

Company number: SC112863

THE COMPANIES ACT 2006

*Company limited by guarantee
and not having a share capital*

ARTICLES of ASSOCIATION

of

***The Scottish Trust for
Underwater Archaeology***

Incorporated on 22 August 1988 and amended on 15 November 1988,
22 April 2009, 23 August 2016 and 4 December 2018

Scottish Charity Number SC018418

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of
The Scottish Trust for Underwater Archaeology

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1 NAME AND REGISTERED OFFICE

1.1 The name of the company is "The Scottish Trust for Underwater Archaeology" ("the Trust").

1.2 The Registered Office of the Trust is situated in Scotland.

2 DEFINITIONS

2.1 The definitions and meanings specified in this Article shall apply throughout these Articles of Association and the two Schedules hereto, as follows:

| WORDS | MEANINGS |
|---------------------|--|
| AGM | – the Annual General Meeting. |
| Articles | – these Articles of Association, and any ancillary regulations thereunder, in force from time to time. |
| Associate Member(s) | - as defined in article 5.5.3. |
| Board | – the Board of Trustees. |
| Board of Trustees | – the Board of Directors of the Trust. |
| Charitable Purposes | – as described 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 | – the Charities and Trustee Investment (Scotland) Act 2005 and every statutory modification and re-enactment thereof for the time being in force. |

| | |
|---------------------|--|
| Charity | – a body on the Scottish Charity Register which is also regarded as a charity in relation to the application of the Taxes Acts. |
| Community | - as defined in article 3.1. |
| Companies Act | – the Companies Act 2006 as amended and every statutory modification and re-enactment thereof for the time being in force. |
| Co-opted Trustee(s) | - as defined in article 8.4. |
| EGM | – an Extraordinary General Meeting, and any General Meeting which is not an AGM. |
| Elected Trustee(s) | - as defined in article 8.3. |
| in writing | – written, printed or lithographed, or partly one and partly another, and other modes of representing or producing words in a visible and non-transitory (albeit electronically-based) form. |
| Junior Member(s) | - As defined in article 5.5.2. |
| members | – all members of the Trust (Ordinary Members, Junior Members and Associate Members having the meanings ascribed respectively to them in terms of article 5.5) . |
| month | – calendar month. |
| Ordinary Member(s) | - as defined in article 5.5.1 |
| property | – any property, assets or rights, heritable or moveable, wherever situated in the world. |
| Subscribers | – those persons and/or organisations who have subscribed these Articles. |
| Trust | – The Scottish Trust for Underwater Archaeology. |
| Trustee(s) | – Director(s) for the time being of the Trust. |

2.2 These Articles supersede any model Articles contained within the Companies Act or any regulations pertaining thereto.

- 2.3 Words importing the singular number only shall include the plural number, and *vice versa*.
- 2.4 Words importing the masculine gender only shall include the feminine gender.
- 2.5 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.
- 2.6 The two Schedules to these Articles are deemed to form an integral part of these Articles.

3 CHARITABLE PURPOSES and POWERS

- 3.1 The Trust has been formed to benefit those with an interest in underwater archaeology and Iron Age and other ancient communities throughout Scotland (the "Community") with the following Charitable Purposes ("the Charitable Purposes"):
- 3.1.1 to promote, organise and co-ordinate the exploration, preservation, study and recording of, and research into, sites, locations and artefacts of archaeological, historical, cultural and scientific interest, especially located beside, or submerged in, estuaries, sea lochs, coastal waters, rivers and inland lochs and waterways;
 - 3.1.2 to promote public education and interest in, and public awareness of, such exploration, preservation, study, recording and research and to promote the public display of the results, findings and discoveries of such exploration, preservation, study, recording and research;
 - 3.1.3 to provide education and demonstration in related cultural practices and other past aspects of human ecology; and
 - 3.1.4 to provide, manage, develop and promote both a field study centre and a museum associated with the Trust's findings and operations.
- 3.2 The Trust shall have powers, but only in furtherance of its Charitable Purposes, as expressed in Schedule 1 annexed to these Articles.

4 GENERAL STRUCTURE OF THE TRUST

The structure of the Trust comprises:

- 4.1 **Members** - comprising Ordinary Members (who have the right to attend the AGM and any EGM and have important powers under these Articles and the Companies Act, who elect people to serve as Trustees and take decisions in relation to any changes to these Articles), the Associate Members and the Junior Members; 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 monitoring its financial position and, where there are no employees or managers appointed, are responsible also for the day-to-day management of the Trust;

5 MEMBERSHIP

5.1 Members

The members of the Trust shall consist of the Subscribers (being those Ordinary Members who sign the original Memorandum of Association) and such other persons and organisations as are admitted to membership in terms of these Articles.

The following shall apply to membership:

5.2 the Trust shall have no fewer than 20 Ordinary Members at any time;

5.3 the majority of the members of the Trust shall consist of Ordinary Members; and

5.4 In the event that the number of Ordinary Members falls below 20, the Trustees may not conduct any business other than taking steps to ensure that sufficient Ordinary Members are admitted to enable the Trust to achieve the minimum number and/or maintain the majority.

5.5 Membership of the Trust is open to:

5.5.1 **Ordinary Members:** those individuals aged 16 or over who (and organisations which) are members of the Community and support the Charitable Purposes;

5.5.2 **Junior Members:** Individuals aged between 12 and 15 who are members of the Community and support the Charitable Purposes who are neither eligible to stand for election to the Board or vote at any Members' Meeting; and

5.5.3 **Associate Members:** Individuals who (and organisations which) are not members of the Community but nonetheless wish to support the work of the Trust. Associate Members are neither eligible to stand for election to the Board nor to vote at any Members' Meeting.

5.5.4 If an Individual or Organisation ceases to fulfil the criteria within article 5.5.1, 5.5.2 or 5.5.3, that Individual or Organisation must inform the Trust. The Trust may choose to reclassify a member as appropriate.

5.6 Authorised Representatives of Organisations

5.6.1 Each member which is an organisation 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 member at all General Meetings of the Trust. The Named Depute may represent and act for such member only in the absence of the Authorised Representative.

5.6.2 Any change in the appointment of an Authorised Representative, and/or of a Named Depute, may be made at any time by the appointing member, but only by written notice served by the appointing 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 member to serve a copy of the notice to the Authorised Representative and Named Depute named therein and to enable the Trust to act upon such notification.

5.6.3 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 Secretary, or such other person as may be determined by the Board from time to time, in accordance with the most recent notice validly received by the Trust.

5.7 The Board shall promptly consider applications for membership, made in such written form as it shall prescribe from time to time, determining into which category of membership each applicant shall belong, and immediately thereafter shall approve any valid application provided the applicant is not excluded by virtue of Article 5.2 or Article 5.3 or has previously been a member of the Trust and continues to be excluded from membership by virtue of Article 5.9.

5.8 **Membership Subscriptions**

5.8.1 The Ordinary Members may at any or each AGM fix the annual subscriptions (and, if relevant, different rates thereof for different categories).

5.8.2 Members shall be required to pay the appropriate annual membership subscription, where fixed. Only those members who have paid their current subscription, where fixed, are entitled to take part in and vote at any General Meeting.

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

5.9 **Cessation of Membership**

A member shall cease to be a member if:

5.9.1 that Member no longer fulfils the membership criteria within article 5.5; or

5.9.2 he, she or it sends written notice of resignation to the Trust; or

5.9.3 being an individual, he or she becomes insolvent or apparently insolvent or makes any arrangement with his or her creditors; or

5.9.4 being an organisation, it goes into receivership, goes into liquidation, dissolves or otherwise ceases to exist (the right of membership not being assignable); or

5.9.5 the annual subscription due remains outstanding for more than six calendar months (and provided that the member in question has been given at least one written reminder) and if the Board chooses to expel that member from membership; or

5.9.6 a resolution that a member be expelled is passed by a majority of at least 75% of the Ordinary Members present and voting at a General Meeting, of which not less than 21 days' previous notice specifying the intention to propose such resolution and the grounds on which it is proposed shall have been sent to all Trustees, all members and the Company Secretary and also to the member whose removal is in question, such member being entitled to be heard at that meeting; or

5.9.7 being an individual, he or she dies (the right of membership not being assignable).

5.10 **Register of Members**

5.5.1 The Board shall maintain a Register of Members.

5.5.2 The Register of Members is open to all members of the Trust.

5.5.3 The Register of Members is open to non-members of the Trust, provided that the applicant provides:

(a) the applicant's name and address;

(b) the purpose for which the information is to be used; and

(c) whether the information will be disclosed to any other person and, if so, the name and address of that other person and the purpose for which the information is to be used by that other person.

The Trust must within 5 working days either supply the information, subject to the data protection rights of its members, or apply to the Court for an order

that the application is not for a proper purpose (and intimate this to the applicant). Where the information is provided, the Trust may charge a fee for providing the information.

5.11 **Employees**

Employees of the Trust shall not be eligible to become members or Trustees. A person who becomes an employee of the Trust after admission to membership shall automatically cease to be a member (and a Trustee).

6 **GENERAL MEETINGS**

6.1 **Convening an AGM**

6.1.1 The Board may convene one General Meeting as an Annual General Meeting in each year, at such time as it may determine, although the first AGM need not be held in the first year provided that, if it is to be held, it be held within 18 months after the date of incorporation of the Trust.

6.1.2 Thereafter, if an AGM is to be held, not more than 15 months shall elapse between the holding of one AGM and the next.

6.1.3 The AGM does not need to be held exclusively in one place, provided that, where two or more members are not in the same place as each other, they are all able to communicate together and vote thereat.

6.2 **AGM Agenda**

The business of any AGM shall include:

6.2.1 the report by the Chairman on the activities of the Trust;

6.2.2 the report of the independent financial examiner;

6.2.3 receiving the annual accounts of the Trust; and

6.2.4 the appointment of the independent financial examiner.

6.3 **Convening an EGM**

6.3.1 The Board, or any three or more Trustees, may convene an EGM whenever it, he or she thinks fit.

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

6.4 **Notice of General Meetings**

6.4.1 14 clear days' notice at the least shall be given of every AGM and EGM.

6.4.2 The notice shall specify the place, the day and the hour of meeting and, in the case of special business, the specific nature of that business.

6.4.3 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.

6.4.5 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.

6.4.6 The accidental omission to give notice of a General Meeting to, or the non-receipt of such notice 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.

6.5 Chairman of General Meetings

The Chairman of the Trust, whom failing the Vice-Chairman of the Trust (if any), shall act as chairman of each General Meeting. If neither the Chairman nor the Vice-Chairman is present and willing to act as chairman of 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 an Elected Trustee who will act as chairman of that meeting.

6.6 Quorum at General Meetings

6.6.1 The quorum for a General Meeting shall be the greater of (a) eleven Ordinary Members or (b) 10% of the Ordinary Members, present in person or by proxy in terms of Article 6.8. No business shall be dealt with at any General Meeting, other than the appointment of the chairman of the meeting in terms of Article 6.5, unless a quorum is present.

6.6.2 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 chairman of the meeting.

6.7 Voting at General Meetings – General Provisions

6.7.1 The chairman of the meeting shall endeavour to achieve consensus wherever possible but, if necessary, questions arising shall be decided by being put to the vote.

6.7.2 Each Ordinary Member of the Trust is able to attend and speak at any General Meeting and shall have one vote, to be exercised in person or by proxy in terms of Article 6.8.

6.7.3 Junior Members and Associate Members have no vote.

6.7.4 In the event of an equal number of votes for and against any resolution, the chairman of the meeting shall have a casting vote as well as any deliberative vote.

6.7.5 The chairman of the meeting may permit any other person or persons to attend a General Meeting who otherwise has no right to do so, as an observer or observers. In that event, it shall be at the discretion of the chairman of the meeting whether any such observer may be invited to speak thereat.

6.7.6 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 chairman of the meeting whose decision shall be final and conclusive.

6.8 Voting at General Meetings – Proxy Voting

Whilst personal attendance at a General Meeting is encouraged, each Ordinary Member shall be entitled to complete one form of proxy in order to appoint a proxy to attend a General Meeting on his or her behalf, in respect of which the following apply:

6.8.1 a proxy need not be a member;

6.8.2 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 to vote thereat;

- 6.8.3 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 terms (to be varied as required to fit the circumstances) of the form shown in the Schedule 2 annexed to these Articles;
- 6.8.4 the form appointing a proxy and the power of attorney or other authority (if any) under which it is signed, or a certified copy thereof, shall be lodged with the Trust not less than 48 hours before the time of the start of the meeting or adjourned meeting at which the person named in the form proposes to vote, and in default the instrument of proxy shall not be treated as valid;
- 6.8.5 no instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution, unless it expressly states to the contrary, in which event it shall be treated as valid until rescinded by the granter in writing to the Trust;
- 6.8.6 a vote given in accordance with the terms of a form of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, provided that no intimation in writing of the death, insanity or revocation as aforesaid shall have been received by the Trust before the commencement of the meeting or adjourned meeting at which the proxy is used (not having been deliberately withheld);
- 6.8.7 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 General Meeting (or adjourned meeting) to which it relates; and
- 6.8.8 any reference in these Articles to voting being "in person" shall include voting by proxy.

6.9 Voting at General Meetings – Secret Ballot

A resolution put to the vote at any General Meeting shall be decided verbally or on a show of hands, as appropriate, unless a secret ballot is demanded in the following terms:

- 6.9.1 such demand must be made either by the chairman of the meeting, or by two or more members having the right to vote on the resolution;
- 6.9.2 such demand may be made at any time prior to a show of hands on that resolution;
- 6.9.3 a demand for a secret ballot may be withdrawn by its proposers prior to the secret ballot taking place, provided that the chairman of the meeting consents to the withdrawal; and
- 6.9.4 the secret ballot shall be conducted in such a manner as the chairman of the meeting may direct, and the chairman of the meeting shall appoint and instruct tellers, who may cast their own personal votes if members and the result shall be declared by the chairman of the meeting at the same meeting at which the ballot is taken.

6.10 Voting at General Meetings – Special Resolutions

- 6.10.1 At any General Meeting a resolution put to the vote of the meeting shall be voted upon by a simple majority of the Ordinary Members who are present and voting thereon, except for decisions relating to any of the following Special Resolutions, which shall require to be decided upon by not less than 75% of the Ordinary Members present and voting thereon (no account

therefore being taken of Ordinary Members who abstain from voting or who are absent from the meeting), namely:

- (a) to alter the name of the Trust; or
- (b) to amend the Charitable Purposes; or
- (c) to amend these Articles; or
- (d) to wind up the Trust in terms of Article 20; or
- (e) all other Special Resolutions.

6.10.2 An ordinary resolution to be proposed at a General Meeting may be amended if:

- (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 chairman of the meeting, materially alter the scope of the resolution.

6.10.3 A Special Resolution to be proposed at a General Meeting may be amended if:

- (a) the chairman of the meeting proposes the amendment at the General Meeting at which the Special Resolution is to be proposed; and
- (b) the amendment does not go beyond what is necessary to correct a grammatical, interpretative or other non-substantive error in the Special Resolution.

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

6.11 **Voting – Written Resolutions**

6.11.1 Ordinary and Special Resolutions may be passed in writing, rather than at a General Meeting, provided that the terms of this Article are followed.

6.11.2 An ordinary resolution in writing signed by or on behalf of a simple majority of all the Ordinary Members 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.

6.11.3 A Special Resolution in writing signed by or on behalf of not less than 75% of all the Ordinary Members 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.

6.11.4 Written resolutions may not be used either for the removal of a Trustee prior to the expiration of his or her term of office, or for the removal of an independent financial examiner prior to the expiration of his or her term of office.

6.11.5 Any written resolution must be issued in hard copy (by hand or by post) or in electronic form (by fax or e-mail), 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).

6.11.6 Where such a written resolution is proposed by the Board, it must 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 fax or by e-mail);
 - (c) clarification that a failure to reply will be deemed to be a vote against the resolution in question; and
 - (d) the date by which the resolution must be passed if it is not to lapse (that is, the date which is 28 days after the Circulation Date).
- 6.11.7 Where such a written resolution is proposed by the Ordinary Members, the following shall apply:
- (a) the resolution must be requested by not less than 5% of the Ordinary Members (“the members’ request”);
 - (b) the members’ request may be made in hard copy (by hand or by post) or in electronic form (by fax or by e-mail);
 - (c) the members’ request must identify the resolution to be put to members. 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 1,000 words) which they can require the Trust to issue with the written resolution to all the members;
 - (e) within 21 days, the Trust must circulate the resolution and any accompanying statement with the express statements referred to in sub-clause (d) hereof; and
 - (f) the Trust may charge a reasonable fee to the requesting members to cover its costs of circulation of the members’ request.
- 6.11.8 Any such written resolution may consist of several documents in the same form, each signed by or on behalf of one or more members.
- 6.11.9 Once a member has signed and returned a written resolution in agreement thereto, his or her agreement is irrevocable.

7 THE BOARD OF TRUSTEES

7.1 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 Ordinary Members in General Meeting, and subject always to these Articles and to the provisions of the Companies Act.

7.2 Delegation

- 7.2.1 The Board may delegate any of its powers to any sub-committee 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 sub-committee or persons or person to whom they are delegated.
- 7.2.2 Any sub-committee so formed or persons or person to whom delegation of powers is made in terms of Article 7.2.1 shall, in the exercise of the powers so delegated, conform to any remit and regulations imposed on it by the Board.

7.2.3 In the case of delegation to any one or more sub-committees, each shall consist of not less than one Trustee and such other person or persons as the Board thinks fit or which it delegates to the committee to appoint. The meetings and proceedings of any such sub-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 specific regulations made by the Board for all or any sub-committees. A sub-committee may invite or allow any person to attend and speak, but not to vote, at any of its meetings. Such sub-committee shall regularly and promptly circulate, or ensure the regular and prompt circulation of, the minutes of its meetings to all Trustees.

7.2.4 Unless expressly part of such delegation, no decision of any such sub-committee, persons or person shall bind the Board.

7.3 **Number of Trustees**

7.3.1 The number of Trustees shall be not fewer than three and not more than twelve.

7.3.2 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 **Interim Board**

8.1.1 The Board of Trustees in existence when these Articles are adopted in 2018 and any one or more individual persons whom they choose to co-opt as Co-opted Trustees in terms of Clause 8.5, shall comprise the Interim Board of Trustees.

8.1.2 The Interim Board shall remain in office until the first General Meeting of the Trust, to be held as soon as practicable after these Articles are adopted in 2018, failing which until the first AGM, at which time each Trustee on the Interim Board shall retire, but may remain eligible for election thereat (without the period of office between the date these Articles are adopted in 2018 and the first General Meeting counting as a term of office).

8.1.3 The Co-opted Trustees chosen by the Board to be co-opted in terms of Article 8.1.1 shall be subject to the terms of Article 8.4, excepting only that in the period up to the first General Meeting of the Trust, failing which up to the first AGM, the Board may co-opt as many Co-opted Trustees as it wishes provided that the total number of Trustees at any time does not exceed the maximum number of Trustees in terms of Article 7.3.1.

8.2 **Composition of the Board**

From and after the first General Meeting of the Trust following the adoption of these Articles in 2018 the Board shall comprise the following individual persons (a majority of whom shall always be Ordinary Members), namely:

8.2.1 up to eight individual persons elected as Trustees by the Ordinary Members in terms of Article 8.3 (“the Elected Trustees”), who must themselves be Ordinary Members; and

8.2.2 up to four individual persons co-opted in terms of Article 8.4 (“the Co-opted Trustees”), so as to ensure a spread of skills and experience within the Board;

who shall meet as often as necessary to despatch all business of the Trust as specified in the Articles and particularly with reference to the restrictions in the quorum for Board meetings specified in article 12.

8.3 **Elected Trustees**

At the first General Meeting of the Trust following the adoption of these Articles in 2018 the Ordinary Members shall elect up to eight Elected Trustees, in respect of which the following shall apply:

8.3.1 At each AGM, one-third of the Elected Trustees (or the nearest number downwards) shall retire from office. A retiring Elected Trustee shall retain office until the close or adjournment of the meeting. A retiring Elected Trustee shall be eligible for re-election after one term of office, but no Elected Trustee can serve more than three consecutive terms of office, without at least one year out of office before being eligible again. For the avoidance of doubt, a ‘term of office’ will usually be of three years, between the dates of respective AGMs, but at times may be shorter or longer than three years.

8.3.2 If no other Elected Trustee has or Elected Trustees have decided or agreed to retire, the Elected Trustee or Elected Trustees to retire at each AGM shall be the one or those who has or have been longest in office since his, her or their last election but, as between persons who were elected or last re-elected Elected Trustees on the same day, the one or ones to retire shall (unless they otherwise agree amongst themselves) be determined by lot. Any term or terms of office served by a Trustee for the period up to or including the first General Meeting after these Articles are adopted in 2018 shall not count in this respect.

8.3.3 nomination of any Elected Trustee, who shall himself or herself be (or be eligible to become) an Ordinary Member, shall be in writing by not less than any two Ordinary Members delivered to the Registered Office not less than 7 days prior to the date of the AGM in question and wherein the nominee shall confirm his or her willingness to act as an Elected Trustee if elected; and

8.3.4 election of any Elected Trustee shall be by vote of the Ordinary Members, each Ordinary Member having one vote for each vacancy in the Elected Trustees on the Board.

8.4 **Co-opted Trustees**

Subject to Article 8.2, up to four individuals may be co-opted from time to time by the Board of Trustees itself, as follows:

8.4.1 subject to Article 8.4.3, a Co-opted Trustee shall serve until the next AGM after his or her co-option;

8.4.2 a Co-opted Trustee can be re-co-opted at such next AGM;

8.4.3 a Co-opted Trustee can be removed from office at any time by a simple majority of the Board; and

8.4.4 for the avoidance of doubt, a Co-opted Trustee may participate fully in and vote at all Board meetings which he or she attends.

8.5 **Casual Vacancies**

The Board may from time to time fill any casual vacancy arising as a result of the retiral (or deemed retiral for any reason) of any Elected Trustee from or after the date of such retiral or deemed retiral until the next AGM.

8.6 **Register of Trustees**

The Board shall ensure that a Register of Trustees is maintained, which sets out the full details of each Trustee as required for all registration purposes, including the date and type of appointment and the date of retiral.

8.7 **Retiral and Deemed Retiral of Trustees**

Any Trustee must cease to be a Trustee in any one or more of the following events:

- 8.7.1 if he or she is prohibited from being a member, as an employee, in terms of Article 5.11; or
- 8.7.2 being an Elected Trustee, he or she ceases to be an Ordinary Member
- 8.7.3 if he or she holds any office of profit or is employed by the Trust (except where the provisions of Article 10.4 shall apply); or
- 8.7.4 if he or she is prohibited from being a charity trustee by virtue of section 69(2) of the Charities Act; or
- 8.7.5 if, in terms of section 66(5) of the Charities Act, he or she is considered by the Board to have been in serious or persistent breach of either or both of the duties listed in sections 66(1) and 66(2) of the Charities Act, such Trustee being entitled to be heard prior to the Board taking a decision; or
- 8.7.6 if he or she has a significant conflict of interest which the Board considers has and is likely to continue to undermine his or her ability to act impartially as a Trustee; or
- 8.7.7 if he or she becomes incapable for medical reasons of fulfilling the duties of his or her office and such incapacity, as certified if necessary by two medical practitioners, is expected to continue for a period of more than six months from the date or later date of such certification; or
- 8.7.8 if he or she is absent (without permission) from more than three consecutive meetings of the Board, and the Board resolves to remove him or her from office; or
- 8.7.9 if by notice in writing to the Registered Office he or she resigns his or her office as a Trustee;
- 8.7.10 if he or she dies.

9 **CHAIRMAN AND VICE-CHAIRMAN**

The Board shall meet as soon as practicable immediately after each AGM to appoint both a Chairman and, if desired, a Vice-Chairman of the Trust from the Board, both of whom must be Elected Trustees.

10 **CONSTRAINTS ON PAYMENTS/BENEFITS TO 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 Trustees of the Trust, whether by way of dividend, bonus or otherwise, except where such 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 Trustee except the possibility of:
- 10.4.1 repayment of out-of-pocket expenses to Trustees (subject to prior agreement by the Board); or
 - 10.4.2 reasonable remuneration to a Trustee 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); or
 - 10.4.3 payment of interest at a rate not exceeding the commercial rate on money lent to the Trust by any Trustee; or
 - 10.4.4 payment of rent at a rate not exceeding the open market rent for property let to the Trust by any Trustee; or
 - 10.4.5 the purchase of property from any Trustee provided that such purchase is at or below market value or the sale of property to any 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 INTERESTS

- 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 A personal interest includes the following interests:
- 11.2.1 those of the Trustee or employee in question;
 - 11.2.2 those of his or her partner or close relative;
 - 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 of more than 5% of the equity; and
 - 11.2.6 those of any person or organisation responsible for his or her appointment as a Trustee.
- 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 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 chairman of the meeting in question (or if it be the chairman of the meeting who is potentially or actually conflicted, it shall be for the other Trustees

present) to determine whether the Trustee in question should at the least be required to be absent during that particular element of the meeting. In terms of Article 12.1, where a Trustee leaves, or is required to leave, the meeting in question, he or she no longer forms part of the quorum thereat.

- 11.3.3 The Board may at any time resolve, but without taking a specific vote on the matter, 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 giving consideration to this authorisation.
- 11.3.4 The Board may resolve at any time to require all Trustees and 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.
- 11.3.5 If existing, the Register of Interests shall be open for inspection by both the Board and members of the Trust and, with the express prior written approval of the Trustee or employee concerned, by members of the public.

12 BOARD MEETINGS

12.1 Quorum

- 12.1.1 The quorum for Board meetings shall be not less than 50% of all the Elected Trustees. No business shall be dealt with at a Board meeting unless a quorum is present.
- 12.1.2 An Elected 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 Meetings of the Board may take place in person or by telephone conference call, video conference call or by any other collective electronic means approved from time to time by the Board.
- 12.2.2 Not less than 7 clear days' notice in writing shall be given of any meeting of the Board, unless all Trustees agree unanimously in writing to dispense with such notice on any specific occasion.
- 12.2.3 A Trustee may and, on the request of a Trustee, the Company Secretary shall, at any time, summon a meeting of the Board by notice served upon all Trustees, to take place at a reasonably convenient time and date.

12.3 Chairman of Board Meeting

The Chairman, whom failing the Vice-Chairman (if any), shall be entitled to preside as chairman of all Board meetings at which he or she shall be present. If at any meeting neither the Chairman nor the Vice-Chairman is present and willing to act as chairman of 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 chairman of the Board meeting, which failing the meeting shall be adjourned until a time when the Chairman or Vice-Chairman will be available.

12.4 **Voting at Board Meetings**

12.4.1 The chairman of 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, except for those decisions listed in Article 12.4.3.

12.4.3 Resolutions relating to the following matters shall require a special decision of not less than 75% of the Trustees present and voting thereon, namely:

- (a) to purchase or sell any heritable property, wherever situated; or
- (b) to form, acquire or dispose of any subsidiary; or
- (c) to grant any guarantee or indemnity to any party, other than any wholly-owned subsidiary of the Trust; or
- (d) to create or issue or allow to come into being any mortgage, security, or charge upon any part or parts of the property or assets of the Trust; or
- (e) to acquire or dispose, whether by the Trust or by any of its subsidiaries, of any shares of any other company or the participation or cessation of participation by the Trust or by any of its subsidiaries in any formal trust or joint venture.

12.4.4 In the event of an equal number of votes for and against any resolution at a Board meeting, the chairman of the meeting shall have a casting vote as well as a deliberative vote.

12.4.5 A resolution in writing (whether one single document signed by all or a sufficient majority of the Trustees or all or a sufficient majority of the members of any sub-committee), whether in one or several documents in the same form each signed by one or more Trustees or members of any relative sub-committee as appropriate, shall be as valid and effectual as if it had been passed at a meeting of the Board or of such sub-committee duly convened and constituted.

12.5 **Observers**

The Board may invite or allow any person to attend and speak, but not to vote, at any meeting of the Board.

12.6 **Minutes**

The Board shall cause minutes to be made of all appointments of officers made by it and of the proceedings of all General Meetings and of all Board meetings and of sub-committees, including the names of those present, and all business transacted at such meetings and any such minutes of any meeting, if purporting to be signed after approval, either by the chairman of such meeting, or by the chairman of the next succeeding meeting, shall be sufficient evidence without any further proof of the facts therein stated. The minutes shall be retained for at least 10 years.

12.7 **Validation**

12.7.1 All acts *bona fide* done by any Board meeting, or of any sub-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.

12.7.2 No alteration of 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 **Ancillary Regulations**

The Board may from time to time promulgate, review and amend any Ancillary Regulations, Guidelines and/or Policies, subordinate at all times to these Articles, as it deems necessary and appropriate to provide additional explanation, guidance and governance to themselves, members, employees, stakeholders and/or others.

13 **COMPANY SECRETARY, MINUTE SECRETARY, TREASURER & PRINCIPAL OFFICER**

13.1 **Company Secretary**

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.

13.2 **Minute Secretary**

The Board may 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 only do so if the Minute Secretary is not a Trustee.

13.3 **Treasurer**

- (a) The Board may appoint a Treasurer for such term and upon such conditions as it may think fit.
- (b) If the Treasurer is unpaid, he or she may also be a Trustee, and if so he or she would have a vote as a Trustee at any Board meeting which he or she attends.
- (c) If the Treasurer is to be paid an annual salary, honorarium or other appropriate fee at the Board's discretion, he or she cannot also be a Trustee.
- (d) If the Treasurer is not a Trustee, he or she may be required by the Board to attend (but shall have no vote at) Board meetings during his or her tenure as Treasurer, except any part or parts thereof dealing with his or her employment or remuneration, or any other matter which the Board wish to keep confidential to itself.
- (e) The Treasurer may be removed by the Board at any time, subject to the terms of any prevailing contract.

13.4 **Principal Officer**

The Board may appoint a Principal Officer 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 Sub-Committee meetings as appropriate or required, but who shall not be a Trustee and, for the avoidance of doubt, will have no vote thereat.

14 HONORARY PRESIDENT(S) and PATRON(S)

14.1 The Board may agree to the appointment of one or more Honorary Presidents of the Trust, to be appointed either for such fixed period (usually of five years) as it determines or for an unspecified period until such appointment be terminated by it. The Honorary President(s) would be entitled to notice of all General Meetings and to attend and contribute to discussion but not vote thereat. The role and expectations of the Honorary President(s) will be set by the Board.

14.2 The Board may agree to the appointment of one or more Honorary Patrons of the Trust, to be appointed either for such fixed period (usually of five years) as it determines or for an unspecified period until such appointment be terminated by it. The Honorary Patron or Patrons would be entitled to notice of all General Meetings and to attend and contribute to discussion but not vote thereat. The role and expectations of the Honorary Patron(s) will be set by the Board.

15 FINANCES AND ACCOUNTS

15.1 Bank Accounts

The banking account or accounts of the Trust shall be kept in such bank or building society and/or banks or building societies as the Board shall from time to time determine.

15.2 Cheques etc.

All cheques and other negotiable instruments, 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 by resolution 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 Treasurer (if there is one) and overseen by the Principal Officer (if there is one), or otherwise by, or as determined 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 annually at the AGM.

15.7 Accounts

At or before each AGM, or otherwise after the Accounts have been approved by the Board, it shall provide the members with a copy of the accounts for the period since the last preceding accounting reference date (or in the case of the first account since the incorporation of the Trust). 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. A notice may be served by the Trust upon any member, either personally or by sending it by post, fax, 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.

16.2 Any notice, whether served by post or otherwise, shall be deemed to have been served on the day following that on which the letter containing the same is put into the post or is otherwise dispatched.

16.3 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.

16.4 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 fax or e-mail or other 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 state that they do not have access to the Internet.

17 INDEMNITY

Subject to the terms of the Companies Act and without prejudice to any other indemnity, the Trustees, or member of any sub-committee, the Company Secretary, Treasurer 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.

18 ALTERATION TO ARTICLES OF ASSOCIATION

Subject to the terms of Article 6.10, no alteration in these Articles may at any time be made unless by the decision of not less than 75% of the members present and voting at a General Meeting called specifically (but not necessarily exclusively) for the purpose.

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 or it is a member or within one year after he, she or it ceases to be a member (for whatever reason), for payment of its debts and liabilities contracted before he, she or it ceases to be a member, and of the costs, charges and expenses of winding up.

20 DISSOLUTION

20.1 The winding-up of the Trust may take place only on the decision of not less than 75% of its members who are present and voting at a General Meeting called specifically (but not necessarily exclusively) for the purpose.

20.2 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 such other:

20.2.1 community transfer body or charity approved by:

- (a) no less than 75% of the Ordinary Members, in accordance with article 20.1; and
- (b) the Office of the Scottish Charity Regulator; or

20.2.2 a community body (as defined by section 34 of the Land Reform (Scotland) Act 2003) which is also a charity approved by:

- (a) no less than 75% of the Ordinary Members, in accordance with article 20.1; and
- (b) the Scottish Ministers; and
- (c) the Office of the Scottish Charity Regulator; or

20.2.3 a crofting community body (as defined by section 71 of the Land Reform (Scotland) Act 2003) which is also a charity approved by:

- (a) no less than 75% of the Ordinary Members, in accordance with article 20.1; and
- (b) the Scottish Ministers; and
- (c) the Office of the Scottish Charity Regulator; or

20.3 (In the event that no community body or crofting community body is approved by the Scottish Ministers) to the Scottish Ministers or to such charity as the Scottish Ministers may direct.

Annexation

Schedule 1 Powers

Schedule 2 Form of Proxy

Schedule 1

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 above 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, programmes and demonstration;
- 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 which may be advantageous for the purposes of the activities of the Trust and to enter into any arrangement for co-operation, mutual assistance, or sharing profit with any charity;

5.4 to enter into contracts to provide services to or on behalf of others;

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 which may prejudice 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 2

Form of Proxy

Further to Article 6.8.3, the Form of Proxy shall be in the following general terms (to be varied as required to fit the circumstances):

| |
|--|
| <p style="text-align: center;">The Scottish Trust for Underwater Archaeology ("the Trust")</p> <p>I, of....., being an Ordinary Member of the Trust hereby appoint the chairman of 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.</p> <p style="text-align: center;">This form to be used in favour of/against the resolution(s)*</p> <p style="text-align: center;"><i>* to be deleted if not required, or amended if it is required</i></p> <p style="text-align: center;"><i>Signature of member appointing proxy.....</i></p> <p style="text-align: center;"><i>dated.....</i></p> <p>To be valid, this Form of Proxy, once signed and dated, must be lodged at least 48 hours before the start of the General Meeting referred to above</p> |
|--|