

# CONSTITUTION of LINLITHGOW BURGH TRUST

(As Incorporated on 1 March 2017)

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## GENERAL

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### Type of Organisation

- 1 The organisation shall, upon registration, be a Scottish Charitable Incorporated Organisation (SCIO). **Scottish Principal Office**
- 2 The principal office of the organisation shall be in Scotland (and shall remain in Scotland).

### Name

- 3 The name of the organisation is “Linlithgow Burgh Trust”, hereafter referred to as “the Trust”.

### Purposes

- 4 The Trust’s purposes are to promote, for the public benefit, the advancement of environmental protection and improvement, the advancement of heritage and the arts and the advancement of community development and citizenship, such charitable purposes being realised through the following activities:
  - 4.1 To stimulate and advance public interest in, and care for, the beauty, history, character and well-being of Linlithgow and district, the maximum extent of its area of concern being defined by all postcode units within the postcode district of ‘EH49’;
  - 4.2 To encourage and advance high standards of architecture and town planning, including the adequate provision and protection of green spaces, in Linlithgow and district as defined in Clause 4.1, this to be achieved by such means as scrutiny and constructive comment on planning applications, proposed developments and planning policies and the advocacy of alternative sustainable approaches to the planning and development of the town;
  - 4.3 To pursue the above ends by means of meetings, exhibitions, lectures, conferences, publications, products, publicity, events, collaboration, lobbying and participation with other organisations including schools and committees, and the promotion of schemes or any other activities of a charitable nature;
  - 4.4 To undertake, and encourage others to undertake, sustainable practical and physical works to preserve, sustain and enhance the beauty and character of Linlithgow and district as defined in Clause 4.1, including, amongst other things, the installation and maintenance of floral displays and planting schemes, the protection and maintenance of green spaces, the promotion of community gardens and allotments, the removal of litter and rubbish, the creation of footpaths and wildlife reserves, the creation of heritage trails, the installation of public art, the clearance and upgrading of untidy areas and the pursuit of all activities relating to the physical and natural environment as are specified from time to time as requirements by the Beautiful Scotland and Britain in Bloom campaigns.
  - 4.5 To encourage and support volunteers and other organisations to assist in the achievement of the charitable purposes set out in Clause 4.

## **Powers**

- 5 The Trust has power to take any reasonable action which is calculated to further its purposes or is conducive or incidental to doing so.
- 6 No part of the income or property of the Trust may be paid or transferred (directly or indirectly) to the Members - either in the course of the Trust's existence or on dissolution - except where this is done in direct furtherance of the Trust's charitable purposes. The Board (see Clause 9.2) shall authorise the reimbursement to Members or other persons any authorised and legitimate expenses incurred in direct furtherance of the Trust's charitable purposes.

## **Liability of Members**

- 7 The Members of the Trust have no liability to pay any sums to help to meet the debts (or other liabilities) of the Trust if it is wound up; accordingly, if the Trust is unable to meet its debts, the Members shall not be held responsible.
- 8 The Members and Charity Trustees of the Trust shall adhere to their legal duties under the Charities and Trustee Investment (Scotland) Act 2005; and it is recognised that Clause 7 thereof does not exclude (or limit) any personal liabilities that they might incur if they are in breach of those duties or in breach of other legal obligations or duties that apply to them personally.

## **General Structure**

- 9 The structure of the Trust consists of:
  - 9.1 the MEMBERS - who have the right to attend Members' General Meetings (including any Annual General Meeting) and have powers under the Constitution; in particular, the Members appoint people to serve on the Board and take decisions on changes to the Constitution itself;
  - 9.2 the BOARD - which holds regular meetings, generally controls the activities of the Trust and ensures that all activities of Members are in furtherance of the Purposes of the Trust. The Board is responsible for monitoring and controlling the financial position of the Trust.
- 10 The people serving on the Board are referred to in this constitution as CHARITY TRUSTEES.

## **MEMBERS**

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### **Qualifications for Membership**

- 11 Membership of the Trust is open to any individual aged 16 or over who supports the Purposes of the Trust.
- 12 All current Ordinary Members, Household Members and Junior Members of Linlithgow Civic Trust shall become Members of the Trust on its incorporation, without being required to apply for membership.
- 13 All Life Members and Honorary Life Members of Linlithgow Civic Trust at the time of its dissolution shall become Life Members or Honorary Life Members respectively of the Trust on its incorporation, without being required to apply for membership.

- 14 The Members of the Trust, at any General Meeting, may elect one or more Honorary Life Members who shall be nominated by the Board in recognition of services provided to the Trust.
- 15 Employees of the Trust are not eligible for membership.

### **Application for Membership**

- 16 Apart from the provisions of clauses 12, 13 and 14, any person who wishes to become a Member shall sign a written application for membership, or submit an online application, and lodge this with the Trust, along with a remittance to meet the annual membership subscription. All such applications shall then be considered by the Board at its next Board meeting.
- 17 The Board may, at its discretion, refuse to admit any person to membership.
- 18 The Board shall notify each applicant promptly (in writing or by e-mail) of its decision on whether or not to admit him/her to membership. If the decision of the Board is to refuse admission, the Board shall return to the applicant the remittance lodged by him/her under clause 16.

### **Membership Subscriptions**

- 19 Annual membership subscriptions shall be payable on or before the first day of October in each year.
- 20 The Members may vary the amount of the annual membership subscription and/or the date on which it falls due in each year, by way of a resolution to that effect passed at an Annual General Meeting.
- 21 If the membership subscription payable by any Member remains outstanding more than five months after the date on which it fell due - and providing he/she has been given at least one written reminder - the Board may, by resolution to that effect, expel him/her from membership.
- 22 Anyone who ceases (for whatever reason) to be a Member shall not be entitled to any refund of the membership subscription.
- 23 No membership subscriptions shall be payable by Life Members or Honorary Life Members as defined in Clauses 13 and 14.

### **Register of Members**

- 24 The Board shall keep a register of Members, setting out:
  - 24.1 for each current Member:
    - 24.1.1 his/her full name and postal and e-mail addresses (the latter as applicable); and
    - 24.1.2 the date on which he/she was registered as a Member of the Trust.
  - 24.2 for each former Member - for at least two years from the date on he/she ceased to be a Member:
    - 24.2.1 his/her name; and
    - 24.2.2 the date on which he/she ceased to be a Member.

- 25 The Board shall ensure that the register of Members is updated within 28 days of any change:
- 25.1 which arises from a resolution of the Board or a resolution passed by the Members of the Trust; or
  - 25.2 which is notified to the Trust.
- 26 If a Member or Charity Trustee of the Trust requests a copy of the register of Members, the Board shall supply it to him/her within 28 days, providing the request is reasonable; if the request is made by a Member (rather than a Charity Trustee), the Board may provide a copy which includes only the names and joining/leaving dates of Members and which has all contact information (addresses, email addresses and phone numbers) omitted.

### **Withdrawal from Membership**

- 27 Any person who wants to withdraw from membership shall give signed written notice of withdrawal to the Trust or shall give notice of withdrawal by e-mail.
- 28 Any such person shall cease to be a Member as from the time when the notice is received by the Trust.

### **Transfer of Membership**

- 29 Membership of the Trust is not transferable to any other person.

### **Expulsion from Membership**

- 30 Any person may be expelled from membership of the Trust by way of a resolution passed at a Board meeting by not less than two thirds of the Charity Trustees present, providing the following procedures have been observed:
- 30.1 at least 21 days' notice of the intention to propose the resolution shall be given to the Member concerned, specifying the grounds for the proposed expulsion;
  - 30.2 the Member concerned shall be entitled to be heard on the resolution at the Board meeting at which the resolution is proposed.

### **Termination**

- 31 Membership of the Trust shall terminate on death.

## **DECISION-MAKING BY THE MEMBERS**

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### **Members' General Meetings**

- 32 Members' General Meetings shall take the form of either Annual General Meetings or Special General Meetings. In particular, the Board shall arrange a meeting of members (an Annual General Meeting or "AGM") in each calendar year.
- 33 The gap between one AGM and the next shall not be longer than 15 months.
- 34 Notwithstanding clause 33, an AGM does not need to be held during the calendar year in which the Trust was formed; but the first AGM shall still be held within 15 months of the date on which the Trust was formed.

- 35 The business of each AGM shall include:
- 35.1 consideration of a written report by the Chair on the activities of the Trust, including an account of the activities of all Committees as provided for in Clauses 110 to 115;
  - 35.2 consideration of the annual accounts of the Trust;
  - 35.3 the election/re-election of Charity Trustees as referred to in clauses 10 and 65 to 70;
  - 35.4 the election of office bearers in accordance with Clause 78; and
  - 35.5 consideration of any resolution to vary the amount of the annual membership subscription and/or the date on which it falls due in each year, in accordance with Clause 20.
- 36 The Board may arrange a Special General Meeting of Members at any time.

### **Power to Request the Board to Arrange a Special General Meeting**

- 37 The Board shall arrange a Special General Meeting of Members if it is requested to do so by one or more notices submitted by at least 5% of the total membership of the Trust at the time, providing:
- 37.1 the notice states the purposes for which the meeting is to be held; and
  - 37.2 those purposes are not inconsistent with the terms of this constitution, the Charities and Trustee (Investment) Scotland Act 2005 or any other statutory provision.
- 38 If the Board receives a notice under clause 37, the date for the meeting which it arranges in accordance with the notice shall not be later than 35 days from the date on which it received the notice.

### **Notice of Members' General Meetings**

- 39 At least 14 clear days' notice shall be given of any AGM or any Special General Meeting of Members.
- 40 The notice calling a Members' General Meeting shall specify in general terms what business is to be dealt with at the meeting; and
- 40.1 in the case of a resolution to alter the constitution, shall set out the exact terms of the proposed alteration(s); or
  - 40.2 in the case of any other resolution falling within clause 52 (requirement for two-thirds majority) shall set out the exact terms of the resolution.
- 41 The reference to "clear days" in clause 39 shall be taken to mean that, in calculating the period of notice,
- 41.1 the day after the notices are posted (or sent by e-mail) should be excluded; and
  - 41.2 the day of the meeting itself should also be excluded.

- 42 Notice of every Members' General Meeting shall be given to all the Members of the Trust, and to all the Charity Trustees; but the accidental omission to give notice to one or more Members shall not invalidate the proceedings at the meeting.
- 43 Any notice which requires to be given to a Member under this constitution shall be:
- 43.1 sent by post to the Member, at the address last notified by him/her to the Trust; or
- 43.2 sent by e-mail to the Member, at the e-mail address last notified by him/her to the Trust.

### **Procedure at Members' General Meetings**

- 44 No valid decisions can be taken at any Members' General Meeting unless a quorum is present.
- 45 The quorum for a Members' General Meeting is 15 Members, present in person.
- 46 If a quorum is not present within 15 minutes after the time at which a Members' General Meeting was due to start - or if a quorum ceases to be present during a Members' General Meeting - the meeting cannot proceed; and fresh notices of meeting shall require to be sent out, to deal with the business (or remaining business) which was intended to be conducted.
- 47 The Chair of the Trust, failing whom the Vice-Chair (if applicable), should act as chairperson of each Members' General Meeting.
- 48 If the Chair or Vice-Chair of the Trust is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as chairperson), the Charity Trustees present at the meeting shall elect (from among themselves) the person who shall act as chairperson of that meeting.

### **Voting at Members' General Meetings**

- 49 Every Member has one vote, which shall be given personally.
- 50 No Member shall be entitled to vote by proxy.
- 51 All decisions at Members' General Meetings shall be made by majority vote - with the exception of the types of resolution listed in clause 52.
- 52 The following resolutions shall be valid only if passed by not less than two thirds of those voting on the resolution at a Members' General Meeting (or if passed by way of a written resolution under clause 56):
- 52.1 a resolution amending the constitution;
- 52.2 a resolution directing the Board to take any particular step (or directing the Board not to take any particular step);
- 52.3 a resolution approving the amalgamation of the Trust with another SCIO or organisation of a similar nature (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation);

- 52.4 a resolution to the effect that all of the Trust's property, rights and liabilities should be transferred to another SCIO (or agreeing to the transfer from another SCIO of all of its property, rights and liabilities);
- 52.5 a resolution for the winding up or dissolution of the Trust.
- 53 If there is an equal number of votes for and against any resolution, the chairperson of the meeting shall be entitled to a second (casting) vote.
- 54 A resolution put to the vote at a Members' General Meeting shall be decided on a show of hands - unless the chairperson (or at least two other individuals present at the meeting and entitled to vote) ask for a secret ballot.
- 55 The chairperson shall decide how any secret ballot is to be conducted, and he/she shall declare the result of the ballot at the meeting.

### **Written Resolutions by Members**

- 56 A resolution agreed to in writing (or by e-mail) by over two-thirds of the Members of the Trust shall be as valid as if it had been passed at a Members' General Meeting; the date of the resolution shall be taken to be the date on which the last Member agreed to it.

### **Minutes**

- 57 The Board shall ensure that minutes are kept in relation to all Members' General Meetings.
- 58 Minutes of Members' General Meetings shall include the names of those present; and shall be signed by the chairperson of the meeting.
- 59 The Board shall make available copies of the minutes referred to in clause 57 to any member of the public requesting them; but on the basis that the Board may exclude confidential material to the extent permitted under clause 109.

## **BOARD**

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### **Number of Charity Trustees**

- 60 The maximum number of Charity Trustees on the Board shall be 14; out of that:
- 60.1 no more than 12 shall be Charity Trustees who were elected/appointed under clauses 65 to 68 (or deemed to have been appointed under clause 64); and
- 60.2 no more than two shall be Charity Trustees who were co-opted under the provisions of clauses 71 and 72.
- 61 The minimum number of Charity Trustees on the Board shall be 5.

### **Eligibility**

- 62 A person shall not be eligible for election/appointment to the Board under clauses 64 to 69 unless he/she is a Member of the Trust; a person appointed to the Board under clause 71 need not, however, be a Member of the Trust.



- 63 A person shall not be eligible for election or appointment to the Board if he/she is:
- 63.1 disqualified from being a Charity Trustee under the Charities and Trustee Investment (Scotland) Act 2005; or
  - 63.2 an employee of the Trust.

### **Initial Charity Trustees**

- 64 The individuals who signed the Charity Trustee declaration forms which accompanied the application for incorporation of the Trust shall be deemed to have been appointed by the Members as Charity Trustees with effect from the date of incorporation of the Trust.

### **Election, Retiral and Re-election of Charity Trustees**

- 65 At each Annual General Meeting, the Members may elect any Member (unless he/she is debarred from membership under clause 63) to be a Charity Trustee.
- 66 Nominations for the election of Charity Trustees to the Board shall be made before the Annual General Meeting, in writing to the Secretary, or at the Annual General Meeting itself, supported in any event by a seconder, and the consent of the proposed nominee must have been obtained.
- 67 If nominations for the election of Charity Trustees exceed the number of vacancies on the Board, a secret ballot shall take place.
- 68 The Board may at any time appoint any Member (unless he/she is debarred from membership under clause 63) to be a Charity Trustee, subject to the maximum numbers of Charity Trustees specified in Clause 60 not being exceeded.
- 69 At each AGM, one quarter of all the Charity Trustees elected/appointed under clauses 65 to 68 (and, in the case of the first AGM, those deemed to have been appointed under clause 64) shall retire from office in rotation – but shall then be eligible for re-election under clauses 65 and 66.
- 70 A Charity Trustee retiring at an AGM shall be deemed to have been re-elected unless:
- 70.1 he/she advises the Board prior to the conclusion of the AGM that he/she does not wish to be re-appointed as a Charity Trustee; or
  - 70.2 an election process was held at the AGM and he/she was not among those elected/re-elected through that process; or
  - 70.3 a resolution for the re-election of that Charity Trustee was put to the AGM and was not carried.

### **Appointment/Re-appointment of Co-opted Charity Trustees**

- 71 In addition to their powers under clause 68, the Board may at any time appoint up to a total of two non-members of the Trust to be a Charity Trustee (subject to clause 60, and providing he/she is not debarred from membership under clause 63) either on the basis that he/she has been nominated by a body with which the Trust has close contact in the course of its activities or on the basis that he/she has specialist experience and/or skills which could be of assistance to the Board.

- 72 At each AGM, all of the Charity Trustees appointed under clause 71 shall retire from office – but shall then be eligible for re-appointment under that clause.

### **Termination of Office**

- 73 A Charity Trustee shall automatically cease to hold office if:
- 73.1 he/she becomes disqualified from being a Charity Trustee under the Charities and Trustee Investment (Scotland) Act 2005;
  - 73.2 he/she becomes incapable for medical reasons of carrying out his/her duties as a Charity Trustee - but only if that has continued (or is expected to continue) for a period of more than six months;
  - 73.3 he/she becomes an employee of the Trust;
  - 73.4 he/she gives the Trust a notice of resignation, signed by him/her;
  - 73.5 he/she is absent (without good reason, in the opinion of the Board) from more than three consecutive meetings of the Board - but only if the Board resolves to remove him/her from office;
  - 73.6 he/she is removed from office by resolution of the Board on the grounds that he/she is considered to have committed a material breach of the code of conduct for Charity Trustees (as referred to in clause 87);
  - 73.7 he/she is removed from office by resolution of the Board on the grounds that he/she is considered to have been in serious or persistent breach of his/her duties under section 66(1) or (2) of the Charities and Trustee Investment (Scotland) Act 2005; or
  - 73.8 he/she is removed from office by a resolution of the Members passed at a Members' General Meeting.
- 74 A resolution under paragraph 73.6, 73.7 or 73.8 shall be valid only if:
- 74.1 the Charity Trustee who is the subject of the resolution is given reasonable prior written notice of the grounds upon which the resolution for his/her removal is to be proposed;
  - 74.2 the Charity Trustee concerned is given the opportunity to address the meeting at which the resolution is proposed, prior to the resolution being put to the vote; and
  - 74.3 (in the case of a resolution under paragraph 73.6 or 73.7) at least two thirds (to the nearest round number) of the Charity Trustees then in office vote in favour of the resolution.

### **Register of Charity Trustees**

- 75 The Board shall keep a register of Charity Trustees, setting out
- 75.1 for each current Charity Trustee:
    - 75.1.1 his/her full name and address;
    - 75.1.2 the date on which he/she was appointed as a Charity Trustee; and

- 75.1.3 any office held by him/her in the Trust;
- 75.2 for each former Charity Trustee - for at least 6 years from the date on which he/she ceased to be a charity trustee:
  - 75.2.1 the name of the Charity Trustee;
  - 75.2.2 any office held by him/her in the Trust; and
  - 75.2.3 the date on which he/she ceased to be a Charity Trustee.
- 76 The Board shall ensure that the register of Charity Trustees is updated within 28 days of any change:
  - 76.1 which arises from a resolution of the Board or a resolution passed by the Members of the Trust; or
  - 76.2 which is notified to the Trust.
- 77 If any person requests a copy of the register of Charity Trustees, the Board shall ensure that a copy is supplied to him/her within 28 days, providing the request is reasonable. If the request is made by a person who is not a Charity Trustee of the Trust, the Board may provide a copy which has the addresses omitted if it is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

#### **Office Bearers**

- 78 The Members, at the AGM, shall elect (from the Charity Trustees) a Chair, a Treasurer and a Secretary.
- 79 In addition to the office-bearers required under clause 78, the Charity Trustees may elect (from among themselves) further office-bearers, including a Vice-Chair, if they consider that appropriate.
- 80 All the office-bearers, except the Chair, shall cease to hold office at the conclusion of each AGM, but may then be re-elected under clause 78 or 79.
- 81 The term of office for the Chair (and Vice Chair if applicable) shall be two years which may be extended for a further term of two years on re-election. The Chair or Vice Chair shall not be eligible for a third consecutive two-year term. The initial term of office for the Treasurer and the Secretary shall also be two years, but this may be extended for one or more further terms of two years on re-election.
- 82 The Members, at a Members' General Meeting, may elect an Honorary President and/or an Honorary Vice President, who shall be nominated by the Board.
- 83 A person elected to any office shall automatically cease to hold that office:
  - 83.1 if he/she ceases to be a Charity Trustee; or
  - 83.2 if he/she gives to the Trust a notice of resignation from that office, signed by him/her.

## **Powers of the Board**

- 84 Except where this constitution states otherwise, the Trust (and its assets and operations) shall be managed by the Board; and the Board may exercise all the powers of the Trust.
- 85 A meeting of the Board at which a quorum is present may exercise all powers exercisable by the Board.
- 86 The Members may, by way of a resolution passed in compliance with clause 52 (requirement for two-thirds majority), direct the Board to take any particular step or direct the Board not to take any particular step; and the Board shall give effect to any such direction accordingly.

## **Charity Trustees - General Duties**

- 87 Each of the Charity Trustees has a duty, in exercising functions as a Charity Trustee, to act in the interests of the Trust; and, in particular, shall
- 87.1 seek, in good faith, to ensure that the Trust acts in a manner which is in accordance with its purposes;
  - 87.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
  - 87.3 in circumstances giving rise to the possibility of a conflict of interest between the Trust and any other party:
    - 87.3.1 put the interests of the Trust before that of the other party;
    - 87.3.2 where any other duty prevents him/her from doing so, disclose the conflicting interest to the Trust and refrain from participating in any deliberation or decision of the other Charity Trustees with regard to the matter in question;
  - 87.4 ensure that the Trust complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.
- 88 In addition to the duties outlined in clause 87, all of the Charity Trustees shall take such steps as are reasonably practicable for the purpose of ensuring:
- 88.1 that any breach of any of those duties by a Charity Trustee is corrected by the Charity Trustee concerned and not repeated; and
  - 88.2 that any Charity Trustee who has been in serious and persistent breach of those duties is removed as a Charity Trustee.
- 89 Provided he/she has declared his/her interest - and has not voted on the question of whether or not the Trust should enter into the arrangement - a Charity Trustee shall not be debarred from entering into an arrangement with the Trust in which he/she has a personal interest; and (subject to clause 90 and to the provisions relating to remuneration for services contained in the Charities and Trustee Investment (Scotland) Act 2005), he/she may retain any personal benefit which arises from that arrangement.
- 90 No Charity Trustee may serve as an employee (full time or part time) of the Trust; and no Charity Trustee may be given any remuneration by the Trust for carrying out his/her duties as a Charity Trustee.

- 91 The Charity Trustees may be paid any travelling and other expenses reasonably incurred by them in connection with carrying out their duties; this may include expenses relating to their attendance at meetings outwith the town of Linlithgow.

### **Code of Conduct for Charity Trustees**

- 92 Each of the Charity Trustees shall comply with the code of conduct (incorporating detailed rules on conflict of interest) prescribed by the Board from time to time.
- 93 The code of conduct referred to in clause 92 shall be supplementary to the provisions relating to the conduct of Charity Trustees contained in this constitution and the duties imposed on Charity Trustees under the Charities and Trustee Investment (Scotland) Act 2005; and all relevant provisions of this constitution shall be interpreted and applied in accordance with the provisions of the code of conduct in force from time to time.

## **DECISION-MAKING BY THE CHARITY TRUSTEES**

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### **Notice of Board Meetings**

- 94 Any Charity Trustee may call a meeting of the Board *or* ask the Secretary to call a meeting of the Board.
- 95 At least 7 days' notice shall be given of each Board meeting, unless (in the opinion of the person calling the meeting) there is a degree of urgency which makes that inappropriate.

### **Procedure at Board Meetings**

- 96 No valid decisions can be taken at a Board meeting unless a quorum is present; the quorum for Board meetings shall consist of no fewer than half of its Members, present in person.
- 97 If at any time the number of Charity Trustees in office falls below five, the remaining Charity Trustee(s) shall have power to fill the vacancies or call a Special General Meeting - but shall not be able to take any other valid decisions.
- 98 The Chair of the Trust should act as chairperson of each Board meeting.
- 99 If the Chair is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as chairperson), the Charity Trustees present at the meeting shall elect (from among themselves) the person who shall act as chairperson of that meeting.
- 100 Every Charity Trustee has one vote, which shall be given personally.
- 101 All decisions at Board meetings shall be made by majority vote.
- 102 If there is an equal number of votes for and against any resolution, the chairperson of the meeting shall be entitled to a second (casting) vote.
- 103 The Board may, at its discretion, allow any person to attend and speak at a Board meeting notwithstanding that he/she is not a Charity Trustee - but on the basis that he/she shall not participate in decision-making. In particular, the Honorary President and Vice President of the Trust (if applicable) may attend Board meetings, but may not vote at such meetings.

- 104 A Charity Trustee shall not vote at a Board meeting (or at a meeting of a Committee) on any resolution which relates to a matter in which he/she has a personal interest or duty which conflicts (or may conflict) with the interests of the Trust; he/she shall withdraw from the meeting while an item of that nature is being dealt with.
- 105 For the purposes of clause 104:
- 105.1 an interest held by an individual who is “connected” with the Charity Trustee under section 68(2) of the Charities and Trustee Investment (Scotland) Act 2005 (husband/wife, partner, child, parent, brother/sister etc) shall be deemed to be held by that Charity Trustee;
- 105.2 a Charity Trustee shall be deemed to have a personal interest in relation to a particular matter if a body in relation to which he/she is an employee, director, member of the management committee, officer or elected representative has an interest in that matter.

## **Minutes**

- 106 The Board shall ensure that minutes are kept in relation to all Board meetings and meetings of Committees.
- 107 The minutes to be kept under clause 106 shall include the names of those present; and shall be signed by the chairperson of the meeting.
- 108 The Board shall (subject to clause 109) make available copies of the minutes referred to in clause 106 to any member of the public requesting them.
- 109 The Board may exclude from any copy minutes made available to a member of the public under clause 108 any material which the Board considers ought properly to be kept confidential - on the grounds that allowing access to such material could cause significant prejudice to the interests of the Trust or on the basis that the material contains reference to employees or other matters which it would be inappropriate to divulge.

## **ADMINISTRATION**

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### **Delegation to Committees**

- 110 The Board may delegate any of its powers to any number of Committees. A Committee shall include at least two Charity Trustees, but other members of a Committee need not be Charity Trustees.
- 111 The Board may also delegate to the Chair of the Trust (or the holder of any other post) such of their powers as they may consider appropriate.
- 112 When delegating powers under clause 110 or 111, the Board shall set out appropriate conditions which shall include obligations to (a) report regularly to the Board, (b) keep proper records, (c) impose a requirement that at least 80% of committee members shall be Trust members and (d) not allow persons who are not Members of the Trust to exercise a vote at Committee meetings.
- 113 Any delegation of powers under clause 110 or 111 may be revoked or altered by the Board at any time.

- 114 The rules of procedure for each Committee, and the provisions relating to membership of each Committee, shall be set by the Board.
- 115 Committees shall elect a Convenor (who shall be a Charity Trustee) and a Secretary, and may elect a Vice-Convenor. All appointments to Committees, including the position of Convenor, shall be approved by the Board. Committees may set up Working Groups to consider specific matters and these Working Groups shall report regularly to the relevant Committee and shall keep proper records.

### **Operation of Accounts**

- 116 All monies at any time belonging to the Trust and not required for immediate application in accordance with the provisions of this constitution may be invested by the Board upon such investments, securities or property as it may think fit.
- 117 Subject to clause 118, the signatures of two signatories as appointed by the Board shall be required in relation to all operations (other than the lodging of funds) on the bank and building society accounts held by the Trust; at least one out of the two signatures shall be the signature of a Charity Trustee.
- 118 Where the Trust uses electronic facilities for the operation of any bank or building society account, the authorisations required for operations on that account shall be consistent with the approach reflected in clause 117. In this context, all payments must be made by a signatory appointed by the Board, must be authorised by another such signatory by means of an e-mail message, and at least one of the signatories involved in this procedure on each occasion must be a Charity Trustee.

### **Accounting Records and Annual Accounts**

- 119 The Board shall ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.
- 120 The Board shall prepare Annual Accounts, complying with all relevant statutory requirements, and shall ensure that they are examined by a suitably qualified External Examiner before presentation to the Members at the AGM.

## **MISCELLANEOUS**

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### **Winding-up**

- 121 If the Trust is to be wound up or dissolved, the winding-up or dissolution process shall be carried out in accordance with the procedures set out under the Charities and Trustee Investment (Scotland) Act 2005.
- 122 Any surplus assets available to the Trust immediately preceding its winding up or dissolution shall be used for purposes which are the same as - or which closely resemble - the purposes of the Trust as set out in this constitution.

### **Alterations to the Constitution**

- 123 This constitution may (subject to clause 124) be altered by resolution of the Members passed at a Members' General Meeting (subject to achieving the two thirds majority referred to in clause 52) or by way of a written resolution of all the Members.

124 It is recognised that the Charities and Trustee Investment (Scotland) Act 2005 prohibits taking certain steps (for example, change of name, an alteration to the purposes, amalgamation, winding-up) without the consent of the Office of the Scottish Charity Regulator (OSCR).

### **Interpretation**

125 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include:

125.1 any statutory provision which adds to, modifies or replaces that Act; and

125.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph 125.1 above.

126 In this constitution:

126.1 “charity” means a body which is either a “Scottish charity” within the meaning of section 13 of the Charities and Trustee Investment (Scotland) Act 2005 or a “charity” within the meaning of section 1 of the Charities Act 2011, providing (in either case) that its objects are limited to charitable purposes;

126.2 “charitable purpose” means a charitable purpose under section 7 of the Charities and Trustee Investment (Scotland) Act 2005 which is also regarded as a charitable purpose in relation to the application of the Taxes Acts.