

CONSTITUTION OF
GARMOUTH AND KINGSTON COMMUNITY ASSOCIATION
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Charities and Trustee Investment (Scotland) Act 2005

**Constitution
of
Garmouth and Kingston Community Association**

DEFINITIONS

In this constitution, the following definitions apply throughout:

“AGM” means an Annual General Meeting.

“Board” means the Board of Charity Trustees.

“Charity” means a body entered in the Scottish Charity Register as defined under section 106 of Charities and Trustee Investment (Scotland) Act 2005.

“Charity Trustees” means the persons having the general control and management of the organisation (The Board).

“Clauses” means any clause.

“Clear days” means a period excluding the day when notice is given and the day of the meeting.

“Community” means the Community area described in Clause 4.

“EGM” means an Extraordinary General Meeting.

“GM” means a General Meeting.

“Individual” means a human/person.

“Members” means those individuals and groups who have joined this organisation.

“Organisation” means the SCIO whose constitution this relates to.

“OSCR” Means Office of the Scottish Charity Regulator”

“Property” means any property, assets or rights, heritable or moveable, wherever situated in the world.

“SCIO” means Scottish Charitable Incorporated Organisation.

“Them & their” means individual or groups (either he, she or they).

“The 2005 Act” means the Charities and Trustee Investment (Scotland) Act 2005 and every statutory modification and re-enactment thereof for the time being in force.

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

These Clauses supersede any model Clauses and any regulations pertaining thereto. Subject to the aforesaid, any words or expressions defined in the 2005 Act shall, if not inconsistent with the subject or context, bear the same meanings in the Clauses.

The Schedule to these Clauses is deemed to form an integral part of these Clauses.

NAME

1. The name of the organisation is “Garmouth and Kingston Community Association” (“**the SCIO**”).
2. The organisation will, upon registration, be a Scottish Charitable Incorporated Organisation (SCIO).

REGISTERED OFFICE

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

DEFINITION OF COMMUNITY AND PURPOSES

4. The organisation has been formed to benefit the Community of Garmouth and Kingston district and its immediate vicinity as defined as the area in the Moray local authority area bounded by the Moray Firth on the North, the River Spey on the East and including the farms of Newton and the Hill, Muir of Lochs and the farm of Corbiewells on the South and West (“**the Community**”), with the Purposes listed in the sub-clauses hereto (“**the Purposes**”), to be exercised following the principles of sustainable development (where sustainable development means development which meets the needs of the present without compromising the ability of future generations to meet their own needs), namely:

PURPOSES

- 5 The organisation’s main purpose is to support the wellbeing of people in the communities of Garmouth and Kingston and the surrounding area, by providing facilities and activities that promote community cohesion and development and the wellbeing of individuals. In particular: -
 - 5.1 The advancement of community development and in furtherance of the above purpose, we will carry out the following activities:
 - 5.1.1 Providing, maintaining and managing the Village Hall, the Garmouth Park and the Community Hub as focal points for village engagement and resilience and as venues that can be used for sporting, recreational, educational, heritage and cultural pursuits and activities in order to improve the wellbeing of residents and visitors to the area;
 - 5.1.2 Supporting local people to identify and articulate their needs and act to address those needs.

- 5.2 The provision of sporting and recreational facilities, and the organisation of recreational activities, with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended. In furtherance of the above purpose, we will carry out the following activities:
- 5.2.1 Delivering community based events that bring together members of the community and thereby promote social interaction;
 - 5.2.2 Providing both individuals and groups/clubs with the opportunity to book the organisation's facilities for the purposes of taking part in and/or providing sporting and recreational classes/activities
 - 5.2.3 Maintaining the Garmouth Park and other areas of amenity land in the villages
 - 5.2.4 Helping to maintain the local network of footpaths and to ensure effective signage so that local residents and visitors are encouraged to explore the area and learn about its heritage and natural history
- 5.3 The advancement of the arts, heritage and culture by providing access to facilities for drama, music and other entertainments and to encourage participation in music, theatre and other creative arts amongst the Community;
- 5.4 The advancement of education for the community about its environment, culture, heritage and history to include the delivery of exhibitions, presentations, displays, demonstrations and talks in order to increase knowledge about the village and its history and ecology.

RESTRICTIONS ON USE OF CHARITY'S FUNDS

- 6 The income and property of the organisation shall be applied solely towards promoting the Purposes and do not belong to the members. Any surplus income or assets of the organisation are to be applied for the benefit of the Community.
- 7 No part of the income or property of the organisation shall be paid or transferred (directly or indirectly) to the members of the organisation, or to any other individual, whether by way of dividend, bonus or otherwise, except in the circumstances provided for in Clause 8.
- 8 No benefit (whether in money or in kind) shall be given by the organisation to any member or Charity Trustee except the possibility of:
- 8.1 repayment of out-of-pocket expenses to Charity Trustees (subject to prior agreement by the Board of Charity Trustees); or
 - 8.2 reasonable remuneration to any member or Charity Trustee in return for specific services actually rendered to the organisation (not being of a management nature

normally carried out by a Trustee of an organisation); or

- 8.3 payment of interest at a rate not exceeding the commercial rate on money lent to the organisation by any member or Charity Trustee; or
- 8.4 payment of rent at a rate not exceeding the open market rent for property let to the organisation by any member or Charity Trustee; or
- 8.5 the purchase of property from any member or Charity Trustee provided that such purchase is at or below market value or the sale of property to any member or Charity Trustee provided that such sale is at or above market value; or
- 8.6 payment by way of any indemnity, where appropriate.

POWERS

- 9 The SCIO has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so. In particular, (but without limiting the range of powers available under the 2005 Act), the SCIO has power:
 - 9.1 To encourage and develop a spirit of voluntary or other commitment by, or co-operation with, 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 Organisation to achieve the Purposes.
 - 9.2 To promote and carry out research, surveys and investigations and to promote, develop and manage initiatives, projects and programmes.
 - 9.3 To provide advice, consultancy, training, tuition, expertise and assistance.
 - 9.4 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 clauses, pamphlets, books and other publications, tapes, motion and still pictures, music and drama and other materials, all in any medium.
 - 9.5 To purchase, take on lease, hire, or otherwise acquire any property suitable for the organisation.
 - 9.6 To construct, convert, improve, develop, conserve, 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 organisation's property.
 - 9.7 To sell, let, hire, license, give in exchange and otherwise dispose of all or any part of the

property of the organisation.

- 9.8 To establish and administer reserve funds for purposes specified by the Board.
- 9.9 To employ, contract with, train and pay such staff (whether employed or self-employed) as are considered appropriate for the proper conduct of the activities of the organisation.
- 9.10 To take such steps as may be deemed appropriate for the purpose of raising funds for the activities of the organisation.
- 9.11 To accept subscriptions, grants, donations, gifts, legacies and endowments of all kinds, either absolutely or conditionally or in trust.
- 9.12 To borrow or raise money for the Purposes and to give security in support of any such borrowings by the organisation and/or in support of any obligations undertaken by the organisation.
- 9.13 To invest any funds which are not immediately required for the activities of the organisation in such investments as may be considered appropriate, which may be held in the name of a nominee organisation under the instructions of the Board of Trustees, and to dispose of, and vary, such investments.
- 9.14 To make grants or loans of money and to give guarantees.
- 9.15 To establish, manage and/or support any other charity, and to make donations for any charitable purpose falling within the purposes.
- 9.16 To establish, operate and administer and/or otherwise acquire any separate trading organisation or association, relating to the charitable purposes of the organisation.
- 9.17 To enter into any arrangement with any organisation, government or authority which may be advantageous for the purposes of the activities of the organisation and to enter into any arrangement for co-operation, mutual assistance, or sharing profit with any charitable organisation.
- 9.18 To enter into contracts to provide services to or on behalf of others.
- 9.19 To effect insurance of all kinds (which may include indemnity insurance in respect of Trustees and employees).
- 9.20 To oppose, or object to, any application or proceedings which may prejudice the interests of the organisation.
- 9.21 To pay the costs of forming the organisation and its subsequent development.

LIABILITY OF MEMBERS

- 10 The members of the organisation have no liability to pay any sums to help to meet the debts (or other liabilities) of the organisation if it is wound up; accordingly, if the organisation is unable to meet its debts, the members will not be held responsible.
- 11 The members and Charity Trustees have certain legal duties under the Charities and Trustee Investment (Scotland) Act 2005; and Clause **10** does not exclude (or limit) any personal liabilities they might incur if they are in breach of those duties or in breach of other legal obligations or duties that apply to them personally.

GENERAL STRUCTURE OF THE ORGANISATION

- 12 The structure of the organisation comprises:
 - 12.1 **Members** – who have the right to attend the AGM and any GM and have important powers under these Clauses and the Act, who elect people to serve as Trustees and take decisions in relation to any changes to these Clauses.
 - 12.2 **Charity Trustees** – comprising:
 - 12.2.1 Elected Charity Trustees and
 - 12.2.2 Co-opted Charity Trustees, who hold regular meetings between each AGM and, in particular, are responsible for monitoring its financial position, set the strategy and policy, and generally control and supervise the activities of the organisation.
- 13 The following conditions apply to the structure:
 - 13.1 The organisation shall have not fewer than 20 members at any time; and
 - 13.2 in the event that the number of members falls below 20 , the Board may conduct essential business and to ensure the admission of sufficient members to achieve the minimum number and/or take steps to maintain the majority.

MEMBERSHIP

- 14 The members of the organisation shall consist of those individuals who made the application for registration of the organisation and such other individuals as are admitted to membership under the following clauses.
- 15 Membership of the organisation shall be open to those individuals aged 16 and over who are resident in the Community

APPLICATION FOR MEMBERSHIP

- 16 Any individual who wishes to become a member shall in such written form as the Board prescribe submit a written application for membership.
- 17 The Board may not, unless there are reasonable grounds to do so, refuse to admit any person to Membership.
- 18 The Board shall confirm each application for membership at the first board meeting which is held after receipt of the application.
- 19 If an application has been refused, an appeal may be made in writing to the Board, who shall consider the appeal at its next meeting after the appeal is received, and who shall respond in writing to the applicant within 21 days of the meeting. The decision on such appeals is final.

MEMBERSHIP SUBSCRIPTION

- 20 No membership subscription shall be payable.

RE-REGISTRATION OF MEMBERS

- 21 The Board may, at any time, issue notices to the members requiring them to confirm that they wish to remain as members of the organisation, and allowing them a period of 28 days (running from the date of issue of the notice) to provide that confirmation to the board.
- 22 If a member fails to provide confirmation to the board (in writing or by e-mail) that they wish to remain as a member of the organisation before the expiry of the 28-day period referred to in Clause **21** , the board may expel them from the membership.
- 23 A notice under Clause **21** will not be valid unless it refers specifically to the consequences (under Clause **22**) of failing to provide confirmation within the 28-day period.

CESSATION OF MEMBERSHIP

- 24 A member shall cease to be a member if:
 - 24.1 Any individual who wants to withdraw from membership gives a written notice of withdrawal to the organisation, signed by them; they will cease to be a member as from the time when the notice is received by the organisation; or
 - 24.2 They die (the right of membership not being assignable); or
 - 24.3 Failure to comply with the code of conduct for Trustees which would result in cessation of Trustee and membership; or

24.4 Failure to respond to any re-registration request under Clause **23**.

TRANSFER OF MEMBERSHIP

25 Membership of the SCIO may not be transferred.

REGISTER OF MEMBERS

26 The Board must keep a register of members, setting out for each current member:

26.1 their full name;

26.2 address; and

26.3 the date on which they were registered as a member of the organisation.

27 For each former member - for at least six years from the date on which they ceased to be a member:

27.1 their name; and

27.2 the date on which they ceased to be a member.

28 The Board must ensure that the register of members is updated within 28 days of receiving notice of any change

29 If a member or Charity Trustee of the organisation requests a copy of the register of members, the Board must ensure that a copy is supplied to them within 28 days, providing the request is reasonable; if the request is made by a member (rather than a Charity Trustee), the Board may provide a copy which has the addresses blanked out.

GENERAL MEETINGS

30 General Meetings (GMs) are meetings to which all members of the organisation are invited. There are two types of General Meetings: Annual General Meetings (AGMS) which happen routinely each year and are an essential part of governance of the organisation, and other General Meetings (sometimes called Extraordinary General Meetings (EGMs)) which are called either by decision of the Board or by petition by members of the organisation. General meetings will normally be held in person; however, if an in-person meeting is not possible, an on-line meeting will be allowable.

31 The Board shall convene an Annual General Meeting (AGM) for all members in each year, at such time as it may determine, although the first AGM need not be held in the first year provided that it be held within 15 months after the date of incorporation of the Organisation. Thereafter, not more than 15 months shall elapse between one AGM and the holding of the

next.

32 The business of each AGM shall include:

32.1 the report by the Chairperson on the activities of the organisation;

32.2 the election of Charity Trustees;

32.3 consideration of the accounts of the organisation

32.4 the appointment of the auditor (if applicable); and

32.5 the report of the auditor (if applicable).

33 The Board may convene an EGM whenever it thinks fit.

34 The Board must convene an EGM within 28 days of a valid requisition. To be valid, such requisition must be signed by not less than 5% of the ordinary members, subject to the actual number being ten or more, must clearly state the purposes of the meeting and must be delivered to the Registered Office.

35 The provisions regarding notice of a Meeting are as follows:

35.1 At least 14 clear days notice must be given of any AGM or EGM.

35.2 The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; and

35.3 in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s); or

35.4 in the case of any other resolution falling within Clause **47** (requirement for two thirds majority) must set out the exact terms of the resolution

36 Any notice which requires to be given to a member under this constitution must be:

36.1 sent by post to the member, at the address last notified by them to the organisation; or

36.2 sent by e-mail to the member, at the e-mail address last notified by them to the organisation; or

36.3 published to the Community via the public noticeboards and such electronic networks or bulletin-boards as the board deems appropriate at the time.

36.4 Notice of every members' meeting must be given to all the members of the organisation, and to all the Charity Trustees; but the accidental omission to give notice to one or more members will not invalidate the proceedings at the meeting.

CHAIRPERSON OF GENERAL MEETINGS (AGM & EGM)

- 37 The Chairperson of the organisation shall act as Chairperson of each meeting or if not present or willing the Vice-Chairperson of the organisation shall act as Chairperson of each meeting. If neither the Chairperson nor the Vice-Chairperson is present or willing to act as Chairperson of the meeting within 15 minutes after the time at which the General Meeting in question was due to commence, the Charity Trustees present shall elect from among themselves one of the Elected Charity Trustees who will act as Chairperson of that meeting.
- 38 For the avoidance of doubt, the Chairperson and Vice-Chairperson shall always be a member of the organisation.

QUORUM AT GENERAL MEETINGS

- 39 The quorum for a general meeting shall be 15 Members. No business shall be dealt with at any general meeting unless a quorum is present.
- 40 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, date and place as may be fixed by the Chairperson of the general meeting.
- 41 The board may make any arrangements in advance of any general meetings to allow members to fully participate in such general meetings so long as all those participating in the meeting can clearly comprehend each other; a member participating in any such means other than in person shall be deemed to be present in person at the general meeting.

VOTING AT GENERAL MEETINGS

- 42 The Board may make any arrangements in advance of any general meetings to allow members to fully participate in such general meetings including by electronic or teleconferencing methods, so long as all those participating in the meeting can clearly comprehend each other; a member participating in any such means other than in person shall be deemed to be present in person at the general meeting.
- 43 The Chairperson of the meeting shall endeavour to achieve consensus wherever possible but, if necessary, questions arising shall be decided by being put to the vote.
- 44 The provisions regarding voting are as follows:
- 44.1 each Member shall have one vote, to be exercised in person or by proxy, by a show of hands

- 44.2 Unless a secret ballot is demanded by the Chairperson of the meeting, or by at least two Members present at the meeting and entitled to vote, this may be demanded only before any show of hands takes place and shall be taken immediately at the same meeting.
- 44.3 This shall be conducted in such a manner as the Chairperson of the meeting may direct and the result of which shall be declared at the same meeting at which the ballot was demanded.
- 44.4 In that event, the Chairperson of the meeting shall appoint and instruct tellers, who may cast their own personal votes if Members.
- 44.5 In the event of a tied vote, the chairperson, shall be entitled to have a casting (second) vote.
- 45 Whilst actual attendance by Members is to be encouraged at General Meetings, any Member shall be entitled to complete one form of proxy to appoint a proxy to attend a General Meeting on their behalf, in respect of which the following apply:
 - 45.1 a proxy need not be a member;
 - 45.2 a proxy appointed to attend and vote at any meeting instead of an Member shall have the same right as the Member who appointed him or her to speak at the meeting and to vote thereat; and
 - 45.3 the form appointing a proxy and the power of attorney or other authority (if any) under which it is signed, or a certified copy thereof, shall be lodged at the Registered Office not less than 48 hours before the time of the meeting at which the proxy is to be used; and
 - 45.4 no form of proxy shall be valid more than 12 months from the date it was granted; and

RESOLUTIONS

- 46 Ordinary and Special Resolutions may be passed in writing, rather than at a General Meeting provided that the terms of Clause **47** are followed.
- 47 At any General Meeting a resolution put to the vote of the meeting shall be voted upon by a simple majority of the Members who are present and voting thereon, except for decisions relating to any of the following Special Resolutions:
 - 47.1 To alter the name of the Organisation; or
 - 47.2 to amend the Purposes; or
 - 47.3 to amend these Clauses or

47.4 to wind up of the Organisation;

47.5 all other Special Resolutions.

which shall require to be decided upon by not less than two thirds of the Members present and voting thereon (no account therefore being taken of members who abstain from voting or who are absent from the meeting).

48 Where such a written resolution is proposed by members, the following shall apply:

48.1 the resolution must be requested by not less than 5% of the voting members, subject to the actual number being ten or more ("the members request");

48.2 the members' request must identify the resolution to be put to members and the Board can reject such resolutions, but must provide reasons for doing so to the members requesting the resolution;

48.3 within 14 days, the Board must circulate (circulation date) the resolution with the express statements referred to:

48.4 An explanation to the eligible members how to signify their agreement to the resolution;

48.5 how it can be sent back by them;

48.6 clarification that a failure to reply will be deemed to be a vote against the resolution in question;

48.7 and the date by which the resolution must be passed if it is not to lapse (that is, the date which is 28 days after the Circulation Date).

49 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 organisation duly convened and held, provided that the terms of this Clause are followed.

50 Special Resolution in writing signed by or on behalf of not less than two thirds of all the Members shall be as valid and effective as if the same had been passed at a General Meeting of the organisation duly convened and held, provided that the terms of this Clause are followed.

MEETING ADJOURNMENT

51 The Chairperson of the General Meeting may, with the consent of a majority of the Members present and voting thereat, adjourn the General Meeting to such time, date and place as they may determine.

ORGANISATION MANAGEMENT

- 52 The affairs, property and funds of the organisation shall be directed and managed by a Board of Charity Trustees. The Board may exercise all such powers of the organisation, and may on behalf of the organisation do all acts as may be exercised and done by the organisation, other than those required to be exercised or done by the Members in a General Meeting, and subject always to these Clauses and to the provisions of the 2005 Act.

INTERIM BOARD

- 53 Upon incorporation of the organisation, the individuals who signed the Charity Trustee declaration forms which accompanied the application for incorporation of the organisation, shall be deemed to have been appointed by the members as Charity Trustees with effect from the date of incorporation of the organisation.

COMPOSITION OF THE BOARD OF CHARITY TRUSTEES

- 54 The number of Charity Trustees shall be not less than five (5) and the total number of Charity Trustees shall not be more than Fifteen (15).

APPOINTMENT OF CHARITY TRUSTEES

- 55 From and after the first General Meeting of the organisation, the Board shall comprise the following individual persons (a majority of whom shall always be Elected Charity Trustees), namely:

55.1 up to twelve (12) individual persons elected as Charity Trustees by the Members in terms of Clause **57-64** ("the Elected Charity Trustees"), who must themselves be Members; and

55.2 up to three (3) individual persons co-opted in terms of Clause **65** ("the Co-opted Charity Trustees"), so as to ensure a spread of skills and experience within the Board;

55.3 Who shall meet as often as necessary to despatch all business of the organisation and particularly with reference to the restrictions in the quorum for Board meetings specified in Clause **84**.

- 56 Employees of the organisation may not be nominated as or become Charity Trustees.

ELECTED CHARITY TRUSTEES

- 57 At the first General Meeting held, the Members shall elect up to twelve (12) Elected Charity Trustees.

- 58 At each subsequent AGM, the board may elect any member to be a Charity Trustee to fill vacancies on the board – subject to a maximum of 12.
- 59 Election of any Elected Charity Trustee shall be by vote of the Members present at the AGM, each Member having one vote for each vacancy in the Elected Charity Trustees on the Board
- 60 The board may at any time (other than at an AGM) appoint any member to be a Charity Trustee to fill vacancies on the board - subject to a maximum of 12.
- 61 The term in office for Elected Charity Trustees is 3 years.
- 62 Upon expiry of a nine (9) year term in office, Charity trustees shall automatically vacate office.
- 63 A retiring Elected Charity Trustee shall retain office until the close or adjournment of the meeting.
- 64 An Elected Charity Trustee, that has served the maximum term of nine (9) years, shall be eligible for re-election after one year has passed from the date of their retiral.

CO-OPED CHARITY TRUSTEES

- 65 Subject to Clause **54** , up to three individuals may be co-opted from time to time by the Board of Trustees itself, as follows:
- 65.1 a Co-opted Charity Trustee shall serve until the next AGM after their cooption;
- 65.2 a Co-opted Charity Trustee can be re-co-opted at such next AGM;
- 65.3 a Co-opted Charity Trustee can be removed from office at any time by a simple majority of the Board; and
- 65.4 for the avoidance of doubt, a Co-opted Charity Trustee may participate fully in all Board meetings which they attend, and is eligible to vote at them.

VACANCY & JUNIOR REPRESENTATION ON BOARD

- 66 The Board may from time to time fill any casual vacancy arising as a result of the retiral (or deemed retiral for any reason) of any Elected Charity Trustee from or after the date of such retiral or deemed retiral until the next AGM.
- 67 Annually after each AGM, the Board may co-opt a Co-opted Charity Trustee, who is aged between 16 and 25 years, with the specific role of representing the interests of young people in the Community. For the avoidance of doubt, Charity Trustees appointed under this clause

shall be deemed to be included in the total number of Co-Opted Charity Trustees which should not exceed the maximum number as stated in Clause 56.2.

CHARITY TRUSTEES – GENERAL DUTIES

- 68 Each of the Charity Trustees has a duty, in exercising functions as a Charity Trustee, to act in the interests of the organisation; and, in particular, must:-
- 68.1 seek, in good faith, to ensure that the organisation acts in a manner which is in accordance with its purposes;
 - 68.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person
 - 68.3 in circumstances giving rise to the possibility of a conflict of interest between the organisation and any other party, put the interests of the organisation before that of the other party; where any other duty prevents them from doing so, disclose the conflicting interest to the organisation and refrain from participating in any deliberation or decision of the other Charity Trustees with regard to the matter in question.
 - 68.4 ensure that the organisation complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.
- 69 In addition to the duties outlined in clause **68** , all of the Charity Trustees must take such steps as are reasonably practicable for the purpose of ensuring: -
- 69.1 that any breach of any of those duties by a Charity Trustee is corrected by the Charity Trustee concerned and not repeated; and
 - 69.2 that any Charity Trustee who has been in serious and persistent breach of those duties is removed as a Charity Trustee.
- 70 Provided they have declared their interest - and have not voted on the question of whether or not the organisation should enter into the arrangement - a Charity Trustee will not be debarred from entering into an arrangement with the group in which they have a personal interest; and they may retain any personal benefit which arises from that arrangement.
- 71 No Charity Trustee may serve as an employee (full time or part time) of the organisation; and no Charity Trustee may be given any remuneration by the organisation for carrying out their duties as a Charity Trustee.
- 72 The Charity Trustees may be paid all travelling and other expenses reasonably incurred by them in connection with carrying out their duties; this may include expenses relating to their attendance at meetings.

CODE OF CONDUCT FOR CHARITY TRUSTEES

- 73 Each of the Charity Trustees shall comply with the code of conduct (incorporating detailed rules on conflict of interest) prescribed by the board from time to time.
- 74 The code of conduct referred to in Clause **73** shall be supplemental to the provisions relating to the conduct of Charity Trustees contained in this constitution and the duties imposed on Charity Trustees under the Charities and Trustee Investment (Scotland) Act 2005; and all relevant provisions of this constitution shall be interpreted and applied in accordance with the provisions of the code of conduct in force from time to time.

REGISTER OF CHARITY TRUSTEES

- 75 The Board must keep a register of Charity Trustees, setting out for each current Charity Trustee, the register must record:
- 75.1 The name of the Charity Trustee;
- 75.2 The address of the Charity Trustee;
- 75.3 The date on which they were appointed as a Charity Trustee; and
- 75.4 any office held by them in the organisation.
- 76 Where the Charity Trustee is appointed by OSCR under section 70A of the 2005 Act it must be recorded in the register.
- 77 For each former Charity Trustee - for at least 6 years from the date on which they ceased to be a charity Trustee, the register must record:
- 77.1 the name of the Charity Trustee;
- 77.2 any office held by the Charity Trustee in the organisation; and
- 77.3 the date on which they ceased to be a charity Trustee.
- 78 The Board must ensure that the register of Charity Trustees is updated within 28 days of receiving notice of any change.
- 79 If any person requests a copy of the register of Charity Trustees, the Board must ensure that a copy is supplied to them within 28 days, providing the request is reasonable; if the request is made by a person who is not a Charity Trustee of the organisation, the board may provide a copy which has the addresses blanked out - if the organisation is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

TERMINATION OF CHARITY TRUSTEES OFFICE

- 80 A Charity Trustee will automatically cease to hold office if:
- 80.1 they become disqualified from being a Charity Trustee under the Charities and Trustee Investment (Scotland) Act 2005;
 - 80.2 they become incapable for medical reasons of carrying out their duties as a Charity Trustee - but only if that has continued (or is expected to continue) for a period of more than six months;
 - 80.3 in the case of an Elected Trustee they cease to be a member of the organisation;
 - 80.4 in the case of a Co-Opted Trustee under the board under Clause vote to end the appointment;
 - 80.5 they become an employee of the organisation;
 - 80.6 they give the organisation a notice of resignation, signed by them;
 - 80.7 they are absent (without good reason, in the opinion of the board) from more than three consecutive meetings of the board - but only if the board resolves to remove them from office;
 - 80.8 they are removed from office by resolution of the board on the grounds that they are considered to have committed a material breach of the code of conduct for Charity Trustees (as referred to in Clauses **73** and **74**);
 - 80.9 they are removed from office by resolution of the board on the grounds that they are considered to have been in serious or persistent breach of their duties under section 66(1) or (2) of the 2005 Act; or
 - 80.10 they become prohibited from being a Charity Trustee by virtue of section 69(2) of the 2005 Act
 - 80.11 they commit any offence under section 53 of the 2005 Act.
- 81 Subject to clause **80.8** the Charity Trustee who is subject of the resolution is given reasonable prior written notice of the grounds upon which the resolution for removal is to be proposed.
- 82 The Charity Trustee concerned is given the opportunity to address the meeting at which the resolution is proposed prior to the resolution being put to a vote.
- 83 In the case of a resolution under clause **80.8** at least two thirds of the Charity Trustees then in office are required to vote in favour of the resolution.

BOARD MEETINGS

- 84 The quorum for Board meetings shall be not less than 5 of all the Trustees, provided that the Elected Charity Trustees are always in the majority at any Board meeting. No business shall be dealt with at a Board meeting unless such a quorum is present.
- 85 A Charity 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, he or she is not entitled to vote.
- 86 7 clear days notice in writing shall be given of any meeting of the Board at which a decision in relation to any of the matters referred to in Clause **47** is to be made, which notice shall be accompanied by an agenda and any papers relevant to the matter to be decided.
- 87 All other Board meetings shall require not less than 7 days' prior notice, unless all Charity Trustees agree unanimously in writing to dispense with such notice on any specific occasion.
- 88 On the request of a Charity Trustee, an Office Bearer shall summon a meeting of the Board by notice served upon all Charity Trustees, to take place at a reasonably convenient time and date.
- 89 A resolution in writing (whether one single document signed by all or a sufficient majority of the Charity Trustees, or all or a sufficient majority of the members of any sub-committee), whether in one or several documents in the same form each signed by one or more Charity 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.
- 90 The Board may act notwithstanding any vacancy in it, but where the number of Charity Trustees falls below the minimum number specified in Clause **55**, it may not conduct any business other than to appoint sufficient Charity Trustees to match or exceed that minimum.
- 91 The Board may invite or allow any person to attend and speak, but not to vote, at any meeting of the Board or of its sub-committees
- 92 The Board may from time to time promulgate, review and amend any Ancillary Regulations, Guidelines and/or Policies, subordinate at all times to these Clauses, as it deems necessary and appropriate to provide additional explanation, guidance and governance to members/Charity Trustees.

BOARD MEETING VOTING

- 93 The Chairperson, whom failing the Vice-Chairperson (if any), shall be entitled to preside as Chairperson of all Board meetings at which they are present. If at any meeting neither the

Chairperson nor the Vice-Chairperson is present and willing to act as Chairperson of the meeting within 15 minutes after the time appointed for holding the meeting, the remaining Charity Trustees may appoint one of the Elected Charity Trustees to be Chairperson of the Board meeting, which failing the meeting shall be adjourned until a time and date when the Chairperson or Vice-Chairperson will be available.

94 The Chairperson of the Board meeting shall endeavour to achieve consensus wherever possible but, if necessary, questions arising shall be decided by being put to the vote.

95 Each Charity Trustee present (and who is eligible to vote) has one vote. In the event of an equal number of votes for and against any resolution at a Board meeting, the Chairperson of the meeting shall have a casting vote as well as a deliberative vote.

MINUTES

96 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, and all business transacted at such meetings and any such minutes of any meeting, if purporting to be signed after approval, either by the Chairperson of such meeting, or by the Chairperson of the next succeeding meeting, shall be sufficient evidence without any further proof of the facts therein stated.

97 Subject to Clause **96**, the organisation, upon request of any person for a copy of any minutes must, if the request is reasonable, give the person within 28 days of the request a copy of the requested minutes.

98 Where such a request is received under Clause **97** the organisation:

98.1 may withhold information contained in the minutes and

98.2 if it does so, must inform the person requesting a copy of the minutes of its reason for doing so.

SUB-COMMITTEES

99 The Board may delegate any of its powers to sub-committees, each consisting of not less than one Charity Trustee and such other member or members of the organisation as, (and, where appropriate, local residents who are not members of the organisation) as it thinks fit or which it delegates to the committee to appoint. Any sub-committee so formed shall, in the exercise of the powers so delegated, conform to any remit and regulations imposed on it by the Board. The meetings and proceedings of any such sub-committee shall be governed by the provisions of these Clauses for regulating the meetings and proceedings of the Board so far as applicable and so far as the same shall not be superseded by any regulations made by the Board. Such sub-committee shall regularly and promptly circulate, or ensure the regular and prompt circulation of, the minutes of its meetings to all Charity Trustees.

PERSONAL INTERESTS & CONFLICTS OF INTEREST

- 100 A charity trustee must not vote at a board meeting (or at a meeting of a sub-committee) on any resolution which relates to a matter in which they have a personal interest or duty which conflicts (or may conflict) with the interests of the SCIO; they must withdraw from the meeting while an item of that nature is being dealt with.
- 101 An interest held by an individual who is “connected” with the charity trustee under section 68(2) of the Charities and Trustee Investment (Scotland) Act 2005 (husband/wife, partner, child, parent, brother/sister etc) shall be deemed to be held by that charity trustee.
- 102 A charity trustee will be deemed to have a personal interest in relation to a particular matter if a body in relation to which they are an employee, director, member of the management committee, officer or elected representative has an interest in that matter.
- 103 The Board shall determine from time to time what interests shall be relevant interests and shall ensure that a Register of Notices of Relevant Interests is maintained, which shall be open for inspection by both the Board and members of the organisation and, with the express prior written approval of the Charity Trustee or employee concerned, by members of the public.
- 104 Whenever a Charity Trustee finds that there is a personal interest, as defined in Clause **102**, they have a duty to declare this to the Board meeting in question. It will be up to the Chairperson of the meeting in question to determine:
- 104.1 whether the potential or real conflict simply be noted in the Minutes of any relevant meeting; or
- 104.2 whether the Charity Trustee in question, whilst being permitted to remain in the meeting in question, must not partake in discussions or decisions relating to such matter; or
- 104.3 whether the Charity Trustee in question should be required to be absent during that particular element of the meeting and, where a Charity Trustee leaves, or is required to leave, the meeting they no longer form part of the quorum thereat.

OFFICE BEARERS

- 105 The Board may appoint office bearers such as the Chair, Vice-Chair, Treasurer and Secretary, and on the basis that the term of the appointment, and any other conditions of appointment, shall be as determined by the Board; the office bearers may be removed by them at any time.

FINANCES & ACCOUNTS

- 106 The banking account or accounts of the organisation shall be kept in such bank or building society and/or banks or building societies as the Board shall from time to time by resolution determine.
- 107 All cheques and other negotiable instruments, and all receipts for monies paid to the organisation, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Board shall from time to time by resolution determine.
- 108 The organisation must use and apply its property in furtherance of its purposes and in accordance with its constitution.
- 109 The Board shall cause accounting records to be kept for the organisation in accordance with the requirements of the 2005 Act and other relevant regulations.
- 110 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. Such records shall be kept at such place or places as the Board thinks fit and shall always be open to the inspection of the Trustees.
- 111 At each AGM, the Board shall provide the members with a copy of the accounts for the period since the last preceding accounting reference date (or, in the case of the first account, since the incorporation of the organisation). The accounts shall be accompanied by proper reports of the Board. Copies of such accounts shall, not less than 14 clear days before the date of the General Meeting, be delivered or sent to all members, Charity Trustees, the Office Bearers and the auditor, or otherwise be available for inspection on the website or other location of the organisation (with all members, Charity Trustees, the organisation Secretary and the auditor being made aware that they are so available for inspection there).

NOTICES

- 112 A notice may be served by the organisation upon any member by whatever means the board feels is appropriate. Any notice, whether served by post or otherwise, shall be deemed to have been served on the day following that on which the letter containing the same is put into the post or is otherwise despatched.

INDEMNITY

- 113 Subject to the terms of the 2005 Act and without prejudice to any other indemnity, the Charity Trustees, or member of any sub-committee, the organisation Office Bearers and all employees of the organisation shall be indemnified out of the funds of the organisation against any loss or liability (including the costs of defending successfully any court

proceedings) which he, she or they may respectively incur or sustain, in connection with or on behalf of the organisation and each of them shall be chargeable only for so much money as he or she may actually receive and they shall not be answerable for the acts, receipts, neglects or defaults of each other, but each of them for his or her own acts, receipts, neglects or defaults only.

ALTERATION TO THE CLAUSES

114 Any alteration to this constitution should comply with the following conditions:

114.1 upon the decision of not less than two thirds of the Members present and voting at a General Meeting called specifically (but not necessarily exclusively) for the purpose in terms of Clause **47** ;

114.2 any changes to the purposes are subject to written consent being obtained from the Office of the Scottish Charity Regulator (and its successors) in terms of section 16 of The Charities and Trustee Investment (Scotland) Act 2005;

114.3 notification to the Office of the Scottish Charity Regulator (and its successors) of any other changes to the Clauses not covered under Clause **114.2** (i.e. not related to purposes) in terms of section 17 of The Charities and Trustee Investment (Scotland) Act 2005.

DISSOLUTION

115 The winding-up of the Organisation may take place only on the decision of not less than two thirds of its Members who are present and voting at a General Meeting called specifically (but not necessarily exclusively) for the purpose.

116 If, on the winding-up of the Organisation, any property or assets remains, after satisfaction of all its debts and liabilities, such property shall be given or transferred to such other Community body or bodies or charitable group as may be:

116.1 determined by not less than two thirds of the Members of the SCIO who are present and voting at a General Meeting called specifically (but not necessarily exclusively) for the purpose; and

116.2 ensuring such assets are transferred to another body which has purposes which resemble closely the purposes of the Organisation; and

116.3 approved by the Office of the Scottish Charity Regulator (and its successors).