

**COMPANY LIMITED by GUARANTEE and NOT HAVING a SHARE CAPITAL**

**ARTICLES of ASSOCIATION**

**of**

**THE SCOTTISH FISHERIES MUSEUM TRUST LIMITED**



**PRELIMINARY**

1. In these Articles, unless the context requires otherwise the following expressions shall have the following meanings:

"the Trust" means The Scottish Fisheries Museum Trust Limited;

"the Articles" means these Articles of Association;

"Member" means a member for the time being of the Trust in terms of the Articles;

"the Board of the Museum" means the Board of The Scottish Fisheries Museum Trust Ltd which is the body consisting of the Trustees and such other officers and advisors as may be deemed necessary for the proper governance of the Museum's affairs;

"the Trustees" means the duly elected or appointed voting members of the Board of the Museum with the responsibilities detailed in the Memorandum of Association and Articles;

"the Office" means the Registered Office for the time being of the Trust;

"the Act" means the Companies Act 1985, and any amendment, extension or re-enactment thereof for the time being in force;

"the United Kingdom" means Great Britain and Northern Ireland;

"Charity" means a Scottish Charity within the meaning of section 13 (2) of the Charities and Trustee Investment (Scotland) Act 2005, or a "charity" within the meaning of section 96 of the Charities Act 1993;

"Charitable Purpose" means a purpose which constitutes a charitable purpose under section 7 (2) of the Charities and Trustee Investment (Scotland) Act 2005 and also qualifies as a charitable purpose in respect of the definition of "qualifying expenditure" in section 506 (1) of the Income and Corporation Taxes Act 1988;

"museum" means an institution which collects, documents, preserves, exhibits and interprets material evidence and associated information for the public benefit; and which is recognised or capable of being recognised by Museums Galleries Scotland or the appropriate accrediting body as being properly constituted and as performing the required functions in an acceptable manner; and "the Museum" means The Scottish Fisheries Museum, owned, operated and maintained by the Trust;

"the Collection" means that body of material evidence having collective or individual historical, artistic or scientific importance, the possession of which enables the Trust to be constituted as a museum; and

" Specimen" means any individual item comprised in the collection and on the official register of acquisitions;

expressions referring to "writing" shall, unless otherwise stated, be construed as including references to printing, lithography, photography and any other means of representing or reproducing words in a visible form;

unless the context otherwise requires, words or expressions contained in the Articles shall bear the same meaning as in the Act in force at the date at which the Articles became binding on the Trust, except that the word "Trust" shall be substituted herein for "Company", and the word "Trustees" for "Directors" as these words respectively appear in the Act;

"year" means a year beginning on the first day of November;

"month" means a calendar month;

words importing the masculine shall include the feminine and vice versa;

words importing persons shall include corporations; and

words importing the singular shall include the plural and vice versa.

## **MEMBERSHIP**

2. For the purpose of registration, the number of Members is limited to One thousand five hundred.
3. The subscribers to the Memorandum of Association and such other persons as shall be admitted to membership in accordance with these Articles shall be Members of the Trust.
4. There shall be three Classes of Member, namely: (a) Subscribing Members (b) Life Members (c) Honorary Members.
5. The Subscribing Members shall be persons who signify to the Trust their desire to become Subscribing Members, being admitted to membership as such by the Trustees, and who in any year make a payment to the Trust of such sum as the Trustees shall prescribe. If such sum is not paid by the Subscribing Member before 1st May in any year the Trustees may remove the name of the Member from the Register of Members, and he shall thereupon cease to be a Member.
6. The Life Members shall be such persons who, prior to 1 January 2012 when this category of membership was discontinued for new applicants, signified their desire to become Life Members and were admitted as such by the Trustees.
7. Honorary Members shall be such persons as may be elected by the Trustees as Honorary Members of the Trust by reason of their services to the Trust or by reason of benefactions made to the Trust by them or persons or bodies whom they represent.

8. The privileges of a Member shall not be transferable.
9. Membership of the Trust shall, subject to the provisions of these Articles, be open to all persons irrespective of political or religious opinions, gender, nationality, race or colour.
10. The Trustees may from time to time authorise the formation within the Trust of sections amongst the Members, for the furtherance of a common activity.
11. The forms of application for Membership, and the manner of the election of Honorary Members, shall be such as the Trustees from time to time decide. Every Member upon admittance to membership shall be bound by the Articles.
12. The Trustees shall have absolute power and authority to refuse any application for membership Irrespective of qualification and without giving any reason for such refusal.

#### **DECEASED MEMBERS**

13. The representatives of any deceased Members shall have no interest in the Trust, but the Trust shall be entitled to claim from the representatives of a deceased Member any sums due to the Trust.

#### **TERMINATION OF MEMBERSHIP**

14. A Member may resign on giving to the Secretary one calendar month's notice in writing.
15. The Trustees shall be entitled at any time, should they in their absolute discretion deem it desirable, to remove from membership any Member for any one of the following causes:
  - (a) if the Member neglects or refuses forthwith to comply with any Article and shall continue to do so for a period of seven days after written notice is sent to him by registered post by the Secretary, on the instructions of the Trustees, requiring him to remedy such neglect or refusal;
  - (b) if the Trustees, at a meeting at which the Member concerned shall have been given a reasonable opportunity to be present and speak on his own behalf, should resolve that it is desirable in the interests of the Trust that the Member should cease to be a Member;
  - (c) if the Member becomes of unsound mind, or for any reason becomes incapable of managing his affairs;
  - (d) if the Member becomes apparently insolvent or is sequestrated or makes an arrangement or composition with his creditors; or
  - (e) if any Member neglects by 1<sup>st</sup> May to pay the annual subscription payable by such Member, or persistently neglects or refuses to pay any other monies payable by him to the Trust.
16. Upon the resignation or removal of any Member, his interest in the rights and privileges of membership of the Trust shall cease (without prejudice to the continuation in force of his guarantee).

#### **MEETINGS**

17. The Trust shall, in each year, hold a general meeting as its Annual General Meeting, at such time and

place as the Trustees shall appoint, but so that not more than fifteen months shall be allowed to elapse between such meetings.

18. The Annual General Meeting shall be in addition to any other general meetings in that year. All general meetings other than the Annual General Meeting shall be called Extraordinary General Meetings.
19. The Chairman or Treasurer may, whenever he thinks fit, convene an Extraordinary General Meeting. Extraordinary General Meetings may also be convened on a requisition of Members pursuant to section 303, Companies Act 2006.

#### **NOTICE OF GENERAL MEETINGS**

20. Seven days' notice at the least (exclusive of the day on which the notice is served or deemed to be served but inclusive of the day for which notice is given) specifying the place, the day and the hour of meeting, and, in case of special business, the general nature of that business, shall be given in manner hereinafter mentioned, or in such other manner if any as may be prescribed by the Trustees, to such persons as are under these Articles entitled to receive such notices, but the accidental omission to give such notice to or the non-receipt of such notice by any Member shall not invalidate the proceedings at any General Meeting.

#### **PROCEEDINGS AT GENERAL MEETINGS**

21. All business shall be deemed special that is transacted at an Extraordinary General Meeting, and also all that is transacted at an Annual General Meeting with the exception of the consideration of the accounts, balance sheets and the ordinary report of the Trustees and Independent Examiners of Accounts. The election of Trustees in the place of those retiring by rotation, or of additional Trustees, and the fixing of the remuneration of the Independent Examiners of Accounts shall also be deemed special.
22. No business shall be transacted at any General Meeting unless a quorum of Members is present at the time when the Meeting proceeds to business. Five Members present in person shall be a quorum.
23. The Chairman of the Trustees, whom failing the Vice-Chairman, shall preside at every General Meeting of the Trust. If at any meeting none of these be present within fifteen minutes after the time appointed for holding the meeting, the Members present shall choose one of the Trustees present to be Chairman of the meeting.
24. If no such Chairman is available, or if at any Meeting no officer or member of the Board of Trustees is willing to act as Chairman, the Members present shall choose one of their number to be Chairman.
25. The Chairman may, with the consent of any Meeting at which a quorum is present (and shall if so directed by the Meeting), adjourn the Meeting from time to time and from place to place. It shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned Meeting.
26. At any General Meeting a Resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before, or on the declaration of the result of the show of hands) demanded by at least three Members, and, unless a poll is so demanded, a declaration by the Chairman that a Resolution has on a show of hands been carried, or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority, and an entry to that effect in the book of the proceedings

of the Trust, shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that Resolution.

27. If, as provided in Article 26, a poll is duly demanded it shall be taken in such manner as the Chairman directs, and the result of the poll shall be deemed to be the Resolution of the Meeting at which the poll was demanded.
28. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the Meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.
29. A poll demanded on the election of a Chairman or a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the Chairman of the Meeting directs.

#### **VOTES OF MEMBERS**

30. On a show of hands, and on a poll, every Member who is entitled to receive notice of the Meeting shall have one vote. All votes must be given personally. No Member shall be entitled to vote at any General Meeting unless all monies presently payable by him to the Trust have been paid.
31. 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 given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the Chairman of the meeting, whose decision shall be final and conclusive.

#### **RESOLUTION IN WRITING**

32. Subject to the provisions of the Act, a resolution in writing executed by or on behalf of all the Members for the time being entitled to receive notice of, and to attend and vote at, General Meetings shall be as valid and effective as if the same had been passed at a General Meeting of the Trust duly convened and held, and may consist of several documents in the like form, each executed by or on behalf of one or more Members.

#### **POWERS OF TRUSTEES**

33. The entire business of the Trust shall be arranged and managed by the Trustees who may exercise all such powers of the Trust (including power to borrow money) as are not by the Act or the Articles declared to be exercisable only by the Trust in General Meeting, subject nevertheless to the provisions of the Act and the Articles, and to such regulations being not inconsistent with the aforesaid regulations, as may be prescribed by the Trust in General Meeting; and no such regulation made by the Trust shall invalidate any prior act of the Trustees which would have been valid if such regulation had not been made.
34. The Trustees shall consist of no fewer than eight nor more than twelve members (excluding the President and Vice-President). Each Trustee, whether elected or appointed, must be a Member, except those appointed by Fife Council and The Scottish Fishermen's Federation.
35. The Trustees shall adopt a written Collecting Policy and review it at least every five years, which policy shall define the types of Specimens which the Trust wishes to include in the Collection and the geographical area from which such specimens may be drawn.

36. The Trustees shall maintain an accurate and current Register of all Specimens acquired for, or removed from, the Collection.

#### **APPOINTMENT and ROTATION of TRUSTEES**

37. Appointments of Trustees shall be as follows:

- (a) one Trustee shall be nominated by Fife Council;
- (b) one Trustee shall be nominated by The Scottish Fishermen's Federation;
- (c) the right to nominate additional Trustees (between six and ten in number) shall vest in a Nominations Committee of which the members shall be (i) the Chairman of the Board of Trustees (ii) the Vice-Chairman of the Board of Trustees, and (iii) the Trust Secretary.

All nominations for appointment to the Board of the Museum shall be submitted to the Board for approval and, if approved, placed before the Members, for election, at a General Meeting.

38. The Trustees shall have power, subject only to the provisions of the Articles, to co-opt additional Trustees, provided that not more than a voting minority of such persons are Trustees at any one time. At the time of co-option, the Trustees shall advise Members of the appointment of co-opted Trustees. Co-opted Trustees will be appointed to serve only for the period between the date of appointment and the date of the next succeeding General Meeting of the Trust.

39. (a) Each Trustee will serve for an initial term of three years. At the conclusion of that term, a retiring Trustee will be eligible for appointment for a second term of three years, subject to the approval of the members in General Meeting.

(b) A Trustee who has served two successive terms will not be eligible for appointment for a third term, until a gap of three years (commencing the end of the second term) has expired.

(d) A Trustee who is eligible for appointment for a third term, and is nominated pursuant to the provisions of Article 37, shall be appointed subject to the approval of the members in General Meeting.

(e) A Trustee who has served, in all, three terms of office will no longer be eligible for membership of the Board of the Museum.

40. The Trustees shall have power, subject to the provisions of the Memorandum of Association, to appoint and remove such paid officers and staff of the Trust as they shall think fit, and also to appoint and remove Solicitors and such other Agents, and consult such experts, legal and others, as they may think fit. They shall have full power from time to time to determine the respective duties and powers of the persons so appointed and to fix their respective salaries, fees or remuneration and pension or superannuation arrangements (if any).

#### **HONORARY OFFICERS**

41. The Annual General Meeting may elect a President and such number of Vice-Presidents as the Members may from time to time determine. The President or a Vice-President may be invited, at the Trustees' discretion, to officiate at General Meetings of the Trust. The President shall be elected annually. Vice-Presidents may be elected for life, or for such

other period as may be specified at the time of election. Appointment to the posts of President or Vice-President shall not be governed by Article 45(f)

42. The President and all Vice-Presidents of the Trust shall be entitled *ex-officio* to attend all meetings of the Trustees and of any Standing Committees. They shall not however have the status of Trustees while holding these offices.

#### **OFFICERS OF THE TRUST**

43. The Trustees shall, immediately prior to each Annual General Meeting, hold a meeting to confirm the nomination from among their number of a Chairman and Vice Chairman of the Trust for the forthcoming year. The names of the persons so nominated shall be forwarded to the Annual General Meeting for confirmation.

If any casual vacancy should occur in the office of Chairman, the Vice-Chairman shall act as Chairman until a new Chairman be elected by the Trustees.

44. The Secretary and the Treasurer of the Trust shall be appointed from time to time by the Trustees from amongst their number or otherwise. At the discretion of the Trustees, these offices may be combined in the one person.

#### **DISQUALIFICATION OF TRUSTEES**

45. The office of a Member of the Board of the Museum shall be vacated if:
- (a) the Trustees pass a resolution by a three-fourths majority that it is desirable that the Member should cease to be a Trustee;
  - (b) the Member ceases to be a Member of the Trust;
  - (c) the Member resigns his office by notice in writing to the Secretary;
  - (d) the Member is removed from office by resolution duly passed pursuant to section 303 of the Act;
  - (e) the Member becomes prohibited from being a Trustee by reason of any order made under the Insolvency Act 1986, or any amendment, extension or re-enactment thereof;
  - (f) the Member fails to attend three consecutive meetings of the Trustees, and the Trustees are not satisfied with any explanations that may be offered therefor; or
  - (g) the Member accepts remuneration in contravention of Clause 5 of the Memorandum of Association.

#### **PROCEEDINGS OF THE TRUSTEES**

46. Meetings of the Board of the Museum shall be held at such times and such places as the Trustees may from time to time direct. The Chairman or any three Trustees may, and the Secretary upon request of the Chairman or any three Trustees shall, at any time, convene a meeting of the Trustees.
47. The quorum at any meeting of the Trustees shall be five members (excluding the President and any

Vice-Presidents). This quorum must include at least one of: the Chairman, Vice-Chairman, Secretary, Treasurer.

48. Meetings of the Trustees shall be chaired by the Chairman of the Trust or, in his absence, the Vice-Chairman or, in the absence of these officers, by one of the Trustees to be chosen by those present.
49. A Trustee who is not at the material time in the United Kingdom shall not be entitled to receive notice of a meeting of the Board of the Museum.
50. The Trustees shall have full power to appoint Committees and may delegate to such Committees all such duties, powers and privileges as they may think fit, save as is provided otherwise in the Articles **provided** always that any decision to sell or otherwise dispose of any Specimen shall be made only by the Trustees acting with the advice of an appropriately qualified and/or experienced professional museum curator and only for the purpose of improving the quality of the collection. The Committees shall have power to appoint Sub-Committees to whom (upon advising the Board of the Museum) they may delegate such of their business as they think fit.

The members of a Committee or Sub-Committee need not be Trustees or, in the case of a Sub-Committee, members of the Committee by which the Sub-Committee is appointed **provided** always that no resolution of a meeting of a Committee or Sub-Committee shall be binding on the Trust until confirmed by the Trustees at a subsequent meeting. The number of members of any Committee or Sub-Committee which shall constitute a quorum shall be decided by such Committee or Sub-Committee. The Chairman of a Committee or Sub-Committee may be appointed by the Trustees or, whom failing, elected by the members of the Committee or Sub-Committee.

51. All acts *bona fide* done by the Trustees, or by a Committee or Sub-Committee, or by any person or persons acting as a member or members thereof respectively (notwithstanding that it may afterwards be discovered that there was any defect in the appointment of the Trustees or Committee or Sub-Committee, or of any person or persons acting as aforesaid, or that they or any of them were disqualified or had ceased to be Trustees) shall be as valid as if every such person had been duly appointed, and was at the time qualified to be a Trustee or member of a Committee or Sub-Committee.
52. The Trustees for the time being may act notwithstanding any vacancy in their body. In the event of such a vacancy or vacancies reducing the membership to less than a quorum, the remaining Trustees may meet for the sole purpose of inviting any body having the right of nomination of persons to the Board of the Museum (and not all of whose nominated places are then filled) to nominate a person or persons to fill the relevant vacancy or vacancies, or of co-opting sufficient additional members to allow a quorum to meet thereafter.
53. A resolution in writing, signed by all the Trustees for the time being in the United Kingdom, shall be as valid and effectual as if it had been passed at a meeting of the Trustees duly convened and held, and may consist of several documents in the like form, signed by one or more of the Trustees.

#### **STAFF**

54. The Trustees shall appoint a Director or Directors who shall be responsible for the day to day management of the Museum and for the appointment and management of such salaried staff as may be deemed necessary for the running of the Museum. The Trustees shall also appoint, and from time to time may replace, a named person to be responsible for the care and development of the Collection, subject only to the requirement that if such person is not an appropriately qualified and/or experienced professional



museum curator, and if for the time being the Trustees do not have amongst their number a person with appropriate qualifications and/or experience, they shall seek to appoint such a person to be their Adviser.

55. The Trustees have the power to appoint such other paid staff as are required. The Trustees shall have the power to dismiss staff in accordance with their Terms and Conditions of Employment.
56. No such paid staff may be a Trustee of the Museum or vote on its deliberations.
57. No Trustee shall be appointed to any salaried office of the Trust but may receive reimbursement of such out-of-pocket expenses deemed necessary while carrying out his duties as agreed by the Trustees.
58. The Trustees shall ensure that each member of staff paid by the Trust is issued with Terms and Conditions of Employment and that established Support, Grievance and Disciplinary Procedures are in place.

#### **ACCOUNTS AND AUDIT**

59. The Trustees shall cause proper books of account to be kept with respect to:
  - (a) all sums of money received and expended by the Trust and the matters in respect of which the receipt and expenditure takes place;
  - (b) all sales and purchases of goods by the Trust;
  - (c) the property, assets and liabilities of the Trust.

Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the Trust's affairs and to explain its transactions.

60. The books of account shall be kept at the Office and, subject to any reasonable restriction as to time and manner of inspection that may be imposed by the Trust in General Meeting, the same shall be open to the inspection of the Members at all times during usual business hours.
61. The Trustees shall from time to time, in accordance with the Act, cause to be prepared and to be laid before the Trust in General Meeting such income and expenditure accounts, balance sheets and reports as are referred to in the relevant sections of the Act.
62. The Trust is not required to appoint auditors, as long as the criteria for small business set out in changes to the Companies Act 1985 are met.
63. All cheques, promissory notes, drafts, bills of exchange 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 Trustees shall from time to time determine.

#### **NOTICES**

64. A notice may be sent by the Trust to any Member (a) by leaving it, or sending it through the post in a prepaid letter addressed to the Member, at his address as appearing in the Register of Members; a

notice so sent shall be deemed to have been received when, in the ordinary course of post, it would have been delivered, or (b) by electronic means **provided that** the Member to whom it is sent has agreed (generally or specifically) that the notice may be sent in that form (and has not revoked that agreement). Where a notice is sent by electronic means, it may be sent only to an address specified for that purpose by the intended recipient (generally or specifically).

65. Notice of every General Meeting shall be given in the same manner as hereinbefore authorised to:
- (a) all Members who have registered addresses within the United Kingdom;
  - (b) the Independent Examiner of Accounts for the time being of the Trust. No other person shall be entitled to receive notice of a general meeting.

#### **MINUTES**

66. Correct Minutes of the proceedings of the Trustees and of Committees or Sub-Committees of the Trust shall be taken and shall be kept at the office of the Secretary, or in the custody of such other person as the Trustees may from time to time appoint, and shall be in such form as the Trustees may direct.

#### **INDEMNITY**

67. Subject to the provisions of the Act, every officer or employee of the Trust shall be entitled to be indemnified by the Trust against all costs, losses and expenses which he may incur, or become liable for, in the execution or discharge of any office held by him in the Trust.

#### **WINDING UP**

68. If the Trust shall be wound up, the Collection shall be transferred, and the assets of the Trust disposed of, in accordance with Clause 7 of the Memorandum of Association.

Upon the winding up or dissolution of the Trust, its debts and liabilities shall be satisfied exclusively out of the assets of the Trust other than the Collection.

March 2012  
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