

**The Companies Act 1985**  
**Company Limited by Guarantee**  
**and not having a Share Capital**

**Memorandum of Association**

**of**

**NATIONAL MINING MUSEUM SCOTLAND TRUST**

**(formerly The Scottish Mining Museum Trust: incorporated on change of name  
pursuant to Special Resolution dated 16 May 2012;  
amended Memorandum as adopted by  
Special Resolution dated 31st May 2004 and as further  
amended by Special Resolution dated 27 September 2004)**

FRIDAY



**PRELIMINARY**

In this Memorandum unless there be something in the subject or context inconsistent therewith:-

'The Memorandum' means this Memorandum of Association or such as is in force from time to time.

'The Articles' means the Articles of Association of the Trust as are in force from time to time.

'The Board of Trustees' means the Board of Trustees of the Trust appointed in terms of the Articles.

'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.

'A Specimen' means any individual item comprised in the Collection.

'A 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 the Museums & Galleries Commission as being properly constituted and as performing the required functions in an acceptable manner.

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

'Member' means a member for the time being of the Trust in terms of the Articles.

Words importing the singular number only include the plural and vice versa, and words importing the masculine gender include the feminine.

Unless the context otherwise requires, words or expressions contained in this Memorandum shall bear the same meaning as in the Act as in force at the date at which this Memorandum became binding on the Trust. In these presents, the word 'Trust' shall be substituted for 'Company' and the words 'Board of Trustees' for 'Directors' as these other words respectively appear in the Act.

1. The name of the Company (hereinafter referred to as 'the Trust') is "NATIONAL MINING MUSEUM SCOTLAND TRUST".

2. The Registered Office of the Trust will be situated in Scotland.

3. Each and every Clause (including this Clause) both of the Memorandum and of the Articles shall be read and interpreted as if there were embodied therein an over-riding qualification to the effect that no expenditure of income or capital by the Trust shall be permitted for the purpose of carrying out any activities which are not wholly charitable within the meaning of Sections 505 and 506 of the Income and Corporation Taxes Act 1988, or of any amendment, extension or re-enactment thereof or of any subordinate legislation made thereunder (which meaning shall be ascribed to the word 'charitable' wherever used in this Memorandum and Articles), and that in all cases in which the powers conferred upon the Trust, whether by this Memorandum and Articles or otherwise are in their nature alike capable of being exercised for purposes which are not charitable or only partially so, as well as for purposes which are wholly charitable, the Trust shall be entitled to exercise those powers only in those ways which will not prejudice the charitable status of the Trust (within the statutory meaning before mentioned).

Subject to the said over-riding qualification the objects for which the Trust is established are:-

3.1 To advance and promote the education of the general public, and in particular the inhabitants of Scotland without distinction of sex or of political, religious or other opinions, by associating voluntary organisations, local authorities and other bodies of whatever status together with the inhabitants in a common effort to establish a Museum to be called The Scottish Mining Museum which the Trust intends to achieve by means of:

- a) bringing together, holding, adequately housing, conserving and documenting a Collection of specimens being of historical, artistic or scientific importance and in respect of which there will be a strong presumption against the subsequent disposal of any item;
- b) seeking the preservation, conservation and maintenance in good repair and condition and wherever possible the display to the general public of the buildings of historical or architectural importance comprised in the Lady Victoria Colliery, Newtongrange, Midlothian, as part of the said Museum.
- c) stimulating public interest in the Museum as a focal point of education and of historic, artistic or scientific interest, thereby improving the facilities available for general public amenity and education;
- d) displaying and publicising the Collection for the public benefit; permitting access to research workers and school children, always providing that the safety and security of the Collection are not thereby endangered; permitting with similar safeguards the loan of any Specimen for exhibition or research;

e) promoting and assisting in the collating and recording of historical, ethnological, archaeological, biological, geological or other related information appropriate to the purpose of the Museum as set out in Clause 3.1.

3.2. To adopt a written Collecting Policy and review it at least every five years, which policy shall define the type of Specimens which the Trust wishes to include in the Collection and the geographical area from which such Specimens may be drawn.

3.3. To maintain an accurate and current Register of all Specimens acquired for, or removed from, the Collection.

4. In furtherance of the objects of the Trust, the Trust shall have the following powers:-

4.1 Subject to the provisions hereinafter contained, to purchase, take on lease, exchange, hire or otherwise acquire any heritable or moveable, real or personal property and any rights or privileges which may from time to time be deemed necessary for the promotion of the Trust's objects, and to construct, maintain, add to, improve, furnish, equip and alter any building or structure necessary for the work of the Trust.

4.2 To establish, subsidise, promote, support and amalgamate with companies, trusts, societies or associations having objects altogether or in part similar to those of the Trust, provided that by their constitution they prohibit the distribution of any profits or assets among their members, and that any such organisation must have been accepted as charitable in law.

4.3 To procure and print, publish, issue and distribute gratuitously or otherwise, newspapers, periodicals, books, pamphlets, leaflets, advertisements, appeals or other literature.

4.4 To promote, encourage and undertake experimental work or conduct research consistent with the objects of the Trust, publishing the useful results of such research.

4.5 To sell, let, grant security over, turn to account, manage and improve all or any of the property or assets of the Trust subject to such terms and conditions as may be thought expedient, to exercise any rights or privileges or advantages, servitudes or other benefits for the time being attached to such property or assets, and to undertake, maintain, execute and do all such lawful acts, matters and things as the Trust may be obliged or required or ought to do as owners of such property or assets, provided always that:-

a) the Trust shall create no heritable security, charge, pledge or any encumbrance (other than those arising by operation of law) over any Specimen comprised in the Collection;

b) any decision to sell or otherwise dispose of any Specimen shall be made only by the Board of 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;

c) any Specimen identified for disposal from the Collection shall be offered first for transfer by loan, gift or exchange to any museum administered by a

charitable trust or public authority, before such Specimen is otherwise gifted or offered for sale to the public at auction or in any other manner;

d) any monies received from the disposal of any Specimen shall be applied for the benefit of the Collection and in particular, but not necessarily exclusively, to purchase items for the Collection.

4.6 Subject to Clause 4.5, to feu, sell, manage, lease, mortgage, exchange, dispose of or otherwise deal with all or any part of the property of the Trust as may be expedient with a view to the promotion of its objects.

4.7 To take such steps by personal or written appeals, advertising matter, public meetings, film shows, sales of booklets and other items, or otherwise as may from time to time be deemed expedient for procuring contributions or donations or income to enable the Trust to carry out any of its objects which may require assistance.

4.8 Subject to such consents as may be required by law and to the limitations instituted by the Trust, to borrow or raise money for the purposes of the Trust on such terms and in such manner as the Board of Trustees may think fit.

4.9 To invest the monies of the Trust not immediately required for its purpose in or upon such investments, securities or property as may be thought fit, subject nevertheless to such conditions (if any) and such consents (if any) as may for the time being be imposed or required by law and subject also as hereinafter provided.

4.10 To insure the Trust and its property, including without prejudice to foregoing generality the Collection and any other items held on loan by the Trust, against such risks as it shall be considered prudent and necessary to insure.

4.11 To purchase or otherwise acquire all or any part of the property or assets, and to undertake all or any of the liabilities and engagements, of any one or more companies, trusts, societies or associations with which the Trust is authorised to amalgamate, subject to the conditions relating to charitable status outlined in Clause 4.2.

4.12 To receive and accept from time to time grants and legacies, donations, gifts, subscriptions, conveyances and endowments either of money or property, heritable or moveable, real or person, of any description whatsoever, either absolutely or conditionally or in trust.

4.13 To employ and (subject to the provisions of Clause 5) to remunerate staff of the Trust and to provide pension or superannuation benefits for any such staff or otherwise to assist any such staff and their widows, children or other dependants.

4.14 To subscribe and make contributions to or otherwise support charitable institutions, societies and schools, and to grant donations for any charitable purpose in any way connected with the purposes of the Trust or calculated to further its objects.

4.15 To pay all expenses preliminary or incidental to the formation of the Trust and its registration.

4.16 To do all such other lawful things as may be conducive or incidental to the attainment of any of the above objects, Provided that:-

(a) in case the Trust shall take or hold any property which may be subject to any trusts, the Trust shall only deal with or invest the same in such manner as is allowed by law having regard to such trusts;

(b) the Trust shall not support with its funds any object, or endeavour to impose on or procure to be observed by its members or others, any regulation, restriction or condition which as an object of the Trust would make it a trade Union; and

(c) in relation to any property which may come into the hands of the Trust as trustees under any other trust (whether established by any trust deed or any scheme approved by the Court of Session or made in pursuance of any enactment relating to educational endowments or war charities or otherwise) nothing herein shall authorise the Trust to deal therewith otherwise than in accordance with the terms of the trust and with any law relevant thereto, nor shall the incorporation of the Trust affect the liability as an individual of any member of the Board of Trustees who may be a party to such dealings.

5.1 The income and property of the Trust, whencesoever derived, shall be applied solely towards the promotion of the objects of the Trust as set forth in this Memorandum of Association; no portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise however by way of profit, to the Members of the Trust; provided that nothing herein shall prevent the payment, in good faith, of reasonable and proper remuneration to any officer or servant of the Trust or to any Member of the Trust, in return for any services actually rendered to the Trust, nor prevent the payment of interest at a rate not exceeding five *per centum* per annum above the Bank of Scotland base rate for the time being on money lent by any Member to the Trust, or reasonable and proper rent for premises let by any Member to the Trust, but except as provided for in clause 5.2 so that no Member of the Board of Trustees shall be appointed to any salaried office of the Trust or any office of the Trust paid by fees and that no remuneration or other benefit in money or money's worth shall be given by the Trust to any Member of the Board of Trustees except repayment of out-of-pocket expenses and interest at the rate aforesaid on money lent or reasonable and proper rent for premises demised or let to the Trust; provided that the provision last aforesaid shall not apply to any payment to any company in which a Member of the Board of Trustees holds not more than one hundredth part of the capital and such Member shall not be bound to account for any share of profits he may receive in respect of any such payment.

5.2 Nothing contained in clause 5.1 shall apply to or prohibit: (a) the *ex officio* appointment of the Director or Chief Executive of the Trust (being a remunerated officer or servant of the Trust) as a Trustee in terms of the Articles or (b) the appointment of a Member of the Board of Trustees to any salaried office of the Trust or any office of the Trust paid by fees if such appointment shall be resolved by the Board of Trustees to be in the best interests of the Trust having regard to the experience and qualifications of the Member of the Board of Trustees so appointed; provided always that: (i) any Member of the Board of Trustees so appointed or holding office as aforesaid shall be excluded from and shall not be entitled to vote at any meeting (or the relevant part of any meeting as the case may be) of the Board of Trustees at which shall be considered or resolved his appointment, renewal of appointment or termination of appointment or any matter relating to his appointment and (ii) the majority of the Members of the Board of Trustees

holding office from time to time shall not be remunerated or appointed to any salaried office of the Trust or any office of the Trust paid by fees.

6. The liability of the Members is limited.

7. Every Member of the Trust undertakes to contribute to the assets of the Trust, in the event of the same being wound up during the time that he is a Member, or within one year afterwards, for payment of the debts and liabilities of the Trust contracted before the time at which he ceases to be a Member, and of the costs, charges and expenses of winding up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding One Pound Sterling.

8. True accounts shall be kept of the sums of money received and expended by the Trust and the matters in respect of which such receipts and expenditure take place, of all sales and purchases of goods by the Trust and of the property, assets and liabilities of the Trust. Such accounts shall be open to any member of the Board of Trustees and the Auditor for inspection at all reasonable times, and to any other member of the Trust to the extent permitted by the provisions of the Articles. Once at least in every year the Accounts of the Trust shall be examined, and the correctness of the income and expenditure account and balance sheet ascertained, by one or more properly qualified Auditor or Auditors.

9. 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, unless such assets shall prove insufficient for the purpose; in such event, only such minimum number of specimens out of the Collection shall be sold as shall be required to produce sufficient moneys to meet the remaining debts and liabilities of the Trust, such sale or sales (save under compulsion of law) to take place as set out in Clause 4.5. The Collection and other assets of the Trust, after satisfaction of its debts and liabilities, shall not be paid to or distributed among the Members of the Trust or returned to donors but shall be given or transferred to the National Museums of Scotland, the Collection to be integrated with the existing collection of the said museum or maintained as a separate collection, on terms consistent with the provisions of Clause 3 hereof, at the option of the said museum, and the other assets likewise to be added to the existing funds held for the maintenance and development of the existing collection of the said museum or held as a separate fund for the maintenance and development of the Collection as a separate collection; Provided that:-

a) the said museum shall in turn be empowered, having consulted the Museums & Galleries Commission, the Scottish Museums Council and Midlothian Council, to give or transfer all or part of the Collection and other assets and any moneys subsequently realised from the Collection, on the same terms and with the same powers (including the power of subsequent gift or transfer) under which they were received by the said museum, to such other institution (whether established as a local authority, company or trust) having objects (whether its sole objects or part only of its objects) consistent with the provisions of Clause 3 hereof and which, if a company or trust, shall prohibit the distribution of its income and assets among its members or beneficiaries to an extent at least as great as is imposed on the Trust under or by virtue of Clause 5 as may be determined by the Board of Trustees; and

b) if the said museum shall no longer exist at the time of winding up or dissolution of the Trust, or shall not accept the Collection and other assets of

the Trust, the same shall be given or transferred to another institution as described in proviso (a) above, on the same terms, subject to the same process of consultation and with the same powers (including the power of subsequent gift or transfer of all or any part of the Collection and other assets) as the said museum would have had, as may be determined by the Members of the Trust with (if requisite) the written approval of the Lord Advocate or the authority of any court having jurisdiction over the distribution of the assets of the Trust, whether before, at or after the date of winding up or dissolution of the Trust;

Declaring that if at any time the institution holding the Collection and other assets and moneys or any part thereof desires to give or transfer all or any part of the same to another institution, the institution to which such gift or transfer is intended to be made shall, as a condition of its receipt of the Collection and other assets or moneys or any part thereof, undertake that the said other assets and moneys, and any moneys subsequently realised from the Collection, shall be applied only for the purpose of maintaining and developing the Collection, or another collection of such institution with which the Collection or parts thereof shall be integrated, or otherwise for charitable purposes only;

And if and insofar as effect cannot at any time be given to the aforesaid provisions, the Collection and other assets (if any) of the Trust shall be applied for charitable purposes only.