

*Consultation Draft with **minor edits** and **substantial amendments** from members and Board*

Company number: SC081620

THE COMPANIES ACT 2006

Company limited by guarantee
and not having a share capital

ARTICLES of ASSOCIATION

of

The John Muir Trust

Incorporated on 2 February 1983,
with these Articles of Association adopted by Special Resolution on 2021

Scottish Charity Number SC002061

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Pitlochry and Aberfeldy

ARTICLES of ASSOCIATION
of
The John Muir Trust

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THE COMPANIES ACT 2006

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The John Muir Trust

1 NAME AND REGISTERED OFFICE

- 1.1 The name of the company is 'The John Muir Trust' ("**the Trust**").
- 1.2 The Registered Office of the Trust is situated in Scotland.

2 DEFINITIONS

- 2.1 Certain definitions and meanings, which apply throughout these Articles of Association and the Schedules hereto, are listed in Schedule 1 annexed to these Articles.
- 2.2 These Articles supersede any model Articles contained within the Companies Act or any regulations pertaining thereto and all previous versions of the Memorandum and Articles of the Trust.
- 2.3 Subject as aforesaid, any words or expressions defined in the Companies Act shall, if not inconsistent with the subject or context, bear the same meanings in the Articles.
- 2.4 Any reference to a provision of any legislation (including any statutory instrument) shall include any statutory modification or re-enactment of that provision in force from time to time.
- 2.5 The Schedules to these Articles form an integral part of these Articles.

3 CHARITABLE PURPOSES and POWERS

- 3.1 The Charitable Purposes of the Trust ("**Charitable Purposes**") are to conserve and protect wild places with their indigenous animals, plants and soils for the benefit of present and future generations, and in particular:
 - 3.1.1 to conserve wild places and their landscapes, both for their own sake and for the sustenance and inspiration they give to humanity,
 - 3.1.2 to protect existing wild places so as to preserve their natural processes, and their indigenous animals, plants and soils,
 - 3.1.3 to renew wild places, where they have been damaged, by encouraging natural processes,
 - 3.1.4 to work with local communities and to encourage them to live in harmony with wild places,
 - 3.1.5 to promote an awareness and understanding of wild places for their own sake and for their value to the benefit of humanity,
 - 3.1.6 to stimulate public support to help protect wild places, and

3.1.7 to encourage voluntary participation in the conservation and renewal of wild places.

3.2 The Trust shall have powers, but only in furtherance of its Charitable Purposes, as expressed in Schedule 2 annexed to these Articles.

4 GENERAL STRUCTURE OF THE TRUST

The structure of the Trust comprises:

4.1 **Members** - who have the right to attend the AGM (and any *other* General Meeting) and have important powers under these Articles and the Companies Act, particularly in relation to attending and voting at General Meetings, nominating and electing *fellow members* to serve as Trustees, and taking decisions in relation to any changes to these Articles, and

4.2 **Trustees** – who hold regular meetings between each AGM, set the strategy and policy of the Trust, generally control and supervise the activities of the Trust and, in particular, are responsible for *overseeing* its financial position and management.

5 MEMBERSHIP

5.1 Members

5.1.1 Membership of the Trust is open to those who support the Trust's Charitable Purposes, in the following categories:

- (a) **Ordinary Members** - individuals aged 16 or over who pay the Ordinary Membership subscription,
- (b) **Life Members** - individuals aged 16 or over who pay the Life Membership subscription,
- (c) **Corporate Members** - organisations which pay the Corporate Membership subscription and adhere to the terms of Article 5.2,
- (d) **Family Members** - one or 2 adults (living at the same address) and their children under the age of 16 who pay the Family Membership subscription, and
- (e) **Honorary Members** - individuals who are elected as such in terms of Article 5.6 and who pay no subscription.

5.1.2 *Members' eligibility to vote* is explained in Article 6.

5.2 Authorised Representatives of Corporate Members

5.2.1 Each Corporate Member shall, within one month of admission to membership, appoint one named Authorised Representative and one Named Depute. The Authorised Representative, whom failing the Named Depute, shall represent, act and vote for such *Corporate Member* at all General Meetings of the Trust. The Named Depute may represent, act *and vote* for such Corporate Member only in the absence of the Authorised Representative.

5.2.2 Any change in the appointment of an Authorised Representative, and/or of a Named Depute, may be made at any time, but only by written notice served by the appointing Corporate Member to the Trust. Such notice will take effect in respect of any meeting taking place 48 hours or more after receipt of the notice to the Trust to allow sufficient time for the appointing Corporate Member to serve a copy of the notice to anyone named therein and to enable the Trust to act upon such notification.

5.2.3 In the case of any dispute as to the correct Authorised Representative and/or Named Depute serving at any time, the matter will be settled by the person chairing the meeting in accordance with the most recent notice validly received by the Trust.

5.3 Employees

5.3.1 Employees of the Trust are eligible for membership, **but** may **not** act as Authorised Representative or Named Depute of a Corporate Member.

5.3.2 Employees of the Trust are ineligible to become Trustees both during their employment by the Trust and for **12 months** after **the date on which** their employment with the Trust has come to an end.

5.4 Application for Membership

5.4.1 Any individual who, or organisation which, supports the Trust's Charitable Purposes and wishes to become a member of the Trust **shall** complete a written application for membership in the form prescribed by the Board from time to time (and available on the Trust's website), and lodge it with the Trust.

5.4.2 The Board shall consider such applications for membership promptly and shall inform each applicant whether he, she, **they** or it has been successful and, where relevant, in which category of membership he, she, **they** or it shall belong, the decision of the Board in these respects being final.

5.4.3 The Board may, at its discretion, refuse to admit any individual or organisation to membership, except for reasons of the protected characteristics within the Equality Act 2010 (as may be amended or re-enacted), namely: age, disability, sex, sexual orientation, gender reassignment, race, religion or belief, marriage and civil partnership, or pregnancy and maternity.

5.4.4 A successful application for membership will not become effective until payment of the appropriate membership subscription (where applicable) has been received and, with regard to voting and other rights, **will be** subject to the postponement specified in Article 6.8.5.

5.5 Membership Subscriptions

5.5.1 Members shall be required to pay the appropriate annual membership subscription, where applicable.

5.5.2 The members may at each or any AGM fix any annual subscriptions (and, if relevant, different rates thereof for different categories), as well as any concessionary rates to apply (together with any conditions of and/or timescale for any such concessions).

5.5.3 Only those members who have paid their current subscription (where these are fixed) are entitled to take part in and vote at any General Meeting or Written Resolution (subject to the postponement specified in Article 6.8.5).

5.5.4 If the membership subscription payable by any member remains outstanding for more than 3 calendar months after the date on which it fell due (and provided that the member in question has been given at least one written reminder), that member's membership shall be treated as having lapsed, and the Trust will inform **the lapsed member** of this.

5.5.5 If the terms of Article 5.5.4 are not **followed** and the member in question does not pay the annual subscription in full by the end of the subscription year, his, her, **their** or its membership will simply lapse.

5.5.6 An individual who, or organisation which, ceases (for whatever reason) to be a member shall not be entitled to any refund of membership subscription.

5.6 Honorary Membership

- 5.6.1 Any one or more individuals may be appointed as an Honorary Member of the Trust by the Board if it considers that any such individual has made a significant contribution to the Trust, or in the pursuit or promotion of its Charitable Purposes or, directly or indirectly, in any related field of interest to the Trust.
- 5.6.2 The Honorary Member need not be or have been a member of the Trust and **is not required** to pay any annual subscription. **As an Honorary Member, he** or she may attend General Meetings of the Trust but has no vote thereat.
- 5.6.3 **An Honorary Member shall be entitled to hold another category of membership in parallel and to vote under their other membership.**
- 5.6.4 An Honorary Member can be removed as such by the Board's using the provisions of Article 5.8.3.

5.7 Register of Members

The Board shall maintain a Register of Members in terms of section 113ff of the Companies Act, setting out all relevant details of each member and the relative category of membership, together where relevant with details of the Authorised Representative and Named Depute.

5.8 Cessation of Membership

Any member, or Authorised Representative or Named Depute thereof appointed in terms of Article 5.2, may no longer **remain** as such in any one or more of the following events:

- 5.8.1 if by writing to the Trust he, she, **they** or it resigns his, her, **their** or its membership,
- 5.8.2 if the terms of Article 5.5.4 or Article 5.5.5 come into effect,
- 5.8.3 **if a member be expelled by the following process:**
- (a) **not less than 14 clear days' previous notice of a Board meeting has been sent to all Trustees, specifying the intention to propose a resolution to expel a member, and the grounds on which such expulsion is proposed,**
 - (b) **such notice must also be sent to the member whose expulsion is in question, and such member is entitled to attend and be heard at the Board meeting,**
 - (c) **when the Board meeting is held, its first item of business must be the appointment of the three members of the Appeal Committee (see Article 5.9.2 below), whose members once appointed may not remain part of that Board meeting,**
 - (d) **a resolution is passed by a majority of the Trustees present and voting at a Board Meeting either to proceed with expulsion, or not to do so, and**
 - (e) **if the Board resolution is to proceed with expulsion, the expelled member may invoke a right of appeal in terms of Article 5.9, but if not the decision of the Board will stand.**
- 5.8.4 if, being an individual, he or she dies (**but subject to the terms of Article 5.10 in the case of Family Membership**), or
- 5.8.5 if, being an organisation, it goes into receivership, goes into liquidation, dissolves or otherwise ceases to exist.

5.9 Appeal Process by a Member Facing Expulsion

- 5.9.1 Where the Board decides in terms of Article 5.8.3 to expel a member, such member ("**the appellant**") may appeal to an Appeal Committee in writing

- within 14 **clear** days of receiving notice of expulsion from the Board, stating any reasons why the appellant considers that he, she, **they** or it should continue as a member.
- 5.9.2 The Appeal Committee shall comprise the Chair (whom failing the Vice-Chair if there is one, or another Trustee duly appointed by the Board) and 2 other Trustees appointed by the Board ("**Appeal Committee**").
- 5.9.3 On receipt of such written appeal, the Appeal Committee shall arrange a meeting with the appellant as soon as convenient thereafter, at which meeting the appellant may address it.
- 5.9.4 The Appeal Committee **shall** reach a decision within 14 **clear** days of the meeting either:
- (i) to overrule the Board and retain the appellant's membership,
 - (ii) to put the expulsion back to the Board to reconsider in its absolute discretion (and if the Board **upholds its previous decision of expulsion**, there would be no right of further appeal therefrom), or
 - (iii) to refuse the appeal.
- 5.9.5 Whichever decision the Appeal Committee takes, it shall promptly inform the appellant of this in writing.
- 5.10 **If one adult member of a Family Membership dies, any surviving adult member will remain as a Family Member (but with only one vote in terms of Article 6.8.4). If the adult members of a Family Membership divorce, they may choose which of them remains as a Family Member (with only one vote in terms of Article 6.8.4) or, failing such choice, neither will remain as a Family Member (although eligible to reapply as such).**
- 5.11 Membership is neither transferable nor assignable to any other individual or organisation.

6 GENERAL MEETINGS

6.1 General Meetings

6.1.1 Any General Meeting (**whether and AGM or an EGM**) need not be held exclusively in one place, and can be held physically or virtually, provided that, where 2 or more members are not in the same place as each other, they are all able to communicate together and vote thereat.

6.1.2 **Any reference to members being "present in person" at a meeting shall include their attendance by virtual means in terms of Article 6.1.1.**

6.2 Convening an Annual General Meeting

6.2.1 The Board shall **normally** convene one General Meeting as an AGM in each **calendar** year, at such time as it may determine.

6.2.2 Not more than 18 months shall elapse between the holding of one AGM and the next.

6.3 AGM Agenda

The business of each AGM shall include:

6.3.1 the report by the Chair on the activities of the Trust,

6.3.2 the election result of new Trustees,

6.3.3 the report of the independent financial examiner,

6.3.4 receiving the annual accounts of the Trust,

6.3.5 the appointment of the independent financial examiner, **and**

6.3.6 any proposed change in annual subscription rates.

6.4 Convening an Extraordinary General Meeting

6.4.1 The Board may convene an EGM whenever it thinks fit.

6.4.2 One-third or more of the Trustees may, whenever they think fit, require the Board to convene an EGM, in which event it shall issue notice of the EGM within 21 days of such requirement being intimated.

6.4.3 The Board shall issue notice of an EGM within 21 days of a valid requisition from members whose requisition shall:

- (a) be authenticated by not less than 5% of all the members who are eligible to vote,
- (b) clearly state the objects of the meeting, and
- (c) be deposited with the Trust.

Such requisition may consist of several documents in like form each signed by one or more requisitionists.

6.4.4 When either Article 6.4.2 or Article 6.4.3 is invoked, the EGM shall be held within 28 days of the notice convening the EGM.

6.4.5 Any such meeting convened in terms of this Article shall not be an AGM.

6.5 Notice of General Meetings

6.5.1 Not less than 21 clear days' notice shall be given of every AGM and EGM.

6.5.2 The notice shall specify the place (physical or virtual), the day and the hour of meeting and, in the case of special business, the specific nature of that business (and, if a Special Resolution, its precise wording).

6.5.3 The notice shall be sent, in the manner specified in Article 16, to all members and to such persons or organisations as are, under these Articles or under the Companies Act, entitled to receive such notices.

6.5.4 With the consent of not less than 90% of the members having the right to attend and vote thereat, a General Meeting may be convened by such shorter notice as they may think fit in the circumstances.

6.5.5 The accidental omission to give notice of a General Meeting or a written resolution in terms of Article 6.14, to, or the non-receipt of such notice or written resolution by, any members, persons or organisations entitled to receive notice thereof shall not invalidate any resolution passed at or proceedings of any AGM or EGM.

6.6 Chair of General Meetings

The Chair of the Trust, whom failing the Vice-Chair of the Trust (if there is one), shall act as the person chairing each General Meeting. If neither the Chair nor the Vice-Chair is present and willing to act as the person chairing the meeting within 15 minutes after the time at which the General Meeting in question was due to commence, the Trustees present shall elect from among themselves the Trustee who will act as the person chairing that meeting.

6.7 Quorum at General Meetings

6.7.1 The quorum for a General Meeting shall be not fewer than 50 members of the Trust, present in person or by proxy in terms of Article 6.9 (or, if a Corporate Member, via its Authorised Representative or Named Depute as its proxy in terms of Article 5.2). No business shall be dealt with at any General Meeting, other than the appointment of the person chairing the meeting in terms of Article 6.6, unless a quorum is present.

- 6.7.2 If a quorum is not present within 15 minutes after the time at which the General Meeting was due to commence - or if, during a General Meeting, a quorum ceases to be present - the General Meeting shall stand adjourned to such time and place as may be fixed by the person chairing the meeting. If the meeting is adjourned for 14 days or more, then at least 7 clear days' prior written notice shall be given to all members of the time and place of the adjourned meeting and of the business to be transacted thereat.
- 6.7.3 Family Members, where they have two votes (see Article 6.8.4), are treated as being two members in counting the quorum at any General Meeting, but where they have only one vote are treated as being one member in counting that quorum.

6.8 Voting at General Meetings – General Provisions

- 6.8.1 The person chairing the meeting (see Article 6.6) shall endeavour to achieve consensus wherever possible but, if necessary, questions arising shall be decided by being put to the vote.
- 6.8.2 Subject to the terms of Articles 6.8.4 and 6.8.5, each member of the Trust who is entitled to vote (see Article 6.8.4) is entitled to attend and speak at any General Meeting, to be exercised in person or by proxy in terms of Article 6.9 (or, if a Corporate Member, via its Authorised Representative or Named Depute as its proxy in terms of Article 5.2).
- 6.8.3 In the event of an equal number of votes for and against any resolution, the person chairing the meeting shall have a casting vote as well as any deliberative vote.
- 6.8.4 Subject to the remainder of this Article, each of an Ordinary Member, a Life Member, and a Corporate Member has one vote, and a Family Member has two votes. With regard to Family Members, any reference in these Articles to one vote or a single vote shall, in their case, mean two votes where there are two adult members and one vote where there is a single adult member.
- 6.8.5 In relation to new members:
- (a) for the first 6 months of membership (running from the date of payment of the first membership subscription), a new member of the Trust is neither able to vote at any General Meeting (including voting by ballot, by written resolution), nor to nominate a Trustee candidate,
 - (b) for the first 12 months of membership (running from the date of payment of the first membership subscription to the closing date for nominations in terms of Article 8.2.3), a new member of the Trust may not stand as a Trustee candidate themselves in terms of Article 8.2,
 - (c) these provisions at (a) and (b) above do not apply to members who are co-opted by the Board as Co-opted Trustees in terms of Article 8.3.
- 6.8.6 A Patron or an Honorary Member, whilst permitted to attend and speak at any General Meeting, is not entitled to vote thereat as a Patron or an Honorary Member (but see Articles 5.6.3 and 14.2).
- 6.8.7 The person chairing the meeting (see Article 6.6) may permit any person (who is neither a member nor an employee) to attend a General Meeting as an observer. In that event, it shall be at the discretion of the person chairing the meeting whether any such observer may be invited to speak thereat, but such observer is not entitled to vote thereat.
- 6.8.8 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in

due time shall be referred to the person chairing the meeting, whose decision thereon shall be final and conclusive.

6.9 Voting at General Meetings – Proxy Voting

Whilst personal attendance at a General Meeting is encouraged, a member shall be entitled to appoint a proxy to attend a General Meeting on his or her behalf, in respect of which the following apply:

- 6.9.1 a proxy need not be a member,
- 6.9.2 a proxy appointed to attend and vote at any meeting instead of a member shall have the same right as the appointing member to speak at the meeting and/or to vote thereat,
- 6.9.3 if the member appointing the proxy attends the meeting in question and votes (or intends to vote) thereat, the proxy is deemed to be withdrawn and the proxy cannot therefore act, speak or vote thereat,
- 6.9.4 the form appointing the Proxy, which may specify how the proxy is to vote (or to abstain from voting) on one or more resolutions, shall be in the general form (to be varied as required to fit the circumstances) shown in Schedule 3 annexed to these Articles,
- 6.9.5 the form appointing a proxy and the power of attorney or other authority (if any) under which it is signed or authenticated, or a certified copy thereof, shall be lodged with the Trust (by physical or electronic means) not less than 48 hours before the time of the start of the meeting or adjourned meeting at which the **member** named in the form proposes to vote **by proxy**, and in default the instrument of proxy shall not be treated as valid,
- 6.9.6 no **form of** proxy shall be valid for more than 12 months,
- 6.9.7 a vote given by proxy shall be valid notwithstanding the previous death or mental incapacity of the principal or revocation of the proxy, provided that no intimation (not having been deliberately withheld) of the death, mental incapacity or revocation shall have been received by the Trust before the commencement of the meeting at which the proxy is used,
- 6.9.8 appointment of a proxy may be revoked by the granter by written notice received by the Trust not less than 24 hours before the time of the start of the **meeting** (or adjourned meeting) to which it relates, and
- 6.9.9 any reference in these Articles to voting being “in person” shall include voting by proxy.

6.10 Voting at General Meetings – Ordinary Resolutions

- 6.10.1 At any General Meeting an ordinary resolution (being a resolution which is not a Special Resolution in terms of Article 6.11) which is put to the vote of the meeting shall be **carried if approved** by a simple majority of the members who are present, have the right to vote and are voting thereon (no account therefore being taken of members who abstain from voting or who are absent from the meeting).
- 6.10.2 An ordinary resolution put to the vote at any General Meeting shall be decided orally or on a show of hands, as appropriate, unless a counted vote is demanded in terms of Article 6.12.
- 6.10.3 An ordinary resolution to be proposed at a General Meeting may be amended only if both:
 - (a) written notice of the proposed amendment is received by the Trust from a member entitled to vote thereat not less than 48 hours before the time appointed for the holding of the meeting or adjourned meeting, and

- (b) the proposed amendment does not, in the reasonable opinion of the person chairing the meeting, materially alter the scope of the resolution, but is used only to provide either correction or clarity.

If the person chairing the meeting, acting in good faith, wrongly decides that an amendment to a resolution is **in or** out of order, the chairman's error does not invalidate the vote on that resolution.

6.11 Voting at General Meetings – Special Resolutions

6.11.1 A Special Resolution is required for any vote on the following matters:

- (a) to alter the name of the Trust,
- (b) to amend the Charitable Purposes,
- (c) to amend these Articles (see Article 20),
- (d) to limit the Board's actions (see Article 7.2),
- (e) to wind up the Trust in terms of Article 21.

6.11.2 Any Special Resolution will be carried only if approved by not less than 75% of the members present, who have the right to vote and who are voting thereon (no account therefore being taken of members who abstain from voting or who are absent from the meeting).

6.11.3 A Special Resolution put to the vote at any General Meeting shall be decided orally or on a show of hands, as appropriate, unless either a counted vote is demanded in terms of Article 6.12, or a ballot is demanded in terms of Article 6.13.

6.11.4 A Special Resolution to be proposed at a General Meeting may be amended if the chair of the meeting **agrees to** an amendment which is **proposed** only to provide either correction or clarity. If the person chairing the meeting, acting in good faith, wrongly decides that an amendment to a resolution is **in or** out of order, the chairman's error does not invalidate the vote on that resolution.

6.12 Voting at General Meetings – Counted Vote

6.12.1 A resolution put to the vote at any General Meeting shall be decided orally or on a show of hands, as appropriate, unless a counted vote (**also known as a poll vote**) is demanded in the following terms, such demand being made either by:

- (a) the person chairing the meeting,
- (b) five or more members having the right to vote on the resolution (in person or by proxy), or
- (c) not less than 10% of all members having the right to vote on the resolution (in person or by proxy).

6.12.2 A demand for a counted vote may be made at any time during the meeting, including immediately after the declaration of the result of a show of hands on that resolution.

6.12.3 A demand for a counted vote may be withdrawn by some or all of its proposers, provided that the person chairing the meeting consents to the withdrawal, and if that means that there are insufficient members in terms of Article 6.12.1 to demand the counted vote, then the result of a show of hands shall stand (if already taken) or **then take place** (if not already taken **place**).

6.12.4 The counted vote shall be conducted during the same meeting only, in such a manner (either as a counted show of hands or as a counted written vote) as the person chairing the meeting may direct, and the person chairing the meeting shall appoint and instruct the Returning Officer in the same terms as in Articles 8.2.11 – 8.2.13 (where reference to "AGM" will refer to any General Meeting,

and where the result will be given during the meeting at which the counted vote takes place).

- 6.12.5 In the event that the counted vote results in an equal number of votes for and against any **Ordinary Resolution**, the person chairing the meeting shall have a casting vote as well as any deliberative vote.

6.13 **Voting on Special Resolutions – Ballot**

- 6.13.1 A Special Resolution put to a vote at a General Meeting shall be decided by a ballot of all members, rather than a show of hands or a counted vote, **but only if this is demanded by the lesser of:**
- (a) 30% of the members having the right to vote on the resolution at the meeting (in person or by proxy); or
 - (b) members representing 5% of the total voting rights of all members of the Trust who would be entitled to vote on the resolution.
- 6.13.2 A demand for a ballot of all members may be made at any time during the meeting, including immediately after the declaration of the result of a show of hands or counted vote on that Special Resolution.
- 6.13.3 The demand for a ballot may be withdrawn by some or all of its proposers, provided that the person chairing the meeting consents to the withdrawal, and if that means that there are insufficient members in terms of Article 6.13.1 to demand the ballot, then the result of a show of hands or any counted vote shall stand (if already taken) or continue (if not already taken).
- 6.13.4 The ballot of all members, if demanded, takes precedence over a vote by either a show of hands or a counted vote and shall, **as required by the Companies Act**, be conducted **following the procedure relating to Written Resolutions as stated within Article 6.14.7ff.**

6.14 **Voting – Written Resolutions**

- 6.14.1 Ordinary and Special Resolutions may be passed in writing, rather than at a General Meeting, provided that the terms of this Article are followed.
- 6.14.2 Written resolutions may not be used for the removal of either a Trustee or of an independent financial examiner prior to the expiration of his or her term of office.
- 6.14.3 An ordinary resolution in writing signed or authenticated by or on behalf of a simple majority of all the members of the Trust shall be as valid and effective as if the same had been passed at a General Meeting of the Trust duly convened and held, provided that the terms of this Article are followed.
- 6.14.4 A Special Resolution in writing signed or authenticated by or on behalf of not less than 75% of all the members of the Trust shall be as valid and effective as if the same had been passed at a General Meeting of the Trust duly convened and held, provided that the terms of this Article are followed.
- 6.14.5 Any written resolution shall be issued in hard copy (by hand or by post) or in electronic form (by e-mail or other appropriate electronic means), or by means of a website at the same time, to all members on the Circulation Date (that is, the date on which copies of the written resolution are sent to the members).
- 6.14.6 Where such a written resolution is proposed by the Board, it shall include the following express statements:
- (a) an explanation to the eligible members how to signify their agreement to the resolution,
 - (b) how it can be sent back by them, and whether in hard copy (by hand or by post) and/or in electronic form (by e-mail or other appropriate electronic means),

- (c) clarification that a member will be deemed not to have agreed with the resolution in question if they have failed to reply, and
 - (d) the date by which **members must signify their agreement (and by which** the resolution must be passed if it is not to lapse) **which** is 28 days after the Circulation Date.
- 6.14.7 Where such a written resolution is proposed by members, the following shall apply:
- (a) the resolution **shall** be requested by not less than 5% of all members (“**Members’ Request**”),
 - (b) the Members’ Request may be made in hard copy (by hand or by post) or in electronic form (by e-mail or other appropriate electronic means),
 - (c) the Members’ Request **shall** identify the resolution to be put to members, but the Board can reject this if it is, in its opinion, either frivolous, vexatious, defamatory of any person or would be ineffective (whether by reason of inconsistency with any enactment or these Articles or otherwise),
 - (d) the Members’ Request can include an accompanying statement (not exceeding 500 words) which they can require the Trust to issue with the written resolution to all members,
 - (e) **the Board may, if it wishes, include its own accompanying statement (not exceeding 500 words) to issue with the written resolution to members,**
 - (f) within 21 days, the Trust **shall** circulate **(the Circulation Date)** the resolution and any accompanying statement **or statements** referred to in sub-clauses (d) **and (e)** hereof, together with all information stated in Article 6.14.6, and
 - (g) the Trust may charge a reasonable fee to the requesting members to cover its costs of circulation of the Members’ Request.
- 6.14.8 Any such written resolution may consist of several documents in the same form, each signed or authenticated by or on behalf of one or more members and may be lodged with the Trust either physically or by electronic means.
- 6.14.9 Once a member has signed or authenticated and returned a written resolution in agreement thereto, their agreement may not be changed or revoked.

7 THE BOARD OF TRUSTEES

7.1 Introduction

The strategy and affairs of the Trust shall be directed and managed by a Board of Trustees elected in terms of Article 8. The Board may exercise all such powers of the Trust, and do on behalf of the Trust all acts as may be exercised and done by the Trust, other than those required to be exercised or done by the members in General Meeting, and subject always to these Articles and to the provisions of the Companies Act **and the Charities Act.**

7.2 Limitation

The members may, by Special Resolution, direct the Board to take, or to refrain from taking, specified action, but no such Special Resolution shall invalidate anything which the Board may have done prior to the passing of such Special Resolution, nor shall it require **it** to act or refrain from acting in a manner which would be incompatible with **its** duties under the Companies Act or the Charities Act.

7.3 Delegation

- 7.3.1 The Board may delegate any of its powers to any committee (that term including short-term working groups throughout these Articles) or persons or person, by such means, to such an extent and on such terms and conditions as it thinks fit, and may at any time revoke such delegation, in whole or in part, or alter such terms and conditions. If the Board so specifies, any such delegation may authorise further delegation of the Board's powers by any committee or persons or person to whom they are delegated.
- 7.3.2 Any committee so formed or persons or person to whom delegation of powers is made in terms of Article 7.3.1 shall, in the exercise of the powers so delegated, conform to any remit and regulations imposed on it by the Board.
- 7.3.3 In the case of delegation to any one or more committees:
- (a) each shall consist of not **fewer than two Trustees** and such other person or persons as the Board thinks fit,
 - (b) the meetings and proceedings of any such committee shall be governed by the provisions of these Articles for regulating the meetings and proceedings of the Board so far as applicable (and, without prejudice to that generality including Articles 12.4.5 and 12.6) and so far as the same shall not be amended or superseded by any Standing Orders made by the Board for all or any committees,
 - (c) a committee may invite or allow any person to attend and speak, but not to vote, at any of its meetings, and
 - (d) **each** committee shall regularly and promptly circulate, or ensure the regular and prompt circulation of, the minutes of its meetings not only of all its members but also to all Trustees.
- 7.3.4 Unless expressly part of such delegation, no decision of any such committee, persons or person shall bind the Board.

7.4 Number of Trustees

- 7.4.1 The **minimum** number of Trustees shall **never** be fewer than 5.
- 7.4.2 The **maximum number of Elected Trustees shall be:**
- (a) 15 at and from the AGM in 2022,
 - (b) 14 at and from the AGM in 2023,
 - (c) 13 at and from the AGM in 2024, and
 - (d) 12 at and from the AGM in 2025 (and at all subsequent AGMs)
- 7.4.3 The **maximum size of the Board, including both Co-opted Trustees, and also where the terms of Article 9.2 are invoked, shall therefore be:**
- (a) 19 at and from the AGM in 2022,
 - (b) 18 at and from the AGM in 2023,
 - (c) 17 at and from the AGM in 2024, and
 - (d) 16 at and from the AGM in 2025 (and at all subsequent AGMs)
- 7.4.4 The Board may act notwithstanding any vacancy in it, but where the number of Trustees falls below the minimum number specified in this Article, it may only do so for the purpose of appointing sufficient Trustees to match or exceed that minimum.

8 TRUSTEES

8.1 Composition of Board

From and after the AGM of the Trust after which these Articles have been adopted, the Board shall comprise:

- 8.1.1 **Elected Trustees –**
- (a) up to 15 at and from the AGM in 2022,

- (b) up to 14 at and from the AGM in 2023,
- (c) up to 13 at and from the AGM in 2024, and
- (d) up to 12 at and from the AGM in 2025 (and at all subsequent AGMs) elected as Trustees by the members in terms of Article 8.2 (“**Elected Trustees**”), and

8.1.2 **Co-opted Trustees** – up to 3 individual persons co-opted by the Board as Trustees in terms of Article 8.3 (“**Co-opted Trustees**”).

8.2 **Elected Trustees**

- **Retiral by Rotation**

8.2.1 At each AGM of the Trust after these Articles have been adopted in 2021, the Elected Trustees who have come to the end of their Term of Office (as defined) shall retire. A retiring Elected Trustee shall remain as a Trustee until the close of the relative (or adjourned) AGM.

8.2.2 A retiring Trustee shall be eligible for re-election after one Term of Office, but no Trustee can serve more than 2 consecutive Terms of Office without at least 2 years out of office before being eligible again (subject to the terms of Article 9.2 in the case of the incumbent Chair).

- **Nomination of Trustee Candidates**

8.2.3 The Board shall ensure that, at least 90 clear days before the date of the AGM, members shall be notified of the number of vacancies in the Board and the closing date for nominations of Trustee candidates (which shall be at least 36 clear days prior to the AGM). Where appropriate, the Board will, using the annual skills analysis undertaken by all current Trustees, inform members of any specific skills gaps identified within the context of the overall effectiveness of the Board.

8.2.4 Nomination of any Trustee candidate shall be supported by not fewer than 5 members of the Trust (but a member cannot support more than two nominees at the same time).

8.2.5 The nominee, who must be a member of the Trust and be aged 16 or over, who (in thereof Article 6.8.5) has been a member for 12 months or more, and who is not debarred from being a charity trustee or a company director, shall complete, sign or authenticate and lodge (by post or e-mail or other appropriate electronic means), each of the following:

- (a) Nomination Form (in the form provided on the Trust’s website)
- (b) an explicit acceptance of the Trustee Code of Conduct (in the form provided on the Trust’s website),
- (c) Declaration of Fitness to Stand (in the form provided on the Trust’s website), and
- (d) Candidate Statement of up to 250 words to explain the nominee’s suitability to be a Trustee.

(together referred to as the “**Nomination Package**”).

8.2.6 To be valid, the Nomination Package shall be lodged (by post or e-mail or other appropriate electronic means) at the Registered Office (or such other address for the Trust as specified in the Nomination Form) by the closing date for nominations.

8.2.7 As soon as practicable after the receipt of each nomination, the Returning Officer (see Article 13.3) shall check each Nomination Package to ensure that it is valid and will, so far as reasonably possible, check the factual accuracy of the Trustee candidate’s Declaration of Fitness to Stand. With regard to the Candidate Statement (Article 8.2.5(d) refers), the Returning Officer may, at his

or her discretion, require or permit a candidate to amend his or her personal statement so as to ensure that it is factually accurate, or may refuse to publish all or any part thereof if it is not considered factually accurate or contains any defamatory material, the Returning Officer being **the** sole judge in these matters. If (or when) the Nomination Package is valid and correct, the Returning Officer shall confirm this to the candidate within 5 Working Days of receipt.

- Trustee Election Process

8.2.8 If the number of Trustee candidates does not exceed the number of vacancies for the election of Elected Trustees, those candidates are duly elected without the need for a vote.

8.2.9 If the number of Trustee candidates exceeds the number of vacancies, and a vote of members is required, election shall be by ballot only (which can be conducted by post, e-mail and/or other electronic means approved by the Board **prior to the AGM**), with each member who is **eligible** to vote using the Single Transferable Vote **procedure** described in Schedule 4 to these Articles.

8.2.10 The Returning Officer shall ensure that a ballot paper listing, in random order, the names of all nominated Trustee candidates (and their supporters) be sent to members at least 28 **clear** days prior to the AGM, together with the nominee's **Candidate Statement** and any biographical details submitted. Where a vote is necessary, this will be accompanied by an explanation of how each member can vote (by post or e-mail or other appropriate electronic means) by a specified closing date for voting (which shall be at least 5 Working Days prior to the AGM).

- Trustee Election Results

8.2.11 The Returning Officer shall choose one or more external scrutineers (who are neither members nor Trustees), with whom he or she shall be responsible for the security, verification and counting of all ballots.

8.2.12 The Returning Officer shall report the result of the ballot to the Chair prior to or at the AGM.

8.2.13 At the AGM, the Chair shall declare the result of the ballot to the members present.

8.3 Co-opted Trustees

Up to 3 individuals, who must be members of the Trust (**but who do not have to have been a member for 12 months – Article 6.8.5 refers**), may be co-opted from time to time by the Board of Trustees itself, expressly to fill any perceived skills gaps identified within **an annual skills analysis** undertaken by all current Trustees, **on the following terms**:

8.3.1 **the Board's candidate as a Co-opted Trustee must first complete a Declaration of Fitness to Stand to the Board's satisfaction,**

8.3.2 subject to Article 8.3.3, a Co-opted Trustee shall serve only until the end of the next AGM after his or her co-option, **at which time he or she can be re-co-opted (subject to the terms of Article 8.3.8),**

8.3.3 a Co-opted Trustee can be removed from office at any time by a simple majority of the Board,

8.3.4 a Co-opted Trustee may participate fully in and vote at all Board meetings which he or she attends,

8.3.5 a Co-opted Trustee is not eligible for appointment as Chair or **Interim** Chair or Vice-Chair of the Trust,

- 8.3.6 a Co-opted Trustee may serve on any committee (as defined in Article 7.3) but Co-opted Trustees cannot form the majority of the composition of any committee,
- 8.3.7 a Co-opted Trustee may seek to become a candidate for election as an Elected Trustee, and
- 8.3.8 a member who is a Co-opted Trustee, whether or not he or she has been, or then becomes, an Elected Trustee, cannot serve on the Board for more than six consecutive years nor be eligible for either election or co-option without at least two years out of office.

8.4 **Casual Vacancy of a Trustee**

In the event of a casual vacancy arising as a result of the retiral or deemed retiral of an Elected Trustee (in terms of Article 8.5), the Board may not fill that vacancy, which will instead fall to be filled for the remainder of the retired Trustee's original Term of Office by election at the next AGM through the normal Trustee election process, as specified in Articles 8.2.8 – 8.2.10.

8.5 **Retiral and Deemed Retiral of Trustees**

Any Trustee shall cease to be a Trustee if he or she:

- 8.5.1 ceases to be a member,
- 8.5.2 is prohibited from being a charity trustee by virtue of section 69(2) of the Charities Act or a company director of a limited company by reason of any order made under the Company Directors Disqualification Act 1986,
- 8.5.3 holds any office of profit at the Trust (except where the provisions of Article 10.4 apply) or becomes an employee of the Trust,
- 8.5.4 has a significant conflict of interest which the Board considers has and is likely to continue to undermine his or her ability to act as a Trustee, such Trustee being entitled to be heard prior to the Board taking a decision,
- 8.5.5 becomes incapable for medical reasons of fulfilling the duties of his or her office and such incapacity, as certified if necessary by 2 medical practitioners, is expected to continue for a period of more than 6 months from the date of such certification,
- 8.5.6 is absent (without permission) from more than 3 consecutive meetings of the Board and/or Topical Forums (see Article 12.9), and the Board resolves to remove him or her from office,
- 8.5.7 is considered by the Board to have been in serious or persistent breach of any of the duties listed in Article 8.6, such Trustee being entitled to be heard prior to the Board taking a decision,
- 8.5.8 is considered by the Board to have brought the Trust into disrepute, such Trustee being entitled to be heard prior to the Board's taking a decision,
- 8.5.9 resigns as a Trustee by notice in writing to the Trust, or
- 8.5.10 dies.

8.6 **Conduct of Trustees**

- 8.6.1 Each Trustee is obliged to act in accordance with both the duties listed in section 66 of the Charities Act (see Article 8.6.2) and the general duties listed in sections 171 – 177 of the Companies Act (see Article 8.6.3) so as to take decisions in such a way as is considered, in good faith, most likely to be in the interests of the Trust, and to promote its success in achieving the Charitable Purposes.
- 8.6.2 The duties listed in section 66 of the Charities Act to which each Trustee must adhere are:
 - (a) to act in the interests of the Trust,

- (b) to seek, in good faith, to ensure that the Trust acts in a manner which is consistent with its Charitable Purposes,
 - (c) to act with the care and diligence that it is reasonable to expect of a person who is managing the affairs of another person,
 - (d) in circumstances giving rise to the possibility of a conflict of interest between the Trust and any party responsible for the appointment of that Trustee:
 - (i) to put the interests of the Trust before those of the other party, and
 - (ii) where any other duty prevents the Trustee from doing so, to disclose the conflicting interest to the Trust and to refrain from participating in any deliberation or decision of the Board with regard to the matter in question, and
 - (e) to ensure that the Trust complies with any direction, requirement, notice or duty imposed upon it under or by virtue of the Charities Act.
- 8.6.3 The general duties listed in sections 171 – 177 of the Companies Act to which each Trustee must adhere as a company director are (in brief terms):
- (a) to act in accordance with the Articles and only exercise powers for the Charitable Purposes,
 - (b) to act in a way, in good faith, which would be most likely to promote the success of the Trust,
 - (c) to exercise independent judgement,
 - (d) to exercise reasonable care, skill and diligence, which may reasonably be expected of a person carrying out the functions of a company director,
 - (e) to avoid conflicts of interest,
 - (f) not to accept benefits from third parties conferred by reason of being a Trustee or doing (or not doing) anything as a Trustee, and
 - (g) if directly or indirectly interested in a proposed transaction or arrangement with the Trust, to declare to the other Trustees the nature and extent of that interest.
- 8.6.4 The provisions of Articles 10 and 11 are also pertinent to the provisions within this Article, and each Trustee must comply with these.
- 8.6.5 Each Trustee must also be mindful of the requirement to preserve confidentiality where appropriate or requested in relation to the Trust or its business.
- 8.6.6 Each Trustee must additionally comply with any Standing Orders as introduced and prescribed by the Board from time to time in terms of Article 12.8.

8.7 Register of Trustees

The Board shall maintain a Register of Trustees, in accordance with section 162 of the Companies Act, setting out the required particulars for each Trustee as required in terms of section 163 of the Companies Act.

9 CHAIR AND VICE-CHAIR

9.1 Chair

9.1.1 The Chair shall be elected by the Board.

9.1.2 The Chair shall be an Elected Trustee and shall cease to be Chair if he or she no longer serves as an Elected Trustee, except where the provisions of Article 9.2 are invoked.

- 9.1.3 The Chair will normally be elected for a period of 3 years (unless a shorter period be agreed), and the Chair may be re-elected for a further period of up to 3 years provided that he or she remains eligible by virtue of being an Elected Trustee or serving in terms of Article 9.2.
- 9.1.4 The Board shall meet immediately after any vacancy in the Chair **occurs** so as to ensure that there is no unavoidable vacancy in that role.

9.2 The limit on eligibility for re-election as a Trustee in Article 8.2.2 may not apply to the Trustee **who is the** incumbent Chair because, where a Trustee has held office as a Trustee for 2 consecutive terms of office, and at that time is Chair, such Trustee can serve for up to a further 2 years, but only if and so long as he or she is re-elected annually as Chair in terms of Article 9.1.

Vice-Chair

9.3 The Board may at any time elect a Vice-Chair of the Trust, who **shall** be an Elected Trustee, for such period and on such terms as it determines.

10 CONSTRAINTS ON PAYMENTS/BENEFITS TO MEMBERS AND TRUSTEES

10.1 The income and property of the Trust shall be applied solely towards promoting the Charitable Purposes.

10.2 No part of the income or property of the Trust shall be paid or transferred (directly or indirectly) to the members or Trustees of the Trust, whether by way of dividend, bonus or otherwise, except where such members or Trustees are in receipt of income or property of the Trust as a beneficiary of the Trust in terms of the Charitable Purposes.

10.3 No Trustee shall be appointed as a paid employee of the Trust.

10.4 No benefit (whether in money or in kind) shall be given by the Trust to any member or Trustee except, subject to section 67 of the Charities Act, the possibility of:

10.4.1 repayment of out-of-pocket expenses to Trustees (subject to prior agreement by the Board),

10.4.2 reasonable remuneration to any member (but excluding all Trustees) in return for specific services actually rendered to the Trust (not being of a management nature normally carried out by a director of a company) in which event a written Remuneration Agreement must be entered into beforehand between the Trust and the **member** concerned in terms of section 67 of the Charities Act,

10.4.3 payment of interest at a rate not exceeding the commercial rate on money lent to the Trust by any member or Trustee,

10.4.4 payment of rent at a rate not exceeding the open market rent for property let to the Trust by any member or Trustee,

10.4.5 the purchase of property from any member or Trustee provided that such purchase is at or below market value or the sale of property to any member or Trustee provided that such sale is at or above market value, or

10.4.6 payment to one or more Trustees by way of any indemnity where appropriate.

11 CONFLICTS OF INTEREST

11.1 Any Trustee and/or employee who has a personal interest (as defined in Article 11.2) in any prospective or actual contract or other arrangement with the Trust must declare

that interest either generally to the Board or specifically at any relevant meeting of the Trust. Where such an interest arises, the provisions within Article 11.3 shall apply.

11.2 Personal Interests

A personal interest includes (but is not restricted to) the following interests:

- 11.2.1 those of the Trustee or employee in question,
- 11.2.2 those of his or her Family (as defined in Schedule 1),
- 11.2.3 those of any business associate,
- 11.2.4 those of any firm of which he or she is a partner or employee,
- 11.2.5 those of any limited company of which he or she is a director, employee or shareholder,
- 11.2.6 those of any charity or organisation of which he or she is a trustee, **committee** member or employee, and
- 11.2.7 any relevant interests which the Board may determine from time to time.

11.3 Managing Conflicts of Interest

- 11.3.1 Whenever a Trustee finds that there is a personal interest, as defined in Article 11.2, he or she has a duty to declare this to the Board or other meeting in question. In that event, in order to avoid a material conflict of interest arising, the Trustee in question cannot partake in discussions or decisions relating to such matter.
- 11.3.2 It shall be for the Board (excluding the Trustee disclosing an interest, and any other conflicted Trustee) to evaluate the nature and extent of the conflict (whether actual, perceived or potential). It shall be for the person chairing the meeting in question (or if it be the person chairing the meeting who is potentially or actually conflicted, it shall be for the other Trustees present), taking into account the level of risk and the potential for reputational damage to the Trust, to determine how to manage the conflict and in particular, for example, whether the Trustee in question should be required to be absent during that particular element of the meeting. Where a Trustee leaves, or is required to leave, the meeting in question, he or she no longer forms part of the quorum thereat (in terms of Article 12.1).
- 11.3.3 **Notwithstanding the terms of Article 11.3.1**, the Board may at any time resolve to authorise any Trustee to continue acting where a real or potential conflict of interest exists in relation to a personal interest of that Trustee, but where it considers that the interests of the Trust have not been nor are likely to be prejudiced as a result. The Trustee in question cannot be considered as part of the quorum for that part of any Board meeting (in terms of Article 12.1) **during** consideration **of** this authorisation.
- 11.3.4 The Board may resolve at any time to require all Trustees and senior employees to deliver a Notice of Relevant Interests to the Registered Office (or elsewhere as it may determine), as they arise and at least annually. In that event, the Board shall determine from time to time what additional interests to those listed in Article 11.2, if any, shall be relevant interests and shall ensure that a Register of Notices of Relevant Interests is maintained.

- 11.4 The Board **shall** maintain a Conflict of Interest Policy to amplify, but not supersede, the provisions of these Articles.

12 BOARD MEETINGS

12.1 Quorum

- 12.1.1 The quorum for Board meetings shall be not less than 50% of all the Trustees. No business shall be dealt with at a Board meeting unless a quorum is present.
- 12.1.2 A Trustee shall be counted in the quorum if present by any means narrated in Article 12.2.2.
- 12.1.3 A Trustee shall not be counted in the quorum at a meeting (or at least the relevant part thereof) in relation to a resolution on which, whether because of personal interest or otherwise, he or she is not entitled to vote.

12.2 Convening Board Meetings

- 12.2.1 The Chair or any 3 Trustees may, and on the request of the Board the Company Secretary shall, at any time, summon a meeting of the Board by due notice served upon all Trustees, to take place at a reasonably convenient time and date.
- 12.2.2 Meetings of the Board may take place in person and/or by telephone conference call, video conference call or by any other collective electronic means approved from time to time by the Board.
- 12.2.3 Not less than 14 clear days' notice shall be given of any meeting of the Board at which a decision is to be made in relation to any matter requiring to be decided by Special Resolution (as listed in Article 6.11). All other Board meetings shall require not less than 7 clear days' notice, unless all Trustees agree to dispense with such notice on any specific occasion.
- 12.2.4 Notice in terms of Article 12.2.3 shall be accompanied by an agenda and any papers relevant to the matters to be decided.
- 12.2.5 Board resolutions can also be passed by post or e-mail or other appropriate electronic means, in terms of Article 12.4.5, with not less than 7 clear days given for Trustees' responses to be returned.

12.3 Chair of Board Meeting

The Chair, whom failing the Vice-Chair (if any), shall be entitled to preside as the person chairing all Board meetings at which he or she shall be present. If at any meeting neither the Chair nor the Vice-Chair is present and willing to act as the person chairing the meeting within 15 minutes after the time appointed for holding the meeting, the remaining Trustees may appoint one of the Elected Trustees to be the person chairing the Board meeting, which failing the meeting shall be adjourned until a time when the Chair or Vice-Chair will be available.

12.4 Voting at Board Meetings

- 12.4.1 The person chairing the Board meeting shall endeavour to achieve consensus wherever possible but, if necessary, questions arising shall be decided by being put to the vote, on a show of hands only, each Trustee present having one vote.
- 12.4.2 All decisions of the Board shall be by a simple majority at any meeting which is quorate at the time the decision is taken.
- 12.4.3 The decisions requiring a Special Resolution (listed in Article 6.11) cannot be taken by the Trustees alone, but shall be taken by the members in General Meeting in terms of Article 6.11 and only thereafter acted upon by the Board as directed by the members.
- 12.4.4 In the event of an equal number of votes for and against any resolution at a Board meeting, the person chairing the meeting shall have a casting vote as well as a deliberative vote.
- 12.4.5 A resolution in writing or e-mail or other appropriate electronic means shall be as valid and effectual as if it had been passed at a meeting of the Board, or of such committee duly convened and constituted. This can be either one single

document, or several documents in the same form, **as long as** signed or authenticated by all or a sufficient majority of the Trustees, or all or a sufficient majority of the members of any committee (**as the case may be**).

12.5 **Observers at Meetings**

The Board or any committee may propose the invitation of any person to attend and speak, but not to vote, at any meeting (**or specific part or parts thereof**) of the Board or of any committee, and it shall be for the person chairing the meeting to approve or decline such proposal.

12.6 **Minutes**

12.6.1 The Board shall cause minutes to be made of all appointments made by it and of the proceedings of all General Meetings and of all Board meetings and of committees, including the names of those present, and all business transacted at such meetings.

12.6.2 The minutes of any **Board or committee** meeting, if signed, after approval by the Board or relative committee, either by the person chairing such meeting or by the person chairing the next succeeding meeting, shall be sufficient evidence without any further proof of the facts therein stated.

12.6.3 **All non-confidential elements of the minutes of Board meetings will be posted on the Trust's website, once approved by the Board.**

12.6.4 All minutes shall be retained for at least 10 years.

12.7 **Validation**

12.7.1 All acts *bona fide* done **of** any Board meeting, or **by** any committee, or by any person acting as a Trustee shall, notwithstanding it be afterwards discovered that there was some defect in the appointment or continuance in office of any such Trustee or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a Trustee, **or a committee member**.

12.7.2 No alteration to these Articles and no direction given by Special Resolution shall invalidate any prior act of the Board which would have been valid if that alteration had not been made or that direction had not been given.

12.8 **Standing Orders**

12.8.1 The Board may from time to time promulgate, review and amend any Standing Orders, Board Charter, Code of Conduct and/or Policies, subordinate at all times to these Articles, as it deems necessary and appropriate to provide additional explanation, guidance and governance to **itself, members of committees, members of the Trust**, employees, stakeholders and/or others.

12.8.2 The content of the Standing Orders shall be determined by a resolution of at least two-thirds of all the Trustees.

12.8.3 The text of the Standing Orders shall be made available to all members.

12.8.4 In the event of any conflict between the Articles and the Standing Orders, the terms of the Articles shall prevail.

12.9 **Topical Forums**

From time to time, the Board may convene a Topical Forum comprising both Trustees and such employees and others with specific expertise which it chooses to invite, to discuss matters of strategy, policy and/or relevant developments

13 COMPANY SECRETARY, MINUTE SECRETARY & CHIEF EXECUTIVE (and RETURNING OFFICER)

13.1 Company Secretary

13.1.1 The Board may appoint a Company Secretary for such term and upon such conditions as it may think fit. The Company Secretary may be removed by the Board at any time, subject to the terms of any prevailing contract.

13.1.2 The role of the Company Secretary shall include all filing requirements to Companies House and the Office of the Scottish Charity Regulator (OSCR), maintaining statutory registers, including the Register of Members and Register of Trustees, and ensuring notification of any Special Resolutions are lodged timeously with Companies House and OSCR.

13.2 Minute Secretary

The Board shall appoint a Minute Secretary, for the purposes of Article 12.6, for such term and upon such conditions as it may think fit. The Minute Secretary may be removed by the Board at any time, subject to the terms of any prevailing contract. The Board may award an annual salary, honorarium or other appropriate fee to the Minute Secretary at its discretion, but can do so *only* if the Minute Secretary is not a Trustee.

13.3 Chief Executive and Returning Officer

13.3.1 The Board shall appoint a Chief Executive of the Trust on such terms (including a decision on the most appropriate job title) and conditions as it may think fit, who shall attend Board and committee meetings as appropriate or required, but will have no vote thereat.

13.3.2 The Board shall appoint a Returning Officer *in relation to a counted vote in terms of Article 6.12.4, the members' ballot in terms of Article 6.13.4, and in relation to all voting processes for Trustees in terms of Article 8.2. This will usually be the Chief Executive.*

14 PATRON(S)

14.1 The members in General Meeting may, on a proposal from the Board, agree to the appointment of one or more Patrons of the Trust, to be appointed for a fixed period of 5 years (renewable for such further 5 year term or terms as the Board determines). The Patron or Patrons are entitled to notice of all General Meetings and may attend and contribute to discussion, but not vote, thereat.

14.2 A Patron shall be entitled to be a member in parallel and to vote under that membership.

15 FINANCES AND ACCOUNTS

15.1 Bank Accounts

The banking account or accounts of the Trust shall be kept *with* such reputable banks or building societies as the Board shall from time to time determine.

15.2 Payments and Receipts

All payments (including cheques and other negotiable instruments) and all financial and banking instructions, and all receipts for monies paid to the Trust, shall be signed,

drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Board shall from time to time determine.

15.3 The Board shall ensure that all funds and assets of the Trust are applied towards achieving the Charitable Purposes.

15.4. **Accounting Records**

The Board shall cause accounting records to be kept in accordance with the requirements of the Companies Act and other relevant regulations.

15.5 The accounting records shall be maintained by the Trust and overseen by the Chief Executive and by the Board. Such records shall be kept at such place or places as the Board shall think fit, and shall always be open to the inspection of the Trustees. The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting records of the Trust or any of them shall be open to the inspection of the members of the Trust.

15.6 **Independent Financial Examiner**

Once at least in every year, or as otherwise provided for by the Companies Act, the accounts of the Trust shall be examined by an independent financial examiner, who shall be appointed by the Board on the direction of members in General Meeting.

15.7 **Accounts**

With the notice of the AGM, the Board shall provide the members with a copy of the accounts for the period since the last preceding accounting reference date. The accounts shall be accompanied by proper reports of the Board and the independent financial examiner. As an alternative, the Accounts may be available for inspection on the website of the Trust (with all members, Trustees, the Company Secretary and the independent financial examiner being made aware that they are so available for inspection there).

16 **NOTICES**

16.1 The business of the Trust and all its correspondence with and notification to or from members may be conducted equally validly and effectively if transmitted by appropriate electronic means (except where a member specifically requests all such correspondence and notification by post) or otherwise if publicised on the website of the Trust where the Trust has advised each member of this and has taken due steps to notify by other reasonable means all other members who have intimated to the Trust that they do not have access to the Internet.

16.2 A notice may be served by the Trust upon any member, either personally or by sending it by post, e-mail or other appropriate electronic means, addressed to such member at his or her or its address as appearing in the Register of Members.

16.3 Any notice, if served by post shall be deemed to have been served **two days after the date of posting, and if by** electronic means, **on the date of its being sent.**

16.4 A member present at any meeting of the Trust shall be deemed to have received notice of the meeting and, where requisite, of the purpose for which it was called.

- 16.5 Where a **document** may be authenticated, it is for the Board to determine what authentication to accept at any time or from time to time, its decision on the matter being final.

17 MEMBERS' GROUPS

- 17.1 Subject to the Board's approval **and to the remainder of this Article**, members may establish local Members' Groups to support the objectives and work of the Trust. Any such Group, once duly approved, is entitled to describe itself as a JMT Members' Group and it may be organised as the Group considers appropriate.
- 17.2 The Trust reserves the right to provide guidance and instructions on each Group's organisation.
- 17.3 **Members' Groups have no power to bind the Trust, and the Trust will not be liable for any acts or omissions of any such Groups.**
- 17.4 The Board may withdraw the Trust's approval to the continued existence of a Group if it considers, in its sole discretion, that a Group is not operating in furtherance of the Trust's Charitable Purposes, in the spirit of supporting its work, or within the terms of any model constitution which has been adopted by the Group.

18 INDEMNITY

Subject to the terms of the Companies Act and without prejudice to any other indemnity, the Trustees, or member of any committee, the Company Secretary, and all employees of the Trust shall be indemnified out of the funds of the Trust against any loss or liability (including the costs of defending successfully any court proceedings) which he, she or they may respectively incur or sustain, in connection with or on behalf of the Trust and each of them shall be chargeable only for so much money as he or she may actually receive and they shall not be answerable for the acts, receipts, neglects or defaults of each other, but each of them for his or her own acts, receipts, neglects or defaults only.

19 LIMIT OF LIABILITY

- 19.1 The liability of the members is limited.
- 19.2 Every member of the Trust undertakes to contribute such amount as may be required (not exceeding £1) to the property of the Trust if it should be wound up whilst he, she, **they** or it is a member or within one year after he, she, **they** or it ceases to be a member (for whatever reason), for payment of its debts and liabilities contracted before he, she, **they** or it ceases to be a member, and of the costs, charges and expenses of winding up.

20 ALTERATION TO ARTICLES OF ASSOCIATION

Subject to the terms of Article 6.11, no alteration in these Articles may at any time be made unless by the decision of not less than 75% of the members present (in person or by proxy) and voting at a General Meeting called specifically (but not necessarily exclusively) for the purpose.

21 WINDING UP OF THE TRUST

- 21.1 Subject to the terms of Article 6.11, the winding-up of the Trust may take place only on the decision of not less than 75% of its members who are present (in person or by proxy) and voting at a General Meeting called specifically (but not necessarily exclusively) for the purpose.
- 21.2 If, on the winding-up of the Trust, any property remains, after satisfaction of all its debts and liabilities, such property shall be given or transferred to one or more charities having the same or a similar object to the Charitable Purposes.
- 21.3 The charity or charities to which the property is to be transferred in terms of Article 21.2 shall be determined on the decision of not less than 75% of the members of the Trust who are present (in person or by proxy) and voting at a General Meeting called specifically (but not necessarily exclusively) for the purpose. If it has not been possible to hold a General Meeting or for a decision to be reached thereat, the decision shall be taken by not less than 75% of the Board or, failing that, as determined by an arbiter to be chosen amicably by the Board or, failing such amicable choice, as determined by the Sheriff of Tayside, Central and Fife at Perth (or any successor thereto), whose decision shall be final and binding upon the Trust.
- 21.4 If the Trust is a charity at the time that its winding-up is decided upon in terms of this Article, the prior consent of the Office of the Scottish Charity Regulator (or any successor thereto) must be obtained in terms of Section 16 of the Charities Act.

Annexation

- Schedule 1** Definitions
- Schedule 2** Powers
- Schedule 3** Form of Proxy
- Schedule 4** Single Transferable Vote

Schedule 1

Definitions

Further to Article 2.1, the definitions and meanings to apply throughout these Articles of Association and the Schedules hereto, are as follows:

WORDS	MEANINGS
AGM	– Annual General Meeting <i>of the members</i> .
Appeal Committee	– as defined in Article 5.9.
Articles	– these Articles of Association, and any ancillary regulations thereunder, in force from time to time.
Authorised Representative	– as defined in Article 5.2.
Board	– Board of Trustees.
Board of Trustees	– Board of Directors of the Trust.
Charitable Purposes	– as <i>defined</i> in Article 3 on the basis that these fall within section 7 of the Charities Act and are also regarded as charitable in relation to the application of the Taxes Acts.
Charities Act	– Charities and Trustee Investment (Scotland) Act 2005.
charity	– a body on the Scottish Charity Register which is also regarded as a charity in relation to the application of the Taxes Acts.
<i>Circulation Date</i>	– <i>as defined in Article 6.14.5 (in relation to written resolutions)</i> .
Companies Act	– Companies Act 2006.
Co-opted Trustees	– having the meanings ascribed in Articles 8.1 and 8.3.
counted vote	– as defined in Article 6.12.
EGM	– Extraordinary General Meeting <i>of the members</i> , and any General Meeting which is not an AGM.
Elected Trustees	– <i>as defined</i> in Articles 8.1 and 8.2.
Family	– a spouse, partner, child, stepchild, any other person living in the same home, parent, step-parent, sibling, child of a sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law.
<i>Family Member</i>	– <i>as defined in Article 5.1.1(d), with voting rights defined in Article 6.8.4 and counted in the quorum of a General Meeting in terms of Article 6.7.3.</i>
<i>General Meeting</i>	– <i>any meeting of members, usually either an AGM or an EGM.</i>
in writing	– written, printed or electronic, or partly one and partly another.

*Consultation Draft with **minor edits** and **substantial amendments** from members and Board*

Independent Financial Examiner	–	the qualified accountant (who may be an auditor if and when an audit is required) who is appointed and instructed in terms of Article 15.6).
members	–	all members of the Trust (with references to Ordinary Members, Life Members, Corporate Members, Family Members and Honorary Members having the specific meanings ascribed respectively to them in Article 5).
Members' Request	–	as defined in Article 6.14.7.
month	–	calendar month.
Named Depute	–	as defined in Article 5.2.
Nomination Package	–	as defined in Article 8.2.5.
ordinary resolution	–	as defined in Article 6.10.
organisation	–	any body corporate, unincorporated association, society, federation, authority, agency, union, co-operative, trust, partnership or other organisation (not being an individual person).
Patron(s)	–	as defined in Article 14.
property	–	any property, assets or rights, heritable or moveable, real or personal, wherever situated in the world.
Returning Officer	–	as defined in Article 13.3.
Single Transferable Vote	–	as defined in Article 8.2.9 and Schedule 4.
Special Resolution(s)	–	those decisions listed in Article 6.11 which require an enhanced majority vote as defined.
Standing Orders	–	as defined in Article 12.8.
Term of Office	–	three years, where each year is the period between one AGM and the next, except in the case of Article 8.4 where the new Trustee's Term of Office will be the remainder of the original Term of Office due to have been served by the prematurely retiring Trustee.
Topical Forums	–	as defined in Article 12.9.
Trust	–	The John Muir Trust.
Trustee(s)	–	Director(s) for the time being of the Trust.
Working Days	–	days of the week, excluding Saturdays and Sundays.
written	–	written, printed or electronic, or partly one and partly another.

Schedule 2

Powers available to the Trust

Further to Article 3.2, the Trust shall have the following powers (but only in furtherance of the Charitable Purposes) and declaring that the order in which these powers are listed or the terms of the sub-headings *used* are of no significance in terms of their respective priority which shall be deemed to be equal, namely:

1 General

- 1.1 to encourage and develop a spirit of voluntary or other commitment by individuals, unincorporated associations, societies, federations, partnerships, corporate bodies, agencies, undertakings, local authorities, unions, co-operatives, trusts and others and any groups or groupings thereof willing to assist the Trust to achieve the Charitable Purposes,
- 1.2 to provide advice, consultancy, training, tuition, expertise and assistance,
- 1.3 to promote and carry out research, surveys and investigations and develop initiatives, projects and programmes,
- 1.4 to prepare, organise, promote and implement training courses, exhibitions, lectures, seminars, conferences, events and workshops, to collect, collate, disseminate and exchange information and to prepare, produce, edit, publish, exhibit and distribute articles, pamphlets, books and other publications, tapes, motion and still pictures, music and drama and other materials, all in any medium;

2 Property

- 2.1 to purchase, take on lease, hire, or otherwise acquire any property suitable for the Trust and to construct, convert, improve, develop, maintain, alter and demolish any buildings or erections whether of a permanent or temporary nature, and manage and operate or arrange for the professional or other appropriate management and operation of the Trust's property,
- 2.2 to sell, let, hire, license, give in exchange and otherwise dispose of all or any part of the property of the Trust,
- 2.3 to establish and administer a building fund or funds or guarantee fund or funds or endowment fund or funds;

3 Employment

- 3.1 to employ, contract with, train and pay such staff (whether employed or self-employed or external contractors) as are considered appropriate for the proper conduct of the activities of the Trust;

4 Funding and Financial

- 4.1 to take such steps as may be deemed appropriate for the purpose of raising funds for the activities of the Trust,
- 4.2 to accept subscriptions, grants, donations, gifts, legacies and endowments of all kinds, either absolutely or conditionally or in trust,
- 4.3 to borrow or raise money for the Charitable Purposes and to give security in support of any such borrowings by the Trust and/or in support of any obligations undertaken by the Trust,
- 4.4 to set aside funds not immediately required as a reserve or for specific purposes,
- 4.5 to open, operate and manage bank and other accounts and to invest any funds which are not immediately required for the activities of the Trust in such investments as may be considered appropriate and to dispose of, and vary, such investments,
- 4.6 to make grants or loans of money and to give guarantees,

- 4.7 to employ as a professional investment manager any person who is entitled to carry on investment business under the supervision of the Financial Conduct Authority (or its successors) and to delegate to any such manager the exercise of all or any of its powers of investment on such terms and at such reasonable remuneration as the Board of Trustees thinks fit, and to enable investments to be held for the Trust in nominee names, but subject always to the provisions of the Charities Act;
- 5 **Development**
 - 5.1 to establish, manage and/or support any other charity, and to make donations for any charitable purpose falling within the Charitable Purposes,
 - 5.2 to establish, operate and administer and/or otherwise acquire any separate trading company or association, whether charitable or not,
 - 5.3 to enter into any arrangement with any organisation, government or authority, *and/or to enter into any arrangement for co-operation, mutual assistance, or sharing profit with any charity*, which may be advantageous for the purposes of the activities of the Trust,
 - 5.4 to enter into contracts to provide services to or on behalf of others,
 - 5.5 to manufacture, retail, sell, hire and supply equipment, items and goods;
- 6 **Insurance and Protection**
 - 6.1 to effect insurance of all kinds (which may include indemnity insurance in respect of Trustees and employees),
 - 6.2 to oppose, or object to, any application or proceedings *to protect* the interests of the Trust;
- 7 **Ancillary**
 - 7.1 to pay the costs of forming the Trust and its subsequent development,
 - 7.2 to carry out the Charitable Purposes in any part of the world as principal, agent, contractor, trustee or in any other capacity, and
 - 7.3 to do anything which may be incidental or conducive to the Charitable Purposes so long as these are charitable.

Schedule 3

Form of Proxy

Further to Article 6.9.4, the Form of Proxy shall be in the following general terms (to be varied as required to fit the circumstances):

The John Muir Trust
("the Trust")

I,
of.....,
being a member of the Trust hereby appoint the person chairing
the General Meeting/ or*.....,
of,
as my proxy to vote for me on my behalf at the General Meeting
of the Trust to be held on..... and at any adjournment
thereof.

This form to be used in favour of/ against the resolution(s)*

* to be deleted if not required, or amended if it is required

Signature of member appointing proxy.....

dated.....

To be valid, this Form of Proxy, once signed or authenticated
and dated, must be lodged at least 48 hours before the start of the
General Meeting referred to above

Schedule 4

Single Transferable Vote (STV)

Further to Article 8.2.9, the Trust uses Meek STV, allowing equal preferences.

1. Voting

- 1.1 Members are given a ballot paper either by post or electronically, on which the candidates' names are presented in randomised order.
For eligibility to vote, see Article 6.8.
- 1.2 Each voter votes by putting the candidates in order of preference. They may put some candidates equal if they wish.

Note: where candidates are given equal preference, the vote is treated as though it were divided into equal shares for each possible ordering of those candidates.

2. The Count

- 2.1 The number of votes required to ensure election is called the quota. If the total number of votes is v and there are s seats to be filled, the quota is $v/(s+1)$.
- 2.2 Votes are first considered as belonging to the voter's first choice.
- 2.3 Any candidate whose total reaches the quota is elected; if they have more than the quota, the surplus, in the form of an equal proportion of each vote, is transferred to their voters' next preferences.
- 2.4 If not all seats are filled, the candidate with fewest votes is excluded and all their votes are transferred to their voters' next preferences.

Steps 2.3 and 2.4 are repeated until all seats are filled.