

**MEMORANDUM AND ARTICLES OF ASSOCIATION
FOR A BUILDING PRESERVATION TRUST**

**AHF Guidance for the Formation of a Building Preservation Trust
in Scotland**

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AHF GUIDANCE FOR THE FORMATION OF A BUILDING PRESERVATION TRUST IN SCOTLAND

1. Introduction

With this paper is a standard governing document for a building preservation trust (BPT). It is based on the model form of Memorandum and Articles of Association for a charitable company limited by guarantee, prepared by the Charity Law Association for use in England and Wales – and adapted to enable it to be used for the purpose of setting up a Scottish BPT.

Set out below are instructions for having the company incorporated and approved as a charity; and for the administration needed to get the BPT up and running. The Architectural Heritage Fund (“AHF”) is indebted to Stephen Phillips of Burness LLP, 120 Bothwell Street, Glasgow (0141 273 6764; stephen.phillips@burness.co.uk) for advice and comment on this Guidance and for providing material to ensure it fully reflects the position in Scotland.

[The Office of the Scottish Charity Regulator (“OSCR”) have reviewed this Guidance. They have approved the model memorandum and articles as being appropriate in the context of a Scottish BPT which is seeking recognition as a Scottish charity. They have also confirmed that the Guidance gives an accurate summary of the key points associated with applying for recognition as a Scottish charity. The AHF wishes to thank Martin Tyson of OSCR for his time in carrying out that review.]

Health Warning

The Architectural Heritage Fund has prepared this Guidance to assist people seeking to establish a building preservation trust. Whilst every effort has been made to ensure that it is accurate, up-to-date and appropriate for most BPTs, the AHF cannot accept responsibility for consequences of any kind arising from its use. The promoters of all new BPTs are **strongly recommended** to take independent legal advice.

2. Completing the model form of Memorandum and Articles of Association

- 2.1 Please consider and follow carefully the Charity Law Association’s Guidance to all charities using its model – as read with the comments set out under the heading of “NOTES – APPLICABILITY TO SCOTTISH BPTs” below.

3. Incorporating the BPT; and obtaining charitable status

- 3.1 When you have completed the model Memorandum and Articles of Association we recommend that you ask a lawyer with specialist expertise in charitable companies to check through the draft.
- 3.2 A company does not legally exist until the certificate of incorporation has been issued by Companies House. Although it is possible to incorporate the BPT before obtaining charitable status (and that may be necessary if there is a pressing deadline e.g. in relation to submission of a grant application), it is normally better to wait until the draft has been informally approved by the Office of the Scottish Charity Regulator (OSCR) – since it is easier from a technical perspective to make changes to the detailed wording to reflect any comments that OSCR may have if the company has not yet been formed.
- 3.3 Once the draft Memorandum and Articles of Association have been finalised, an application for charitable status should be filled in (the form can be downloaded from the OSCR website – www.oscr.org.uk). This should then be signed by any one of the prospective directors and then forwarded to OSCR along with:
 - Charity trustee declaration forms – signed by each of the prospective directors
 - A copy of the draft Memorandum and Articles of Association
 - A copy business plan, grant application, leaflets or other papers which provide evidence of the activities which the BPT will be pursuing at a practical level.
- 3.4 In determining whether or not an organisation should be recognised as a Scottish charity, OSCR does not merely check the wording in the objects article and other aspects of the constitution; it needs to satisfy itself that, as a matter of the *practicalities*, the organisation's intended activities will satisfy the public benefit aspect of the charity test. The public benefit part of the test involves a judgement on the part of OSCR of the level of public benefit conferred by the organisation's activities, as compared with any disbenefit to the public, any benefit to the members of the organisation and any benefit to individuals or bodies in a special relationship. In relation to that last point, it is important that any benefit to the owner of a building which is benefiting from the BPT's work is clearly outweighed by benefit to the general public; for reasons of that kind it is essential that the BPT will have ownership or a long lease of any buildings on which significant sums are to be spent, and this is one of a number of points that OSCR may wish to explore in the course of the application process.
- 3.5 Once OSCR is satisfied with the draft Memorandum and Articles of Association, it will issue a letter to that effect – and at that point, the Memorandum and Articles of Association should be signed. The subscribers (first members) should sign at the end of the Memorandum of Association. The full names (including all middle names) of the subscribers should be inserted. The articles of association do not need to be signed but should be attached to the memorandum of association and the form IN01.

- 3.6 You will also need to complete Companies House Form IN01. There is guidance available on how to fill out form IN01 on the Companies House website. (www.companieshouse.co.uk)
- 3.7 When you have done all of the above, you should send the Memorandum and Articles of Association and the Companies House form to Companies House in Edinburgh with a cheque for £20 (October 2009) for the BPT to be incorporated. The address of Companies House is:

Companies House
37 Castle Terrace
Edinburgh EH1 2EB

- 3.8 When the BPT has been incorporated you will receive a Certificate of Incorporation from Companies House. You should then send a copy of this to OSCR, along with a copy of the Memorandum and Articles, to complete the application for charitable status.
- 3.9 Once OSCR issues the formal charity recognition letter, you should send a letter to HMRC Charities asking them to confirm that the company is recognised as eligible for charities tax relief. The address for HMRC Charities is:

HMRC Charities
St John's House
Merton Road
Bootle
Merseyside L69 9BB

4. *Once the BPT is incorporated and registered as a charity*

- 4.1 Display Certificate of Incorporation at Registered Office.
- 4.2 Display Name Plate at Registered Office: it should say "Registered Office of [BPT Name]".
- 4.3 Draw up Membership Application Forms.
- 4.4 Purchase a set of "Statutory Books", and make the appropriate entries to reflect the initial position:
- (1) Register of Members [*those who signed the Memorandum are automatically members on incorporation*]
 - (2) Register of Directors and Secretaries [*those who signed the Form IN01 as prospective directors are automatically directors on incorporation; the same applies in relation to the company secretary*]

- (3) Register of Charges [*this is to list standard securities, floating charges etc*]
- (4) Minute Books/File for Board Meetings
- (5) Minute Books/File for AGMs/EGMs.

A guarantee company kit can be obtained from:

First Scottish Group
St Davids House
St Davids Drive
Dalgety Bay
Fife
KY11 9NB
(Telephone: 01383 826 777)

4.5 Order stationery for the company (see 7 below).

5. *Matters to be dealt with at the first meeting of the trustees (board meeting)*

- 5.1 Election of the Chair of the meeting
- 5.2 Tabling of Certificate of Incorporation, Form IN01, Memorandum and Articles, charity recognition letter.
- 5.3 Confirmation of the BPT's registered office and company secretary [*unless otherwise resolved at the board meeting, these will reflect what was set out in the Form IN01*]; also initial trustees (as named in the Form IN01).
- 5.4 Admission of additional members [*if any applications for membership have been received*]
- 5.5 Appointment of additional trustees [*if applicable*]
- 5.6 Appointment of auditors [*though this can be left over if eg it is intended to invite tenders*]
- 5.7 Selection of an accounting reference date (financial year end) [*again, this can be left over, but the form AA01 must be filed with Companies House within 9 months of incorporation otherwise a deemed accounting reference date (end of the month in which the company was incorporated) will apply*]
- 5.8 Authorities for opening and operation of a bank account [*you should obtain the bank's standard excerpt minute in advance of the board meeting, to ensure that all details are covered in the decisions made by the trustees*]
- 5.9 Any other business.

6. Other Procedures

- 6.1 Complete and file a Companies House Form AA01 (accounting reference date – see 5.7 above).
- 6.2 Complete and file other Companies House Forms, as appropriate, to reflect matters dealt with at the first meeting of the trustees (Form AD01 if the Registered Office is to be changed; Form AP01 if an additional trustee is appointed; Forms AP03 and TM02 if the secretary named in the Form IN01 is changed)
- 6.3 Open the bank account. The bank will generally require a copy of the Memorandum and Articles of Association and will require the company secretary to certify that a resolution to open the account (in specific terms – see 5.8 above - was passed at a meeting of the trustees. There will also be a need to supply specimen signatures and provide identification to comply with money laundering requirements. Each bank has its own standard forms and procedures for this purpose.
- 6.4 If the BPT is to register for VAT (you should seek advice from accountants who have specialist expertise in VAT issues relating to BPTs), take the appropriate steps to obtain VAT registration.

7. Stationery

The following must be shown in legible characters on the notepaper of a charitable company (see notes A, B and C below):-

- 7.1 The BPT's full registered name – precisely as shown in the Certificate of Incorporation. Be careful to include – or exclude – the word "Limited"/"Ltd", depending on how the company's name appears in the Certificate of Incorporation. If the name does not include the word "Limited"/"Ltd", then the words "a company limited by guarantee" should appear on the stationery.
- 7.2 A statement that it is a Scottish charity; also a note of the Scottish charity number.
- 7.3 Place of incorporation and registered number (ie "incorporated in Scotland with registered number [*insert no., as appearing on the Certificate of Incorporation*]").
- 7.4 The address of the BPT's registered office.
- 7.5 VAT registration number [*optional - except for invoices*].

The BPT may (but does not need to) list the names of its directors (trustees) but if it does list their names, it must give the names of all of the directors. To avoid having to reprint stationery repeatedly to keep the names of directors up to date, it is much more common for BPTs *not* to list directors on their stationery.

Notes to Section 7

- A. There is no requirement for printing but the details need to be legible.
- B. The full name of the BPT, and (if the name does not include the word "Limited"/"Ltd", the fact that it is a company limited by guarantee), must be shown on all of the following:-
 - (a) letters
 - (b) notices and other official publications
 - (c) cheques, and orders for money or goods, signed on behalf of the BPT
 - (d) invoices and receipts.
- C. The details set out in paragraphs 7.1 to 7.5 must be shown on order forms, the BPT's website, and e-mail communications.

NOTES – APPLICABILITY TO SCOTTISH BPTs

The notes attached to the Charity Law Association Model Documents do not all apply to a Scottish charitable company. They should be read in light of the following comments:

General

The Charity Commission does not have jurisdiction in Scotland. All references in the notes to the Charity Commission should therefore be ignored.

OSCR will consider the acceptability of the company name as part of the application process for recognition as a Scottish Charity. In addition to checking Companies House for any similar names, you should check the register of Scottish Charities (available on the OSCR website).

It should be noted that the prior written consent of OSCR will be required in relation to any future change of name.

ARTICLES OF ASSOCIATION

3. The requirement, in the case of a Scottish BPT, is that the article specifying the company's objects must contain only objects that fall within the charitable purposes set out in the Charities and Trustee Investment (Scotland) Act 2005.

Any future adjustment to the article specifying the objects will require the prior consent of OSCR.

4.1.20 As at the time of issuing this Guidance (October 2009), OSCR's interpretation of the Scottish legislation is that it prohibits indemnity insurance covering a majority of the directors. OSCR has issued a statement, however, stating that it does not intend to enforce that provision pending the introduction of new legislation to correct this anomaly.

5.2 The relevant provisions are contained in section 67 of the Charities and Trustee Investment (Scotland) Act 2005.

9.6.1 Disqualification, in the case of a Scottish charity, would be under the Charities and Trustee Investment (Scotland) Act 2005.

12.1,12.2 The relevant requirements for a Scottish BPT would be contained in the Companies Acts, the Charities and Trustee Investment (Scotland) Act 2005, regulations issued under the 2005 Act, and the SORP. Returns require, in a Scottish context, to be submitted to OSCR as well as Companies House.

14. It should be noted that the prior written consent of OSCR is required in relation to the dissolution of a Scottish charity.

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Charity Law Association Guidance

**[note: some adjustments to the Charity Law Association
Guidance have been incorporated in the text that follows]**

- **Details Needed to Complete the Model**
- **Using this Model**
- **Notes**

Charity Law Association Model Documents

MEMORANDUM AND ARTICLES OF ASSOCIATION FOR A CHARITABLE COMPANY

A charity needs to have its objects and powers and administrative arrangements set out clearly in its governing document. If it does not, it is likely to be less well governed. I am pleased to recommend the use of this model. It incorporates the essential powers and provisions and expresses them in plain English with explanatory notes. It will prove of great assistance to those intending to set up a charitable company.

Richard Fries
former Chief Charity Commissioner

The first and certainly one of the most important decisions facing individuals who want to establish a new charity is choosing which legal structure will be right for the charity. Although there are a quite a few structures to choose from, most charities are established as trusts, companies or associations. The Charity Commission's registration information pack explains the factors to be considered in choosing between them. The Charity Commission's registration information pack also contains guidance on the objects or purposes which are recognised by law as charitable.

Many worthwhile not-for-profit organisations have objects which are not charitable so it is wise to check before you spend time working on this document.

The Charity Law Association has also produced model documents for charitable trusts and associations. Copies of these models are available in printed and disk format from:

admin@charitylawassociation.org.uk

DETAILS NEEDED TO COMPLETE THE MODEL

Before you can complete the model you will need to have made decisions on the following matters. It may help you in this process to refer to the appropriate article (shown in the right-hand column below) and the accompanying notes.

(A) The Memorandum

1. The full names of the subscribers to the company.

(B) The Articles

	Article
1. Objects	3
2. Membership structure	7
3. Quorum for general meetings of the members.	8.2
3. Number of members to call an EGM.	8.16
4. Minimum and maximum number of Trustees.	9.2
5. Whether any qualification is going to be required for Trustees.	9.2, 9.6.7
6. Number of consecutive meetings a Trustee may miss before ceasing to hold office.	9.6.3
7. Required majority of members to approve removing a Trustee.	9.6.6
8. Minimum number of Trustee meetings each year.	10.1
9. Quorum for Trustee meetings.	10.2
10. Number of Trustees to sit on each committee.	11.1.3

For the purpose of completing the Companies House forms to incorporate the charitable company you will also require the following additional information for each of the Trustees:

- Full Name
- Any previous surname/s (ignoring for this purpose a maiden surname)
- Date of Birth
- Nationality
- Residential Address
- Service Address (if different from the residential address)
- Occupation
- Country of residence

USING THIS MODEL

This model is intended for use by individuals wishing to establish a charitable company in England and Wales. Legal advice will be needed to adapt it for use in Scotland or Northern Ireland (but see also AHF Guidance for these countries).

Every effort has been made to make the model clear and easy to use. However it is a legal document and so considerable care must be taken to ensure that it is completed in a manner which is appropriate for the intended charity. The Charity Law Association cannot accept any responsibility for its use and neither can the author or the Charity Commission. If in doubt, seek help from a charity lawyer!

Whilst it is possible for the model to be adopted by simply completing the gaps in the text we do not recommend it - it is intended that the text of the model should be reproduced as a new document and a complete word processing document is available by email or on disk to make this easier.

The following pages of this document contain notes to assist you to complete the model. The notes may also be useful when the new charity has been established, as a guide to the interpretation of the document: for this reason we recommend that you retain them.

On the previous page we have included a checklist of all the details that you will need to complete the model. This list shows the articles where the details are required in case you need to refer to them or to the corresponding notes.

If you are not a lawyer the task of completing the model may at first sight seem daunting but we have included various aids to help you:

- Where a word or phrase needs to be inserted a brief description appears [*in italics in square brackets*].
- Where there is a suggestion or choice between alternatives it appears [in normal type in square brackets].
- There is an interpretation article at the end of the document. Words and phrases which are defined or explained there appear in **bold type** when they first occur.

These aids (with the possible exception of the emboldened terms) should not appear in the final document. In preparing the document you should also remember that:

- If you do not wish to include an optional article or if you wish to add in new provisions, you will need to adjust the article numbering accordingly.
- If you decide to redesignate a term (eg changing "Chairman" to "Chair"), you will need to make the change every time the term appears in the document.

There are differing views on the desirability of punctuation in legal documents. The model has been prepared without punctuation but it can, of course, be added.

You may also wish to include a contents page or index for ease of reference.

When you have completed the document and it has been signed by the Trustees (at the end of the Memorandum of Association) you will be ready to incorporate the company. For this you will need various forms which can be obtained from Companies House, Crown Way, Maindy, Cardiff CF4 3UZ (Tel: (0)303 1234 500). When you have completed these forms you will need to send them (with a cheque for the incorporation fee) to Companies House.

After the company has been incorporated you will be ready to begin the process of registering the charity. The Charity Commission's registration information pack explains this process and contains copies of the forms which you will need to complete.

NOTES

(A) THE MEMORANDUM OF ASSOCIATION

This sets out the name of each subscriber to the memorandum of association. It is a statement confirming their intention to form a company and become a member of that company. The wording should not be altered, otherwise there is a risk that the incorporation documents will be rejected by Companies House.

(B) ARTICLES OF ASSOCIATION

The Articles set out the procedures for running the charity.

2. DEFINED TERMS

Various terms used in the articles are defined in article 2.

3. OBJECTS

The Objects (i.e. the main purposes) of the charity must be exclusively charitable under English law, or the company will not be a charity and registration as a charity will therefore be refused. The Objects should clearly accurately reflect the true purposes of the charity's intended activities. It may be appropriate to refer to a geographical area as the "area of benefit" of the charity and/or to describe the people the charity will benefit as the "beneficiaries" (see Article 9.1 on page 12 of the model). Similar requirements applying in Scotland and Northern Ireland. Legal advice may be required to be certain that the Objects are correctly expressed.

4. POWERS

The powers are not themselves charitable objects, but consist of the legal means by which the Objects in article 3 are to be promoted. It must be stressed that the powers cannot be exercised for any other purpose. Thus, any research carried out under 4.1.1 or advice or information supplied under 4.1.2 or 4.1.3, must be about a subject which is relevant to the Objects. Under 4.1.4 the charity can only co-

operate in a project relevant to the Objects, so the other organisation involved must also have some concern with the Objects. Any new charity set up or supported under 4.1.5 needs to have the same or similar objects, or come within the Objects.

The powers included in this article are those most commonly required by charities, but if it is known that the charity will be engaged in specific activities which are not mentioned it is advisable to insert an additional provision to cover them.

- 4.1.6** Funds can be raised (or gifts accepted) either for the objects as a whole or for any purpose within the objects (in which case the sums received must be separately identified as a restricted fund). The Trustees should be aware of the law relating to the activities the charity is to undertake. Where professionals are employed, for example, The Charitable Institutions (Fund-Raising) Regulations 1994 will apply, and there are special rules governing public collections, lotteries and the sale of alcohol. No tax is payable on trading that directly furthers the charity's objects, such as charging an entry fee to see a heritage building. However, some fundraising is non-charitable trading and should be run through a separate non-charitable trading company unless it is covered by a specific tax exemption. Specialist legal or accounting advice should be taken.
- 4.1.7** The restrictions on mortgaging charity land are contained in sections 38 and 39 of the Charities Act 1993. In some cases the Charity Commission's consent is required. In others, a special procedure must be followed. Legal advice may be required.
- 4.1.8** Trustees should ensure that the Charity does not pay more than is reasonable for the purchase of land or other property. This may involve obtaining professional advice before the agreement is made.
- 4.1.9** The restrictions on sales, exchanges and leases of charity land are contained in sections 36 and 37 of the Charities Act 1993. In some cases the Commission's consent is required. In others, a special procedure must be followed. Legal advice will normally be required.
- 4.1.10** This article sets out ways in which financial assistance can be given, whether to individual beneficiaries (where the charity is set up to help individuals) or to other bodies. It will be necessary to consider the need for a licence under Consumer Credit legislation if the charity is to make loans to individuals. In setting the amount of any grant or loan or the extent of any guarantee (which is a potential liability) the Trustees should consider the resources of the charity as well as the requirements of the recipient.
- 4.1.11** This article enables the Trustees to designate funds for particular purposes, or as reserves. It is prudent for a charity to maintain reserves to cover planned expenditure (e.g. repairs to buildings) and to meet the kind of expenditure which may be required at short notice, but reserves are not an end in themselves and should not be built up without a deliberate policy decision, or be excessive in relation to the amount known or reasonably estimated to be required.
- 4.1.12** This article is designed to confer a wide power of investment but to ensure that it is exercised responsibly. An "investment" is an asset which (i) is capable of producing income and (ii) may also increase in capital value. In setting an investment policy and selecting investments the Trustees should have regard to the needs of the charity for both income and capital growth, and act prudently. They should avoid trading and speculation. "Financial Expert" is defined in Article 9.1.
- 4.1.13** The Charity Commission consider that if discretionary powers are to be given to investment managers an express power to delegate the management of investments is required. It should always be accompanied by safeguards, as here.
- 4.1.14** Charity property, whether buildings, equipment or other property, should normally be insured up to its full reinstatement value. Depending on the nature of the charity, other kinds of insurance may be necessary or desirable (e.g. public liability, employers' liability).

- 4.1.15** This type of insurance requires a special article because it provides a benefit to the Trustees as charity trustees. It may be helpful where the charity is involved in particular commercial risks, but it will not necessarily protect the Trustees from liability towards third parties in the event that the charity operates while technically insolvent. They should therefore be sure never to commit the charity to expenditure it cannot afford.
- 4.1.16** This article covers employees, independent contractors and volunteers, and enables salaries and pensions, or fees, or expenses (or none of these) to be provided. All necessary advice about Employment Law should be obtained. A charity should not pay more than a reasonable rate for the task, but should aim to be a good employer. Special care is required if it is proposed to employ a Trustee.
- 4.1.17** This article will be relevant in the increasing number of cases in which charities enter into contracts to provide services to local or health authorities. A charity can only enter into a contract of this kind if the work it will be doing will promote its Objects.
- 4.1.18** This power is not intended for use where a trading company is to be set up, but only where a separate company is regarded as necessary or desirable for purposes which could be carried out by the charity itself.
- 4.1.19** This "blanket provision" is intended to cover any other power not expressly mentioned. It is still restricted to promoting the Objects.

5. BENEFITS TO MEMBERS AND TRUSTEES

This article reflects the legal position that although a charitable company is a legal person and owns its property, the assets are treated in many ways as though they were held on trust for the Objects rather than belonging to the members (as would be the case in a non-charitable company). It is therefore necessary to restrict the occasions on which a Trustee may benefit from the charity, and avoid conflicts of interest and duty as far as possible. It cannot be amended without the Charity Commission's consent.

- 5.1,5.2** These articles reflect the legal principle that the Trustees as charity trustees (and to a lesser extent the members, who are also in a fiduciary position) must not benefit from the charity except so far as expressly permitted by the articles of association.
- 5.3,5.4** These provisions permit up to one half of the Trustees in any financial year to enter into a contract to supply goods or services to the charity, and provide additional safeguards to protect the charity. Please note that Trustees cannot be employed by the charity or paid to act as Trustees.

6. LIMITATION OF LIABILITY

This provision is required by Company law.

7. MEMBERSHIP

Members are essential to a company: it cannot function without them.

- 7.1** The register of members is required by company law. Data Protection legislation may be applicable.
- 7.2** this article provides for an "open" membership. This is essential if the members are to receive benefits, and do not simply exist to support the charity. The model follows the most usual approach in confining membership to individuals, and does not therefore provide for member organisations. If

the intention is to have other organisations as members, then additional provisions will be required (including wording that allows individuals nominated by member organisations to be elected as Trustees); in that event, it may also be necessary to include provision for individuals to become members on the basis of nomination by unincorporated bodies, since unincorporated bodies cannot be members in their own name.

- 7.3 It is uncommon for a member of a charity to be removed from membership, but if this happens it must only be done for a good reason. Under the rules of Natural Justice, the member concerned must be given an opportunity of stating his or her case before a final decision is taken and any decision to remove a member must be justifiable.
- 7.4 In addition to the core membership, it may be considered helpful to provide for eg associate, junior or honorary membership. Members of a company have certain rights under company law (eg to vote at general meetings and to receive copies of the company's accounts). It can be expensive and time consuming for a charitable company to comply with the company law requirements for a large membership. In cases where a high proportion of the members do not wish to participate in decision-making at AGMs/EGMs (for example, where they wish to be members only for the purpose of being informed of the charity's activities) it may be appropriate for the charity to establish one or more categories of "supporter members" who are not members under company law. Legal advice may be required.

8. GENERAL MEETINGS

A general meeting is a formal gathering of the members. Company law contains detailed provisions related to the convening of and the nature and conduct of business at general meetings. There are also provisions which define the types of resolution that are required to effect various changes. The two main types of resolution are:

- a "special resolution" – 14 clear days' notice to be given to the members, setting out the precise terms of the resolution and stating that it will be proposed as a special resolution; and 75% of the votes cast need to be in favour
- an "ordinary resolution" – 14 days' clear notice setting out the general nature of the resolution (the precise terms do not need to be stated; and more than 50% of the votes cast need to be in favour.

A special resolution is needed to change the name, or alter any provision of the articles (or adopt new articles). An ordinary resolution is needed to re-appoint the auditors. If none of the Trustees have experience in this area legal advice or a good book on the subject will be required.

- 8.1 This article states who has a right to attend general meetings, i.e. individual members. The charity may invite others to observe or participate, but not to vote. Notice is dealt with in article 13 and "written" is defined in article 2.1.25. It is necessary to provide for proxy voting.
- 8.2 The quorum chosen should be realistic.
- 8.3 Many charities prefer Chair or Chairperson to Chairman. Others may wish to use "convenor" or some other term. The choice of term used is not vital, but it is important to be consistent throughout the document.
- 8.4 It should be noted that a majority of the members present at the meeting is not required: merely a majority of the votes cast. See also the general note above.
- 8.5 The chair of a general meeting cannot have a casting vote (that *is* possible, though, in the context of board meetings).

8.6,8.7 The right to appoint a proxy is now a requirement under the Companies Act 2006

- 8.8 The practical value of this article, which avoids the need for a general meeting if the relevant proportion of the members sign a resolution, depends on there being a relatively small number of members.
- 8.9 The annual general meeting (AGM) is the regular occasion for the members to gather, and (although no longer required under the Companies Act) is essential to the proceedings of most charitable companies.
- 8.10 A professional audit or qualified inspection may be required under company law.
- 8.11 A Patron, President or Vice-President has no constitutional responsibilities but may be invited to address the members or represent the charity on formal occasions or when seeking public support.
- 8.12 Where an urgent or important matter (such as the amendment of the Constitution) which must be decided at a general meeting cannot conveniently be dealt with at an AGM, the meeting specially called for the purpose is an extraordinary general meeting (EGM).

9. THE TRUSTEES

- 9.1 This article sets out the composition of the charity's governing body, i.e. the people who are the directors of the company and the charity trustees (see articles 9.1). They are all required, in terms of the model, to be members of the charity. Here they are called the Trustees but they could equally well be called the "Directors", the "Council" or some other term. Whatever term is chosen should be used throughout the document.
- 9.2 The minimum number of Trustees should be at least three. It is possible to make provision for some or all of the Trustees to be appointed by outside bodies instead of being elected at the AGM but this will require bespoke amendments to the model. Every Trustee is a charity trustee, however appointed, and owes a duty towards the charity rather than to the person or body who makes the appointment. Special qualifications which may be appropriate include eg residence in the area of benefit. Co-option is dealt with in article 9.7.
- 9.3 Retirement by rotation helps to ensure continuity.
- 9.4 Various events can terminate trusteeship.
- 9.4.1 Disqualification occurs under section 72 of the Charities Act 1993 if a charity trustee is involuntarily removed by the Court or the Charity Commission, in the event of bankruptcy or the like, where the Trustee is disqualified under the Company Directors Disqualification Act or the Insolvency Act, and where the Trustee has been convicted of an offence involving dishonesty.
- 9.4.2 The length of absence which gives rise to automatic termination of a Trustee's term of office will depend on the normal frequency of meetings.
- 9.4.3 The law does not allow charity trustees to walk away from their responsibilities leaving no-one in charge of the charity.
- 9.4.4 Provision for the removal of a Trustee by the members in general meeting will not be appropriate in all cases.
- 9.4.5 This provision will only be necessary if a special qualification has been included in article 3.2.
- 9.5 Co-opted Trustees have exactly the same voting powers and responsibilities as those elected at the AGM.

- 9.6 Occasionally a mistake occurs in appointment procedures. If a mistake of this kind is discovered it does not retrospectively invalidate previous decisions but should be put right before further decisions are taken.

10. PROCEEDINGS OF TRUSTEES

This article deals with the meetings and proceedings of the Trustees.

- 10.1 The number of meetings per year will depend on (i) the nature of the charity's activities and (ii) the extent to which work is delegated to committees and/or staff. Two is a minimum; but four would be more in line with principles of good practice.
- 10.2 Bearing in mind that decisions may be taken on a majority vote (article 10.6), the quorum should normally be fixed at (at least) one more than the number nearest to one third of the Trustees – preferably with reference to a minimum quorum of three irrespective of the numbers of Trustees in office.
- 10.3 Many charities do not have a provision for a telephone or video conference. It is not necessary to include it unless difficulty in arranging meetings in person is expected (eg where the Trustees are geographically scattered). If the provision is included it should be borne in mind that (i) a conference call is not the same as a series of separate telephone calls, which do not amount to a meeting; and (ii) the same rules about notice of meetings, the quorum, chairmanship, voting, minutes etc apply to a telephone or video conference as to a meeting in person.
- 10.4 An alternative to a decision taken at a meeting is a written resolution, but this will not be valid unless signed by all the Trustees. The written resolution can take the form of a number of copies, with each Trustee signing his/her copy i.e. the signature does not have to appear on a single page. The resolution is passed on the date the last Trustee signs.
- 10.5 See notes 8.5 and 10.2 above.

11. POWERS OF TRUSTEES

- 11.1.1 It is usual to have a company Secretary (though this is no longer a statutory requirement), and it is often best for the Secretary's role to be undertaken by a paid employee rather than one of the Trustees.
- 11.1.2 Here the Chairman and other honorary officers are appointed by the Trustees. In some charities these officers, or some of them, are appointed by the AGM. It is unusual, though not essential – to provide for a Treasurer. There may also be a membership secretary or holders of other specified offices, which may alter from year to year according to the charity's activities.
- 11.1.3 A specific provision is essential if the Trustees are to be able to delegate to committees. The Trustees will be legally responsible for the committees' acts, and for this reason it is prudent for at least one Trustee to be a member of each committee. The Trustees may wish, for this reason, to define the terms of reference with care. It is essential in all cases to provide for reporting back. Although the power of delegation is not limited to specific functions it is generally appropriate for decisions on major matters of policy or resources to be reserved to the Trustees themselves.
- 11.1.4 These articles allow the Trustees to make rules of various kinds to govern different aspects of the running of the charity. There is no need to call them "Standing Orders" "Rules" and "Regulations": they can all be called "rules" if preferred. See also the note to article 8.
- 11.1.5 This provision is designed to place the responsibility for finding a solution to internal disputes on the Trustees, given the damage which can result to a charity from such arguments, especially when they become public.

11.1.6 See note to article 2.

12. RECORDS & ACCOUNTS

- 12.1** The keeping of adequate records is essential if a charity is to be properly run. In addition, there is detailed legislation in the Companies Acts and the regulations made under it, and in the relevant charities legislation, as well as guidance in the Charity SORP, about accountability. The rules cover accounting records and the provision of an annual report, statement of account and an annual return, all of which have to be sent to the Charity Commission as well as the Registrar of Companies.
- 12.2** This provision is designed to ensure that the Trustees have access to the published report and statements of account. The Trustees may also feel that members should be able to inspect the accounting records of the charity.
- 12.3** This article reflects section 47(2) of the Charities Act 1993.

13. NOTICES

Reference is made to the giving of notice in various places in the Articles. This article deals with the practical problems which could otherwise arise about when a notice was received by a member (or the charity). Where a number of clear days" notice is mentioned each "day" starts at midnight, and the day on which notice is given does not count. Some charities may prefer not to have the option of notice to the members by fax or e-mail (article **13.3.1**), in which case the relevant words should be omitted. It may also be desirable to save postage by restricting postal service to the members' addresses in the United Kingdom (articles **13.2** and **13.3.3**).

14. WINDING UP

It is not unusual for charitable companies to reach the end of their useful life and decide to wind up. If so, the debts and liabilities must be provided for and there may be assets remaining. Those assets must be used for the Objects or charitable purposes within or similar to the Objects, and this article sets out various alternatives. The Trustees will not be relieved of their responsibilities as charity trustees until they have completed their task, and sent in a final report and statement of account to the Charity Commission. The Commission will then remove the charity from the register of charities. Removal from the register of companies is a separate matter.

**MEMORANDUM AND ARTICLES OF ASSOCIATION
FOR A SCOTTISH BUILDING PRESERVATION TRUST**

**AHF Standard Governing Document
for the Formation of a Building Preservation Trust based in Scotland
Based on Charity Law Association Model Documents**

Company No:

Charity No:

THE COMPANIES ACT 2006

**MEMORANDUM
AND
ARTICLES OF ASSOCIATION
OF**

[name]

Incorporated on

[date]

COMPANIES ACT 2006
COMPANY LIMITED BY GUARANTEE AND
NOT HAVING A SHARE CAPITAL
MEMORANDUM OF ASSOCIATION OF

_____ *[Name]*

Each subscriber to this memorandum of association wishes to form a company under the Companies Act 2006 and agrees to become a member of the company.

Name of each subscriber	Signature of each subscriber

COMPANIES ACT 2006
COMPANY LIMITED BY GUARANTEE AND
NOT HAVING A SHARE CAPITAL
ARTICLES OF ASSOCIATION OF

_____ [Name]

1. CONSTITUTION OF COMPANY

The model articles of association as prescribed in Schedule 2 to The Companies (Model Articles) Regulations 2008 are excluded in respect of this company.

2. DEFINED TERMS

2.1 In these articles of association, unless the context requires otherwise:-

- 2.1.1** "Act" means the Companies Act 2006
- 2.1.2** "AGM" means an annual general meeting of the Charity
- 2.1.3** ["area of benefit means _____ [geographical area]]
- 2.1.4** "these Articles" means these articles of association
- 2.1.5** "Chairman" means the chairman of the Trustees
- 2.1.6** a "beneficiary" shall be interpreted as an individual who benefits from the charitable work of the Charity
- 2.1.7** any reference to a "connected party" shall be interpreted in accordance with the Charities and Trustee Investment (Scotland) Act 2005
- 2.1.8** "charitable purpose" means a charitable purpose under section 7 of the Charities and Trustee Investment (Scotland) Act 2005 which is also regarded as a charitable purpose in relation to the application of the Taxes Acts
- 2.1.9** "charity" means a body which is either a "Scottish charity" within the meaning of section 13 of the Charities and Trustee Investment (Scotland) Act 2005 or a "charity" within the meaning of section 1 of the Charities Act 2006, providing (in either case) that its objects are limited to charitable purposes
- 2.1.10** "the Charity" means the company governed by these Articles
- 2.1.11** "charity trustee" has the meaning prescribed by section 106 of the Charities and Trustee Investment (Scotland) Act 2005
- 2.1.12** "clear day" means 24 hours from midnight following the relevant event
- 2.1.13** "EGM" means an extraordinary general meeting of the Charity
- 2.1.14** "electronic form" has the meaning given in section 1168 of the Act

- 2.1.15 "financial expert" means an individual, company or firm who is an authorised person or an exempted person within the meaning of the Financial Services and Markets Act 2000
- 2.1.16 "OSCR" means the Office of the Scottish Charity Regulator
- 2.1.17 "material benefit" means a benefit which may not be financial but has a monetary value
- 2.1.18 "member" and "membership" refer to membership of the Charity
- 2.1.19 "month" means calendar month
- 2.1.20 "the Objects" means the objects of the Charity as defined in article 3.1 (as read with article 3.3)
- 2.1.21 "property" means any property, heritable or moveable, real or personal, wherever situated
- 2.1.22 "Secretary" means the secretary of the Charity
- 2.1.23 "subsidiary" has the meaning given in section 1159 of the Act
- 2.1.24 "Trustee" means a director of the Charity and "Trustees" means all of the directors
- 2.1.25 "written" or "in writing" refers to a legible document on paper [not] including a fax message
- 2.1.26 "year" means calendar year
- 2.1.27 Expressions defined in the Act have the same meaning

2.2 References to an Act of Parliament are to the Act as amended or re-enacted from time to time and to any subordinate legislation made under it.

3. OBJECTS

3.1 The objects of the Charity are to advance heritage through preserving for public benefit the historical, architectural and constructional heritage that may exist in and around _____ [*insert the name of the city, town or area in which the charity is to operate*] in buildings (including any part of a building, and any other structure or erection) of particular beauty or of historical, architectural or constructional interest ("**the Objects**")

3.2 The Charity's objects are restricted to those set out in article 3.1 (but subject to article 3.3).

3.3 The Charity may (subject to first obtaining the consent of OSCR) add to, remove or alter the statement of the Charity's objects in article 3.1; on any occasion when it does so, it must give notice to the registrar of companies and the amendment will not be effective until that notice is registered on the register of companies.

4. POWERS

4.1 The Charity has the following powers, which may be exercised only in promoting the Objects:

4.1.1 To promote or carry out research

4.1.2 To provide advice

4.1.3 To publish or distribute information and by publishing books or pamphlets or in other appropriate manner to make known to the public the existence of buildings of particular beauty or historical, architectural or constructional interest or the features of especial interest of such buildings

- 4.1.4** To co-operate with other bodies
- 4.1.5** To support, administer, act as trustee of or set up other charities
- 4.1.6** To raise funds and trade in the course of carrying out the objects and carry on any other trade which is not expected to give rise to taxable profits; and to incorporate subsidiary trading companies to carry on any trade
- 4.1.7** To borrow and raise money in such manner and on such terms as to security and otherwise as the Charity thinks fit, and in particular to grant standard securities, floating charges and other types of security over the Charity's undertaking and all or any of its property and assets (present and future) in security of any loan or other obligations of the Charity
- 4.1.8** To acquire, take on lease or hire property of any kind
- 4.1.9** To let or dispose of property of any kind, such letting or disposal to be subject to such conditions and restrictions as are reasonably necessary to ensure the preservation of any buildings or land
- 4.1.10** To repair, renovate, restore, rebuild and generally promote the preservation of any buildings or land
- 4.1.11** To buy or otherwise acquire furniture and other equipment for use in connection with any such buildings or land; and to sell, lease or otherwise dispose of any such furniture or equipment
- 4.1.12** To make such arrangements as are necessary to enable the public to view and enjoy any buildings or land (whether free or at a charge)
- 4.1.13** To make planning applications, applications for consent under by-laws or building regulations and other like applications
- 4.1.14** To make grants or loans of money and to give guarantees
- 4.1.15** To set aside funds for special purposes or as reserves against future expenditure
- 4.1.16** To deposit or invest funds in any manner
- 4.1.17** To delegate the management of investments to a financial expert
- 4.1.18** To arrange for investments or other property of the Charity to be held in the name of a nominee (being a corporate body registered or having an established place of business in Scotland or England and Wales) under the control of the Trustees or of a financial expert acting under their instructions and to pay any reasonable fee required
- 4.1.19** To insure the property of the Charity against any foreseeable risk and take out other insurance policies to protect the Charity when required
- 4.1.20** To effect and maintain directors' and officers' liability insurance in relation to liabilities incurred by the Trustees in the course of carrying out their duties as directors of the Charity
- 4.1.21** Subject to article 5, to employ paid or unpaid agents, staff or advisers
- 4.1.22** To enter into contracts to provide services to or on behalf of other bodies
- 4.1.23** To promote companies whose activities may further one or more of the above objects, or may generate income to support the activities of the Charity, acquire and hold shares in such companies and carry out, in relation to any such company which is a subsidiary of the Charity, all such functions as may be associated with a holding company

4.1.24 To pay the costs of forming the Charity

4.1.25 To do anything else within the law which promotes or helps to promote the Objects

5. BENEFITS TO MEMBERS AND TRUSTEES

5.1 The property and funds of the Charity must be used only for promoting the Objects and do not belong to the **members** of the Charity but

5.1.1 members who are not Trustees may be employed by or enter into contracts with the Charity and receive reasonable payment for goods or services supplied

5.1.2 members (including Trustees) may be paid interest at a reasonable rate on money lent to the Charity

5.1.3 members (including Trustees) may be paid a reasonable rent or hiring fee for property let or hired to the Charity

5.1.4 individual members and Trustees who are beneficiaries may receive charitable benefits in that capacity.

5.2 A Trustee must not receive any payment of money or other **material benefit** (whether directly or indirectly) from the Charity except

5.2.1 as mentioned in articles 4.1.20, 5.1.2, 5.1.3 or 5.3

5.2.2 reimbursement of reasonable out-of-pocket expenses (including hotel and travel costs) actually incurred in running the Charity

5.2.3 an indemnity in respect of any liabilities properly incurred in running the Charity (including the costs of a successful defence to criminal proceedings)

5.2.4 payment to any company in which a Trustee has no more than a 1 per cent shareholding.

5.3 Any Trustee may provide services to the Charity (and may benefit from any remuneration paid to a connected party for services to the Charity), but only if:

5.3.1 the maximum amount of the remuneration is specified in a written agreement and is reasonable

5.3.2 the Trustees are satisfied that it would be in the interests of the Charity to enter into the arrangement (taking account of that maximum amount); and

5.3.3 less than half of the Trustees (if the agreement were entered into) would at that time be receiving remuneration from the Charity (or would benefit from remuneration of that nature).

5.4 Whenever a Trustee has a personal interest in a matter to be discussed at a meeting of the Trustees or a committee, the Trustee concerned must:

5.4.1 declare an interest at or before the beginning of discussion on the matter

5.4.2 withdraw from the meeting for that item unless expressly invited to remain in order to provide information

5.4.3 not be counted in the quorum for that part of the meeting

5.4.4 withdraw during the vote and have no vote on the matter

6. LIABILITY OF MEMBERS

6.1 Each member undertakes that if the Charity is wound up while he/she is a member (or within one year after he/she ceases to be a member), he/she will contribute - up to a maximum of £1 - to the assets of the Charity, to be applied towards:

6.1.1 payment of the Charity's debts and liabilities contracted before he/she ceases to be a member;

6.1.2 payment of the costs, charges and expenses of winding up; and

6.1.3 adjustment of the rights of the contributories among themselves.

7. MEMBERSHIP

7.1 The Charity must maintain a register of members.

7.2 **Membership** of the Charity is open to any individual interested in promoting the Objects who

7.2.1 applies to the Charity in the form required by the Trustees

7.2.2 is approved by the Trustees

and

7.2.3 signs the Register of members or consents in writing to become a member.

7.3 The Trustees may establish different classes of membership and prescribe their respective privileges and duties and set the amounts of any subscriptions.

7.4 Membership is terminated if the member concerned

7.4.1 gives written notice of resignation to the Charity

7.4.2 dies

7.4.3 is six **months** in arrears in paying the relevant subscription (if any), if the Trustees so resolve (but in any such case the member may be reinstated on payment of the amount due)

or

7.4.4 is removed from membership by resolution of the Trustees on the ground that in their reasonable opinion the member's continued membership is harmful to the Charity (but only after notifying the member in writing and considering the matter in the light of any written representations which the member concerned puts forward within 14 **clear days** after receiving notice)

7.5 Membership of the Charity is not transferable.

8. GENERAL MEETINGS

8.1 Members are entitled to attend general meetings or to appoint proxies to attend general meetings in their place. General meetings are called on at least clear 14 days written notice specifying the business to be discussed

8.2 There is a quorum at a general meeting if the number of members personally present or represented by proxy at the meeting is at least _____ [number] (or _____ [percentage] of the members if greater). If a quorum is not present within half an hour from the time appointed for the meeting, the meeting shall stand adjourned to the same day in the next week at the same time and place, or to such

- 8.3 The [**Chairman**] or (if the Chairman is unable or unwilling to do so) some other member elected by those present presides at a general meeting
- 8.4 Except where otherwise provided by the **Act**, every issue is decided by a majority of the votes cast
- 8.5 Every member shall have one vote on each issue, which (whether on a show of hands or on a secret ballot) may be given either personally or by proxy.
- 8.6 The chairman of a general meeting does not have a casting vote.
- 8.7 Any member who wishes to appoint a proxy to vote on his/her behalf at any meeting (or adjourned meeting):
- 8.7.1 shall lodge with the Charity, at the Charity's registered office, a written instrument of proxy (in such form as the Trustees require), signed by him/her; or
- 8.7.2 shall send by electronic means to the Charity, at such electronic address as may have been notified to the members by the Charity for that purpose, an instrument of proxy (in such form as the Trustees require)
- providing (in either case), the instrument of proxy is received by the Charity at the relevant address not less than 48 hours before the time for holding the meeting (or, as the case may be, adjourned meeting).
- 8.8 An instrument of proxy which does not conform with the provisions of article 8.7, or which is not lodged or sent in accordance with such provisions, shall be invalid.
- 8.9 A member shall not be entitled to appoint more than one proxy to attend on the same occasion.
- 8.10 A proxy appointed to attend and vote at any meeting instead of a member shall have the same right as the member who appointed him/her to speak at the meeting and need not be a member of the Charity.
- 8.11 A vote given, or ballot demanded, by proxy shall be valid notwithstanding that the authority of the person voting or demanding a ballot had terminated prior to the giving of such vote or demanding of such ballot, unless notice of such termination was received by the Charity at the Charity's registered office (or, where sent by electronic means, was received by the Charity at the address notified by the Charity to the members for the purpose of electronic communications) before the commencement of the meeting or adjourned meeting at which the vote was given or the ballot demanded.
- 8.12 A resolution which would otherwise require to be passed at a general meeting may - providing the appropriate procedures set out in the Act are followed - be passed by a written resolution signed by the requisite proportion of members (or, as the case may be, to which the requisite proportion of members have signified their agreement in some other manner).
- 8.13 The Charity must hold an **AGM** in every year which all members are entitled to attend. The first AGM may be held within 18 months after the Charity's incorporation, and no more than 15 months may elapse between one AGM and the next.
- 8.14 At an AGM the members:
- 8.14.1 receive the accounts of the Charity for the previous financial year
- 8.14.2 receive the Trustees' report on the Charity's activities since the previous AGM

- 8.14.3 accept the retirement of those Trustees who wish to retire or who are retiring by rotation
- 8.14.4 elect persons to be Trustees to fill the vacancies arising
- 8.14.5 appoint auditors for the Charity (unless the Charity is entitled to exemption from audit and the Trustees wish to make use of that exemption)
- 8.14.6 may confer on any individual (with his or her consent) the honorary title of Patron, President or Vice-President of the Charity and
- 8.14.7 discuss any issues of policy or deal with any other business put before them .

8.15 Any general meeting which is not an AGM is an EGM.

8.16 An EGM may be called at any time by the Trustees and must be called within 28 days on a written request from at least _____ [number] members.

9. THE TRUSTEES

9.1 The Trustees have control of the Charity and its property and funds.

9.2 The Trustees when complete consist of at least [three] and not more than _____ [number] individuals, [all of whom must be members _____ [specify any special qualification]].

9.3 The individuals who signed the form INO1 as vouching consent to act as directors are the first Trustees of the Charity.

9.4 For the avoidance of doubt, no individual may be appointed as a Trustee unless he/she is willing to act as a charity trustee of the Charity.

9.5 One third (or the number nearest one third) of the Trustees must retire at each AGM, those longest in office retiring first and the choice between any of equal service being made by drawing lots. If the members at the meeting at which a Trustee retires by rotation do not fill the vacancy, the retiring Trustee shall, if willing to act, be deemed to have been reappointed unless at the meeting it is resolved not to fill the vacancy or unless a resolution for the appointment of the Trustee is put to the meeting and lost.

9.6 A Trustee's term of office automatically terminates if he or she:

9.6.1 ceases to be a director by virtue of the Act or is disqualified from acting as a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005

9.6.2 is in the reasonable belief of the Trustees suffering from mental disorder and incapable of acting and they resolve that he or she be removed from office

9.6.3 is absent from _____ [number] consecutive meetings of the Trustees and the Trustees resolve that he/she should vacate office

9.6.4 ceases to be a member [(but such a person may be reinstated by resolution passed by all the other Trustees on resuming membership of the Charity before the next AGM)]

9.6.5 resigns by written notice to the Trustees

9.6.6 is removed by resolution passed by at least _____ [number or percentage] of the members present and voting at a general meeting after the meeting has invited the views of the Trustee concerned and considered the matter in the light of any such views]

or

9.6.7 ceases to _____ [have the required qualification]].

9.7 The Trustees may at any time co-opt any person duly qualified to be appointed as a Trustee to fill a vacancy in their number or as an additional Trustee, but a co-opted Trustee holds office only until the next AGM.

9.8 A technical defect in the appointment of a Trustee of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

10. PROCEEDINGS OF TRUSTEES

10.1 The Trustees must hold at least _____ [number] meetings each year.

10.2 A quorum at a meeting of the Trustees is _____ [number] Trustees.

10.3 [A meeting of the Trustees may be held either in person or by suitable electronic means agreed by the Trustees in which all participants may communicate with all the other participants].

10.4 The Chairman or (if the Chairman is unable or unwilling to do so) some other Trustee chosen by the Trustees present presides at each meeting.

10.5 Every issue may be determined by a simple majority of the votes cast at a meeting but a written resolution signed by all the Trustees is as valid as a resolution passed at a meeting (and for this purpose the resolution may be contained in more than one document and will be treated as passed on the date of the last signature).

10.6 Except for the chairman of the meeting, who has a second or casting vote, every Trustee has one vote on each issue.

10.7 A procedural defect of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

11. POWERS OF TRUSTEES

11.1 The Trustees have the following powers in the administration of the Charity:

11.1.1 to appoint (and remove) any individual (who may be a Trustee) to act as Secretary to the Charity

11.1.2 to appoint a Chairman, Treasurer and other honorary officers from among their number

11.1.3 to delegate any of their functions to committees consisting of two or more individuals appointed by them (but at least _____ [number] member of every committee must be a Trustee and all proceedings of committees must be reported promptly to the Trustees)

11.1.4 to make Standing Orders consistent with **these Articles** and the Act) to govern proceedings at general meetings

11.1.5 to make Rules consistent with these Articles and the Act to govern proceedings at their meetings and at meetings of committees

11.1.6 to make Regulations consistent with these Articles and the Act to govern the administration of the Charity

11.1.7 to establish procedures to assist the resolution of disputes within the Charity

11.1.8 to exercise any powers of the Charity which are not reserved to a general meeting

11.2 With reference to paragraph 11.1.1, the Trustees must appoint a Secretary notwithstanding that that is not a statutory requirement.

12. RECORDS & ACCOUNTS

12.1 The Trustees must comply with the requirements of the Act and of the Charities and Trustee Investment (Scotland) Act 2005 as to keeping financial records, the audit of accounts and the preparation and transmission to the Registrar of Companies and OSCR of:

12.1.1 annual reports

12.1.2 annual returns

12.1.3 annual statements of account

12.2 The Trustees must keep proper records of

12.2.1 all proceedings at general meetings

12.2.2 all proceedings at meetings of the Trustees

12.2.3 all reports of committees and

12.2.4 all professional advice obtained.

12.3 Accounting records relating to the Charity must be made available for inspection by any Trustee at any reasonable time during normal office hours and may be made available for inspection by members who are not Trustees if the Trustees so decide.

12.4 A copy of the Charity's latest available statement of account must be supplied on request to any Trustee or member, or to any other person who makes a request and pays any fee (consistent with the provisions of the Charities and Trustee Investment (Scotland) Act 2005 and associated regulations) charged by the Charity for supplying the copy statement of account.

13. NOTICES

13.1 Notices under these Articles may be sent by hand, or by post or (where the individual concerned has intimated an e-mail address for this purpose) by way of electronic communications.

13.2 The only address at which a member is entitled to receive notices is the address shown in the register of members or (in the case of an electronic communication) the address intimated by him/her to the Charity for that purpose.

13.3 Any notice given in accordance with these Articles is to be treated for all purposes as having been received

13.3.1 24 hours after being sent by electronic means or delivered by hand to the relevant address

13.3.2 two clear days after being sent by first class post to that address

13.3.3 three clear days after being sent by second class or overseas post to that address

13.3.4 on being handed to the member personally or, if earlier,

13.3.5 as soon as the member acknowledges actual receipt

13.4 A technical defect in the giving of notice of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

14. WINDING UP

14.1 If the Charity is wound up, the assets (if any) remaining after provision has been made for all its liabilities must be applied in one or more of the following ways:

14.1.1 by transfer to one or more other bodies established for exclusively charitable purposes within, the same as or similar to the Objects

14.1.2 directly for the Objects or charitable purposes within or similar to the Objects.