

CONSTITUTION OF THE SALTIRE SOCIETY TRUST

SECTION 1 GENERAL

1. TYPE OF ORGANISATION

The Trust (as defined below) will, upon registration, be a Scottish Charitable Incorporated Organisation (**SCIO**).

2. SCOTTISH PRINCIPAL OFFICE

The principal office of the Trust will be in Scotland (and must remain in Scotland).

3. NAME

The name of the trust is "The Saltire Society Trust" (the **Trust**).

4. PURPOSE & OBJECTIVES

4.1 The Trust is established for charitable purposes only to support the purposes or objectives of The Saltire Society,

4.2 In particular, the objects of the Trust are to:

4.2.1 increase public awareness of Scotland's distinct natural and cultural heritage in all its richness and diversity and foster the cherishing and enrichment of all aspects of that heritage, including the Scots and Gaelic languages;

4.2.2 enhance the quality of Scotland's contribution to all the arts and sciences by encouraging creativity, inventiveness, and the achievement of the highest standards of excellence in these fields;

4.2.3 build on achievements of the past to advance Scotland's standing as a vibrant creative force;

4.2.4 improve all aspects of Scottish culture and strengthen Scotland's links with other countries and peoples; and

4.2.5 from time to time as may be required, participate in the establishment of other charitable bodies with purposes substantially the same as or connected to those of the Trust.

4.3 Any income generated, or held, by the Trust may be passed to The Saltire Society to achieve the objectives set out above. The Trust may co-operate with other organisations on matters which are in accord with its objectives.

5. **POWERS**

- 5.1 The Trust has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so, as stated in Section 50 (5) of the Charities and Trustee Investment (Scotland) Act 2005.
- 5.2 No part of the income or property of the Trust may be paid or transferred (directly or indirectly) to the members/Charity Trustees - either in the course of the Trust's existence or on dissolution - except where this is done in direct furtherance of the Trust's charitable purposes.

6. **GENERAL STRUCTURE**

The structure of the Trust consists of the Charity Trustees who are also the Trust's only members (the **Charity Trustees**) and comprise the Trust's board (the **Board**).

7. **LIABILITY OF CHARITY TRUSTEES (MEMBERS)**

- 7.1 The Charity Trustees (the only members) of the Trust have no liability to pay any sums to help to meet the debts (or other liabilities) of the Trust if it is wound up; accordingly, if the Trust is unable to meet its debts, the Charity Trustees will not be held responsible.
- 7.2 The Charity Trustees have certain legal duties under the Charities and Trustee Investment (Scotland) Act 2005; and Clause 7.1 does not exclude (or limit) any personal liabilities they might incur if they are in breach of those duties or in breach of other legal obligations or duties that apply to them personally.

SECTION 2 BOARD

8. **QUALIFICATIONS FOR CHARITY TRUSTEESHIP**

- 8.1 Charity Trusteeship is open to any person aged 16 or over or any corporate body who has been nominated for membership by the Council of The Saltire Society who subscribes to the purposes of the Trust and wishes to see them fulfilled.

9. **APPLICATION FOR CHARITY TRUSTEESHIP**

- 9.1 Any nominated person or body who/which wishes to become a Charity Trustee must sign a written application for Charity Trusteeship; and for a corporate body, that application must be signed by an appropriately authorised officer of that body who will remain as the representative of that corporate body until such time as the corporate body informs the Board otherwise.
- 9.2 The application will then be considered by the Board at its next Board meeting.

9.3 The Board may, at its discretion, refuse to admit any nominated person or corporate body, or veto the proposed authorised officer acting as a representative of a corporate body, to Charity Trusteeship.

9.4 The Board must notify each applicant promptly (in writing, which includes by e-mail) of its decision on whether or not to admit him/her/it to Charity Trusteeship.

10. NUMBER OF CHARITY TRUSTEES

10.1 The maximum number of Charity Trustees is 7.

10.2 The minimum number of Charity Trustees is 3.

10.3 A minimum of one Charity Trustee must also be a trustee (or equivalent position) of The Saltire Society.

11. ELIGIBILITY

11.1 A person will not be eligible for election or appointment to the Board if he/she:

11.1.1 is disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005; or

11.1.2 has entered into a full time or part time employment contract with the Trust, with the exception of employment as described in Clauses 18.4 and 18.5.

12. INITIAL CHARITY TRUSTEES

12.1 The individuals who signed the Charity Trustee declaration forms which accompanied the application for incorporation of the Trust shall be deemed to have been appointed as Charity Trustees with effect from the date of incorporation of the Trust and its entry on the Scottish Charity Register.

13. ANNUAL GENERAL MEETING

13.1 The Board must arrange a meeting of the Charity Trustees (an annual general meeting or **AGM**) in each calendar year, reporting on the immediately preceding financial year of the Trust.

13.2 The gap between one AGM and the next must not be longer than 15 months.

13.3 Notwithstanding Clause 13.1, an AGM does not need to be held during the calendar year in which the Trust is formed; but the first AGM must still be held within 15 months of the date on which the Trust is incorporated and entered on the Scottish Charity Register.

13.4 The business of each AGM must include:

13.4.1 a report by the Convener on the activities of the Trust; and

- 13.4.2 consideration of the annual statement of account of the Trust, as prepared under Section 44 of the Charities and Trustee Investment (Scotland) Act 2005.

14. **TERMINATION OF OFFICE**

- 14.1 A Charity Trustee will automatically cease to hold office if:

14.1.1 he/she becomes disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005; or

14.1.2 he/she becomes incapable for medical reasons of carrying out his/her duties as a Charity Trustee - but only if that has continued (or is expected to continue) for a period of more than six months; or

14.1.3 he/she enters into a full time or part time employment contract with the Trust, with the exception of employment as described in Clauses 18.4 and 18.5; or

14.1.4 he/she/it gives the Trust a notice of resignation, signed by him/her/its authorised representative; or

14.1.5 he/she/it is absent (without good reason, in the opinion of the Board) from more than three consecutive meetings of the Board - but only if the Board resolves to remove him/her/it from office; or

14.1.6 he/she/it is removed from office by resolution of the board on the grounds that he/she/it is considered to have been in serious or persistent breach of his/her/its duties under section 66(1) or (2) of the Charities and Trustee Investment (Scotland) Act 2005; or

14.1.7 he/she/it is removed from office for any other reason by resolution of the Board; or

14.1.8 their removal is requested in writing by the Council of The Saltire Society.

- 14.2 A resolution under Clauses 14.1.5, 14.1.6, 14.1.7 shall be valid only if:

14.2.1 the Charity Trustee who is the subject of the resolution is given 14 days written notice of the grounds upon which the resolution for his/her/its removal is to be proposed;

14.2.2 the Charity Trustee concerned is given the opportunity to address the meeting at which the resolution is proposed, prior to the resolution being put to the vote; and

14.2.3 at least two thirds (to the nearest round number) of the Charity Trustees vote in favour of the resolution as set out in Clause 21.5.

15. REGISTER OF CHARITY TRUSTEES

15.1 The Board must keep a register of Charity Trustees, setting out

15.1.1 for each current Charity Trustee:

- (a) his/her/its full name and address; and
- (b) the date on which he/she/it was appointed as a Charity Trustee; and
- (c) any office held by him/her/it in the Trust; and

15.1.2 for each former Charity Trustee - for at least 6 years from the date on which he/she/it ceased to be a Charity Trustee:

- (a) the name of the Charity Trustee; and
- (b) any office held by him/her/it in the Trust; and
- (c) the date on which he/she/it ceased to be a Charity Trustee.

15.1.3 The Board must ensure that the register of Charity Trustees is updated within 28 days of any change:

- (a) which arises from a resolution of the Board; or
- (b) which is notified to the Trust.

15.1.4 If any person requests a copy of the register of charity trustees, the Board must ensure that a copy is supplied to him/her within 28 days, providing the request is reasonable; if the request is made by a person who is not a Charity Trustee of the Trust, the board may provide a copy which has the addresses blanked out. The Trust may, if it is satisfied that including the names of any or all of the Charity Trustees is likely to jeopardise the safety or security of any person or premises, remove the name(s). Such a decision must be taken on a case by case basis, justified and minuted at a meeting of the Board of Charity Trustees.

16. OFFICE-BEARERS

16.1 The Charity Trustees must elect (from among themselves) a Convener and a Treasurer subject to approval by the Council of The Saltire Society.

16.2 In addition to the office-bearers required under Clause 16.1, the Charity Trustees may elect (from among themselves) further office-bearers if they consider that appropriate.

16.3 A person/nominated individual/corporate body elected to any office will automatically cease to hold that office:

16.3.1 if he/she/it ceases to be a Charity Trustee; and/or

16.3.2 if he/she/it gives to the Trust a notice of resignation from that office, signed by him/her/its authorised officer.

17. **POWERS OF BOARD**

17.1 Except where this constitution states otherwise, the Trust (and its assets and operations) will be managed by the Board; and the Board may exercise all the powers of the Trust.

17.2 A meeting of the Board at which the appropriate quorum (as set out in Clauses 20.1 and 21.4) is present may exercise all powers exercisable by the Board.

18. **CHARITY TRUSTEES - GENERAL DUTIES & REMUNERATION**

18.1 Each of the Charity Trustees has a duty, in exercising their functions as a Charity Trustee, to act in the interests of the Trust; and, in particular, must:

18.1.1 seek, in good faith, to ensure that the Trust acts in a manner which is in accordance with its purposes; and

18.1.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person; and

18.1.3 in circumstances giving rise to the possibility of a conflict of interest between the Trust and any other party (subject to Clause 18.8):

(a) put the interests of the Trust before that of the other party; or

(b) where any other duty prevents him/her from doing so, disclose the conflicting interest to the Trust and refrain from participating in any deliberation or decision of the other Charity Trustees with regard to the matter in question;

18.1.4 ensure that the Trust complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.

18.2 In addition to the duties outlined in Clause 18.1, all of the Charity Trustees must take such steps as are reasonably practicable for the purpose of ensuring:

18.2.1 that any breach of any of those duties by a Charity Trustee is corrected by the Charity Trustee concerned and not repeated; and

18.2.2 that any Charity Trustee who has been in serious and persistent breach of those duties is removed as a Charity Trustee as described in Clause 14.1.6.

18.3 Provided he/she/it has declared his/her/its interest - and has not voted on the question of whether or not the Trust should enter into the arrangement - a Charity Trustee will not be debarred from entering into an arrangement with the Trust in which he/she/it has a private

interest; and (subject to Clauses 18.4, 18.5 and 18.8 and to the provisions relating to remuneration for services contained in Sections 67, 68 and 68A of the Charities and Trustee Investment (Scotland) Act 2005), he/she/it may retain any private benefit which arises from that arrangement.

- 18.4 No Charity Trustee may serve as an employee (having entered into a full time or part time contract) of the Trust with the only exception being as stated in Clause 18.5.
- 18.5 For the avoidance of doubt, it is permissible for a Charity Trustee to be employed as a temporary sessional worker, provided that:
- 18.5.1 such employment is explicitly authorised by the Board; and
 - 18.5.2 it is temporary; and
 - 18.5.3 it be in accordance with the rules laid down in Clause 18.3.
- 18.6 No Charity Trustee may be given any remuneration by the Trust for carrying out his/her/its duties as a Charity Trustee.
- 18.7 The Charity Trustees may be paid all 'out of pocket' travelling and other expenses reasonably incurred by them in connection with carrying out their duties; this may include expenses relating to their attendance at meetings.
- 18.8 For the avoidance of doubt, any involvement of a Charity Trustee in any capacity with The Saltire Society shall not be treated as giving rise to the possibility of a conflict of interest and any Charity Trustee shall be entitled to vote on whether the Trust should enter into an arrangement with The Saltire Society.

SECTION 3

DECISION-MAKING BY THE CHARITY TRUSTEES

19. NOTICE OF MEETINGS

- 19.1 The Board shall meet quarterly but any Charity Trustee may call a further meeting of the Board.
- 19.2 At least 14 clear days' notice must be given of the AGM, or of a Board meeting at which the business of the meeting includes consideration of any resolution.
- 19.3 At least 7 clear days' notice must be given for other Board meetings unless in the opinion of the Convenor
- 19.4 or there is a degree of urgency which makes that inappropriate.
- 19.5 The notice calling an AGM or a Board meeting at which the business of the meeting includes consideration of any resolution, must specify in general terms what business is to be dealt with at the meeting; and

- 19.5.1 in the case of any other resolution falling within Clause 21.5 (requirement for two-thirds majority) must set out the exact terms of the resolution.
- 19.6 The reference to “clear days” in Clauses 19.2 and 19.3 shall be taken to mean that, in calculating the period of notice,
- 19.6.1 the day after the notices are posted (or sent by e-mail) should be excluded; and
- 19.6.2 the day of the meeting itself should also be excluded.
- 19.7 Notice of the AGM and Board meetings must be given to all the Charity Trustees; but the accidental omission to give notice to one or more Charity Trustees will not invalidate the proceedings at the meeting.
- 19.8 Any notice which requires to be given to a Charity Trustee under this constitution must be:
- 19.8.1 sent by post to the Charity Trustee, at the address last notified by him/her to the Trust and on the register of charity trustees as described in Clause 15.1; and/or
- 19.8.2 sent by e-mail to the Charity Trustee, at the e-mail address last notified by him/her to the Trust. It is the responsibility of each Charity Trustee to keep their personal email details up to date.

20. **PROCEDURE AT BOARD MEETINGS**

- 20.1 No valid decisions can be taken at a Board meeting unless a quorum is present; the quorum for Board meetings is 3 Charity Trustees, present in person, except for Board meetings at which a resolution(s) is to be considered, as described in Clause 21.4.
- 20.2 If at any time the number of Charity Trustees in office falls below the number stated as the quorum in Clause 20.1, the remaining Charity Trustee(s) will have power to fill the vacancies - but will not be able to take any other valid decisions.
- 20.3 The Convener of the Trust should act as convener of each Board meeting.
- 20.4 If the Convener is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as Convener), the Charity Trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.
- 20.5 Every Charity Trustee has one vote, which must be given personally except in the case of a vote with regard to a resolution under Clause 21.1 and 21.2.
- 20.6 All decisions at Board meetings will be made by majority vote. (For procedure on resolutions either at Board meetings or AGMs see Clauses 21.1 - 21.8).
- 20.7 If there are an equal number of votes for and against any decision, the Convener or the chairperson of the meeting (in the circumstances described in Clause 20.4) will be entitled to a second (casting) vote.

- 20.8 The Board may, at its discretion, allow any person to attend and speak at a Board meeting notwithstanding that he/she is not a Charity Trustee - but on the basis that he/she must not participate in decision-making. The minute of that meeting must make the status of any such person clear for the avoidance of doubt as to their status.
- 20.9 A Charity Trustee must not vote at a Board meeting (or at a meeting of a sub-committee) on any decision which relates to a matter in which he/she/it has a private interest or duty which conflicts (or may conflict) with the interests of the Trust; he/she/it must withdraw from the meeting while an item of that nature is being dealt with as described in Clause 18.1. Any private interest or duty which relates to The Saltire Society shall not be treated as conflicting with the interests of the Trust and for the avoidance of doubt any Charity Trustee may remain and vote at meetings on any decisions which relate to such matters.
- 20.10 For the purposes of Clause 20.9:
- 20.10.1 Any private interest held by an individual who is “connected” with the Charity Trustee under section 68(2) of the Charities and Trustee Investment (Scotland) Act 2005 (husband/wife, partner, child, parent, brother/sister and their spouses etc) shall be deemed to be held by that Charity Trustee; and/or
- 20.10.2 a Charity Trustee will be automatically deemed to have a private interest in relation to a particular matter, if a body in relation to which he/she is an employee, director, member of the management committee, charity trustee, officer or elected representative has an interest in that matter.

21. **VOTING ON RESOLUTIONS**

- 21.1 Every Charity Trustee has one vote with regard to voting on resolutions, which (whether on a show of hands or on a secret ballot as described in Clauses 21.7 and 21.8) may be given either personally, or by proxy given to a fellow Charity Trustee.
- 21.2 A member who wishes to appoint a fellow Charity Trustee as their proxy to vote on his/her/its behalf with regard to (and only with regard to) resolutions, must lodge with the Convener or the chairperson of that meeting (in the circumstances described in Clause 20.4), prior to the time when the meeting commences, a written proxy authorisation form, signed by him/her/its authorised representative.
- 21.3 All decisions on resolutions will be made by majority vote - with the exception of the types of resolution listed in Clause 21.5.
- 21.4 The quorum for meetings (AGMs or Board meetings) at which a resolution(s) is to be considered is 3. For these meetings, and these meetings only, this quorum shall include proxies as described in Clauses 21.1 and 21.2.

- 21.5 The following resolutions will be valid only if passed by not less than two thirds of those voting (either on person or by proxy as described in Clauses 21.1 and 21.2) on the resolution at an AGM or at a Board meeting (or if passed unanimously by way of a written resolution under Clause 22) and will also be subject, (with the exception of Clauses 21.5.2 and 21.5.3) to Clause 28:
- 21.5.1 a resolution amending the constitution (including changing the name of the Trust); or
 - 21.5.2 a resolution expelling a person from Charity Trusteeship under Clauses 14.1.5, 14.1.6 or 14.1.7; or
 - 21.5.3 a resolution directing the Board to take any particular action (or directing the board not to take any particular action); or
 - 21.5.4 a resolution approving the amalgamation of the Trust with another SCIO (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation); or
 - 21.5.5 a resolution to the effect that all of the Trust's property, rights and liabilities should be transferred to another SCIO (or agreeing to the transfer from another SCIO of all of its property, rights and liabilities); or
 - 21.5.6 a resolution for the winding-up of the Trust.
- 21.6 If there are an equal number of votes for and against any resolution, the Convener or chairperson of the meeting (in the circumstances described in Clause 20.4), will be entitled to a second (casting) vote.
- 21.7 A resolution put to the vote at an AGM or Board meeting will be decided on a show of hands - unless the Convener or chairperson of the meeting (or at least two other Charity Trustees present at the meeting, whether voting personally or as proxies), ask for a secret ballot.
- 21.8 The Convener or chairperson of the meeting will decide how any secret ballot is to be conducted, and he/she will declare the result of the ballot at the meeting.

22. **WRITTEN RESOLUTIONS BY CHARITY TRUSTEES**

A resolution agreed to in writing (including by e-mail) by all the Charity Trustees will be as valid as if it had been passed at an AGM or Board meeting; the date of the resolution will be taken to be the date on which the last member agreed to it and it must be unanimous.

23. **MINUTES**

- 23.1 The Board must ensure that proper minutes are kept in relation to all Board meetings and meetings of sub-committees.

- 23.2 The minutes to be kept under Clause 23.1 must include the names of those present; and (so far as possible) should be signed by the Convener of the meeting.
- 23.3 With due reference to all applicable statutory requirements, it is wholly at the discretion of the Board as to whether or not the minute of a meeting, or any excerpt from the minute of a meeting, is to be made available to members of the public or any body.

SECTION 4 ADMINISTRATION

24. DELEGATION TO SUB-COMMITTEES

- 24.1 The Board may delegate any of their functions or powers to sub-committees; a sub-committee must include at least one Charity Trustee, but other members of a sub-committee need not be Charity Trustees.
- 24.2 The Board may also delegate to the Convener of the Trust (or the holder of any other post) such of their powers (but not their responsibilities) as they may consider appropriate.
- 24.3 When delegating powers under Clause 24.1 or 24.2, the Board must set out appropriate conditions (which must include an obligation to report regularly to the Board).
- 24.4 Any delegation of powers under Clause 24.1 or 24.2 may be revoked or altered by the Board at any time.
- 24.5 The rules of procedure for each sub-committee, and the provisions relating to membership of each sub-committee, shall be set by the Board.

25. OPERATION OF ACCOUNTS

- 25.1 Subject to Clause 25.2, the signatures of two out of three signatories appointed by the Board will be required in relation to all operations (other than the lodging of funds) on the bank and building society accounts held by the Trust; at least one out of the two signatures must be the signature of a Charity Trustee.
- 25.2 Where the Trust uses electronic facilities for the operation of any bank or building society account, the authorisations required for operations on that account must be consistent with the approach reflected in Clause 25.1.

26. ACCOUNTING RECORDS AND ANNUAL ACCOUNTS

- 26.1 The Board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.

- 26.2 The Board must prepare an annual statement of account, complying with all relevant statutory requirements; which includes deciding the correct format of the accounts, and the appropriate external scrutiny requirement by either a registered auditor or an appropriately qualified independent examiner.

SECTION 5 MISCELLANEOUS

27. DISSOLUTION AND WIND-UP OF THE TRUST

- 27.1 If the Trust is to be dissolved and wound-up, the dissolution and wind-up process will be carried out in accordance with the procedures set out under the Charities and Trustee Investment (Scotland) Act 2005 and the Scottish Charitable Incorporated Organisation (Removal from Register and Dissolution) Regulations 2011.
- 27.2 Any surplus assets available to the Trust immediately preceding its winding-up must be used for purposes which are the same as - or which closely resemble - the purposes of the Trust as set out in this constitution.

28. ALTERATIONS TO THE CONSTITUTION

- 28.1 This constitution may (subject to Clause 28.2 and Clause 28.3) be altered by resolution of the Charity Trustees passed at an AGM or Board meeting (subject to achieving the two thirds majority referred to in Clause 21.5) or by way of a unanimous written resolution of the members (as described in Clause 22).
- 28.2 Any alteration set out in Clause 28.1 requires the written approval of the Council of The Saltire Society including specifically to action the following changes: change of name, an alteration to the purposes, amalgamation and/or winding-up.
- 28.3 The Charities and Trustee Investment (Scotland) Act 2005 requires that consent is sought from the Office of the Scottish Charity Regulator (OSCR) to action the following changes: change of name, an alteration to the purposes, amalgamation and/or winding-up.

29. INTERPRETATION

- 29.1 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 and other statutory regulations should be taken to include:
- 29.1.1 any statutory provision which adds to, modifies or replaces that Act or the regulations; and
- 29.1.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph 90.1 above.
- 29.2 In this constitution:

- 29.2.1 **charity** means a body which is either a “Scottish charity” within the meaning of section 13 of the Charities and Trustee Investment (Scotland) Act 2005 or a “charity” within the meaning of section 1 of the Charities Act 2006, providing (in either case) that its objects are limited to charitable purposes; and
- 29.2.2 **charitable purpose** means a charitable purpose under section 7 of the Charities and Trustee Investment (Scotland) Act 2005 which is also regarded as a charitable purpose in relation to the application of the Taxes Acts.
- 29.2.3 **Council of The Saltire Society** means the Council of The Saltire Society (as defined below) or any successor or equivalent position within The Saltire Society.
- 29.2.4 **The Saltire Society** means The Saltire Society (registered charity number SC004962) or any such successor or replacement charitable organisation to which the whole or substantially whole of the society's assets are being transferred.

Approved:

Signed:

Name:

Signed:

Name: