

Constitution
of the
North East Mountain Trust

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General

Name, type and principal office

- 1 The name of the organisation shall be the “North East Mountain Trust” (referred to in this constitution as the “Trust”).
- 2 The Trust as hereby constituted will, upon registration, be a Scottish Charitable Incorporated Organisation (SCIO) under the Scottish Charitable Incorporated Organisations Regulations 2011 (“the SCIO Regulations”).
- 3 The principal office of the Trust shall be in Scotland.

Purpose

- 4 The purpose of the Trust shall be to protect from potentially damaging developments, and to enhance, the upland, coastal and rural environments of Scotland, and in particular the hills and mountains of

North East Scotland, for the benefit of those taking responsible non-motorized recreation there.

Structure

- 5 The Trust shall consist of Members, who may be admitted and shall have rights and duties in accordance with later provisions of this constitution.
- 6 The Trust shall be managed by a Council which shall be appointed by the Members, and shall have rights and duties in accordance with later provisions of this constitution. The persons serving on the Council shall be the Charity Trustees of the Trust for the purposes of the SCIO Regulations and other statutory requirements.
- 7 No part of the income or property of the Trust may be paid or transferred directly or indirectly to its Members, 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.

Members

Admission to Membership

- 8 Membership of the Trust shall be open to "Individual Members" (any individual aged 16 or over other than an employee of the Trust) and to "Organisational Members" (corporate bodies or otherwise) which shall be comprised of i) voluntary clubs whose primary purpose is hillwalking or mountaineering and ii) other bodies which support the aims of the Trust ("affiliated bodies"). Membership shall not be transferable.
- 9 Any person who, or club or body which, wishes to become a Member of the Trust shall submit a written application for membership. An application from a club or other body shall also give the full name and address of an individual who will exercise its rights as an Organisational Member (its "Representative").
- 10 The Council shall consider applications for membership at its next convenient meeting, and may, at its discretion and with due cause, refuse to admit any person, club or other body to membership. The Council shall notify each applicant promptly in writing of its decision on whether or not to admit him/her/it to Membership.
- 11 Individuals who, or clubs and other bodies which, at the date of registration of the Trust as a SCIO, are members of the unincorporated association operating under the name "North East Mountain Trust" shall automatically be members of the Trust. Clubs and other bodies shall give the full name and address of an individual who will exercise its rights as an Organisational Member, and pending its doing so the person who last represented it at a meeting of the unincorporated North East Mountain Trust shall, if not disqualified from being a Charity Trustee under the Charities and Trustee

(Investment) Scotland Act 2005 (referred to in this constitution as the “2005 Act”), be entitled to exercise those rights.

- 12 All members shall be liable for payment of annual subscriptions as determined at the Annual General Meeting.

Register of Members

- 13 The Council shall keep a register of members, setting out
 - 13.1 for each current Individual Member, his/her full name and address, and for each current Organisational Member its full name along with the full name and address of its Representative, along with the date on which the Individual or Organisational Member was registered as a member of the Trust;
 - 13.2 for each former Member and for at least six years from the date on which he/she/it ceased to be a Member, the above details and the date on which he/she/it ceased to be a Member.
- 14 The Trust shall update the register of members within 28 days of the notification to it of any change.
- 15 If a Member of the Trust requests a copy of the register of members, the Council shall ensure that a copy is supplied to him/her/it within 28 days of the request, provided that the request is reasonable. If the request is made by a Member other than a member of the Council, the Council may provide a copy which has the addresses blanked out.

Cessation of Membership

- 16 Membership of the Trust shall cease when i) a Member advises the Trust in writing that he/she/it wishes to cease being a Member or ii) he/she/it fails to pay any subscription due within six months of being requested to do so.
- 17 Any Individual or Organisational Member may be expelled from membership by way of a resolution passed by not less than two-thirds of the votes cast at a General Meeting, provided that i) at least 28 days’ notice of the intention to propose the resolution has been given to the Member concerned, specifying the grounds for the proposed expulsion, and ii) the Member concerned has had an opportunity to be heard on the resolution at the General Meeting at which the resolution is proposed.

General Meetings

Calling of General Meetings

- 18 The Council may arrange a meeting of members (a “General Meeting”) whenever circumstances reasonably warrant it, and shall arrange one General Meeting in each calendar year as the Trust’s

- Annual General Meeting ("AGM"). The gap between one AGM and the next shall not be longer than 15 months.
- 19 If requested to do so in writing by Members who amount to 5% or more of the number of Members of the Trust, the Council shall arrange a Special General Meeting (SGM) no later than 28 days from the date on which such a request is received.
 - 20 At least 14 clear days' notice of any General Meeting shall be sent in writing to all Members of the Trust at the address last notified to the Trust by them. The accidental omission to give notice to one or more Members of the Trust or of the Council shall not invalidate the proceedings at the meeting.
 - 21 The notice calling a General Meeting shall specify in general terms what business is to be dealt with at the Meeting. In case of a resolution, the notice shall set out the exact terms of that resolution and shall also specify whether voting by proxy or in writing shall be allowed.
 - 22 The business of each AGM shall include:-
 - 22.1 a report on the activities of the Trust since the previous AGM;
 - 22.2 consideration of the most recent annual accounts of the Trust;
 - 22.3 the election/re-election of members of the Council;
 - 22.4 the setting of a scheme for annual subscriptions payable by Individual and Organisational Members;
 - 22.5 the appointment of an independent financial examiner.

Procedure at General Meetings

- 23 The quorum for a General Meeting shall be the attendance of eight Members (whether Individual members or Representatives of Organisational Members). If a person is both an Individual Member and the Representative of an Organisational Member, then that person shall be counted as two Members in respect of a quorum at a General Meeting. If a quorum is not present within 15 minutes after the time at which a General Meeting was due to start, or if a quorum ceases to be present during such a meeting, the meeting shall not proceed; and fresh notices of meeting shall be sent out to deal with the business (or remaining business) which was intended to be conducted.
- 24 The chair of the Trust shall act as chairperson of each General Meeting. If the chair of the Trust is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as chairperson), the Members present at the meeting shall elect from among themselves the chairperson of that meeting.
- 25 An Individual Member shall have one vote (separate from any vote he or she may be entitled to as a Representative of an Organisational Member).

- 26 Representatives of Organisational Members shall have votes as follows:

Representatives of clubs: votes according to the size of their clubs: 1-29 members: 1 vote; 30 to 59 members: 3 votes; 60 to 99 members: 5 votes; 100-199 members: 12 votes; 200-299 members: 16 votes; over 300 members: 22 votes.

Representatives of affiliated bodies of any size: 2 votes.

- 27 All decisions at a General Meeting shall be made by simple majority vote, with the exception of the following types of resolution which shall be valid only if passed by not less than two thirds of the total votes cast:

- 27.1 to expel a person or organisation from Trust membership;
- 27.2 to amend the constitution of the Trust;
- 27.3 to approve the amalgamation of the Trust with another SCIO, or to approve the constitution of a new SCIO as the successor to the Trust;
- 27.4 the winding-up or dissolution of the Trust,
- 27.5 to transfer to another SCIO all of the Trust's property, rights and liabilities, or agreeing to the transfer of the same from another SCIO.

- 28 A resolution put to the vote at a General Meeting shall be decided on a show of hands unless the chairperson (or at least two other Members present or represented at the meeting) before or immediately after any vote ask for a secret ballot taking account of any votes cast by proxy or in writing. The chairperson shall decide how any secret ballot is to be conducted, and shall declare the result of the ballot at the meeting. If there is an equal number of votes for and against any resolution, the chairperson of the meeting shall be entitled to a second (casting) vote.

Written resolutions by Members

- 29 A resolution agreed to in writing by all the Members shall be as valid as if it had been passed at a General Meeting; the date of the resolution shall be taken to be the date on which the last member agreed to it.

Minutes

- 30 The Council shall ensure that proper minutes are kept in relation to all General Meetings. Such minutes shall include the names of all those present, whether members or non-members of the Trust, and shall be signed by the chairperson of the meeting.

- 31 The Council shall make available copies of the minutes of a General Meeting to any member of the public requesting them, but may exclude from any such copies any material which the Council considers could cause prejudice to the interests of the Trust, its Members or its employees.

Council

Membership of the Council

- 32 Until the first AGM of the Trust, the Members of the Council shall be the signatories of the Charity Trustee declaration forms which will accompany the application for registration of the Trust as a SCIO.
- 33 After the first AGM of the Trust, the Council shall consist of not more than ten Individual Members and as many Representatives of Organisational Members as wish to have their Representative on the Council. The overall minimum number of members of the Council shall be six.
- 33.1 Individual Members to serve on the Council shall be appointed by Individual Members at each AGM after due nomination (not excluding self-nomination), consent and, if necessary, a vote (with the ten with the most votes selected). If a Representative of an Organisational Member is also an Individual Member, then that person shall have the right to appoint Individual Members to the Council.
- 33.2 The Representatives of Organisational members to serve on the Council shall be those whose Organisational member, either on initially joining the Trust or on any later occasion, has nominated them in writing so to serve, it being open to Organisational Members to revoke such nomination at any time. If a Representative of an Organisational Member is also an Individual Member, that person may not be nominated for the Council as an Individual Member.
- 34 A person shall not be eligible for election or appointment to the Council if he/she is disqualified from being a Charity Trustee under the 2005 Act; or if he/she is an employee of the Trust.
- 35 At each AGM, all Individual Members on the Council shall retire from Council membership but may be re-elected.
- 36 The Council may at any time appoint any eligible Individual Member to fill any vacancy on the Council.
- 37 A member of the Council shall automatically cease to hold that membership if he/she: -
- 37.1 becomes disqualified from being a Charity Trustee under the 2005 Act;

- 37.2 becomes incapable for medical reasons of carrying out his/her duties as a Charity Trustee for a period of more than six months;
 - 37.3 ceases (or the Organisational Member which he/she represents ceases) to be a Member of the Trust;
 - 37.4 becomes an employee of the Trust;
 - 37.5 gives the Trust a notice of resignation from the Council, signed by him/her;
 - 37.6 is absent without good reason, in the opinion of the Council, from more than three consecutive meetings of the Council, but only if the Council then resolves to remove him/her from office;
 - 37.7 is removed from office by resolution of the Council on the grounds that he/she is considered to have been in serious or persistent breach of his/her duties under Section 66(1) or (2) of the 2005 Act, or has materially breached the code of conduct for a Charity Trustee;
 - 37.8 he/she is removed from office by a resolution of the Members passed at a General Meeting.
- 38 A resolution to remove a Council member under clause 37.7 or 37.8 shall be valid only if:
- 38.1 he/she is given reasonable prior notice in writing of the grounds upon which the resolution for his/her removal is to be proposed, and, prior to the resolution being put to the vote, is given the opportunity to address the Meeting at which the resolution is proposed; and
 - 38.2 the resolution is passed by at least two thirds of the votes cast.
- 39 Except where a breach of duty under Section 66(1) or (2) of the 2005 Act is serious or persistent, a Council member can only be removed from office following steps taken by the other Council members to ensure that the breach of duty is corrected by the Council member concerned and not repeated.

Register of Charity Trustees

- 40 The Council shall keep a register of Charity Trustees, setting out:
- 40.1 for each current Trustee his/her full name and address, the date on which he/she was appointed as a Charity Trustee; and any office held by him/her in the Trust;
 - 40.2 for each former Trustee for at least six years from the date on he/she ceased to be a Member, the above details and the date on which he/she ceased to be a Charity Trustee.
- 41 The Council shall ensure that the register of Charity Trustees is updated within 28 days of any change.

42 If any person requests a copy of the register of Charity Trustees, the Council shall ensure that a copy is supplied to him/her within 28 days, providing that the request is reasonable. If the request is made by a person who is not a Charity Trustee of the Trust, the Council may provide a copy which has:

42.1 the addresses blanked out;

42.2 a name or names blanked out but only where that information could jeopardize the safety of any individual or premises.

Functioning of the Council

43 The Council shall elect from among themselves a Chair, a Treasurer and a Secretary of the Trust, and in addition may elect the bearers of further offices. All office bearers shall cease to hold office at the start of the first Council meeting after each AGM, but may then be re-elected.

44 In circumstances giving rise to a possible conflict of interest between the Trust and a Council member or another party with which he/she is connected, the Council member shall disclose the conflict of interest and put the interests of the Trust before any other interests.

45 Provided he/she has declared his/her interest, and has not voted on the question of whether or not the Trust should enter into the arrangement, a Council member shall not be debarred from entering into an arrangement with the Trust in which he/she has a personal interest; and (subject to the provisions relating to remuneration for services contained in the 2005 Act), he/she may retain any personal benefit which arises from that arrangement.

46 A Council member may not be given any remuneration for carrying out his/her duties but may be paid expenses reasonably incurred by him/her in connection with carrying out their duties as a Council member.

47 Council members shall comply with any code of conduct approved by the Council or prescribed by Charity Trustees under the 2005 Act.

Procedure at Council meetings

48 The Council shall meet at least three times in each calendar year. Any Council member may call a meeting of the Council or ask the Secretary to call such a meeting.

49 At least 7 clear days' notice shall be given of each Council meeting, unless there is a degree of urgency which makes a shorter period appropriate.

50 The quorum for the meetings of the Council shall be six. If at any time the number of Council members falls below the quorum, the remaining

Council members shall have the power to fill by appointment the vacancies or call a General Meeting.

- 51 The Chair of the Trust shall act as chairperson of each Council meeting. If the Chair has notified the Secretary that he/she is unable to attend the meeting or is not willing to act as chairperson or is not present within 15 minutes after the time at which the meeting was due to start, Council members present at the meeting shall elect from among themselves the person who will act as chairperson of that meeting.
- 52 All decisions at Council meetings shall be made by unanimous agreement or by majority vote, each Council member having one vote, which shall be given personally. If there is an equal number of votes for and against any resolution, the chairperson of the meeting shall be entitled to a second (casting) vote.
- 53 The Council may, at its discretion, allow any person to attend and speak at a Council meeting notwithstanding that he/she is not a Council member, but such person(s) shall not have a vote.
- 54 The Council may delegate any of their powers to sub-committees, each of which shall include at least one member of the Council, or to the holder of any Council office such of their powers as it may consider appropriate. When delegating powers, the Council shall set out appropriate conditions, which shall include an obligation to report regularly to the Council. Any delegation of powers may be revoked or altered by the Council at any time. The rules of procedure for each sub-committee, and the provisions relating to membership of each sub-committee, shall be set by the Council.
- 55 A Council member shall not vote at a Council meeting (or at a meeting of a Council sub-committee) on any resolution which relates to a matter in which he/she has a personal interest or duty which conflicts or may conflict with the interests of the Trust; he/she shall withdraw from the meeting while an item of that nature is being dealt with. For such purpose, a Council member shall be deemed to have a personal interest in an interest held by a person who is "connected" with the Council member in terms of the 2005 Act, or by a body in relation to which he/she is an employee, director, member of the management committee, officer or other Representative.

Minutes

- 56 The Council shall ensure that proper minutes are kept in relation to all Council meetings and meetings of Council sub-committees. Such minutes shall include the names of those present, and shall be signed by the chairperson of the meeting.

Operation of accounts

- 57 The signatures of two out of three signatories appointed by the Council shall be required in relation to all operations (other than the lodging of funds, and any powers delegated to the Treasurer to carry out financial transactions up to an amount decided by the Council) on the bank and building society accounts held by the Trust; at least one of the two signatures shall be the signature of a Council member. Where the Trust uses electronic facilities for the operation of any bank or building society account, the authorisations required for operations on that account shall be consistent with this approach.
- 58 The Council shall ensure that proper accounting records, including annual accounts, are kept in accordance with all applicable statutory requirements, and that these accounts are examined by the Independent Financial Examiner appointed at the nearest previous AGM. If an audit is required under any statutory provisions (or if the Council considers that an audit would be appropriate for some other reason), the Council shall ensure that an audit of the accounts is carried out by a qualified auditor.
- 59 Accounting records shall be preserved for six years from the end of the financial year to which they relate.

Miscellaneous

Name on documentation

- 60 The name and status of the Trust shall be included in all documents as specified in the 2005 Act.

Alterations to the constitution

- 61 Other than changes prohibited by the 2005 Act without the consent of the Office of the Scottish Charity Regulator (OSCR), this constitution may be altered by resolution of the Members passed at a General Meeting, or by way of a written resolution of all the Members, as referred to in Clause 27.

Winding up

- 62 If the Trust is wound up or dissolved, any surplus assets available to the Trust immediately preceding its winding up or dissolution shall be used for purposes which are the same as, or closely resemble, the purpose of the Trust as set out in this constitution.
- 63 The Members of the Trust shall have no liability to pay any sums to help to meet the debts or other liabilities of the Trust if it is wound up.

Interpretation

- 64 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 shall be taken to include any statutory provision which adds to, modifies or replaces that Act, and any statutory instrument issued in pursuance of that Act or any such statutory provision.
- 65 “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 2011, providing (in either case) that its objects are limited to charitable purposes.
- 66 “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.
- 67 References in this constitution to “writing” shall include email messages and attachments.