



## **Deed of Trust**

**SCHEME for the administration of the Trust constituted by Deed of Trust, dated 12<sup>th</sup> November, 1923, and registered in the Books of Council and Session on 21<sup>st</sup> January, 1924, granted by the Right Honourable WILLIAM HESKETH, VISCOUNT LEVERHULME, as amended by Stornoway Trust Order Confirmation Act, 1975 and as further amended by Decree of the Lords of Council and Session dated 30<sup>th</sup> November, 1993 - The Stornoway Trust.**

**First.**

The trust shall consist of ten trustees elected in accordance with the provisions contained in the First Schedule annexed hereto from among the persons who, being not subject to any legal incapacity, qualify as electors as hereinafter defined and own or occupy property within the area of the trust estate.

At the first meeting of the trustees to be held after the commencement of this Order the trustees shall elect from their own number a chairman who shall hold office until his successor has been elected:

Provided that in the event of a casual vacancy occurring in the said office the trustees may elect one of their number to fill the vacancy and the person so elected shall hold office until his successor has been appointed.

**Second.**

A meeting of trustees shall be held at least once in every calendar month after the approval of this Scheme. Should the chairman be absent from any meeting of trustees, the trustees present at such meeting shall appoint one of themselves to be chairman of the meeting, and at every meeting the chairman presiding shall have a deliberative, as also in cases of equality a casting, vote.

**Third.**

Subject to the provisions of these presents the trustees may from time to time make, vary, and revoke such regulations as they think fit with respect to the summoning notice, time, place, and management of their meetings or of the meetings of any committee of their number, and generally with respect to the conduct of their business. They may appoint as clerk and factor a chamberlain, who shall not be of their own number. Such chamberlain (if any) shall be paid such reasonable salary as the trustees may think proper, and shall hold office during the pleasure of the trustees.

**Fourth.**

- (i) A quorum of the trustees shall consist of five.
- (ii) A deed to which the trust is a party shall be held to be validly executed on behalf of the trust if it is sealed with the Common Seal of the trust and subscribed on its behalf by two trustees and the clerk to the trustees, whether attested by witnesses or not.
- (iii) The seal of the trust may be affixed to a deed or other document if authority to affix the seal has been given at a properly constituted meeting of the trust or by a Minute signed by all the trustees acting for the time being; and an extract from the Minutes of the trust certified by the Clerk to the trustees shall be conclusive evidence for all purposes that such authority has been given.

**Fifth.**

All acts done by any meeting of trustees or by a committee of trustees, or any Minute signed by all the trustees, shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of any trustee acting as aforesaid, or that any of them was disqualified, be as valid as if such trustee had been duly appointed and was qualified to be a trustee.

**Sixth.**

- (1) A person shall be disqualified for being elected and for being a trustee, if and while he –
- a. holds any office or place of profit under the trustees or any committee appointed by them; or
  - b. has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of the trustees or any committee appointed by them.
- (2) But a person shall not be disqualified or be deemed to have any share or interest in such a contract or employment by reason only of his having any share or interest in-
- (a) any lease, sale, or purchase of land, or water, or right of water supply, or any agreement for the same; or
  - (b) any agreement for the loan of money, or any security for the payment of money only; or
  - (c) any newspaper in which any advertisement relating to the affairs of the trust estate is inserted; or
  - (d) any company which contracts with the trustees for lighting, or supplying with water, or insuring against fire or other risk any part of the trust estate; or
  - (e) any contract with the trustees for the supply from land of which he is owner or occupier, of stone, gravel, timber, or other materials for erecting or repairing houses or other buildings, or for making or repairing roads or bridges, or for the transport of materials for the repair of buildings, roads or bridges in his own immediate neighbourhood; or
  - (f) any company incorporated by Act of Parliament or Royal Charter, or under the Companies Acts;
- provided that no trustee shall vote or act in any matter in which he has a pecuniary interest.
- (3) Any person shall also be disqualified from being a trustee if they become subject to any legal incapacity or cease to own or occupy property within the area of the trust estate.

**Seventh.**

A minute book shall be kept by the trustees, and minutes of all proceedings of the trustees shall be inscribed therein, including resolutions authorising writings or deeds to be executed on behalf of the trustees.

**Eighth.**

The trustees shall cause full accounts to be kept of the capital income and expenditure vested in, received, and expended by them under these presents. Such accounts shall be kept for each calendar year, and shall be audited by an accountant of good standing to be appointed by the trustees. The auditor so appointed shall frame an abstract of the accounts, which together with his report shall be published by the trustees in one or more of the newspapers circulating in the district.

**Ninth.**

Lewis Castle shall be hereafter known as 'Lews Castle' and it is hereby provided that the portion of the Lews Castle policies particularly described in the Second Schedule hereto and delineated and coloured on the annexed plan shall be reserved and used in all time coming as a public park to be known as the 'Lady Lever Park', to be open to the public free of charge for such periods and at such hours and under such conditions as the trustees may determine.

**Tenth.**

The trustees shall apply all moneys in their hands derived from the rents and produce of the trust estate towards any or all of the following purposes:-

- (1) In payment of expenses of management and the burdens and taxes affecting the trust estate.
- (2) In maintaining in good order and repair the trust estate under their management, and in making additions to buildings and furnishings, and erecting and furnishing new and additional buildings.
- (3) In carrying out developments on or in connection with the trust estate calculated to promote the material and social welfare of the community.
- (4) In encouraging and assisting the holding of meetings or social gatherings of members of the community for purposes of entertainment, amusement, recreation, instruction, or education and in particular the trustees may set aside such sum as they think fit as a fund for use from time to time by the chairman at his discretion to defray the costs and expenses incurred in providing hospitality and entertainment of or on behalf of the trust and the community.
- (5) In improving means of communication, and in particular by (a) building or improving or maintaining harbours, piers, roads, bridges, railways, or aerodromes; (b) encouraging or subsidising companies which maintain communication by sea or overland or by air; (c) hiring or chartering or purchasing and operating any boat, ship or vessel, engines, rolling stock, aeroplanes, airships, or any kind of land, sea or air conveyance; (d) laying or maintaining telephone and telegraph wires or cables, whether on land or under the sea; (e) installing and operating stations for wireless telegraphy.
- (6) In promoting directly or indirectly the development of any industry or industries among the community in any manner in which the trustees consider desirable.

- (7) In promoting directly or indirectly the development of agriculture among the community, and in particular by acquiring sheep stocks or by plenishing and maintaining farms or holdings or founding and maintaining agricultural societies, credit banks, or institutes, or providing suitable land and buildings for small holdings on suitable terms, or otherwise as the trustees may determine.
- (8) In afforesting portions of the trust estate.
- (9) In encouraging the higher education of the community by the provision of bursaries to enable deserving scholars to proceed to secondary schools and universities.
- (10) In improving the medical service of the community, and in particular by employing or assisting in the employment of medical practitioners and nurses, or by the building and equipping of hospitals or dispensaries, or otherwise as the trustees may determine.
- (11) In the upkeep of Lews Castle and policies or such parts or portions thereof as shall remain unsold.
- (12) In contributing to a pension scheme for employees of the trust.

Nothing contained in this clause shall be construed as authorising the trustees to apply any portion of the rents or produce of the trust estate in such a way as to confer a gratuitous pecuniary benefit on any member or members of the community, save as provided in subsection 2 of the (seventeenth) clause of these presents.

#### **Eleventh.**

The trustees shall have the fullest discretion to determine at any time and from time to time not only which of the purposes expressed in the tenth clause of these presents should be furthered with the means at their disposal, but also the manner in which the purpose selected shall be carried out.

#### **Twelfth.**

The trustees shall not be bound to expend in each year the free rents and produce from the trust estate but, subject to statutory prohibitions against the accumulation of income, they shall in their sole discretion be entitled to accumulate the same for such periods as they may determine.

#### **Thirteenth.**

No act of the trustees shall be deemed to be *ultra vires* by reason only that individuals who do not form part of the community may or will benefit directly or indirectly by such act.

#### **Fourteenth.**

The trustees shall have power to sell, feu, excamb, alienate, dispone, or borrow on the security of any portion of the heritable subjects, with the exception of that portion of the Lews Castle policies to be reserved and used as a public park known as the Lady Lever Park, under the provisions of clause ninth hereof, which portion shall not be sold, feued, alienated nor burdened with debt.

**Fifteenth.**

The trustees shall be entitled to hold or retain any of the investments consisting of stock or shares of any company at present held by them, and they may concur in any scheme or arrangement for the reconstruction of such company, or for the sale of all or any part of the property or undertaking of such company to, or for the amalgamation with, any other company, or for the release, modification, or variation of any rights, privileges or liabilities attached to such stock or shares or any of them, in like manner as if they were entitled to such stock or shares beneficially, with power to accept stock or shares or any securities of any denomination or description of the reconstructed or purchasing or new company, in lieu of or in exchange for all or any of the first-mentioned investments; and the trustees shall not be responsible for any loss occasioned by any act or thing so done in good faith, and may hold and retain any investments so accepted as aforesaid.

**Sixteenth.**

The trustees may let any portion of the lands and others forming part of the trust estate, except the said portion of the Lews Castle policies to be reserved and used as a public park as aforesaid, for any period not exceeding twenty-one years in the case of houses, or of agricultural subjects, or of sporting rights, and not exceeding twenty-five years in the case of minerals.

**Seventeenth.**

The trustees shall have all the powers conferred or that may be conferred on gratuitous trustees in Scotland by statute, and shall have the fullest powers of and in regard to administration and management as if they were beneficial owners, save in so far as their power to sell, feu, excamb, alienate, dispo, lease, or borrow on the security of the trust estate or any part thereof, is limited by these presents; and particularly, but without prejudice to the foregoing generality, they shall have the following powers, all to be exercised or not, and if exercised, then at such time and in such manner as to the trustees in their uncontrolled discretion may seem proper, *viz*:-

- (1) For the purposes of these presents to grant and enter into all such dispositions, assignations, feu charters, feu contracts, contracts of excambion, contracts of ground annual, transfers, leases, and such other deeds and writings as may in their uncontrolled discretion appear to them to be requisite or desirable, with power to bind the trust estate in absolute warrandice.
- (2) To grant abatements of rent, temporary or permanent, and to accept renunciations of leases, if they in their uncontrolled discretion shall think fit
- (3) To compromise all matter and claims in which the trust estate is interested, or to settle the same by arbitration or advice of counsel: as also to accept part for the whole and to give time to debtors, purchasers, and others with or without security.
- (4) In regard to funds which they in their uncontrolled discretion may think fit not immediately to apply for the purposes of this trust, to invest the same in the purchase of heritable estate or in any manner authorised by the Trusts (Scotland) Act, 1921, or any statute amending or taking the place of the same.
- (5) To apply to the Court for the approval of any alteration, modification, or extension of this scheme, if it shall appear to the trustees that any alteration, modification, or extension is expedient or desirable to enable the purposes of the trust to be carried out with greater facility or efficiency.

- (6) To promote a Provisional Order or Provisional Orders for incorporating the body of trustees hereby constituted, and for regulating the administration of the trust.
- (7) To pursue all actions or processes of law of what kind soever in any Court, and to use all manner of diligence and execution to vindicate their title to the trust estate or any part thereof, and generally with reference thereto in any manner of way, and to defend all actions or processes, and to resist all diligence and execution which may be brought or used or threatened against them or the trust estate.

### **Eighteenth.**

The trustees shall have all the immunities enjoyed by gratuitous trustees in Scotland either by common law or statute, and, without prejudice to the foregoing generality, they shall be bound only to act honourably, and they shall not be bound to do diligence further or otherwise than as they think fit, nor be liable for omissions or errors, nor *singuli in solidum*, but each for his own actual personal intromissions only, and each shall be liable to account only for the funds actually received by himself, and not for any funds which he may have authorised a co-trustee, factor, or agent to receive; and any trustee who shall pay over to a co-trustee, factor or agent, or shall do or concur in any act enabling such co-trustee, factor or agent to receive any moneys for the general purposes of the trust, or for any definite purpose, shall not be responsible for any loss resulting from his failure to see to the due application of the funds entrusted to such co-trustee or agent; and no trustee shall be liable for any loss or depreciation happening to the trust estate by or through the insufficiency, deficiency, or invalidity of any property, security or investment, or any title acquired by or belonging to the trust estate, or in or upon which any funds of the trust estate shall be invested, nor for the insolvency or default of debtors, or securities given by them, or of purchasers or others, nor for any loss, depreciation or deficiency whatever which shall happen through his actings or omissions or default, or in any way whatever, unless such loss, depreciation or deficiency shall happen through his own actual wilful fraud, and that without limitation by reason of anything herein contained or otherwise.

### **Nineteenth.**

It is hereby declared that persons transacting with the trustees shall have no concern with the purposes of this trust, nor with the application of any money paid to the trustees, all persons being in all respects fully exonerated and discharged by the receipts, discharges or other deeds or writings to be granted by the trustees.

## FIRST SCHEDULE REFERRED TO IN THE FOREGOING SCHEME

### Regulations for the Election of Trustees

1. (a) The clerk to the trustees or any fit person appointed by the trustees (hereinafter referred to as 'the returning officer') shall be the returning officer.
- (b) In this Schedule "the electoral register" means the electoral register compiled in accordance with the provisions of the Representation of People Act 1983 (c.2) or any subsequent Act of Parliament providing for the compilation of a register of electors eligible to vote for the election of a member of the United Kingdom parliament.
2. The persons entitled to vote in any election of a trustee or trustees shall be persons who appear in the current electoral register for addresses within the area of the trust estate and who are not subject to any legal incapacity at the date of the election hereinafter provided for.
  - (a) Thirty-one clear days at least before the day fixed for the election the returning officer shall prepare, sign and publish a notice of the election in the following form:-

#### Notice is Hereby Given - That

- (1) The first election of trustees under deed of trust by the Right Honourable William Hesketh, Viscount Leverhulme of the Western Isles, dated 12th November, 1923, and registered in the Books of Council and Session 21st January, 1924, will take place on the \_\_\_\_\_ day of \_\_\_\_\_ 1924.
- (2) The number of persons to be elected as trustees is five.
- (3) All persons who appear in the electoral register in respect of addresses within the area of the trust estate and who are not subject to any legal incapacity at the date of the election hereinafter provided for, are entitled to vote in the election.
- (4) Any two persons who themselves would qualify as trustees may nominate as a candidate any person not subject to any legal incapacity who is qualified as an elector and who owns or occupies property within the area of the trust estate at the date of nomination by sending to or delivering at (some place to be specified) before 4 o'clock afternoon of the \_\_\_\_\_ day of \_\_\_\_\_, a nomination paper.

The nomination paper must be dated and signed by two persons nominating, and by the candidate nominated, or some other persons duly authorised in that behalf and must contain the names in full, places of abode and designations of the two persons making the nomination, and of the candidate nominated.

On receipt of a nomination paper, the returning officer may require candidates to produce such evidence that they are owners or occupiers of property within the areas of the trust estate as the returning officer in his sole discretion shall consider satisfactory and failing the returning officer being so satisfied, he shall reject the nomination.

- (5) Any candidate may be withdrawn by notice of withdrawal given to the returning officer at (some place to be specified), not later than 4 o' clock afternoon of the \_\_\_\_\_ day of \_\_\_\_\_, provided that no such withdrawal shall be competent when its effect would be to reduce the total number of persons nominated for election below the number of persons to be elected as trustees, and provided also that such notices shall have effect in the order in which they are delivered. The notice of withdrawal must be signed by the candidate or by some person duly authorised by him in that behalf.
- (6) As soon as possible after the date mentioned in the preceding regulation, a list will be published of candidates nominated and not withdrawn, giving the full names, places of abode, and designations of such candidates.
- (7) In the event of the election being contested, voting shall take place at the following polling stations *viz.* (here specify such polling stations as may be arranged for by the returning officer).
- (8) The poll will be open from 8am to 8pm.
- (9) The voting will be by ballot.
- (10) Each elector may give one vote and no more for each of any number of candidates not exceeding the number to be elected.

A ballot paper is invalid on which -

- (a) a cross is placed opposite the names of more than the number of candidates to be elected; or
- (b) it cannot be determined for which candidate or candidates the vote is recorded; or
- (c) any mark is placed by the voter by which he may afterwards be identified.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ .

**Returning Officer.**  
**(State office or address).**

- (b) It shall not be competent to elect any person unless he has been nominated as hereinafter provided. After publication of the notice of election, but not later than 4 o' clock afternoon of the twenty first day before the day fixed for the election any two persons who would themselves qualify as trustees may nominate as a candidate any person qualified as a candidate in terms of sub-paragraph (a)(4) hereto by sending to, or delivering at, the place specified in the notice of election a nomination paper, signed by the two persons nominating and stating the names in full, the places of abode, designations of the two persons making the nomination and of the candidate together with evidence that the nominators themselves would qualify as trustees.

- (c)** The returning officer shall decide any question as to the validity of any nomination.

The returning officer shall in particular be entitled to call on nominators and candidates nominated for evidence of their status as owners or occupiers of property within the area of the trust estate and that they are otherwise qualified to be trustees and he shall be the sole judge as to whether such evidence is satisfactory and if he is not so satisfied he shall reject the nomination.

- (d)** Any nomination may be withdrawn by notice of withdrawal given to the returning officer at the place specified in the notice of election not later than 4 o'clock afternoon of the fourteenth day before the day fixed for the election, such notice to be signed by the person nominated, or by some person duly authorised by him in that behalf, provided that no such withdrawal shall be competent when its effect would be to reduce the total number of persons nominated for such election below the number of persons to be elected as trustees, and provided also that such notices shall have effect in the order in which they are delivered.
- (e)** If the number of candidates nominated and not withdrawn as aforesaid shall equal, but not exceed, the number of trustees to be elected, such candidates shall be deemed to be elected on the day fixed for the election, and the returning officer shall on that day publish a list of the names, with the places of abode and designations of the persons so elected, and a copy of such list, certified by the returning officer, shall be conclusive evidence of the election.
- (f)** If the number of candidates nominated and not withdrawn as aforesaid shall exceed the number of trustees to be elected, the returning officer shall forthwith publish the names, places of abode, and designations of the several candidates, and give notice that a poll will be taken on the day fixed for the election, between the hours of 8am and 8pm.
- (g)** The returning officer shall determine the situation of the polling station or polling stations. No public house shall be used for a polling station.
- (h)** The returning officer, without prejudice to any other power, may, by writing under his hand, appoint a fit person to be his deputy, and may by himself or such deputy exercise any powers and do any things which a returning officer is authorised or required to exercise or do in relation to the election, and shall so far as possible for the purposes of the election have all the powers of the returning officer at a Parliamentary election. The returning officer shall appoint a presiding officer to preside at each polling station.
- (i)** The poll shall be open from 8am to 8pm.
- (j)** Subject to the provisions of these presents, the poll shall be taken in conformity with the provisions of the Ballot Act, 1872, as amended by any subsequent enactments, and the provisions of the said Act as so amended shall so far as applicable apply accordingly.
- (k)** The returning officer shall publish a notice of the result of the poll, and of the names, with the places of abode and designations of the persons elected. A copy of the notice of the result of the poll, certified by the returning officer, shall be conclusive evidence of the election.
- (l)** Notice of the election of a person to be a trustee shall be sent to that person by the returning officer, together with a notice to attend the first meeting of the trustees, at a place and time to be prescribed by the returning officer, and that time shall not be later than fourteen clear days after the date of the election.

- (m) Notices and other matters required by these regulations to be published shall be published by the returning officer in such manner as in his opinion will give reasonable notice to all persons concerned.
- (n) Sunday shall be counted in reckoning the number of clear days specified in the various paragraphs of these regulations; but when the last day for receiving nominations or notices of withdrawal falls on a Sunday, then no nominations or notices of withdrawal shall be received after 4 o'clock afternoon on the previous day.
3. The term of office of trustees elected under this Schedule shall be six years, and the trustees whose term of office has expired shall be available for re-election. For transitional purposes this regulation shall be varied to the extent that the terms of office of the trustees elected in October nineteen hundred and eighty nine shall be extended to thirty first March nineteen hundred and ninety four and the terms of office of the trustees elected in October nineteen hundred and ninety one shall be extended to thirty first March nineteen hundred and ninety seven.
4. The date for every election of trustees subsequent to the first shall be appointed by the trustees.
5. Subject to the provisions of these presents the election of trustees shall be held at such time and place and in such manner and in accordance with such regulations as the trustees may from time to time appoint, and the trustees may from time to time make regulations as to the appointment, duties and expenses of any returning officer requisite for the purpose of such election, and make regulations respecting all other necessary things preliminary or incidental to such election, including regulations prescribing the method of voting, and for adapting the provisions of the Ballot Act, 1872, and any other Act relating to elections thereto, and the Trustees may revoke or alter any previous regulations made by them.
6. No election held in pursuance of these presents shall be deemed to be vitiated in consequence of the neglect of any returning officer to give proper notice of the election, or in consequence of any technical defect in the proceedings which have not been prejudicial to the interests of any party concerned in the affair.
7. All expenses incident to the election of trustees (other than the expenses of any candidate) shall be paid by the trustees out of the trust estate.
8. In case of any of the following events occurring, viz:-
- (a) The death of any trustee;
  - (b) The resignation of office of any trustee;
  - (c) Any trustee vacating office in consequence of coming under any of the disqualifications specified in sixth clause of the foregoing deed of trust;
  - (d) A disqualified person being elected as trustee;
  - (e) Any trustee failing to accept office;
  - (f) Any election being abortive in consequence of any error or irregularity in the proceedings;
  - (g) A vacancy occurring from any cause other than those above stated, and other than retirement in ordinary rotation;

the vacancy so occurring may be filled up *ad interim* by the trustees at a meeting of which a notice stating the matter to be then dealt with shall be sent out by the clerk and factor to the trustees within three weeks of the occurrence of such event, and which shall be held not sooner than five days, and not later than ten days, from the date of such notice. In the event of the clerk and factor to the trustees failing to call the said meeting, or in the event of the said meeting failing so, to elect, it shall be in the power of the chairman of trustees at any time thereafter to call a meeting for the same purpose and upon the same notice.

9. Any trustee elected *ad interim* under the immediately preceding sub-section shall hold office until the date at which the remaining elected trustees retire.

**SECOND SCHEDULE****Description of Subjects to be reserved and used as a Public Park to be known as the “Lady Lever Park” under the provisions of Clause Ninth of the foregoing Scheme.**

All and Whole **(First)** that part of the said Castle Policies to be known as the Lady Lever Park part of which is now known as Willow Glen bounded as follows, *videlicet*:- From the Porter’s Lodge at the main entrance to the said Castle policies; on or towards the east by a shrubbery part of the said policies along which it extends a distance of 64 yards or thereby; thence towards the north by pasture ground part of the said policies, along which it extends a distance of 73 yards or thereby till it reaches the public highway leading from Stornoway to Tarbert, Harris, thence continuing towards the north along the said public highway, along which it extends a distance of 1480 yards or thereby; on or towards the west by the said policies, along which it extends 77 yards or thereby; on the south partly by grazing land part of the said policies, along which it extends a distance of 1179 yards or thereby, and partly by the avenue coloured yellow on the plan after referred to leading from the said Porter’s Lodge to the Castle, along which it extends a distance of 111 yards or thereby; **(Second)** The triangular piece of ground lying to the south of the said avenue and bounded as follows, *videlicet*:- On or towards the north by the said avenue, along which it extends a distance of 54 yards or thereby; on or towards the west by the roadway after described, along which it extends a distance of 41 yards or thereby, and on or towards the south-east till it rejoins the said avenue, a distance of 58 yards or thereby; and **(Third)** the private roadway running from the said avenue to a point near the estuary of the River Creed in a southerly direction for a distance of 2543 yards or thereby, all as the said Lady Lever Park triangular piece of ground and roadway are delineated and coloured red on the plan annexed hereto; together with a right to the public of (1) access to the said Lady Lever Park and the said private roadway by the said avenue leading from the Porter’s Lodge to the Castle for a distance of 111 yards or thereby, and (2) access to the pier and point known as Aird nan Laogh running eastwards from the said private roadway at the point marked A on said plan, both as the said avenue and point are delineated and coloured yellow on said plan.