in this clause 7 on the making of payments and the granting of benefits by the CIO to Charity Trustees shall also extend to payments made to Charity Trustees by any company in which the CIO:-
- 7.5.1 holds more than 50% of the shares;
 - 7.5.2 controls more than 50% of the voting rights attached to the shares; or
 - 7.5.3 has the right to appoint one or more directors to the board of the company.

8 CONFLICTS OF INTEREST AND CONFLICTS OF LOYALTY

A Charity Trustee must:

- 8.1 declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the CIO or in any transaction or arrangement entered into by the CIO which has not previously been declared; and
- 8.2 not vote or be counted as part of the quorum in any decision of the Charity Trustees in relation to any matter in which it is possible that a conflict of interest

will arise between his or her duty to act solely in the interests of the CIO and any personal interest (including but not limited to any financial interest).

9 LIABILITY OF MEMBERS TO CONTRIBUTE TO THE ASSETS OF THE CIO IF IT IS WOUND UP

If the CIO is wound up, the Members have no liability to contribute to its assets and no personal responsibility for settling its debts and liabilities.

10 MEMBERSHIP OF THE CIO

10.1 Admission of new Members

10.1.1 Membership of the CIO is open to anyone who is interested in furthering its purposes and by applying for membership has indicated his or her or its agreement to become a Member and acceptance of the duty of Members set out in clause 10.4.

10.1.2 A Member may be an individual (and over the age of 16 years), a corporate body, or an individual or corporate body representing an organisation which is not incorporated.

10.2 Admission procedure

The Charity Trustees:

10.2.1 may require applications for membership to be made in any reasonable way that they decide;

10.2.2 shall, if they approve an application for membership, notify the applicant of their decision within 21 days;

10.2.3 may refuse an application for membership if they believe that it is in the best interests of the CIO for them to do so;

10.2.4 shall, if they decide to refuse an application for membership, give the applicant their reasons for doing so, within 21 days of the decision being taken and give the applicant the opportunity to appeal against the refusal; and

10.2.5 shall give fair consideration to any such appeal and shall inform the applicant of their decision but any decision to confirm refusal of the application for membership shall be final.

10.3 Transfer of Membership

Membership is personal and cannot be transferred to anyone else except in the case of an individual or corporate body representing an organisation which is not incorporated, whose membership may be transferred by the unincorporated association to a new representative. Such transfer of membership does not take effect until the CIO has received written notification of the transfer.

10.4 Duty of Members

It is the duty of each Member to exercise his, her or its powers as a Member in the way he, she or it decides in good faith would be most likely to further the purposes of the CIO.

10.5 Termination of Membership

10.5.1 Membership comes to an end if:

- 10.5.1.1 the Member dies, or, in the case of an organisation (or the representative or an organisation) that organisation ceases to exist; or
- 10.5.1.2 the Member sends a notice of resignation to the Charity Trustees; or
- 10.5.1.3 any sum of money owed by the Member is not paid in full within six months of its falling due; or
- 10.5.1.4 the Charity Trustees decide by a two-thirds majority that it is in the best interests of the CIO that the Member in question should be removed from membership and pass a resolution to that effect.

10.5.2 Before the Charity Trustees take any decision to remove someone from membership they must:

- 10.5.2.1 inform the Member of the reasons why it is proposed to remove him, her or it from membership;
- 10.5.2.2 give the Member at least 21 clear days' notice in which to make representations to the Charity Trustees as to why he, she or it should not be removed from membership;
- 10.5.2.3 at a duly constituted meeting of the Charity Trustees consider whether or not the Member should be removed from membership;
- 10.5.2.4 consider at that meeting any representations which the Member makes as to why the Member should not be removed; and
- 10.5.2.5 allow the Member or the Member's representative to make those representations in person at that meeting, if the Member so chooses.

10.6 Membership fees

The CIO may require Members to pay reasonable membership fees to the CIO.

10.7 Junior membership (non-voting membership)

- 10.7.1 Members under the age of 16 shall be entitled to become Junior Members ("Junior Members"). Junior Members are entitled to attend general meetings (including the AGM) and may have the right to speak but not to vote.

- 10.7.2 Junior Members will not be entitled to be elected as Charity Trustees.
- 10.7.3 The Charity Trustees may determine the rights and obligations of Junior Members (including payment of membership fees) and the conditions for admission to and termination of membership of Junior Members.
- 10.7.4 Other references in this Constitution to "Members" and "membership" do not apply to Junior Members and Junior Members do not qualify as Members for any purpose under the Charities Act 2011, General Regulations or Dissolution Regulations.

11 MEMBERS' DECISIONS

11.1 General provisions

Except for those decisions that must be taken in a particular way as indicated in clause 11.4, decisions of the Members may be taken either by vote at a general meeting as provided in clause 11.2 or by written resolution as provided in clause 11.3.

11.2 Taking ordinary decisions by vote

Subject to clause 11.4, any decision of the Members may be taken by means of a resolution at a general meeting. Such a resolution may be passed by a simple majority of votes cast at the meeting (including votes cast by postal or email ballot).

11.3 Taking ordinary decisions by written resolution without a general meeting

11.3.1 Subject to clause 11.4 a resolution in writing agreed by a simple majority of all the Members who would have been entitled to vote upon it had it been proposed at a general meeting shall be effective, provided that:

11.3.1.1 a copy of the proposed resolution has been sent to all the Members eligible to vote; and

11.3.1.2 a simple majority of the Members have signified their agreement to the resolution in a document or documents which are received at the principal office within the period of 28 days beginning with the circulation date. The document signifying a Member's agreement must be authenticated by their signature (or in the case of an organisation which is a Member, by execution according to its usual procedure) or in such other manner as the CIO has specified.

11.3.2 The resolution in writing may comprise several copies to which one or more Members have signified their agreement.

11.3.3 Eligibility to vote on the resolution is limited to Members who are Members on the date when the proposal is first circulated in accordance with clause 11.3.1.

- 11.3.4 Not less than 10% of the Members may request the Charity Trustees to make a proposal for decision by the Members.
- 11.3.5 The Charity Trustees must within 21 days of receiving such a request comply with it if:
- 11.3.5.1 the proposal is not frivolous or vexatious and does not involve the publication of defamatory material;
 - 11.3.5.2 the proposal is stated with sufficient clarity to enable effect to be given to it if it is agreed by the Members; and
 - 11.3.5.3 effect can lawfully be given to the proposal if it is so agreed.
- 11.3.6 Clauses 11.3.1 to 11.3.3 apply to a proposal made at the request of the Members.

11.4 Decisions that must be taken in a particular way

- 11.4.1 Any decision to remove a Charity Trustee must be taken in accordance with clause 16.3.
- 11.4.2 Any decision to amend this Constitution must be taken in accordance with clause 28 (Amendment of Constitution).
- 11.4.3 Any decision to wind up or dissolve the CIO must be taken in accordance with clause 29 (Voluntary winding up or dissolution).
- 11.4.4 Any decision to amalgamate or transfer the undertaking of the CIO to one or more other charitable incorporated organisations must be taken in accordance with the provisions of the Charities Act 2011.

12 GENERAL MEETINGS OF MEMBERS

12.1 Types of general meeting

- 12.1.1 There must be an Annual General Meeting (“AGM”) of the Members. The first AGM must be held within 18 months of the registration of the CIO and subsequent AGMs must be held at intervals of no more than 15 months. The AGM must receive the annual statement of accounts (duly audited or examined where applicable) and the Charity Trustees' annual report and may elect Charity Trustees as required under clause 14.
- 12.1.2 Other general meetings of the Members may be held at any time.
- 12.1.3 All general meetings must be held in accordance with the following provisions.

12.2 Calling general meetings

- 12.2.1 The Charity Trustees:

- 12.2.1.1 must call the AGM in accordance with clause 12.1.1 and identify it as such in the notice of the meeting; and
- 12.2.1.2 may call any other general meeting of the Members at any time.
- 12.2.2 The Charity Trustees must, within 21 days, call a general meeting of the Members if:
 - 12.2.2.1 they receive a request to do so from at least 10% of the Members; and
 - 12.2.2.2 the request states the general nature of the business to be dealt with at the meeting and is authenticated by the Member(s) making the request.
- 12.2.3 If, at the time of any such request from the Members there has been no general meeting of the Members for more than 12 months, then clause 12.2.2.1 shall have effect as if 5% were substituted for 10%.
- 12.2.4 Any such request may include particulars of a resolution that may properly be proposed and is intended to be proposed at the meeting.
- 12.2.5 A resolution may only properly be proposed if it is lawful and is not defamatory, frivolous or vexatious.
- 12.2.6 Any general meeting called by the Charity Trustees at the request of the Members must be held within 28 days from the date on which it is called.
- 12.2.7 If the Charity Trustees fail to comply with this obligation to call a general meeting at the request of the Members then the Members who requested the meeting may themselves call a general meeting.
- 12.2.8 A general meeting called in accordance with clause 12.2.2 must be held no more than 3 months after the date on which the Members first requested the meeting.
- 12.2.9 The CIO must reimburse any reasonable expenses incurred by the Members calling a general meeting by reason of the failure of the Charity Trustees to duly call the meeting but the CIO shall be entitled to be indemnified by the Charity Trustees who were responsible for such failure.

12.3 Notice of general meetings

- 12.3.1 The Charity Trustees or, as the case may be, the relevant Members must give at least 14 clear days' notice of any general meeting to all of the Members and to any Charity Trustees who are not Members. This clause does not apply where a specified period of notice is strictly required by another clause in this Constitution, by the Charities Act 2011 or by the General Regulations.
- 12.3.2 If it is agreed by not less than 90% of all Members, any resolution may be proposed and passed at the meeting even though the requirements of clause 12.3.1 have not been met.

12.3.3 The notice of any general meeting must:

- 12.3.3.1 state the time and date of the meeting;
- 12.3.3.2 give the address at which the meeting is to take place;
- 12.3.3.3 give particulars of any resolution which is to be moved at the meeting and of the general nature of any other business to be dealt with at the meeting;
- 12.3.3.4 if a proposal to alter this Constitution is to be considered at the meeting, include the text of the proposed alteration; and
- 12.3.3.5 include, with the notice for the AGM, the annual statement of accounts and Charity Trustees' annual report, details of persons standing for election or re-election as Charity Trustee, or where allowed under clause 22 (Use of electronic communication), details of where the information may be found on the CIO's website.

12.3.4 Proof that an envelope containing a notice was properly addressed, prepaid and posted or that an electronic form of notice was properly addressed and sent shall be conclusive evidence that the notice was given. Notice shall be deemed to be given 48 hours after it was posted or sent.

12.3.5 The proceedings of a meeting shall not be invalidated because a Member who was entitled to receive notice of the meeting did not receive it because of an accidental omission by the CIO.

12.4 Chairing of general meetings

The person nominated as chair by the Charity Trustees under clause 19.2 (Chairing of meetings), shall, if present at the general meeting and willing to act, preside as chair of the meeting. Subject to that, the Members who are present at a general meeting shall elect a chair to preside at the meeting.

12.5 Quorum at general meetings

12.5.1 No business may be transacted at any general meeting of the Members unless a quorum is present when the meeting starts.

12.5.2 Subject to the following provisions, the quorum for general meetings shall be 5% or 10 Members whichever is the greater number. An organisation represented by a person present at the meeting in accordance with clause 12.8 is counted as being present in person.

12.5.3 If the meeting has been called by or at the request of the Members and a quorum is not present within 15 minutes of the starting time specified in the notice of the meeting, the meeting is closed.

12.5.4 If the meeting has been called in any other way and a quorum is not present within 15 minutes at the starting time specified in the notice of the meeting, the

chair must adjourn the meeting. The date, time and place at which the meeting will resume must either be announced by the chair or be notified to the Members at least seven clear days before the date on which it will resume.

12.5.5 If a quorum is not present within 15 minutes of the start time of the adjourned meeting, the Member or Members present at the meeting constitute a quorum.

12.5.6 If at any time during the meeting a quorum ceases to be present, the meeting may discuss issues and make recommendations to the Charity Trustees but may not make any decisions. If decisions are required which must be made by a meeting of the Members, the meeting must be adjourned.

12.6 **Voting at general meetings**

12.6.1 Any decision other than one falling within clause 11.4 (Decisions that must be taken in a particular way) shall be taken by a simple majority of votes cast at the meeting (including postal votes in accordance with clause 12.9). Every Member has one vote and shall be eligible to vote provided that he, she or it has been a Member for at least six months prior to the date of the meeting.

12.6.2 A resolution put to the vote of a meeting shall be decided on a show of hands, unless (before or on the declaration of the result of the show of hands) a poll is duly demanded. A poll may be demanded by the chair or by at least 10% of the Members present in person.

12.6.3 A poll demanded on the election of a person to chair the meeting or on a question of adjournment must be taken immediately. A poll on any other matter shall be taken and the result of the poll shall be announced in such manner as the chair of the meeting shall decide provided that the poll must be taken, and the result of the poll announced within 30 days of the demand for the poll.

12.6.4 A poll may be taken:

12.6.4.1 at the meeting at which it was demanded; or

12.6.4.2 at some other time and place specified by the chair; or

12.6.4.3 through the use of postal or electronic communications.

12.6.5 In the event of any equality of votes whether on a show of hands or on a poll, the chair of the meeting shall have a second or casting vote.

12.6.6 Any objection to the qualification of any voter must be raised at the meeting at which the vote is cast and the decision of the chair of the meeting shall be final.

12.7 **Adjournment of meetings**

The chair may with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting to another time and/or place. No business may be transacted at an adjourned meeting except business which could properly have been transacted at the original meeting.

12.8 Representation of organisations and corporate Members

- 12.8.1 An organisation or a corporate body that is a Member may, in accordance with its usual decision-making process, authorise a person to act as its representative at any general meeting of the CIO.
- 12.8.2 The representative is entitled to exercise the same powers on behalf of the organisation or corporate body as the organisation or corporate body could exercise as an individual Member.

12.9 Postal Voting

- 12.9.1 The CIO may, if the Charity Trustees so decide, allow the Members to vote by post or electronic mail ("email") to elect Charity Trustees or to make a decision on any matter that is being decided at a general meeting of the Members.
- 12.9.2 The Charity Trustees must appoint at least two persons independent of the CIO to serve as scrutineers to supervise the conduct of the postal/email ballot and the counting of votes.
- 12.9.3 If postal and/or email voting is to be allowed on a matter, the CIO must send to the Members not less than 21 days before the deadline for receipt of votes cast in this way:
 - 12.9.3.1 a notice by email, if the Member has agreed to receive notices in this way under clause 22 (Use of electronic communication), including an explanation of the purpose of the vote and the voting procedure to be followed by the Member, and a voting form capable of being returned by email or post to the CIO, containing details of the resolution being put to a vote, and of the candidates for election, as applicable;
 - 12.9.3.2 a notice by post to all other Members, including a written explanation of the purpose of the postal vote and the voting procedure to be followed by the Member; and a postal vote form containing details of the resolution being put to a vote, or of the candidates for election, as applicable.
- 12.9.4 The voting procedure must require all forms returned by post to be in an envelope with the Member's name and signature, and nothing else, on the outside, inside another envelope addressed to "The Scrutineers for Friends of Windmill Gardens", at the CIO's principal office or such other postal address as is specified in the voting procedure.
- 12.9.5 The voting procedures for votes cast by email must require the Member's name to be at the top of the email and the email must be authenticated in the manner specified in the voting procedure.
- 12.9.6 Email votes must be returned to an email address used only for this purpose and must be accessed only by a scrutineer.

- 12.9.7 The voting procedure must specify the closing date and time for receipt of votes and must state that any votes received after the closing date or not complying with the voting procedure will be invalid and not be counted.
- 12.9.8 The scrutineers must make a list of names of Members casting valid votes, and a separate list of Members' casting votes which were invalid. These lists must be provided to a Charity Trustee or other person overseeing admission to, and voting at, the general meeting. A member who has cast a valid postal or email vote must not vote at the meeting and must not be counted in the quorum for any part of the meeting on which he or she has already cast a valid vote. A Member who has cast an invalid vote by post or email is allowed to vote at the meeting and counts towards the quorum.
- 12.9.9 For postal votes, the scrutineers must retain the internal envelopes (with the Member's name and signature). For email votes, the scrutineers must cut off and retain any part of the email that includes the Member's name. In each case, a scrutineer must record on this evidence of the Member's name that the vote has been counted. or if the vote has been declared invalid, the reason for such declaration.
- 12.9.10 Votes cast by post or email must be counted by all of the scrutineers before the meeting at which the vote is to be taken. The scrutineers must provide to the person chairing the meeting written confirmation of the number of valid votes received by post and email and the number of votes received which were invalid.
- 12.9.11 The scrutineers must not disclose the result of the postal/email ballot until after votes taken by hand or by poll at the meeting or by poll after the meeting have been counted. Only at this point shall the scrutineers declare the result of the valid votes received, and these votes shall be included in the declaration of the result of the vote.
- 12.9.12 Following the final declaration of the result of the vote, the scrutineers must provide to a Charity Trustee or other authorised person bundles containing the evidence of Members submitting valid postal votes, evidence of members submitting valid email votes, evidence of invalid votes, the valid votes and the invalid notes.
- 12.10 Any dispute about the conduct of a postal vote or email ballot must be referred initially to a panel set up by the Charity Trustees, to consist of two trustees and two persons independent of the CIO. If the dispute cannot be satisfactorily resolved by the panel, it must be referred to the Electoral Reform Society.

13 CHARITY TRUSTEES

13.1 Functions and duties of Charity Trustees

The Charity Trustees shall manage the affairs of the CIO and may for that purpose exercise all the powers of the CIO. It is the duty of each Charity Trustee:

13.1.1 to exercise his or her powers and to perform his or her functions in his or her capacity as a Charity Trustee in the way he or she decides in good faith would be most likely to further the purposes of the CIO; and

13.1.2 to exercise, in the performance of those functions, such care and skill as is reasonable in the circumstances having regard in particular to:

13.1.2.1 any special knowledge or experience that he or she has or holds himself or herself out as having; and

13.1.2.2 if he or she acts as a Charity Trustee in the course of a business or profession any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession.

13.2 Eligibility for trusteeship

13.2.1 Every Charity Trustee must be a natural person.

13.2.2 No individual may be appointed as a Charity Trustee:

13.2.2.1 if he or she is under the age of 16 years; or

13.2.2.2 if he or she would automatically cease to hold office under the provisions of clause 16; and

13.2.2.3 if the number of Charity Trustees who are not Members (or Member's representatives) would be more than one-third of the Charity Trustees.

13.2.3 No one is entitled to act as a Charity Trustee whether on appointment or on any re-appointment until he or she has expressly acknowledged in whatever way the Charity Trustees decide his or her acceptance of the office of Charity Trustee.

13.3 Number of Charity Trustees

13.3.1 There must always be at least four Charity Trustees. If the number falls below this minimum the remaining Charity Trustee or Charity Trustees may act only to call a meeting of the Charity Trustees or procure the appointment of a new Charity Trustee in accordance with clause 14.

13.3.2 The maximum number of Charity Trustees is 12. The CIO may not appoint any Charity Trustees if as a result the number of Charity Trustees would exceed the maximum.

13.4 First Charity Trustees

The first Charity Trustees are:

13.4.1 Jean Kerrigan;

13.4.2 Viv Whittingham;

- 13.4.3 Shaun Wilson;
- 13.4.4 Nicholas Weedon;
- 13.4.5 Jeff Thomas;
- 13.4.6 Chris Patton;
- 13.4.7 Kim Winter;
- 13.4.8 Elizabeth du Parcq;
- 13.4.9 Ann Lee; and
- 13.4.10 Sonam Sikka.

14 APPOINTMENT OF CHARITY TRUSTEES

- 14.1 At the first AGM all the Charity Trustees shall retire from office;
- 14.2 At every subsequent AGM, one-third of the Charity Trustees shall retire from office. If the number of Charity Trustees is not three or a multiple of three, the number nearest to one-third shall retire from office, but if there is only one Charity Trustee he or she shall retire;
- 14.3 The Charity Trustees to retire by rotation shall be those who have been longest in office since their last appointment or re-appointment. If any Charity Trustees were last appointed or re-appointed on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot;
- 14.4 The vacancies so arising may be filled by the decision of the Members at the AGM; any vacancies not filled at the AGM may be filled as provided in clause 14.5;
- 14.5 The Members or the Charity Trustees may at any time decide to appoint a new Charity Trustee, whether in place of a Charity Trustee who has retired or has been removed in accordance with clause 16 (Retirement and removal of Charity Trustees), or as an additional Charity Trustee provided that the limit specified in clause 13.3.2 on the number of Charity Trustees would not as a result be exceeded;
- 14.6 A person so appointed by the Members shall retire in accordance with the provisions of clauses 14.2 and 14.3. A person so appointed by the Charity Trustees shall retire at the conclusion of the next AGM after the date of his or her appointment and shall not be counted for the purpose of determining which of the Charity Trustees is to retire by rotation at that meeting.

15 INFORMATION FOR NEW CHARITY TRUSTEES

The Charity Trustees will make available to each new Charity Trustee on or before his or her first appointment a copy of this Constitution (and any amendments made to it) and a copy of the CIO's latest Charity Trustees' annual report and statement of accounts.

16 RETIREMENT AND REMOVAL OF CHARITY TRUSTEES

- 16.1 A Charity Trustee ceases to hold office if:

- 16.1.1 he or she resigns by notifying the CIO in writing but only if enough Charity Trustees will remain in office when the notice of resignation takes effect to form a quorum for meetings;
 - 16.1.2 he or she is absent without the permission of the Charity Trustees from all their meetings held within a period of six months and the Charity Trustees resolve that his or her office be vacated;
 - 16.1.3 he or she dies;
 - 16.1.4 he or she in the reasonable opinion of the other Charity Trustees, becomes incapable of fulfilling his or her duties and responsibilities as a Charity Trustee because of illness or injury and the other Charity Trustees resolve that he or she be removed as a Charity Trustee;
 - 16.1.5 is removed by the Members in accordance with clause 16.3;
 - 16.1.6 is disqualified from acting as a Charity Trustee by virtue of section 178-180 of the Charities Act 2011;
 - 16.1.7 the other Charity Trustees resolve by a 75% majority of the Charity Trustees present and voting at a properly convened meeting of the Charity Trustees that it is in the CIO's best interests that he or she should cease to be a Charity Trustee provided that the Charity Trustee concerned has first been given an opportunity to put his or her case to justify why he or she should not be removed as a Charity Trustee; or
 - 16.1.8 completes his or her term of office and is not re-appointed.
- 16.2 A Charity Trustee who was a Member or a Member's representative shall cease to be a Charity Trustee if he or she ceases to be a Member or a Member's representative unless the Members or Charity Trustees decide to appoint him or her as a Charity Trustee provided that the limits set out in clauses 13.2.2.3 and 13.3.2 do not apply.
 - 16.3 A Charity Trustee shall be removed from office if a resolution to remove that Charity Trustee is proposed at a general meeting of the Members called for that purpose and properly convened in accordance with clause 12 and the resolution is passed by a two-thirds majority of votes cast at the meeting.
 - 16.4 A resolution to remove a Charity Trustee in accordance with clause 16.2 shall not take effect unless the individual 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 a reasonable opportunity of making oral and/or written representations to the Members.
 - 16.5 If a Charity Trustee is required to retire at a meeting of the Members by a provision in this Constitution then the retirement shall take effect at the conclusion of the meeting.

16.6 Re-appointment of Charity Trustees

- 16.6.1 Subject to clause 16.6.2 any person who retires as a Charity Trustee by rotation or by giving notice to the CIO is eligible for re-appointment.
- 16.6.2 A Charity Trustee who has served for three consecutive terms may not be re-appointed for a fourth consecutive term. However a Charity Trustee who has served for three consecutive terms may be re-appointed after an interval of at least one year and if so re-appointed, will be deemed, for the purpose of calculating the number of consecutive terms they have served, to be serving their first term as a Charity Trustee.

17 TAKING OF DECISION BY CHARITY TRUSTEES

Any decision of the Charity Trustees may be taken either:

- 17.1 at a meeting of the Charity Trustees; or
- 17.2 by a resolution in writing or electronic form agreed by a majority of all of the Charity Trustees which may comprise either a single document or several documents containing the resolution in like form. Such a resolution shall be effective provided that:-
- 17.2.1 a copy of the proposed resolution has been sent at or as near as reasonably practicable to the same time to all of the Charity Trustees; and
- 17.2.2 the majority of all of the Charity Trustees have signified agreement to the resolution in a document or documents which has or have been authenticated by their signature, by a statement of their identity accompanying the document or documents or in such manner as the Charity Trustees have previously resolved and delivered to the CIO at its principal office or such other place as the Charity Trustees may resolve within 28 days of the circulation date.

18 DELEGATION BY CHARITY TRUSTEES

- 18.1 The Charity Trustees may delegate any of their powers or functions to a committee or committees and, if they do, they shall determine the terms and conditions on which the delegation is made. The Charity Trustees may at any time alter those terms and conditions or revoke the delegation.
- 18.2 This power is in addition to the power of delegation in the General Regulations and any other power of delegation available to the Charity Trustees but is subject to the following requirements:
- 18.2.1 a committee may consist of two or more persons but at least one member of each committee must be a Charity Trustee;
- 18.2.2 the acts and proceedings of any committee must be brought to the attention of the Charity Trustees as a whole as soon as is reasonably practicable; and

18.2.3 the Charity Trustees shall from time to time review the arrangements which they have made for the delegation of their powers.

19 MEETING OF CHARITY TRUSTEES

19.1 Calling meetings

19.1.1 There must be at least six meetings of the Charity Trustees each calendar year.

19.1.2 Any Charity Trustee may call a meeting of the Charity Trustees.

19.1.3 Subject to clauses 19.1.1 and 19.1.2 the Charity Trustees shall decide how their meetings are to be called and what notice is required.

19.2 Chairing of meetings

The Charity Trustees may appoint one of their number to chair their meetings and may at any time revoke such appointment. If no-one has been so appointed or if the person appointed is unwilling to preside or is not present within 10 minutes after the time of the meeting, the Charity Trustees present may appoint one of their number to chair that meeting.

19.3 Procedure at meetings

19.3.1 No decision shall be taken at a meeting of the Charity Trustees unless a quorum is present at the time when the decision is taken. The quorum is three Charity Trustees, or the number nearest to one half of the total number of Charity Trustees, whichever is greater, or such larger number as the Charity Trustees may decide from time to time. A Charity Trustee shall not be counted in the quorum present when any decision is made about a matter upon which he or she is not entitled to vote.

19.3.2 Questions arising at a meeting shall be decided by a majority of those eligible to vote.

19.3.3 In the case of any equality of votes, the chair shall have a second or casting vote.

19.4 Participation in meetings by electronic means

19.4.1 A meeting may be held by suitable electronic means agreed by the Charity Trustees in which each participant may communicate with the other participants.

19.4.2 Any Charity Trustee participating at a meeting by suitable electronic means agreed by the Charity Trustees in which a participant or participants may communicate with all the other participants shall qualify as being present at the meeting.

19.4.3 Meetings held by electronic means must comply with rules for meetings including chairing and the taking of minutes.

19.5 Observers

- 19.5.1 Subject to clauses 19.5.3 and 19.5.4, the Charity Trustees may allow individuals who are not Charity Trustees to attend meetings of the Charity Trustees as observers on whatever terms the Charity Trustee decide.
- 19.5.2 Observers may not vote but may take part in discussions with the prior consent of the chair.
- 19.5.3 The Charity Trustees must exclude such observers from any part of the meeting of the Charity Trustees where the Charity Trustees consider the business is confidential.
- 19.5.4 The Charity Trustees must exclude an observer from any meeting of the Charity Trustees at which a possible personal benefit to him or her is being considered.

20 SAVING PROVISIONS

- 20.1 Subject to clause 20.2, all decisions of the Charity Trustees or of a committee of Charity Trustees shall be valid notwithstanding the participation in any vote of a Charity Trustee:
- 20.1.1 who was disqualified from holding office;
- 20.1.2 who had previously retired or who had been obliged by the Constitution to vacate office; or
- 20.1.3 who was not entitled to vote on the matter, whether by reason of a conflict or otherwise
- if, without the vote of that Charity Trustee and that Charity Trustee being counted in the quorum, the decision has been made by a majority of the Charity Trustees at a quorate meeting.
- 20.2 Clause 20.1 does not permit a Charity Trustee to keep any benefit that may be conferred upon him or her by a resolution of the Charity Trustees or of a committee of Charity Trustees if, but for clause 21.1, the resolution would have been void, or if the Charity Trustee has not complied with clause 8 (Conflicts of interest and conflicts of loyalty).

21 EXECUTION OF DOCUMENTS

- 21.1 The CIO shall execute documents by signature.
- 21.2 A document is validly executed by signature if it is signed by at least two of the Charity Trustees.

22 USE OF ELECTRONIC COMMUNICATIONS

General

- 22.1 The CIO will comply with the requirements of the Communications Provisions and in particular:
- 22.1.1 the requirement to provide within 21 days to any Member on request a hard copy of any document or information sent to the member otherwise than in hard copy form; and
 - 22.1.2 any requirements to provide information to the Charity Commission in a particular form or manner.
- 22.2 Any Member or Charity Trustee may communicate electronically with the CIO to an address specified by the CIO for the purpose so long as the communication is authenticated in a manner which is satisfactory to the CIO.
- 22.3 The CIO may, subject to compliance with any legal requirements, by means of publication on its website:
- 22.3.1 provide the Members with the notice of their meeting in accordance with clause 12.3 (Notice of general meetings);
 - 22.3.2 give Charity Trustees notice of their meetings in accordance with clause 19.1 (Calling meetings); and
 - 22.3.3 submit any proposal to the Members or Charity Trustees for decision by written resolution or postal vote in accordance with the CIO's powers.
- 22.4 The Charity Trustees must:-
- 22.4.1 take reasonable steps to ensure that Members and Charity Trustees are promptly notified of the publication of any such notice or proposal; and
 - 22.4.2 send any such notice or proposal in hard copy form to any Member or Charity Trustee who has not consented to receive communications in electronic form.

23 KEEPING OF REGISTERS

The CIO must comply with its obligations under the General Regulations in relation to the keeping of and provisions of access to registers of its Members and Charity Trustees.

24 MINUTES

The Charity Trustees must keep minutes of all:

- 24.1 appointments of officers made by the Charity Trustees;
- 24.2 proceedings at general meetings of the CIO;
- 24.3 meetings of the Charity Trustees and committees of Charity Trustees including:
 - 24.3.1 the names of the Charity Trustees present at the meeting;
 - 24.3.2 the decisions made at the meetings;
 - 24.3.3 where appropriate the reasons for decisions; and
 - 24.3.4 decisions made by the Charity Trustees otherwise than in meetings.

25 ACCOUNTING RECORDS, ACCOUNTS, ANNUAL REPORTS AND RETURNS, REGISTER MAINTENANCE

- 25.1 The Charity Trustees must comply with the requirements of the Charities Act 2011 with regard to the keeping of accounting records, to the preparation and scrutiny of statements of account and to the preparation of annual reports and returns. The statements of account, reports and returns must be sent to the Charity Commission regardless of the income of the CIO within 10 months of the financial year end.
- 25.2 The Charity Trustees must comply with their obligation to inform the Charity Commission within 28 days of any change in the particulars of the CIO entered on the Central Register of Charities.

26 RULES

The Charity Trustees may from time to time make such reasonable and proper rules or byelaws as they may deem necessary or expedient for the proper conduct and management of the CIO but such rules or byelaws must not be inconsistent with any provision of this Constitution. Copies of any such rules or byelaws currently in force must be made available to any Member on request.

27 DISPUTES

If a dispute arises between Members about the validity or propriety of anything else done by the Members under this Constitution 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.

28 AMENDMENT OF CONSTITUTION

- 28.1 As provided by section 224 – 227 of the Charities Act 2011 this Constitution can only be amended by a resolution:
 - 28.1.1 agreed in writing by all members of the CIO; or
 - 28.1.2 passed by a 75% majority of those voting at a general meeting of the Members called in accordance with clause 12 (General meetings of members).

- 28.2 Any alteration of clause 4 (Objects), clause 29 (Voluntary winding up or dissolution), this clause or of any provision where the alteration would provide authorisation for any benefit to be obtained by Charity Trustees or Members or persons connected with them, requires the prior written consent of the Charity Commission.
- 28.3 No amendment that is inconsistent with the provisions of the Charities Act 2011 or the General Regulations shall be valid.
- 28.4 A copy of a every resolution amending the Constitution, together with a copy of the CIO's Constitution as amended must be sent to the Charity Commission by the end of the period of 15 days beginning with the date of passing of the resolution and the amendment does not take effect until it has been recorded on the central Register of Charities.

29 VOLUNTARY WINDING UP OR DISSOLUTION

- 29.1 As provided by the Dissolution Regulations, the CIO may be dissolved by resolution of its Members. Any decision by the Members to wind up or dissolve the CIO can only be made:
- 29.1.1 at a general meeting of the Members called in accordance with clause 12 (General meetings of Members), of which not less than 14 days' notice has been given to those eligible to attend and vote:
- 29.1.1.1 by a resolution passed by a 75% majority of those voting; or
- 29.1.1.2 by a resolution passed by decision taken without a vote and without any expression of dissent in response to the question put to the general meeting; or
- 29.1.2 by a resolution agreed in writing by all Members.
- 29.2 Subject to the payment of all the CIO's debts:
- 29.2.1 Any resolution for the winding up of the CIO or for the dissolution of the CIO without winding up may contain a provision directing how any remaining assets of the CIO shall be applied.
- 29.2.2 If the resolution does not contain such a provision as required by Clause 29.2.1 the Charity Trustees must decide how any remaining assets of the CIO shall be applied.
- 29.2.3 In either case the remaining assets must be applied for charitable purposes the same as or similar to those of the CIO's Objects.
- 29.3 The CIO must observe the requirements of the Dissolution Regulations in applying to the Charity Commission for the CIO to be removed from the central Register of Charities and in particular:

29.3.1 the Charity Trustees must send with their application to the Charity Commission:

29.3.1.1 a copy of the resolution passed by the Members;

29.3.1.2 a declaration by the Charity Trustees that any debts and other liabilities of the CIO have been settled or otherwise provided for in full; and

29.3.1.3 a statement by the Charity Trustees setting out the way in which any property of the CIO has been or is to be applied prior to its dissolution in accordance with this Constitution; and

29.3.2 the Charity Trustees must ensure that a copy of the application is sent within seven days to every Member and employee of the CIO and to any Charity Trustee who was not privy to the application.

29.4 If the CIO is to be wound up or dissolved in any other circumstances, the provisions of the Dissolution Regulations must be followed.