

Constitution of Charlton Community Gardens

1. Name

The name of the organisation/charity shall be “Charlton Community Gardens”, referred to in this document as “the Gardens”.

2. Objects

The objects for which the Gardens are established are the charitable purposes of the advancement of education and of recreation for the inhabitants of Charlton and the neighbourhood thereof, (herein called the “Area of Benefit”). In furtherance of the above objects, but not otherwise the Gardens shall:

- a) Promote the benefit of the community without distinction of sex, political, religious or other opinions by associating together the said inhabitants and the statutory authorities, voluntary organisations and the general public in a common effort to advance education and to provide facilities in the interests of social welfare for recreation and other leisure time occupation with the aim of improving the conditions of life for those who have need of such facilities by reason of their youth, age, infirmity, disability or social and economic circumstances.
- b) Advance the education of the general public in agriculture, horticulture, crafts, sustainable development and the protection and improvement of the natural environment through good environmental practices.
- c) Provide environments and activities that help people to lead healthier lifestyles and to grow as individuals and as members of society.
- d) Provide therapy, education and training for persons who have need of such facilities by reason of their age, youth, infirmity, disablement, poverty or social and economic circumstances, so as to prepare them for any trade, occupation or service and thereby advance them in life or enable them to earn their own livelihood.
- e) Promote the regeneration of areas of social and economic deprivation (and in particular in Charlton) by all or any of the following means: (i) the relief of unemployment, (ii) the creation of training and employment opportunities by the provision of workspace, buildings, and/or land for use on favourable terms, (iii) the maintenance, improvement or provision of public amenities, (iv) the protection or conservation of the environment, (v) by contributing to the local economy and (v) by community capacity building.
- f) Promote such other charitable purposes as may from time to time be determined.

3. Powers

In furtherance of the above objects, but not otherwise, the Gardens shall have the following powers:

- a) To purchase, take on lease or in exchange, hire or otherwise lawfully acquire such property or other rights and privileges as may be necessary for the promotion of its objects, and to construct, remove, replace, equip, improve, develop, administer, maintain or alter the same, subject to the provisions of Clause 18 hereof;
- b) Subject to any consents required by law, to sell, lease, charge, disclaim or dispose of all or any part of the property of the Gardens including any rights or privileges belonging to it;

- c) Subject to any consents required by law, to borrow or raise money and to secure or discharge any debt or obligation binding on the Gardens and to charge all or any part of the property of Charlton Community Gardens with repayment of the money so borrowed;
- d) Support and/or undertake and execute any charitable trusts, associations or institutions formed for all or any of the objects;
- e) Receive money on deposit or loan or overdraft, in such manner as the Gardens may think fit, subject to such consents or on such conditions as may be required by law;
- f) Borrow money, and subject to such consents as may be required by law, to charge all or any of the property of the Gardens with the repayment of money so borrowed;
- g) Invest money not immediately required for its objects in or upon such investments, securities or property as the Gardens may think fit, subject nevertheless to such conditions (if any) as may for the time being be imposed by law;
- h) To raise funds and to invite, promote or cause to be promoted appeals or advertisements for and to receive contributions and to apply the funds so raised provided that in raising funds the Gardens shall not undertake any substantial permanent trading activities and shall conform to any relevant requirements of the law;
- i) To pay, reward or remunerate any person or entity supplying goods or services to the Gardens;
- j) To purchase and maintain insurance in respect of:
 - i) the Gardens or any other property occupied or used by the Gardens against loss or damage by fire or from any other risk;
 - ii) public or other liabilities of the Gardens.
- k) Provide indemnity insurance to cover the liability of committee members (or any of them) which by virtue of any rule of law would otherwise attach to them in respect of any negligence, default, breach of trust or breach of duty of which they may be guilty in relation to the Gardens; provided that any such insurance shall not extend to any claim arising from any act or omission which the committee members (or any of them) knew to be a breach of trust or breach of duty, or which was committed by the committee member (or any of them) in reckless disregard of whether it was a breach of trust or breach of duty or not, and provided also that it shall not extend to any claim for the costs of unsuccessfully defending criminal prosecutions for offences arising out of the fraud, dishonesty or wilful or reckless misconduct of a committee member;
- l) Subject to clause 13 hereof, employ such persons as are necessary for the proper pursuit of the objects and make all reasonable and necessary provision for the payment of pensions as is legally required
- m) To co-operate with and to provide or join in the promotion of or subsidise or become affiliated with other charities, voluntary bodies and statutory authorities operating in furtherance of the objects or of similar charitable purposes and to collect and exchange information and advice with them;
- n) Write, print and publish, or arrange to have printed and published, reports, leaflets, websites and other literature;
- o) Conduct research and publish useful results of such research;
- p) Promote, encourage and undertake experimental work in the provision of public amenities;
- q) To make any charitable donation in furtherance of the objects;

- r) To enter into and implement agreements or arrangements with any other charity, authority or entity or to apply for any licence, consent, permit or authority including without limitation planning permission and building consents in each case in furtherance of the objects;
- s) To appoint and constitute such advisory committees as the committee members may think fit;
- t) Such other means as may from time to time be determined subject to the prior written consent of the Charity Commissioners for England and Wales; and
- u) To change the name of the Gardens, with the approval of the Charity Commissioners

4. Members

- a) Membership shall be open, irrespective of sex, sexual orientation, class, ethnic origin, nationality, disability or political, religious or other opinion to:
 - i) individuals aged eighteen years and over who live within the area of benefit, who shall be known as **Full members**;
 - ii) individuals aged eighteen years and over who live outside the area of benefit, who shall be known as **Associate members**. Associate members may attend General Meetings as observers, but shall not have the right to vote. Members in this category shall be eligible to nominate one of their number for election to the Board at the AGM;
 - iii) individuals aged under eighteen years, whether living within or outside the area of benefit, who shall be known as **Junior members** and who may be admitted to membership subject to such conditions as the Committee may decide. Junior members may attend General Meetings as observers, but shall not have the right to vote. They shall have the power to elect two of their number to represent them, without the right to vote, at meetings of the Committee;
 - iv) associations and organisations which operate solely or in part within the area of benefit, are voluntary or non profit-making and which wish to support the objects of the Gardens, which shall be known as **Affiliate members**. They may attend General Meetings as observers but shall not have the right to vote. Members in this category shall be eligible to nominate one of their number for election to the Board at the AGM, subject to clause 4b) below;
 - v) statutory authorities in whose administrative area the area of benefit lies. Representatives from statutory authorities may attend General Meetings as observers, but shall not have the right to vote.
- b) Each member organisation as set out in Clause 4 a) iv) and 4 a) v) above shall appoint one individual person being a member thereof to represent it at General Meetings of the Gardens; and may appoint an alternate being a member thereof to replace its appointed representative as an observer at such meetings if the appointed representative is unable to attend. In the event of such individual person resigning or leaving a member organisation he or she shall forthwith cease to be a representative thereof. The member organisation concerned shall have the right to appoint a new representative, informing the Secretary in writing.
- c) Individual members admitted as Full members under Clause 4 a) i) or elected as voting representatives under Clause 4 (a) ii) or Clause 4 (s) iii) above shall hereafter be referred to as 'members with power to vote'.
- d) A register of members shall be maintained by the Secretary.

5. Subscriptions

All members shall pay such subscriptions as the Committee may from time to time determine.

6. Resignation and termination of membership

The rights and privileges of a member shall not be transferable nor transmissible, and all such rights and privileges shall cease upon the member ceasing to be such. A member shall cease to be a member on:

- a) Resignation in writing to the Secretary; or
- b) Failure to pay the annual subscription within three months after the date it became due; or
- c) Winding up or liquidation, if an organisation; or
- d) Expulsion by the Committee for conduct prejudicial to the Gardens, provided that any member whose expulsion is proposed has the right to make representation to the meeting at which the decision is to be made. There shall also be a right of appeal to an independent arbitrator appointed by mutual agreement.

7. General Meetings

The Gardens shall in each calendar year hold an Annual General Meeting, to take place not more than fifteen months after the previous Annual General Meeting.

Provided the first Annual General Meeting shall be held within twelve months of registration, it need not be held in the year of registration.

The business of each Annual General Meeting shall be to:

- a) Receive the Annual Report of the Committee, which shall incorporate the accounts of the Gardens referred to below, and give an account of the work of the Gardens and its activities during the preceding year;
- b) Receive the accounts of the Gardens for the preceding financial year;
- c) Elect the Honorary Officers of the Gardens in accordance with Clause 8 (b) hereof;
- d) Elect members to serve on the Committee, in accordance with Clause 9 (a) (iv) hereof;
- e) Note the names of the persons appointed/elected to serve as members of the Committee under clause 9 (a) (ii) - (iii) hereof;
- f) Appoint one or more qualified auditors or independent examiners for the coming year.

8. Honorary Officers

- a) Only members of the Gardens aged eighteen years and over shall be eligible to serve as Honorary Officers.
- b) Members with power to vote will, at each Annual General Meeting, elect the Treasurer and Secretary to serve as Honorary Officers of the Gardens and, subject to clause 8 (b) below, such other Honorary Officers as the Gardens may from time to time put in place.

- c) At its first meeting after the Annual General Meeting the Committee shall itself elect from among its members a Chair and Vice-Chair to serve as Honorary Officers of the Gardens.
- d) Honorary Officers will serve on the Committee and on any Executive Committee which may be established in accordance with Clause 10 hereof. Honorary Officers may also be appointed as members of any sub-committee established in accordance with Clause 11 hereof.
- e) An Honorary Officer shall cease to hold office if he/she notifies the Secretary of the Gardens in writing of his/her resignation.
- f) If a vacancy occurs by death, resignation or disqualification among the Honorary Officers of the Gardens or of the Committee, the Committee shall have the power to fill it from among its members.
- g) Subject to sub-clause e) of this clause, all Honorary Officers shall hold office until the conclusion of the next Annual General Meeting of the Gardens and shall be eligible for re-election.

9. The Management Committee

- a) Subject to the provisions of Clause 7 hereof the policy and general management of the affairs of the Gardens shall be directed by a Management Committee (herein referred to as 'The Committee') which shall meet not less than 4 times a year. As the charity trustees, the Committee shall have power to enter into contracts for the purposes of the Gardens on behalf of all members and may exercise on behalf of the Gardens any or all of the powers set out in Clause 3 hereof.

The Committee shall consist of:

- i) the Honorary Officers elected under Clause 8 hereof;
 - ii) up to 3 representatives appointed by Junior and Affiliate members and statutory authorities in accordance with Clause 4 (b) hereof;
 - iii) up to 2 representatives of Associate members elected in accordance with Clause 4 (a) hereof;
 - iv) up to 5 Full members or such larger number as shall be equal to the number of Committee members appointed in accordance with sub-clause (a) (ii) and (iii) of this clause to be elected by the Full members present at the Annual General Meeting;
 - v) persons co-opted individually by the Committee who shall serve on the Committee until the conclusion of the next Annual General Meeting; provided that the number of co-opted members shall not exceed one quarter of the total number of members elected and appointed to the Committee in accordance with the provisions of this sub-clause and enumerated above.
- b) All members of the Committee shall retire from office together at the conclusion of the Annual General Meeting next after the date on which they came into office but they may be re-elected or re-appointed.
 - c) If casual vacancies occur among the elected members of the Committee it shall have power to fill these from among the members of the Gardens, who shall serve on the Committee until the conclusion of the next Annual General Meeting.
 - d) The proceedings of the Committee shall not be invalidated by any failure to elect or any defect in the election, appointment, co-option or qualification of any member.
 - e) A member of the Committee shall cease to hold office if he or she:

- i) is disqualified from holding such office by virtue of section 72 of the Charities Act 1993 (or any statutory modification or re-enactment of that provision); or
 - ii) becomes incapable by reason of mental disorder, illness or injury of managing his or her own affairs; or
 - iii) is absent without the permission of the Committee from all its meetings held within a period of six months and the Committee resolves that he/she shall cease to hold office; or
 - iv) notifies the Committee in writing of his or her resignation (provided that at least three members of the Committee will remain in office when the notice of resignation is to take effect).
- f) The provisions of paragraphs e) (i) and (ii) of this sub-clause also apply to any individual holding trustee who may be appointed in accordance with Clause 18 (a) below, and of paragraphs (iii) and (iv) of this sub-clause. The same applies to any member of any Executive Committee which may be established in accordance with Clause 10 below.
- g) Each member of the Committee shall upon election or appointment to the Committee receive a copy of the Gardens' constitution. No person shall be entitled to act as a member of the Committee, following election or re-election or appointment or re-appointment, until they have signed in the minute book of the Committee a declaration of acceptance and willingness to act as a charity trustee of the Gardens.
- h) No persons under the age of eighteen shall be members of the Committee or of any Executive Committee which may be established in accordance with Clause 10 hereof but such persons may attend meetings of such committees as observers without the right to vote in accordance with Clause 4 (a) (iii) hereof.

10. The Executive Committee

- a) The Committee may establish, until the next Annual General Meeting, an Executive Committee to which it may delegate the conduct, in accordance with the general policy of the Committee, of such of the day-to-day affairs of the Gardens as the Committee shall decide. The Executive Committee shall meet not less than 4 times a year and shall consist of:
- i) The Honorary Officers elected under Clauses 8 (b) and (c)
 - ii) Up to 2 members elected by and from the members of the Committee;
 - iii) Up to 2 further persons who may be co-opted by resolution of the Executive Committee provided that the number of co-opted members shall not exceed one third of the membership of the Executive Committee.
- b) The Committee may make such regulations and impose such terms and conditions and give such mandates to the Executive Committee as it may from time to time think fit, and every delegation under this clause shall be revocable by the Committee at any time.
- c) The deliberations of the Executive Committee shall be reported regularly to the Committee and any resolution passed or decision taken by the Executive Committee shall be reported promptly to the Committee.
- d) A member of the Executive Committee shall cease to hold office in accordance with the provisions of Clause 9 (e) above.

11. Sub-committees

The Committee may appoint one or more sub-committees for supervising or performing any activity or service. In each such case:

- a) The Committee shall define the terms of reference of the sub-committee and may also determine its composition and the duration of its activities;
- b) All acts and proceedings of the sub-committee shall be reported as soon as possible to the Committee and/or to any Executive Committee it may have established in accordance with Clause 10 hereof.

12. Conflicts of interest

- a) No member of the Committee (otherwise than as a trustee for the Gardens shall acquire any interest in property belonging to the Gardens.
- b) No member of the Committee (otherwise than as a member of the Committee) shall have an interest in any contract entered into by the Committee.
- c) No member of the Committee and no member of the Executive Committee shall receive remuneration.
- d) Committee members will record any interests in the Gardens' Register of Interests.

13. Paid employees

- a) The Committee shall have the sole right in exercise of the power conferred by Clause 3 hereof of appointing, dismissing, and determining the terms and conditions of service of all employees of the Gardens.
- b) An employee of the Gardens shall not be eligible to be a member of the Committee, the Executive Committee, or any sub-committee of the Gardens, but may be invited to attend such committees as a non-voting adviser.

14. Notice of General Meetings

- a) An Annual General Meeting or any other General Meeting shall be called by at least fourteen clear days' notice. However, a General Meeting may be called with shorter notice if it is agreed as follows:
 - i) in the case of an Annual General Meeting, by all those entitled to attend and vote;
 - ii) in the case of any other General Meeting, by at least 95 per cent of those entitled to attend and vote.
- b) Notice of every General Meeting shall be given in writing to every member of the Gardens and to the auditors and to such other persons who are entitled to receive notice.
- c) In the case of a General Meeting which is to consider a special resolution or a resolution to remove a Trustee or the auditor, such resolution shall be specified in the notices calling that meeting; and in the case of all other General Meetings the general nature of the business to be raised shall be specified.
- d) Notice of all General Meetings shall be given exclusive of the day on which it is served and shall specify the exact time and place of the meeting. Notice shall be deemed to have been served:
 - i) immediately on being handed to the member personally;

- ii) 24 hours after being sent by electronic means or delivered by hand to the relevant address;
 - iii) two clear days after being sent by post to that address; or immediately the member acknowledges receipt if this is sooner than is required by the above.
- f) The accidental omission to give notice of a meeting to or non-receipt of notice of a meeting by any person entitled to receive notice shall not invalidate proceedings at that meeting.

15. Rules of procedure at all meetings

Voting

- a) Subject to the provisions of Clause 23, any question arising at a meeting of the Gardens or one of its committees shall be decided by a simple majority of those present and voting. No member shall exercise more than one vote notwithstanding that he or she may have been appointed to represent two or more interests, but in case of an equality of votes the Chair shall have a second or casting vote.

Quorum

- b) Committee Meetings: one third of the members with power to vote shall form a quorum at meetings of the Committee and all other committees and sub-committees of the Gardens.
- c) Meetings: 25 members with power to vote or one fifth of the members with power to vote, whichever is the less, shall form a quorum at General Meetings of the Gardens. In the event that no quorum is present at an Annual General Meeting of the Gardens, or the meeting has to be abandoned, the meeting shall stand adjourned and be reconvened 14 days later, and those members with power to vote present at that meeting shall be deemed to form a quorum.

Minutes

- d) Minute books shall be kept by the Gardens and all its committees and the respective secretary shall enter therein a record of all proceedings and resolutions.

16. Standing orders and rules for the use of the Gardens

The Committee shall have power to adopt and issue Standing Orders for the conduct of Gardens business and/or Rules for the use of the Gardens. Such Standing Orders and Rules shall come into operation immediately, provided always that they shall be subject to review by the Gardens in a General Meeting and that they shall be consistent with the provisions of this constitution.

17. Finance

- a) All money raised by or on behalf of the Gardens shall be applied to further the objects of the Gardens and for no other purpose, provided that nothing herein contained shall prevent the payment in good faith of reasonable and proper remuneration to any employee of the Gardens or the repayment of reasonable out-of-pocket expenses incurred on behalf of the Gardens by employees and volunteers.

- b) An account shall be opened in the name of the Gardens with the Lewisham branch of the Co-operative Bank, or with such other financial institution as the Committee may from time to time decide. The Committee shall authorise in writing the Treasurer, the Chair of the Gardens and two members of the Committee to sign cheques on behalf of the Gardens. All cheques must be signed by not less than two of the four authorised signatories.
- c) The Gardens' financial year shall be from April to March.

18. Holding property in trust

Land and Buildings

- a) Subject to the provisions of sub-clause (b) of this clause, the Committee shall cause the title to all land (which is not vested in the Official Custodian for Charities) and all investments held by or in trust for the Gardens to be vested either in a corporation entitled to act as custodian trustee or in not less than three nor more than four named individuals (not being members of the Committee) appointed by the Committee as holding trustees. Holding trustees shall act in accordance with the lawful directions of the Committee. Provided that they act only in accordance with such lawful directions, holding trustees shall not be liable for the acts and defaults of members of the Committee. Holding trustees may be removed by the Committee at its pleasure and shall otherwise cease to hold office in accordance with the provisions of Clause 9 (e) above.

Investments

- b) If a corporation entitled to act as custodian trustee has not been appointed to hold the property of the Gardens, the Committee may permit any investments held by or in trust for the Gardens to be held in the name of a clearing bank, trust corporation or any stock-broking company which is a member of the International Stock Exchange (or any subsidiary of any such stock-broking company) as nominee for the Committee and may pay such nominee reasonable and proper remuneration for acting as such.

19. Accounts

The Committee shall comply with its obligations under the Charities Act 1993 (or any statutory modification or re-enactment of that Act) with respect to the:

- a) Keeping of accounting records for the Gardens;
- b) Preparation of annual statements of the accounts for the Gardens;
- c) Auditing or independent examination of the statements of account of the Gardens;
- d) Transmission of the statements of account to the Charity Commission for England and Wales.

20. Annual report and annual returns

The Committee shall comply with its obligations under the Charities Act 1993 (or any statutory modification or re-enactment of that Act) with respect to the preparation of an annual report and an annual return and their transmission to the Charity Commissioners for England and Wales.

21. Indemnity

In the execution of the trusts hereof no member of the Committee shall be liable:

- a) For any loss to the property of the Gardens by reason of any improper investment made in good faith (so long as he/she shall have sought professional advice before making such investment); or
- b) For the negligence or fraud of any agent employed by him/her or by any other member of the Committee in good faith (provided reasonable supervision shall have been exercised); and
- c) By reason of any mistake or omission made in good faith by any member of the Committee other than wilful and individual fraud, wrongdoing or wrongful omission on the part of the member who is sought to be made liable.

22. Dissolution

- a) If the Committee by a simple majority decides at any time that on the ground of expense or otherwise it is necessary or advisable to dissolve the Gardens, it shall call an Extra General Meeting of all members with power to vote and inhabitants of the area of benefit of the age of eighteen years and upwards, for which:
 - i) notice shall be posted, not less than 14 clear days in advance, in a conspicuous place or places in the area of benefit, stating the terms of the resolution to be proposed thereat
 - ii) notice shall be advertised, not less than 14 clear days in advance, in a newspaper circulating in the area of benefit
 - iii) notice shall be given in writing to the Charity Commissioners for England and Wales
 - iv) notice shall be given to the Director of the Federation of City Farms and Community Gardens.
- b) If such decision shall be confirmed by a simple majority of those present and voting at such meeting the Committee shall have power to dispose of any assets held by or in the name of the Gardens. Assets remaining after the satisfaction of any proper debts and liabilities shall be applied towards such charitable purposes for the benefit of the inhabitants of the area of benefit as the Committee shall decide, subject to the prior approval in writing of the Charity Commissioners for England and Wales, or other authority having charitable jurisdiction.

23. Alterations to the constitution

Any proposal to alter this constitution must be delivered in writing to the Secretary of the Gardens not less than 28 days before the date of the meeting at which it is first to be considered. Any alteration will require the approval of both:

- a) A simple majority of members of the Committee present and voting at a Committee meeting;
- b) A two-thirds majority of members with power to vote present and voting at a General Meeting.

At least 14 clear days' notice shall be posted in a conspicuous place in the area of benefit and advertised in a newspaper circulating in the area of benefit, stating the wording of the proposed alteration. No alteration shall be made to this constitution which would cause the Gardens to cease to be a charity at law. No alteration to Clause 2 (Objects), Clause 12 (Conflicts of Interest), Clause 22 (Dissolution) or to this Clause shall take effect until the approval in writing of the Charity Commissioners or other authority having jurisdiction shall have been obtained.

Dated this day Sixteenth of May 2012

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