

CONSTITUTION

of

Carradale Community Trust SC024417

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Charities and Trustee Investment (Scotland) Act 2005

**Constitution
of
Carradale Community Trust**

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.
- **“GM”** means a General Meeting.
- **“Group”** means those other Organisations (incorporated or not) that are not this Organisation (SCIO).
- **“Individual”** means a human/person.
- **“Land Reform Act”** means the Land Reform (Scotland) Act 2003 and every statutory modification or re-enactment thereof for the time being in force.
- **“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 Schedules to these Clauses are deemed to form an integral part of these Clauses:

Schedule 1 – ‘Code of Conduct & Declaration of Interest’

Schedule 2 – ‘Form of Proxy’

Schedule 3 – ‘Roles & Responsibilities’

Schedule 4 – ‘Procedure for Approval & Payment of Expenses’

Schedule 5 – ‘Delegation of Powers’

GENERAL

Type of Organisation

- 1 The Organisation will, upon registration, be a Scottish Charitable Incorporated Organisation (SCIO).

Scottish principal office

- 2 The principal office of the Organisation will be in Scotland (and must remain in Scotland).

Name

- 3 The name of the Organisation is Carradale Community Trust.

Purposes

- 4 The Organisation has been formed to benefit the Community as defined by the boundaries of East Kintyre Community Council (“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).

The Organisation’s main purpose is consistent with furthering the achievement of sustainable development.

The Organisations purposes are:

- 4.1 To advance community development and rural regeneration through the establishment and operation of schemes of a charitable nature.
- 4.2 To provide facilities for persons suffering from physical disability, illness or impairment through the provision of recreational and other activities.
- 4.3 To provide facilities for recreation and other leisure time activity available to the public at large with a view to improving their conditions of life.
- 4.4 The advancements of the arts, heritage or culture.
- 4.5 To provide relief for those in need by reason of age.

Powers

- 5 The Organisation 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 Organisation has power:

- 5.1 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.
- 5.2 To promote and carry out research, surveys and investigations and to promote, develop and manage initiatives, projects and programmes.
- 5.3 To provide advice, consultancy, training, tuition, expertise and assistance.
- 5.4 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.
- 5.5 To register an interest in land and to exercise the right to buy land under Part 2 or Part 3A of the Land Reform (Scotland) Act 2003 including any statutory amendment or re-enactment thereof for the time being in force ("**the Land Reform Act**").
- 5.6 To purchase, take on lease, hire, or otherwise acquire any property suitable for the Organisation.
- 5.7 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.
- 5.8 To sell, let, hire, license, give in exchange and otherwise dispose of all or any part of the property of the Organisation.
- 5.9 To establish and administer a building fund or funds or guarantee fund or funds or endowment fund or funds.
- 5.10 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.

- 5.11 To take such steps as may be deemed appropriate for the purpose of raising funds for the activities of the Organisation.
- 5.12 To accept subscriptions, grants, donations, gifts, legacies and endowments of all kinds, either absolutely or conditionally or in trust.
- 5.13 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.
- 5.14 To set aside funds not immediately required as a reserve or for specific purposes.
- 5.15 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.
- 5.16 To make grants or loans of money and to give guarantees.
- 5.17 To establish, manage and/or support any other charity, and to make donations for any charitable purpose falling within the purposes.
- 5.18 To establish, operate and administer and/or otherwise acquire any separate trading organisation or association, whether charitable or not.
- 5.19 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.
- 5.20 To enter into contracts to provide services to or on behalf of others.
- 5.21 To effect insurance of all kinds (which may include indemnity insurance in respect of Trustees and employees).
- 5.22 To oppose, or object to, any application or proceedings which may prejudice the interests of the Organisation.
- 5.23 To pay the costs of forming the Organisation and its subsequent development.

General structure

- 6 The structure of the Organisation consists of:

6.1 **Members** – comprising:

- a) Ordinary Members (who have the right to attend all Members' Meetings (see clause 25) 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); and
- b) Associate Members and Junior Members.

6.2 **Charity Trustees** – comprising:

- a) Elected Charity Trustees; and
- b) Appointed and/or co-opted Charity Trustees,

who serve as the Organisation's Board and who hold regular meetings between each Annual General Meeting, in particular, the trustees are responsible for monitoring its financial position, setting the strategy and policy, as well as controlling and supervising the activities of the Organisation.

6.3 The following conditions apply to the structure:

- 6.3.1 The Organisation shall have not fewer than 16 members at any time; and
- 6.3.2 At least three quarters of the members of the Organisation are members of the Community; and
- 6.3.3 In the event that the number of members falls below 16 or that at least three quarters of the members of the Organisation do not consist of members of the Community, the Board may conduct essential business and to ensure the admission of sufficient Ordinary Members to achieve the minimum number and/or take steps to maintain the majority.

Qualifications for Membership

7 Membership is open to any individual aged 12 and over.

8 The members of the Organisation shall consist of those individuals who made the application for registration of the Organisation and are admitted to membership under the following clauses:

8.1 **Ordinary Members:** those individuals aged 16 and over who:

- (a) are resident in the Community; and

- (b) are entitled to vote at a local government election in a polling district that includes the Community or part of it; and
- (c) who support the purposes.

8.2 **Associate Members:** those individuals aged 16 and over who:

- (a) are not resident in the Community; and
- (b) support the purposes:

8.2.1 Associate Members are neither eligible to stand for election to the Board nor to vote at any Members' Meeting.

8.3 **Junior Members:** those individuals who:

- (a) are aged between 12 and 15; and
- (b) support the purposes:

8.3.1 Junior Members are neither eligible to stand for election to the Board nor to vote at any Members' Meeting.

8.4 Declaring that, if a member ceases to comply with any of the criteria at Clauses 8.1, 8.2 & 8.3 they will be obliged to inform the Organisation and will thereafter have membership reclassified in terms of either Clauses 8.1 & 8.2 and that if the Organisation becomes aware of changes itself it will so reclassify the member and notify them accordingly.

Application for membership

9 Any individual who wishes to become a member shall in such written form as the Board prescribe submit a written application for membership:

9.1 the application will then be considered by the Board at its next Board meeting;

9.2 the Board will determine if the terms of Clause 8.1, 8.2 or 8.3 apply and into which category of membership each applicant shall belong;

9.3 the Board shall approve any valid application provided the applicant is not excluded by virtue of Clause 6.3.1, 6.3.2. or 6.3.3 or has previously been a member of the Organisation and continues to be excluded from membership by virtue of Clauses 22 through 24;

- 9.4 The Board must notify each applicant promptly (in writing or by e-mail) of its decision on whether or not to admit them to membership.

Membership subscription

- 10 Unless and until otherwise determined by the members, the amount of the membership subscription for all membership types shall be a one-off subscription of £5.
- 10.1 Changes of membership classification incur no cost (Clause 8.4).
- 10.2 A member who ceases (for whatever reason) to be a member shall not be entitled to any refund of the membership subscription.

Transfer of membership

- 11 Membership of the Organisation may not be transferred by a member.

Register of members

- 12 The Board must keep a register of members, setting out:
- 12.1 for each current member:
- 12.1.1 their full name and address; and
- 12.1.2 the date on which they were registered as a member of the Organisation.
- 12.2 for each former member - for at least six years from the date on which they ceased to be a member:
- 12.2.1 their name; and
- 12.2.2 the date on which they ceased to be a member.
- 13 The Board must ensure that the register of members is updated within 28 days of any change:
- 13.1 which arises from a resolution of the Board or a resolution passed by the members of the Organisation; or
- 13.2 which is notified to the Organisation.
- 14 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.

Re-registration of Members

- 15 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.
- 16 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 15, the Board may expel them from membership.
- 17 A notice under clause 15 will not be valid unless it refers specifically to the consequences (under clause 16) of failing to provide confirmation within the 28-day period.

Liability of Members

- 18 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.
- 19 The members and Charity Trustees have certain legal duties under the Charities and Trustee Investment (Scotland) Act 2005; and clause 18 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.

Cessation of Membership

- 20 Any person who wants to withdraw from membership must give 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.
- 21 If an individual fails to respond to any re-registration request under clauses 15, 16 & 17 they shall cease to be a member.
- 22 If an individual dies (the right of membership not being assignable) they shall cease to be a member.
- 23 If an individual is removed from the office of Charity Trustee 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 (see Schedule 1 annexed to these Clauses) they shall cease to be a trustee and a member.
- 24 Any person may be expelled from membership by way of a resolution passed by not less than two thirds of those present and voting at a members' meeting, providing the following procedures have been observed:

- 24.1 at least 21 days' notice of the intention to propose the resolution must be given to the member concerned, specifying the grounds for the proposed expulsion and shall have been sent to all Charity Trustees and all members and also to the member whose removal is in question;
- 24.2 the member concerned will be entitled to be heard on the resolution at the members' meeting at which the resolution is proposed.

DECISION-MAKING BY THE MEMBERS

Members' meetings

- 25 There are two types of members' meetings – i) Annual General Meetings ("AGM") and ii) Special Members' Meetings ("SMM").
- 26 The Board must arrange a meeting of members (an annual general meeting or "AGM") in each calendar year.
- 27 The gap between one AGM and the next must not be longer than 15 months.
- 28 Notwithstanding clause 26, an AGM does not need to be held during the calendar year in which the Organisation is formed; but the first AGM must still be held within 15 months of the date on which the Organisation is formed.
- 29 The business of each AGM must include:
- 29.1 a report by the chair on the activities of the Organisation;
 - 29.2 consideration of the annual accounts of the Organisation;
 - 29.3 the election/re-election of charity trustees, as referred to in clauses 59 to 62;
 - 29.4 the appointment of an auditor (if applicable); and
 - 29.5 the report of the auditor (if applicable).
- 30 All other meetings for all members, other than AGMs, shall be called Special Members' Meetings. The Board may arrange a Special Members' Meeting ("SMM") at any time.

Power to request the Board to arrange a Special Members' Meeting ("SMM")

- 31 The Board must arrange a SMM if they are requested to do so by a notice, signed by members who amount to 5% or more of the total membership of the Organisation at the time, providing:

- 31.1 the notice states the purposes for which the meeting is to be held; and
 - 31.2 those purposes are not inconsistent with the terms of this constitution, the Charities and Trustee (Investment) Scotland Act 2005 or any other statutory provision.
- 32 If the Board receive a notice under clause 31, the date for the meeting which they arrange in accordance with the notice must not be later than 28 days from the date on which they received the notice.

Notice of members' meetings

- 33 At least 14 clear days' notice (as defined in Clause 35) must be given of any members' meeting (AGM or SMM).
- 34 The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; and
- 34.1 in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s); or
 - 34.2 in the case of any other resolution falling within clause 46 (requirement for two-thirds majority) must set out the exact terms of the resolution.
- 35 The reference to "clear days" in clause 33 shall be taken to mean that, in calculating the period of notice:
- 35.1 the day after the notices are posted (or sent by e-mail) should be excluded; and
 - 35.2 the day of the meeting itself should also be excluded.
- 36 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.
- 37 Any notice which requires to be given to a member under this constitution must be:
- 37.1 sent by post to the member, at the address last notified by them to the Organisation; or
 - 37.2 sent by e-mail to the member, at the e-mail address last notified by them to the Organisation.
- 38 The Board may make any arrangements in advance of any members' meetings (AGM or SMM) to allow members to fully participate in such members' meetings so long as all those participating in the meeting can clearly comprehend each other (e.g. by means of electronic

conferencing &/or telephonic conferencing or similar means); a member participating in any such means other than in person shall be deemed to be present in person at the members' meeting.

Procedure at members' meetings

- 39 No valid decisions can be taken at any members' meeting unless a quorum is present.
- 40 The quorum for a members' meeting is 10 members, present in person (as defined by clause 38) or a proxy for a member (as defined by clause 44). No business shall be dealt with at any general meeting unless a quorum is present.
- 41 If a quorum is not present within 15 minutes after the time at which a members' meeting was due to start - or if a quorum ceases to be present during a members' meeting - the meeting cannot proceed; and fresh notices of meeting will require to be sent out, to deal with the business (or remaining business) which was intended to be conducted.
- 42 The chair of the Organisation should act as chairperson of each members' meeting:
- 42.1 If the chair of the Organisation 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 charity trustees present at the meeting must elect from among themselves one of the Elected Charity Trustees who will act as chairperson of that meeting.
- 43 The chair of the Members' Meeting may, with the consent of a majority of the Ordinary Members present and voting thereat, adjourn the Members' Meeting to such time, date and place as he or she may determine.

Voting at members' meetings

- 44 Every Ordinary Member has one vote, which (whether on a show of hands or on a secret ballot) may be given personally or by proxy; for the avoidance of doubt, a vote given by a member (or proxy) participating in the meeting through any of the methods referred to in clause 38 will be taken to be given personally for the purposes of this clause.
- 44.1 A member who wishes to appoint a proxy to vote on their behalf at any members' meeting:
- 44.1.1 must give to the Organisation a proxy form (in such terms as given in Schedule 2 annexed to these clauses), signed by them; or

44.1.2 must send by electronic means to the Organisation at the email address notified to the members for that purpose, a proxy form (in such terms as given in Schedule 2 annexed to these clauses);

providing (in either case) the proxy form is received by the Organisation at the relevant address not less than 48 hours before the time for holding the members' meeting.

44.2 An instrument of proxy which does not comply with the provisions of clause 44.1, or which is not lodged or given in accordance with such provisions, shall be invalid.

44.3 No form of proxy shall be valid for more than 12 months from the date it was granted.

44.4 A member shall not be entitled to appoint more than one proxy to attend on the same occasion.

44.5 A proxy need not be a member of the Organisation.

44.6 Subject to clause 44.7, in relation to each resolution proposed at a members' meeting, an individual shall not be entitled to cast more than 1 vote as a proxy (in addition to any vote to which they are entitled personally, if they are an Ordinary Member of the Organisation).

44.7 Where members have appointed the chair of a members' meeting to vote as their proxy - and have directed the chair (through wording in the proxy form) on whether they should vote on their behalf in favour of, or against, each resolution - the provisions of clause 44.6 shall not apply in relation to the chair, in acting as proxy for those members.

44.8 A proxy appointed to attend and vote at any members' meeting instead of a member shall have the same right as the member who appointed them to speak at the meeting.

44.9 Associate and Junior Members have no vote in any members meeting (AGM or SMM).

45 All decisions at members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause 46.

46 The following special resolutions will be valid only if passed by not less than two thirds of those voting on the resolution at a members' meeting (or if passed by way of a written resolution under clause 50):

46.1 a resolution amending the constitution (including the name);

46.2 a resolution expelling a person from membership under clause 24;

- 46.3 a resolution directing the Board to take any particular step (or directing the Board not to take any particular step);
 - 46.4 a resolution approving the amalgamation of the Organisation with another SCIO (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation);
 - 46.5 a resolution to the effect that all of the Organisation's property, rights and liabilities should be transferred to another SCIO (or agreeing to the transfer from another SCIO of all of its property, rights and liabilities);
 - 46.6 a resolution for the winding up or dissolution of the Organisation.
- 47 If there is an equal number of votes for and against any resolution, the chairperson of the meeting will be entitled to a second (casting) vote.
- 48 A resolution put to the vote at a members' meeting will be decided on a show of hands - unless the chairperson (or at least two Ordinary Members present at the meeting, and entitled to vote, whether as members or as proxies for members) ask for a secret ballot, before any show of hands takes place.
- 49 The chairperson will decide how any secret ballot is to be conducted, and they will declare the result of the ballot at the meeting.

Written resolutions by members

- 50 A resolution agreed to in writing (or by e-mail) by the members will be as valid as if it had been passed at a members' meeting; the date of the resolution will be taken to be the date on which the last member agreed to it. Where such a written resolution is proposed by members, the following shall apply:
- 50.1 the resolution must be requested by not less than 5% of the voting members ("the members request");
 - 50.2 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;
 - 50.3 within 14 days, the Board must circulate (circulation date) the resolution with the following express statements referred to:
 - 50.3.1 An explanation to the eligible members how to signify their agreement to the resolution;
 - 50.3.2 how it can be sent back by them;

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

50.3.4 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).

50.4 An ordinary resolution in writing signed by or on behalf of a simple majority of all the Ordinary Members shall be as valid and effective as if the same had been passed at a members' meeting of the Organisation duly convened and held, provided that the terms of this clause (i.e. clause 50 - 50.4) are followed;

50.5 A Special Resolution (as defined in clause 46) in writing signed by or on behalf of not less than two thirds of all the Ordinary Members shall be as valid and effective as if the same had been passed at a members' meeting of the Organisation duly convened and held, provided that the terms of this clause (i.e. clause 50 - 50.3 & 50.5) are followed.

Minutes

51 The Board must ensure that proper minutes are kept in relation to all members' meetings.

52 Minutes of members' meetings must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting.

53 The Board shall make available copies of the minutes referred to in clause 51 to any member of the public requesting them; but on the basis that the Board may exclude confidential material to the extent permitted under clause 99.

53.1 Upon request of any person for a copy of the minutes of a meeting of the Organisation, the Organisation must, if the request is reasonable, give the person within 28 days of the request a copy of the requested minutes; and

53.2 Where such a request is received under Clause 53.1 the Organisation:

53.2.1 may withhold information contained in the minutes; and

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

BOARD

Number of charity trustees

54 The maximum number of charity trustees is 7, out of which:

- 54.1 no more than 7 shall be charity trustees who were elected/appointed under clauses 59 and 60 (or deemed to have been appointed under clause 58); and
- 54.2 no more than 3 shall be charity trustees who were co-opted under the provisions of clauses 63 and 64.
- 55 The minimum number of charity trustees is 3. At any given time, charity trustees who are also Ordinary Members must form a majority of the total number of trustees in office.

Eligibility

- 56 A person shall not be eligible for election/appointment to the Board under clauses 59 and 60 unless they are an Ordinary Member of the Organisation; a person co-opted to the Board under clause 63 need not, however, be a member of the Organisation.
- 57 A person will not be eligible for election or appointment to the Board if they are:
 - 57.1 disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005; or
 - 57.2 an employee of the Organisation.

Initial charity trustees

- 58 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.

Election, retiral, re-election

- 59 At each AGM, the members may elect any Ordinary Member (unless they are debarred from membership under clause 57) to be a charity trustee.
- 60 The Board may at any time appoint any Ordinary Member (unless they are debarred under clause 57) to be a charity trustee.
- 61 At each AGM, all of the charity trustees elected/appointed under clauses 59 and 60 (and, in the case of the first AGM, those deemed to have been appointed under clause 58) shall retire from office – but shall then be eligible for re-election under clause 59.
- 62 A charity trustee retiring at an AGM will be deemed to have been re-elected unless:
 - 62.1 they advise the Board prior to the conclusion of the AGM that they do not wish to be re-appointed as a charity trustee; or

- 62.2 an election process was held at the AGM and they were not among those elected/re-elected through that process; or
- 62.3 a resolution for the re-election of that charity trustee was put to the AGM and was not carried;
- 62.4 the charity trustee has served 6 consecutive years. No Charity Trustee can serve more than six consecutive terms of office, without at least one year out of office before being eligible again.

Appointment/re-appointment of co-opted charity trustees

- 63 In addition to their powers under clause 60, the Board may at any time co-opt any person (regardless of their membership status, i.e. Ordinary Member, Associate Member or non-member of the Organisation) to be a charity trustee (subject to clause 54, and providing they are not debarred from membership under clause 57) on the basis that they have specialist experience and/or skills which could be of assistance to the Board, with the proviso that:
 - 63.1 a Co-opted Charity Trustee can be removed from office at any time by a simple majority of the Board.
- 64 At each AGM, all of the charity trustees appointed under clause 63 shall retire from office – but shall then be eligible for re-appointment under that clause.

Termination of office

- 65 A charity trustee will automatically cease to hold office if:
 - 65.1 they become disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005;
 - 65.2 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;
 - 65.3 (in the case of a charity trustee elected/appointed under clauses 58 to 62) they cease to be a member of the Organisation;
 - 65.4 they become an employee of the Organisation;
 - 65.5 they give the Organisation a notice of resignation, signed by them;
 - 65.6 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;

- 65.7 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 clause 82);
 - 65.8 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 Charities and Trustee Investment (Scotland) Act 2005; or
 - 65.9 they are removed from office by a resolution of the members passed at a members' meeting;
 - 65.10 the case of a Charity Trustee co-opted under clause 63, the board under clause 63.1 vote to end the appointment.
- 66 A resolution under clause 65.7, 65.8 or 65.9 shall be valid only if:
- 66.1 the charity trustee who is the subject of the resolution is given reasonable prior written notice of the grounds upon which the resolution for their removal is to be proposed;
 - 66.2 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 the vote; and
 - 66.3 (in the case of a resolution under clause 65.7 or 65.8) at least two thirds (to the nearest round number) of the charity trustees then in office vote in favour of the resolution.

Register of charity trustees

- 67 The Board must keep a register of charity trustees, setting out:
- 67.1 for each current charity trustee:
 - 67.1.1 their full name and address & email address;
 - 67.1.2 the date on which they were appointed as a charity trustee; and
 - 67.1.3 any office held by them in the Organisation;
 - 67.2 for each former charity trustee - for at least 6 years from the date on which they ceased to be a charity trustee:
 - 67.2.1 the name of the charity trustee;
 - 67.2.2 any office held by them in the Organisation; and

67.2.3 the date on which they ceased to be a charity trustee.

- 68 The Board must ensure that the register of charity trustees is updated within 28 days of any change:
- 68.1 which arises from a resolution of the Board or a resolution passed by the members of the Organisation; or
 - 68.2 which is notified to the Organisation.
- 69 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.

Office-bearers

- 70 The charity trustees must elect (from among themselves) a chair, a treasurer and a secretary (see Schedule 3 for Roles and Responsibilities annexed to these clauses). The chair must always be an Ordinary Member.
- 71 In addition to the office-bearers required under clause 70, the charity trustees may elect (from among themselves) further office-bearers if they consider that appropriate.
- 72 All of the office-bearers will cease to hold office at the conclusion of each AGM, but may then be re-elected under clause 70 or 71.
- 73 A person elected to any office will automatically cease to hold that office:
- 73.1 if they cease to be a charity trustee; or
 - 73.2 if they give to the Organisation a notice of resignation from that office, signed by them.

Powers of Board

- 74 Except where this constitution states otherwise, the Organisation (and its assets and operations) will be managed by the Board; and the Board may exercise all the powers of the Organisation.
- 74.1 The Board may from time to time promulgate, review and amend any Ancillary Schedules and 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.

- 75 A meeting of the Board at which a quorum is present may exercise all powers exercisable by the Board.
- 76 The members may, by way of a resolution passed in compliance with clause 46 (requirement for two-thirds majority), direct the Board to take any particular step or direct the Board not to take any particular step; and the Board shall give effect to any such direction accordingly.

Charity trustees - general duties

- 77 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:
- 77.1 seek, in good faith, to ensure that the Organisation acts in a manner which is in accordance with its purposes;
 - 77.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
 - 77.3 in circumstances giving rise to the possibility of a conflict of interest between the Organisation and any other party:
 - 77.3.1 put the interests of the Organisation before that of the other party;
 - 77.3.2 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 (see Schedule 1 annexed to these clauses).
 - 77.4 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.
- 78 In addition to the duties outlined in clause 77, all of the charity trustees must take such steps as are reasonably practicable for the purpose of ensuring:
- 78.1 that any breach of any of those duties by a charity trustee is corrected by the charity trustee concerned and not repeated; and
 - 78.2 that any trustee who has been in serious and persistent breach of those duties is removed as a trustee.
- 79 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 Organisation in which they have a personal interest; and (subject to clause 80 and to the provisions relating to

remuneration for services contained in the Charities and Trustee Investment (Scotland) Act 2005), they may retain any personal benefit which arises from that arrangement.

- 80 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.
- 81 The charity trustees may be paid all travelling and other expenses reasonably incurred by them in connection with carrying out their duties (subject to prior agreement by the Board); this does not include expenses relating to their attendance at Board or member meetings. The Charity Trustees must have a written policy and approved procedure on such matters (see Schedule 4 annexed to these clauses).

Code of conduct for charity trustees

- 82 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 (see Schedule 1, Code of Conduct annexed to these clauses).
- 83 The code of conduct referred to in clause 82 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.

DECISION-MAKING BY THE CHARITY TRUSTEES

Notice of Board meetings

- 84 Any charity trustee may call a meeting of the Board *or* ask the secretary to call a meeting of the Board.
- 85 At least 7 days' notice must be given of each Board meeting, unless (in the opinion of the person calling the meeting) there is a degree of urgency which makes that inappropriate.

Procedure at Board meetings

- 86 No valid decisions can be taken at a Board meeting unless a quorum is present; the quorum for Board meetings is 4 charity trustees, provided that the Elected Charity Trustees are always in the majority at any Board meeting.
- 86.1 A charity trustee may participate in a meeting of the Board by means of a conference telephone, video conferencing facility or

similar communications equipment - so long as all the charity trustees participating in the meeting can hear each other; a charity trustee participating in a meeting in this manner shall be deemed to be present in person at the meeting.

- 87 If at any time the number of charity trustees in office falls below the number stated as the quorum in clause 86, the remaining charity trustee(s) will have power to fill the vacancies or call a members' meeting - but will not be able to take any other valid decisions.
- 88 The chair of the Organisation should act as chairperson of each Board meeting.
- 89 If the chair 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 charity trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting, provided that they are an Ordinary Member of the Organisation.
- 90 Every charity trustee has one vote, which must be given personally; for the avoidance of doubt, a vote given by a charity trustee participating in the meeting through any of the methods referred to in clause 86.1 will be taken to be given personally for the purposes of this clause.
- 91 All decisions at Board meetings will be made by majority vote.
- 92 If there is an equal number of votes for and against any resolution, the chairperson of the meeting will be entitled to a second (casting) vote provided that the chairperson should always be an Ordinary Member of the Organisation.
- 93 The Board may, at its discretion, allow any person to attend and speak at a Board meeting notwithstanding that they are not a charity trustee - but on the basis that they must not participate in decision-making.
- 94 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 Organisation; they must withdraw from the meeting while an item of that nature is being dealt with; they 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.
- 95 For the purposes of clause 94:
- 95.1 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;

- 95.2 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.

Minutes

- 96 The Board must ensure that proper minutes are kept in relation to all Board meetings and meetings of sub-committees.
- 97 The minutes to be kept under clause 96 must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting.
- 98 The Board shall (subject to clause 99) make available copies of the minutes referred to in clause 96 to any member of the public requesting them.
- 98.1 Upon the request of any person for a copy of the minutes, the Board must, if the request is reasonable, give the person, within 28 days of the request, a copy of the requested minutes; and
- 98.2 Where such a request is received under Clause 98.1 the Board:
- 98.2.1 may withhold information contained in the minutes; and
- 98.2.2 if it does so, must inform the person requesting a copy of the minutes of its reason for doing so.
- 99 The Board may exclude from any copy minutes made available to a member of the public under clause 98 any material which the Board considers ought properly to be kept confidential - on the grounds that allowing access to such material could cause significant prejudice to the interests of the Organisation or on the basis that the material contains reference to employee or other matters which it would be inappropriate to divulge.

ADMINISTRATION

Delegation to sub-committees

- 100 The Board may delegate any of their powers to sub-committees; a sub-committee must include at least one charity trustee, but other members of a sub-committee need not be charity trustees.

- 101 The Board may also delegate to the chair of the Organisation (or the holder of any other post) such of their powers as they may consider appropriate.
- 102 When delegating powers under clause 100 or 101, the Board must set out appropriate conditions (which must include an obligation to report regularly to the Board).
- 103 Any delegation of powers under clause 100 or 101 may be revoked or altered by the Board at any time.
- 104 The rules of procedure for each sub-committee, and the provisions relating to membership of each sub-committee, shall be set by the Board (see Schedule 5 annexed to these clauses).

Operation of accounts

- 105 Subject to clause 106, the signatures of two out of three signatories appointed by the Board will be required in relation to all operations (other than the lodging of funds) on the bank and building society accounts held by the Organisation; both signatories must be charity trustees (see Schedule 3 annexed to these clauses).
- 106 Where the Organisation uses electronic facilities for the operation of any bank or building society account, the authorisations required for operations on that account must be consistent with the approach reflected in clause 105.

Accounting records and annual accounts

- 107 The Board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.
- 108 The Board must prepare annual accounts, complying with all relevant statutory requirements; which includes deciding the correct format of the accounts, and the appropriate external scrutiny requirement by either a registered auditor or an appropriately qualified independent examiner.

Constraint on Payments

- 109 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.
- 110 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 81.

MISCELLANEOUS

Winding-up

- 111 The winding-up of the Organisation may take place only on the decision of not less than two thirds of its Ordinary Members who are present and voting at a Members' Meeting called specifically (but not necessarily exclusively) for the purpose.
- 112 If, on the winding-up of the Organisation, any property or assets remains, after satisfaction of all its debts and liabilities, such property (including any land acquired by it in terms of the Land Reform Act) shall be given or transferred to such other Community body or bodies or charitable group as may be:
- 112.1 determined by not less than two thirds of the Ordinary Members of the Organisation who are present and voting at a General Meeting called specifically (but not necessarily exclusively) for the purpose; and
 - 112.2 ensuring such assets are transferred to another body which has purposes which resemble closely the purposes of the Organisation; and
 - 112.3 approved by the Office of the Scottish Charity Regulator (and its successors); and
 - 112.4 during wind-up notify the Scottish Ministers, through the Scottish Government Rural Directorate (or its successors).

Alterations to the constitution

- 113 Any alteration to this constitution should comply with the following conditions:
- 113.1 upon the decision of not less than two thirds of the Ordinary Members present and voting at a Members' Meeting called specifically (but not necessarily exclusively) for the purpose in terms of Clause 46 or by way of a written special resolution of the members (clause 50); and
 - 113.2 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;
 - 113.3 notify and obtaining the consent from the Office of the Scottish Charity Regulator (and its successors) of any other changes to the Clauses not covered under Clause 113.2 (i.e. not related to purposes) in terms of section 17 of The Charities and Trustee Investment (Scotland) Act 2005 (e.g. change of name);

113.4 notify and obtain the consent of the Scottish Ministers of any alterations to the Articles under Section 35(1) of the Land Reform Act.

114 The Charities and Trustee Investment (Scotland) Act 2005 prohibits taking certain steps (e.g. amalgamation, winding-up) without the consent of the Office of the Scottish Charity Regulator (OSCR).

Interpretation

115 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include:

115.1 any statutory provision which adds to, modifies or replaces that Act; and

115.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under clause 115.1 above.

116 In this constitution:

116.1 “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;

116.2 “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.