

*Company number: SC504433*

THE COMPANIES ACT 2006

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

ARTICLES of ASSOCIATION

of

***Royal High School  
Preservation Trust***

Incorporated on 27 April 2015 and amended on 23rd April 2022 and 8th January  
2024

*Scottish Charity Number SC045779*

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**ARTICLES of ASSOCIATION**  
**of**  
***Royal High School Preservation Trust***

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THE COMPANIES ACT 2006

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**ARTICLES of ASSOCIATION**

**of**

***Royal High School Preservation Trust***

**1 NAME AND REGISTERED OFFICE**

- 1.1 The name of the company is "Royal High School Preservation Trust" ("the Trust").
- 1.2 The Registered Office of the Trust is situated in Scotland.

**2 DEFINITIONS**

- 2.1 The definitions and meanings which apply throughout these Articles of Association and the three Schedules hereto are listed in Schedule 1 annexed to these Articles.
- 2.2 These Articles supersede any model Articles contained within the Companies Act or any regulations pertaining thereto.
- 2.3 Words importing the singular number only shall include the plural number, and *vice versa*.
- 2.4 A reference in these Articles to an Article is a reference to the relevant Article of these Articles, unless expressly provided otherwise.
- 2.5 Any reference to a provision of any legislation (including any statutory instrument) shall include any statutory amendment, modification or re-enactment of that provision in force from time to time.
- 2.6 Subject as aforesaid, any words or expressions defined in the Companies Act shall, if not inconsistent with the subject or context, bear the same meanings in the Articles.
- 2.7 The three Schedules to these Articles are deemed to form an integral part of these Articles.

**3 CHARITABLE PURPOSES and POWERS**

- 3.1 The Charitable Purposes of the Trust ("the Charitable Purposes") are the advancement of the arts, heritage, culture or science, including:
  - 3.1.1 to conserve the history and heritage of the buildings comprising the former Royal High School, Calton Hill, Edinburgh (which was built originally in 1825 - 1829) (the "Former **Royal High School**") and to preserve these buildings for appropriate uses commensurate with their history, and both Category A-listed and UNESCO World Heritage status;

- 3.1.2 to develop, oversee, manage and maintain the buildings comprising the former Royal High School; and
  - 3.1.3 to create, arrange, manage and oversee activities and events at and from the buildings comprising the former Royal High School in order to ensure cultural benefit, community benefit and public benefit.
- 3.2 The Trust shall have powers, but only in furtherance of its Charitable Purposes, as expressed in Schedule 2 annexed to these Articles.

## 4 GENERAL STRUCTURE OF THE TRUST

The structure of the Trust comprises:

- 4.1 **Trustees** - who hold regular meetings between each General Meeting, set the strategy and policy of the Trust, generally control and supervise the activities of the Trust and, in particular, are responsible for monitoring its financial position and, where there are no employees or managers appointed, are responsible also for the day-to-day management of the Trust; and
- 4.2 **Members** - who are the Trustees for the time being, in their capacity as members of the Trust, who in that capacity have the right to attend any General Meeting and AGM and have important powers under these Articles and the Companies Act, particularly in taking decisions in relation to any changes to these Articles.

## 5 MEMBERSHIP

### 5.1 **Members**

The members of the Trust shall be the current Trustees, on the basis that a new Trustee shall automatically become a member on becoming a Trustee and shall automatically cease to be one on ceasing to be a Trustee for whatever reason.

### 5.2 **Employees**

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

### 5.3 **Subscription**

Members shall not be required to pay any membership subscription.

### 5.4 **Register of Members**

The Board shall maintain and make available a Register of Members, in accordance with section 113 of the Companies Act.

## 5.5 Cessation of Membership

- 5.5.1 Any member may no longer serve as such if they cease to be a Trustee in terms of Article 8.2.
- 5.5.2 Membership is neither transferable nor assignable to any other individual or organisation.

## 6 GENERAL MEETINGS

### 6.1 Convening a General Meeting

- 6.1.1 The Board, or any three Trustees appointed by Dunard Fund, may convene a General Meeting whenever it or they think fit.
- 6.1.2 The Board must convene a General Meeting within 28 days of a valid requisition by the members. To be valid, such requisition:
  - (a) must be made by a member or members who represent at least 5% of the total voting rights of all the members having a right to vote at general meetings;
  - (b) must state the general nature of the business to be dealt with at the meeting;
  - (c) may include the text of a resolution intended to be moved at the meeting;
  - (d) may be made in hard copy or electronic form; and
  - (e) must be authenticated by the person(s) making it.Such requisition may consist of several documents in like form each signed by one or more requisitionists.
- 6.1.3 A General Meeting does not need to be held exclusively in one place, provided that, where two or more members are not in the same place as each other, they are all able to communicate together and vote thereat.
- 6.1.4 The Board may resolve to enable persons entitled to attend a General Meeting to do so by simultaneous attendance and participation at an electronic platform by electronic means (such as by means of a conference telephone, video conferencing facility or similar communications equipment), such meeting being an "electronic General Meeting", with no member necessarily in physical attendance at the electronic General Meeting. A person participating in such a meeting by such means shall be deemed to be attending electronically. The members attending, or their proxy or proxies, shall be counted in the quorum for, and entitled to speak and vote at, the electronic General Meeting in question, and the proceedings shall be valid if the person chairing the meeting is satisfied that adequate facilities are available throughout the electronic General Meeting to ensure members attending who are not together in the same place may, by electronic means, attend, hear, speak and vote at it.
- 6.1.5 If it appears to the person chairing the meeting that the electronic platform, facilities or security at the electronic General Meeting have become inadequate to allow members to attend, communicate together, hear, speak and vote at it

then the person chairing the meeting may adjourn the General Meeting to such time and place (or electronic platform) as may be fixed by the person chairing the meeting. All business conducted at the General Meeting up to that time of the adjournment shall be valid.

6.1.6 If, after the sending of notice of a General Meeting, in terms of Article 6.4, but before the meeting is held, or after the adjournment of a General Meeting but before the adjourned meeting is held (whether or not notice of the adjourned meeting is required), the Board decides that it is impracticable or unreasonable, for a reason beyond its control, to hold the physical General Meeting at the declared place or the electronic General Meeting on the electronic platform specified in the notice, it may change the place or electronic platform and/or postpone the date and time at which the General Meeting is to be held. In which case notice of the change or postponement will be communicated to the members no less than 7 days' prior to the date of the original General Meeting.

## 6.2 **Convening an AGM**

6.2.1 The Board may convene one General Meeting as an Annual General Meeting in each year, at such time as it may determine.

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

6.2.3 Where no AGM is held, the Board will ensure that all relevant decisions are taken by the Trustees as members at the Anniversary Date.

## 6.3 **AGM Agenda**

If an AGM is to be held, the business of the AGM shall include:

6.3.1 the report by the Chair on the activities of the Trust;

6.3.2 the report of the independent financial examiner;

6.3.3 receiving the annual accounts of the Trust; and

6.3.4 the appointment or re-appointment of the independent financial examiner.

## 6.4 **Notice of General Meetings**

6.4.1 14 clear days' notice at the least shall be given of every General Meeting, including an AGM.

6.4.2 The notice shall specify:

(a) whether the General Meeting shall be a physical or electronic General Meeting or a hybrid meeting (being a physical meeting which also permits remote attendance via an electronic platform);

(b) for a physical General Meeting, the place, the day and the hour of meeting;

(c) for an electronic General Meeting the time, date and, electronic platform for the meeting, and the means by which a person may attend, which electronic platform may vary from time to time and from meeting to

meeting, as the Board in its sole discretion sees fit, and also subject to Article 6.4.6 hereof;

- (d) for a hybrid meeting, the place, time, date of the physical meeting and the means by which a person may attend virtually, which electronic platform may vary from time to time and from meeting to meeting, as the Board in its sole discretion sees fit;
- (e) the general nature of the business to be dealt with at the meeting;
- (f) if a Special Resolution is to be proposed, the notice shall state the fact giving the exact terms of the resolution; and
- (g) a statement informing the members of their right to appoint a proxy.

6.4.3 The notice shall be sent, in the manner specified in Article 16, to all members and to such persons or organisations as are under these Articles or under the Companies Act entitled to receive such notices.

6.4.4 With the consent of not less than 90% of the members having the right to attend and vote thereat, a General Meeting may be convened by such shorter notice as they may think fit in the circumstances.

6.4.5 The accidental omission to give notice of a General Meeting to, or the non-receipt of such notice by, any members, persons or organisations entitled to receive notice thereof shall not invalidate any resolution passed at or proceedings of any General Meeting.

6.4.6 If participation in the meeting is to be by simultaneous attendance and participation at an electronic platform by electronic means - with no intention for the meeting to involve attendance in person by two or more members in any particular location - the place of the meeting shall, for the purposes of the notice calling the meeting, be taken to be the place where the anticipated chair of the meeting is expected to be, as at the time fixed for the commencement of the meeting; and, if it transpires that the chair of the meeting is at some other place as at the commencement of the meeting, the meeting shall be taken to have been validly adjourned to that other place.

## 6.5 **Chair of General Meetings**

The Chair of the Trust shall act as the chair of each General Meeting, whom failing the Vice-Chair of the Trust (if any). If neither the Chair nor the Vice-Chair is present and willing to act as the person chairing the meeting within 15 minutes after the time at which the General Meeting in question was due to commence, the Trustees present shall elect from among themselves the Trustee who will act as the person chairing that meeting.

## 6.6 **Quorum at General Meetings**

6.6.1 The quorum for a General Meeting shall be as follows:

- (a) where there is no Special Resolution, the quorum shall be 50% of the Trustees as members, present in person or by proxy in terms of Article



6.8, of whom more than 25% must also be Trustees appointed by Dunard Fund in terms of Article 8.1.1.

- (b) where there is a Special Resolution to be considered and voted upon, the quorum shall be 50% of the Trustees as members, present in person or by proxy in terms of Article 6.8, of whom more than 75% must also be Trustees appointed by Dunard Fund in terms of Article 8.1.1.

No business shall be dealt with at any General Meeting, other than the appointment of the person chairing that meeting in terms of Article 6.5, unless a quorum is present.

- 6.6.2 If a quorum is not present within 15 minutes after the time at which the General Meeting was due to commence - or if, during a General Meeting, a quorum ceases to be present - the General Meeting shall stand adjourned to such time and place (or electronic platform) as may be fixed by the person chairing the meeting.

## 6.7 **Voting at General Meetings – General Provisions**

- 6.7.1 The person chairing the meeting shall endeavour to achieve consensus wherever possible but, if necessary, questions arising shall be decided by being put to the vote.
- 6.7.2 All resolutions put to the vote at any General Meeting shall be decided verbally or on a show of hands, as appropriate.
- 6.7.3 Where members are participating in an electronic General Meeting, voting members may cast their vote on any resolution orally, or by way of some form of visual indication, or by use of a voting button or similar, as the Board in its sole discretion deems appropriate for the purposes of the electronic General Meeting, and providing the Board have no reasonable grounds for suspicion as regards authenticity, any such action shall be deemed to be a vote cast personally via a show of hands.
- 6.7.4 Each Trustee as a member of the Trust is able to attend and speak at any General Meeting and shall have one vote, to be exercised in person or by proxy in terms of Article 6.8.
- 6.7.5 In the event of an equal number of votes for and against any resolution, the person chairing the meeting shall not have a casting vote as well as any deliberative vote.
- 6.7.6 The person chairing the meeting may permit any other person or persons to attend a General Meeting who otherwise has no right to do so, as an observer or observers. In that event, it shall be at the discretion of the person chairing the meeting whether any such observer may be invited to speak thereat.
- 6.7.7 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the person chairing the meeting whose decision shall be final and conclusive.

## 6.8 **Voting at General Meetings – Proxy Voting**

Whilst personal attendance at a General Meeting is encouraged, a Trustee as member shall be entitled to complete an instrument of proxy in order to appoint a proxy to attend a General Meeting on their behalf (but never a Board meeting), in respect of which the following apply:

- 6.8.1 a proxy need not be a member;
- 6.8.2 a proxy appointed to attend and vote at any meeting instead of a member shall have the same right as the appointing member to speak at the meeting and to vote thereat;
- 6.8.3 the instrument appointing the Proxy, which may specify how the proxy is to vote (or to abstain from voting) on one or more resolutions, shall be in the general terms (to be varied as required to fit the circumstances) of the form shown in the Schedule 3 annexed to these Articles;
- 6.8.4 the instrument appointing a proxy shall be authenticated in such a manner as the Board may determine;
- 6.8.5 the form appointing a proxy and the power of attorney or other authority (if any) under which it is authenticated, or a certified copy thereof, shall be lodged with the Trust not less than 48 hours before the time of the start of the meeting or adjourned meeting at which the person named in the form proposes to vote, and in default the instrument of proxy shall not be treated as valid;
- 6.8.6 no instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution, unless it expressly states to the contrary, in which event it shall be treated as valid until rescinded by the granter in writing to the Trust;
- 6.8.7 a vote given in accordance with the terms of a form of proxy shall be valid notwithstanding the previous death or mental incapacity of the principal or revocation of the proxy or of the authority under which the proxy was executed, provided that no intimation in writing of the death, mental incapacity or revocation as aforesaid shall have been received by the Trust before the commencement of the meeting or adjourned meeting at which the proxy is used (not having been deliberately withheld);
- 6.8.8 appointment of a proxy may be revoked by the granter by written notice received by the Trust not less than 24 hours before the time of the start of the General Meeting (or adjourned meeting) to which it relates; and
- 6.8.9 any reference in these Articles to voting being “in person” shall include voting by proxy.

## 6.9 **Voting at General Meetings – Ordinary and Special Resolutions**

- 6.9.1 At any General Meeting an Ordinary Resolution put to the vote of the meeting shall be voted upon by a simple majority of the members who are present, have the right to vote and who are voting thereon (taking account only of those votes cast in favour of the resolution as compared with those votes cast against

the resolution and no account therefore being taken of members who abstain from voting or who are absent from the meeting without a proxy).

6.9.2 Matters required to be decided by Special Resolution require to be decided upon by not less than 75% of the members who are present, have the right to vote and who are voting thereon (for the avoidance of doubt, the reference to a 75% majority only relates to the number of votes cast in favour of the resolution as compared with the number of votes cast against the resolution and no account therefore being taken of members who abstain from voting or who are absent from the meeting without a proxy).

6.9.3 In addition to statutory requirements for certain decisions to be made by Special Resolution, the following decisions must also be made by Special Resolution:

- (a) to alter the name of the Trust; or
- (b) to amend the Charitable Purposes; or
- (c) to amend these Articles (such decision also being subject to Article 18); or
- (d) to wind up the Trust in terms of Article 20; or
- (e) all other Special Resolutions.

6.9.4 An Ordinary Resolution to be proposed at a General Meeting may be amended if:

- (a) written notice of the proposed amendment is received by the Trust from a member entitled to vote thereat not less than 48 hours before the time appointed for the holding of the meeting or adjourned meeting; and
- (b) the proposed amendment does not, in the reasonable opinion of the person chairing the meeting, materially alter the scope of the resolution.

6.9.5 A Special Resolution to be proposed at a General Meeting may be amended if the person chairing the meeting proposes an amendment which does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.

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

## 6.10 **Voting – Written Resolutions**

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

6.10.2 An Ordinary Resolution in writing signed by or on behalf of a simple majority of all the members shall be as valid and effective as if the same had been passed at a General Meeting of the Trust duly convened and held.

6.10.3 A Special Resolution in writing signed by or on behalf of not less than 75% of all the members shall be as valid and effective as if the same had been passed at a General Meeting of the Trust duly convened and held.

- 6.10.4 Written resolutions may not be used either for the removal of a Trustee prior to the expiration of their term of office, or for the removal of an independent financial examiner or auditor, prior to the expiration of their term of office.
- 6.10.5 Any written resolution must be issued in hard copy (by hand or by post) or in electronic form (by e-mail or other electronic means), or by means of a website at the same time, to all members on the Circulation Date.
- 6.10.6 Where such a written resolution is proposed by the Board, it must include the following express statements:
- (a) an explanation to the eligible members how to signify their agreement to the resolution;
  - (b) how it can be sent back by them, and whether in hard copy (by hand or by post) and/or in electronic form (such as by e-mail); and
  - (c) the date by which the resolution must be passed if it is not to lapse (that is, the date which is 28 days beginning with the Circulation Date).
- 6.10.7 Where such a written resolution is proposed by members, the following shall apply:
- (a) the resolution must be requested by members holding not less than 5% of the total voting rights ("the members' request");
  - (b) the members' request may be made in hard copy (by hand or by post) or in electronic form (such as by e-mail);
  - (c) the members' request must identify the resolution to be put to members and any accompanying statement (see Article 6.10.7(d) below) and be authenticated by those demanding circulation. The Board can reject the request if it is, in its opinion, either frivolous, vexatious, defamatory of any person or would be ineffective (whether by reason of inconsistency with any enactment or these Articles or otherwise);
  - (d) the members' request can include an accompanying statement (not exceeding 1,000 words) which they can require the Trust to issue with the written resolution to all the members;
  - (e) within 21 days, the Trust must circulate the resolution and any accompanying statement with the express statements referred to in sub-clause (f) hereof; and
  - (f) the Trust may charge a reasonable fee to the requesting members to cover its costs of circulation of the members' request.
- 6.10.8 Any such written resolution may consist of several documents in the same form, each signed by or on behalf of one or more members.
- 6.10.9 Once a member has signed and returned a written resolution in agreement thereto, their agreement is irrevocable.

## **7 THE BOARD OF TRUSTEES**

- 7.1 The strategy and affairs of the Trust shall be directed and managed by a Board of Trustees elected in terms of Article 8. The Board may exercise all such powers of the

Trust, and do on behalf of the Trust all acts as may be exercised and done by the Trust, other than those required to be exercised or done by the members in General Meeting, and subject always to these Articles and to the provisions of the Companies Act.

## 7.2 **Delegation**

7.2.1 The Board may delegate any of its powers to any sub-committee or persons or person, by such means, to such an extent and on such terms and conditions as it thinks fit, and may at any time revoke such delegation, in whole or in part, or alter such terms and conditions. If the Board so specifies, any such delegation may authorise further delegation of the Board's powers by any sub-committee or persons or person to whom they are delegated.

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

7.2.3 In the case of delegation to any one or more sub-committees, each shall consist of not less than one Trustee and such other person or persons as the Board thinks fit or which it delegates to the committee to appoint. The meetings and proceedings of any such sub-committee shall be governed by the provisions of these Articles for regulating the meetings and proceedings of the Board so far as applicable (and, without prejudice to that generality including Articles 12.4.5 and 12.6) and so far as the same shall not be amended or superseded by any specific regulations made by the Board for all or any sub-committees. A sub-committee may invite or allow any person to attend and speak, but not to vote, at any of its meetings. Such sub-committee shall regularly and promptly circulate, or ensure the regular and prompt circulation of, the minutes of its meetings to all Trustees.

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

## 7.3 **Number of Trustees**

7.3.1 The number of Trustees shall be not fewer than three (3) and not more than twelve (12).

7.3.2 The Board may act notwithstanding any vacancy in it, but where the number of Trustees falls below the minimum number specified in this Article, it may only do so for the purpose of appointing sufficient Trustees to match or exceed that minimum.

## **8 TRUSTEES**

### **8.1 Composition of the Board**

- 8.1.1 The Board shall comprise up to twelve (12) Trustees, at least 75% of whom at any time shall be those appointed by Dunard Fund, and any other Trustees beyond that requirement may be appointed by the Board as it requires from time to time.
- 8.1.2 Further to Article 8.1.1, Dunard Fund may appoint and remove its Trustees at any time on giving notice to the Trust, which notice shall be given by Dunard Fund also to its prospective Trustee upon their appointment and its existing Trustee upon their removal. Such notice will take effect 48 hours after its receipt by the prospective or existing Trustee (or at any later date stated in the notice).
- 8.1.3 In the event of any retiral or deemed retiral of a Trustee appointed by Dunard Fund in terms of Article 8.2, the power of appointing a replacement Trustee will vest in Dunard Fund.
- 8.1.4 Further to Article 8.1.1, the Board may appoint and remove its Trustees at any time on giving notice to its prospective Trustee upon their appointment and its Trustee upon their removal, and as a courtesy will also give notice thereof to Dunard Fund. Such notice will take effect 48 hours after its receipt by the prospective or existing Trustee (or at any later date stated in the notice).

### **8.2 Retiral and Deemed Retiral of Trustees**

Notwithstanding the terms of Article 8.1, any Trustee must cease to be a Trustee in any one or more of the following events:

- 8.2.1 if they are prohibited from being a charity trustee by virtue of section 69(2) of the Charities Act; or
- 8.2.2 if they are prevented from being a company director by virtue of any provision of the Companies Act, by law, or by reason of any order made pursuant to the Company Directors Disqualification Act 1986; or
- 8.2.3 if they are removed from office under section 168 of the Companies Act; or
- 8.2.4 if they are considered by the Board to have been in serious or persistent breach of (i) either or both of the duties listed in sections 66(1) and 66(2) of the Charities Act; or (ii) any of the duties of directors contained in the Companies Act; or (iii) any Code of Conduct, Board Charter, or Board Policy of the Trust; such Trustee being entitled to be heard prior to the Board taking a decision to remove them; or
- 8.2.5 if they have a significant conflict of interest which the Board considers has and is likely to continue to undermine their ability to act impartially as a Trustee; or
- 8.2.6 if they become incapable for medical reasons of fulfilling the duties of their office and such incapacity, as certified if necessary by two medical practitioners, is expected to continue for a period of more than six months from the date or later date of such certification; or

- 8.2.7 if by notice in writing to the Registered Office they resign their office as a Trustee;
- 8.2.8 if they die.

### 8.3 **Conduct of Trustees**

8.3.1 Each Trustee is obliged to act in accordance with both the duties listed in section 66 of the Charities Act and the general duties listed in sections 171 - 177 of the Companies Act (see Article 8.2) so as to take decisions in such a way as is considered, in good faith, most likely to be in the interests of the Trust, and to promote its success in achieving the Charitable Purposes.

8.3.2 The duties listed in section 66 of the Charities Act to which each Trustee must adhere are:

- (a) to act in the interests of the Trust;
- (b) to seek, in good faith, to ensure that the Trust acts in a manner which is consistent with its Charitable Purposes;
- (c) to act with the care and diligence that it is reasonable to expect of a person who is managing the affairs of another person; and
- (d) in circumstances giving rise to the possibility of a conflict of interest between the Trust and any party responsible for the appointment of that Trustee:
  - (i) to put the interests of the Trust before those of the other party; and
  - (ii) where any other duty prevents the Trustee from doing so, to disclose the conflicting interest to the Trust and to refrain from participating in any deliberation or decision of the Board with regard to the matter in question; and
- (e) to ensure that the Trust complies with any direction, requirement, notice or duty imposed upon under or by virtue of the Charities Act.

8.3.3 The general duties listed in sections 171 - 177 of the Companies Act to which each Trustee must adhere as a company director are (in brief terms):

- (a) to act in accordance with the Articles and only exercise powers for the Charitable Purposes;
- (b) to act in a way, in good faith, which would be most likely to promote the success of the Trust;
- (c) to exercise independent judgement;
- (d) to exercise reasonable care, skill and diligence, which may reasonably be expected of a person carrying out the functions of a company director;
- (e) to avoid conflicts of interest;
- (f) not to accept benefits from third parties conferred by reason of being a Trustee or doing (or not doing) anything as a Trustee; and

- (g) if directly or indirectly interested in a proposed transaction or arrangement with the Trust, to declare to the other Trustees the nature and extent of that interest.
- 8.3.4 The provisions of Articles 10 and 11 are also pertinent to the provisions within this Article, and each Trustee must comply with these.
- 8.3.5 Each Trustee must additionally comply with any Code of Conduct, Board Charter, or Board Policy for Trustees as introduced and prescribed by the Board from time to time.
- 8.3.6 Additionally, each Trustee must be mindful of the requirement to preserve confidentiality where appropriate or requested in relation to the Trust or its business and in order to act always in the interest of the Trust.

## **9 CHAIR AND VICE-CHAIR**

The Board shall meet as soon as practicable immediately after each AGM (if there is one, or otherwise at the Anniversary Date), or immediately after the retiral mid-term of either Chair or Vice-Chair, in order to appoint a Chair and, if desired, a Vice-Chair of the Trust from the Board, both of whom must be one of the Trustees appointed by Dunard Fund in terms of Article 8.1.1.

## **10 CONSTRAINTS ON PAYMENTS/BENEFITS TO TRUSTEES**

- 10.1 The income and property of the Trust shall be applied solely towards promoting the Charitable Purposes.
- 10.2 No part of the income or property of the Trust shall be paid or transferred (directly or indirectly) to the Trustees of the Trust, whether by way of dividend, bonus or otherwise, except where such Trustees are in receipt of income or property of the Trust as a beneficiary of the Trust in terms of the Charitable Purposes.
- 10.3 No Trustee shall be appointed as a paid employee of the Trust.
- 10.4 No benefit (whether in money or in kind) shall be given by the Trust to any Trustee except the possibility of:
  - 10.4.1 repayment of out-of-pocket expenses to Trustees (subject to prior agreement by the Board); or
  - 10.4.2 reasonable remuneration to a Trustees in return for specific services actually rendered to the Trust (not being of a management nature normally carried out by a director of a company), subject to the terms of section 67 of the Charities Act; or
  - 10.4.3 payment of interest at a rate not exceeding the commercial rate on money lent to the Trust by any Trustee; or



- 10.4.4 payment of rent at a rate not exceeding the open market rent for property let to the Trust by any Trustee; or
- 10.4.5 the purchase of property from any Trustee provided that such purchase is at or below market value or the sale of property to any Trustee provided that such sale is at or above market value; or
- 10.4.6 payment to one or more Trustees by way of any indemnity where appropriate.

## 11 CONFLICTS OF INTERESTS

- 11.1 Any Trustee and/or employee who has a personal interest (as defined in Article 11.2) in any prospective or actual contract or other arrangement with the Trust must declare that interest either generally to the Board or specifically at any relevant meeting of the Trust. Where such an interest arises, the provisions within Article 11.3 shall apply.
- 11.2 A personal interest includes the following interests:
  - 11.2.1 those of the Trustee or employee in question;
  - 11.2.2 those of the individual's partner or close relative;
  - 11.2.3 those of any business associate;
  - 11.2.4 those of any firm of which the individual is a partner or employee;
  - 11.2.5 those of any limited company of which the individual is a director, employee or shareholder of more than 5% of the equity;
  - 11.2.6 those of any charity of which the individual is a trustees or employee; and
  - 11.2.7 those of any person or organisation responsible for the individual's appointment as a Trustee.
- 11.3 Whenever a Trustee finds that there is a personal interest, as defined in Article 11.2, they have a duty to declare this to the Board meeting in question. In that event, in order to avoid a material conflict of interest arising, the Trustee in question cannot partake in discussions or decisions relating to such matter.
- 11.4 It shall be for the person chairing the meeting in question (or if it be the person chairing the meeting who is potentially or actually conflicted, it shall be for the other Trustees present) to determine whether the Trustee in question should at the least be required to be absent during that particular element of the meeting. In terms of Article 12.1, where a Trustee leaves, or is required to leave, the meeting in question, they will no longer form part of the quorum thereat.
- 11.5 The Board may at any time resolve to authorise any Trustee to continue acting where a real or potential conflict of interest exists in relation to a personal interest of that Trustee, but where it considers that the interests of the Trust have not been nor are likely to be prejudiced as a result. The Trustee in question cannot be considered as part of the quorum for that part of any Board meeting giving consideration to this authorisation.

- 11.6 The Board may resolve at any time to require all Trustees and employees to deliver a Notice of Relevant Interests to the Registered Office (or elsewhere as it may determine), as they arise and at least annually. In that event, the Board shall determine from time to time what additional interests to those listed in Article 11.2, if any, shall be relevant interests and shall ensure that a Register of Notices of Relevant Interests is maintained.
- 11.7 If existing, the Register of Interests shall be open for inspection by both the Board and members of the Trust and, with the express prior written approval of the Trustee or employee concerned, by members of the public.

## **12 BOARD MEETINGS**

### **12.1 Quorum**

- 12.1.1 The quorum for Board meetings shall be not less than 50% of all the Trustees, of whom more than 25% shall be Trustees appointed by Dunard Fund in terms of Article 8.1.1. No business shall be dealt with at a Board meeting unless a quorum is present.
- 12.1.2 A Trustee shall not be counted in the quorum at a meeting (or at least the relevant part thereof) in relation to a resolution on which, whether because of personal interest or otherwise, they are not entitled to vote.

### **12.2 Convening Board Meetings**

- 12.2.1 Meetings of the Board may take place in person or by telephone conference call, video conference call or by any other collective electronic means approved from time to time by the Board.
- 12.2.2 Not less than 7 clear days' notice in writing shall be given of any meeting of the Board, unless all Trustees agree unanimously in writing to dispense with such notice on any specific occasion.
- 12.2.3 A Trustee may and, on the request of a Trustee, the Company Secretary shall, at any time, summon a meeting of the Board by notice served upon all Trustees, to take place at a reasonably convenient time and date.

### **12.3 Chair of Board Meeting**

The Chair, whom failing the Vice-Chair (if any), shall be entitled to preside as chair of all Board meetings at which they shall be present. If at any meeting neither the Chair nor the Vice-Chair is present and willing to act as chair of the meeting within 15 minutes after the time appointed for holding the meeting, the remaining Trustees may appoint one of the Trustees to be chair of the Board meeting, which failing the meeting shall be adjourned until a time when the Chair or Vice-Chair will be available.

## 12.4 **Voting at Board Meetings**

- 12.4.1 The person chairing the Board meeting shall endeavour to achieve consensus wherever possible but, if necessary, questions arising shall be decided by being put to the vote, on a show of hands only, each Trustee present having one vote.
- 12.4.2 All decisions of the Board shall be by a simple majority at any meeting which is quorate at the time the decision is taken, except for those decisions listed in Article 12.4.3.
- 12.4.3 Resolutions relating to the following matters shall require a special decision of not less than 75% of the Trustees present and voting thereon, namely:
- (a) to purchase or sell any heritable property, wherever situated; or
  - (b) to form, acquire or dispose of any subsidiary; or
  - (c) to grant any guarantee or indemnity to any party, other than any wholly-owned subsidiary of the Trust; or
  - (d) to create or issue or allow to come into being any mortgage, security, or charge upon any part or parts of the property or assets of the Trust; or
  - (e) to acquire or dispose, whether by the Trust or by any of its subsidiaries, of any shares of any other company or the participation or cessation of participation by the Trust or by any of its subsidiaries in any formal trust or joint venture.
- 12.4.4 In the event of an equal number of votes for and against any resolution at a Board meeting, the person chairing the meeting shall have a casting vote as well as a deliberative vote.
- 12.4.5 A resolution in writing or by e-mail or other appropriate electronic means signed by all of the Trustees or all of the members of any sub-committee, whether in one or several documents in the same form each signed by one or more Trustees or members of any relative sub-committee as appropriate, shall be as valid and effectual as if it had been passed at a meeting of the Board or of such sub-committee duly convened and constituted.

## 12.5 **Observers**

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

## 12.6 **Minutes**

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

## 12.7 **Validation**

12.7.1 All acts *bona fide* done by any Board meeting, or of any sub-committee, or by any person acting as a Trustee shall, notwithstanding it be afterwards discovered that there was some defect in the appointment or continuance in office of any such Trustee or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a Trustee.

12.7.2 No alteration of these Articles and no direction given by Special Resolution shall invalidate any prior act of the Board which would have been valid if that alteration had not been made or that direction had not been given.

## 12.8 **Ancillary Regulations**

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

## 13 **COMPANY SECRETARY, MINUTE SECRETARY & TREASURER**

### 13.1 **Company Secretary**

The Board may appoint a Company Secretary for such term and upon such conditions as it may think fit. The Company Secretary may be removed by the Board at any time, subject to the terms of any prevailing contract.

### 13.2 **Minute Secretary**

The Board may appoint a Minute Secretary, for the purposes of Article 12.6, for such term and upon such conditions as it may think fit. The Minute Secretary may be removed by the Board at any time, subject to the terms of any prevailing contract. The Board may award an annual salary, honorarium or other appropriate fee to the Minute Secretary at its discretion, but can only do so if the Minute Secretary is not a Trustee.

### 13.3 **Treasurer**

The Board may appoint a Treasurer for such term and upon such conditions as it may think fit. The Treasurer may be removed by the Board at any time, subject to the terms of any prevailing contract. The Board may award an annual salary, honorarium or other appropriate fee to the Treasurer at its discretion, but can only do so if the Treasurer is not a Trustee. Whilst in post, if the Treasurer is not a Trustee, they may be required to attend (but shall have no vote at) Board meetings during their tenure as Treasurer, except any part or parts thereof dealing with their employment or remuneration, or any other matter which the Board wish to keep confidential to itself.

## 14 HONORARY PATRON(S)

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

## 15 FINANCES AND ACCOUNTS

### **Bank Accounts**

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

### **Payments and Receipts**

- 15.2 All payments (including cheques and other negotiable instruments), and all financial and banking instructions, and all receipts for monies paid to the Trust, shall be signed, drawn, authorised, approved, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Board shall from time to time by resolution determine.
- 15.3 The Board shall ensure that all funds and assets of the Trust are applied towards achieving the Charitable Purposes.

### **Accounting Records and Annual Accounts**

- 15.4 The Board shall cause accounting records to be kept in accordance with the requirements of the Charities Act, the Companies Act and other relevant regulations.
- 15.5 The accounting records shall be maintained by the Treasurer (if there is one) and overseen by the Principal Officer (if there is one), or otherwise by, or as determined by, the Board.
- 15.6 At or before each AGM, or otherwise after the Accounts have been approved by the Board, it shall provide the members with a copy of the accounts for the period since the last preceding accounting reference date. The accounts shall be accompanied by proper reports of the Board and the independent financial examiner. As an alternative, the Accounts may be available for inspection on the website of the Trust (with all members, Trustees, the Company Secretary and the independent financial examiner being made aware that they are so available for inspection there).

### **Independent Financial Examiner**

- 15.7 The Board shall ensure that the accounts of the Trust are prepared and independently examined and/or audited in accordance with all relevant statutory requirements and, for the avoidance of doubt, an audit (within the meaning of the Companies Act) shall not be required in a case where the Trust is exempt from such a requirement.

## **16 NOTICES**

- 16.1 A notice may be served by the Trust upon any member, either personally or by sending it by post, e-mail or other appropriate electronic means, addressed to such member at their or its address or e-mail address as appearing in the Register of Members.
- 16.2 Any notice, whether served by post, e-mail or otherwise, shall be deemed to have been served on the day following the expiry of two complete Business Days after it was sent.
- 16.3 A member present at any meeting of the Trust shall be deemed to have received notice of the meeting and, where requisite, of the purpose for which it was called.
- 16.4 The business of the Trust and all its correspondence with and notification to or from members may be conducted equally validly and effectively if transmitted by e-mail or other appropriate electronic means (except where a member specifically requests all such correspondence and notification by post) or otherwise if publicised on the website of the Trust where the Trust has advised each member of this and has taken due steps to notify by other reasonable means all other members who state that they do not have access to the Internet.

## **17 INDEMNITY**

Subject to the terms of the Charities Act and Companies Act and without prejudice to any other indemnity, the Trustees, or member of any sub-committee, the Company Secretary, Treasurer and all employees of the Trust shall be indemnified out of the funds of the Trust against any loss or liability (including the costs of defending successfully any court proceedings) which they may respectively incur or sustain, in connection with or on behalf of the Trust.

## **18 ALTERATION TO ARTICLES OF ASSOCIATION**

Subject to the terms of Article 6.9 and any prior consent required in terms of section 16 of the Charities Act, no alteration in these Articles may at any time be made without the prior consent of Dunard Fund and, thereafter, by the decision of the members by Special Resolution at a General Meeting called specifically (but not necessarily exclusively) for the purpose or, alternatively, under the written resolution procedure at Article 6.10.

## **19 LIMIT OF LIABILITY**

- 19.1 The liability of the members is limited.
- 19.2 Every member of the Trust undertakes to contribute such amount as may be required (not exceeding £1) to the property of the Trust if it should be wound up whilst they or it is a member or within one year after they or it cease to be a member (for whatever reason), for payment of its debts and liabilities contracted before they or it ceased to be a member, and of the costs, charges and expenses of winding up.

## **20 DISSOLUTION**

- 20.1 The winding-up of the Trust may take place only with the prior consent of Dunard Fund and on the decision of the members by Special Resolution at a General Meeting called specifically (but not necessarily exclusively) for the purpose or alternatively under the written resolution procedure at Article 6.11.
- 20.2 If, on the winding-up of the Trust, any property remains, after satisfaction of all its debts and liabilities, such property shall be given or transferred to Dunard Fund, which failing to any one or more charities having the same or a similar object to the Charitable Purposes.
- 20.3 In the event of the recipient in terms of Article 20.2 not being Dunard Fund, the charity or charities to which the property is to be transferred in terms thereof shall be determined by Dunard Fund, which failing by a Special Resolution of the members of the Trust who are present and voting at a General Meeting called specifically (but not necessarily exclusively) for the purpose or, failing that, by a decision of not less than 50% of the Board or, failing that, as determined by an arbiter to be chosen amicably by the Board or, failing such amicable choice, as determined by the Sheriff of Lothian and Borders at Edinburgh (or any successor thereto), whose decision shall be final and binding upon the Trust.
- 20.4 If the Trust is a charity at the time that its winding-up is decided upon in terms of this Article, the prior consent of the Office of the Scottish Charity Regulator (or any successor thereto) must be obtained in terms of Section 16 of the Charities Act.

### ***Annexation***

**Schedule 1**      Definitions

**Schedule 2**      Powers

**Schedule 3**      Form of Proxy

# Schedule 1

## Definitions

### WORDS

### MEANINGS

- AGM** – an Annual General Meeting of the Trustees as members.
- Anniversary Date** – where no AGM is held, the date at which elections are held in respect of each of the Chair and Vice-Chair (see Article 9), approving the annual accounts and the appointment of the Independent Financial Examiner (see Article 15.6), such Anniversary Date being 31 March in each year unless the Board otherwise agrees (but not retrospectively, except in essential circumstances) to a different date.
- Articles** – these Articles of Association, and any ancillary regulations thereunder, in force from time to time.
- Board** – the Board of Trustees.
- Board of Trustees** – the Board of Directors of the Trust.
- Business Day** – a day on which the banks of Edinburgh are open for business.
- Charitable Purposes** – as described in Article 3 on the basis that these fall within section 7 of the Charities Act and are also regarded as charitable in relation to the application of the Taxes Acts.
- Charities Act** – the Charities and Trustee Investment (Scotland) Act 2005.
- charity** – a body which is either a “Scottish charity” within the meaning of section 13 of the Charities Act or a “charity” within the meaning of section 1 of the Charities Act 2011, providing (in either case) that its objects are limited to charitable purposes.
- Circulation Date** – The date on which copies of a written resolution are sent to the members in terms of Article 6.10.
- clear days** – means a period excluding the day on which notice is given and the day on which the meeting is held.
- Companies Act** – the Companies Act 2006.



|   |   |
|---|---|
| <b>Dunard Fund</b>                          | – a company limited by guarantee and without a share capital incorporated in Scotland under Company Number SC546564, having its Registered Office at 51 Atholl Road, Pitlochry, Perthshire PH16 5BU, and registered as a Scottish Charity under Scottish Charity Number SC046889. |
| <b>electronic form and electronic means</b> | – As defined in section 1168 of the Companies Act.  |
| <b>electronic General Meeting</b>           | – means a General Meeting hosted via an electronic platform.  |
| <b>electronic platform</b>                  | – Includes, but is not limited to, website addresses and conference call systems.   |
| <b>former Royal High School</b>             | – The former Royal High School situated at Calton Hill, Edinburgh, as defined in Article 3.1.1.   |
| <b>General Meeting</b>                      | – any general meeting of the members.   |
| <b>in person</b>                            | – means present in person or by proxy at a physical general meeting or present by electronic means at an electronic platform at an electronic general meeting, as the case may be.  |
| <b>in writing</b>                           | – representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods whether sent or supplied in electronic form or otherwise.   |
| <b>members</b>                              | – all members of the Trust.   |
| <b>month</b>                                | – calendar month.   |
| <b>organisation</b>                         | – any body corporate, unincorporated association, society, federation, authority, agency, union, co-operative, trust, partnership or other organisation (not being an individual person).   |

- property** – any property, assets or rights, heritable or moveable, real or personal, wherever situated in the world.
- signed** – where a document or information sent or supplied (a) in hard copy form is signed by bearing the signature of the person sending or supplying it, or (b) in electronic form is signed if the identity of the sender is confirmed in a manner specified by the Trust or, where no such manner has been specified by the Trust, if it is accompanied by a statement of the identity of the sender and the Trust has not reason to doubt the truth of that statement.
- Trust** – Royal High School Preservation Trust.
- Trustee(s)** – Director(s) for the time being of the Trust.

## Schedule 2

### **Powers available to the Trust**

Further to Article 3.2, the Trust shall have the following powers (but only in furtherance of the Charitable Purposes) and declaring that the order in which these Powers are listed or the terms of the sub-headings above are of no significance in terms of their respective priority which shall be deemed to be equal, namely:

#### **1 Specific**

- 1.1 to take all appropriate actions in relation to conservation of the history and heritage of historic buildings and those associated therewith or in the curtilage or vicinity thereof;
- 1.2 to take all appropriate actions in relation to the preservation of such buildings through arranging appropriate uses thereof.

#### **2 General**

- 2.1 to encourage and develop a spirit of voluntary or other commitment by individuals, unincorporated associations, societies, federations, partnerships, corporate bodies, agencies, undertakings, local authorities, unions, co-operatives, trusts and others and any groups or groupings thereof willing to assist the Trust to achieve the Charitable Purposes;
- 2.2 to provide advice, consultancy, training, tuition, expertise and assistance;
- 2.3 to promote and carry out research, surveys and investigations and develop initiatives, projects and programmes;
- 2.4 to prepare, organise, promote and implement training courses, exhibitions, lectures, seminars, conferences, events and workshops, to collect, collate, disseminate and exchange information and to prepare, produce, edit, publish, exhibit and distribute articles, pamphlets, books and other publications, tapes, motion and still pictures, music and drama and other materials, all in any medium;

#### **3 Property**

- 3.1 to purchase, take on lease, hire, or otherwise acquire any property suitable for the Trust and to construct, convert, improve, develop, maintain, alter and demolish any buildings or erections whether of a permanent or temporary nature, and manage and operate or arrange for the professional or other appropriate management and operation of the Trust's property;
- 3.2 to sell, let, hire, license, give in exchange and otherwise dispose of all or any part of the property of the Trust;
- 3.3 to establish and administer a building fund or funds or guarantee fund or funds or endowment fund or funds;

#### **4 Employment**

- 4.1 to employ, contract with, train and pay such staff (whether employed or self-employed or external contractors) as are considered appropriate for the proper conduct of the activities of the Trust;

## **5 Funding and Financial**

- 5.1 to take such steps as may be deemed appropriate for the purpose of raising funds for the activities of the Trust;
- 5.2 to accept subscriptions, grants, donations, gifts, legacies and endowments of all kinds, either absolutely or conditionally or in trust;
- 5.3 to borrow or raise money for the Charitable Purposes and to give security in support of any such borrowings by the Trust and/or in support of any obligations undertaken by the Trust;
- 5.4 to set aside funds not immediately required as a reserve or for specific purposes;
- 5.5 to open, operate and manage bank and other accounts and to invest any funds which are not immediately required for the activities of the Trust in such investments as may be considered appropriate and to dispose of, and vary, such investments;
- 5.6 to make grants or loans of money and to give guarantees;
- 5.7 to employ as a professional investment manager any person who is entitled to carry on investment business under the supervision of the Financial Conduct Authority (or its successors) and to delegate to any such manager the exercise of all or any of its powers of investment on such terms and at such reasonable remuneration as the Board of Trustees thinks fit, and to enable investments to be held for the Trust in nominee names, but subject always to the provisions of the Charities Act;

## **6 Development**

- 6.1 to establish, manage and/or support any other charity, and to make donations for any charitable purpose falling within the Charitable Purposes;
- 6.2 to establish, operate and administer and/or otherwise acquire any separate trading company or association, whether charitable or not;
- 6.3 to enter into any arrangement with any organisation, government or authority which may be advantageous for the purposes of the activities of the Trust and to enter into any arrangement for co-operation, mutual assistance, or sharing profit with any charity;
- 6.4 to enter into contracts to provide services to or on behalf of others;

## **7 Insurance and Protection**

- 7.1 to effect insurance of all kinds (which may include indemnity insurance in respect of Trustees and employees);
- 7.2 to oppose, or object to, any application or proceedings which may prejudice the interests of the Trust;

## **8 Ancillary**

- 8.1 to pay the costs of forming the Trust and its subsequent development;
- 8.2 to carry out the Charitable Purposes in any part of the world as principal, agent, contractor, trustee or in any other capacity; and
- 8.3 to do anything which may be incidental or conducive to the Charitable Purposes so long as these are charitable.

### Schedule 3

#### Form of Proxy

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

**Royal High School Preservation Trust**  
**("the Trust")**

I .....  
of.....  
being a member of the Trust hereby appoint the person chairing the General Meeting/or\*.....  
of .....  
as my proxy to vote for me on my behalf at the General Meeting/Annual General Meeting\* of the Trust to be held on..... and at any adjournment thereof.

This form to be used in favour of/against the resolution(s)\*  
[Insert wording of each resolution]

*Signature of member appointing proxy*.....

*dated*.....

To be valid, this Form of Proxy, once signed and dated, must be lodged at least 48 hours before the start of the General Meeting/Annual General Meeting\* referred to above

*\* to be deleted if not required, or amended if it is required*