

CONSTITUTION OF BORDER ICE RINK TRUST

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of

BORDER ICE RINK TRUST

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GENERAL

Type of organisation

- 1 The organisation (“the Trust”) will, upon registration, be a Scottish Charitable Incorporated Organisation (SCIO).

Scottish principal office

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

Name

- 3 The name of the Trust is “Border Ice Rink Trust”.

Purposes

- 4 The Trust’s purposes are in relation to sport, and primarily the sports of Curling and Skating (“Ice Rink Sports”), and are:
 - 4.1 to provide or assist in the provision of recreational facilities, or to organise or assist in the organisation of the recreational facilities, with the object of improving the conditions of life for the public generally;
 - 4.2 to encourage and actively promote public participation;
 - 4.3 to provide training, coaching and education not only for those participating in sport but also the public generally about sport generally and Ice Rink Sports in particular and the health and fitness benefits of participating; and
 - 4.4 to promote community participation in healthy recreation, in particular by playing Ice Rink Sports.

Powers

- 5 The Trust has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so and, without prejudice to the foregoing generality, the Trust has the following powers (but only in furtherance of the Trust’s purposes):
 - 5.1 **Specific**
 - 5.1.1 to develop, promote, operate and manage sports facilities, primarily for Ice Rink Sports;

5.1.2 to promote public and community participation in sport, and in particular Ice Rink Sports;

5.2 **General**

5.2.1 to encourage and develop a spirit of voluntary or other commitment by individuals, unincorporated associations, societies, federations, partnerships, corporate bodies, agencies, undertakings, local authorities, unions, cooperatives, trusts and others and any groups or groupings thereof willing to assist the Trust to achieve the Trust's purposes;

5.2.2 to provide advice, consultancy, training, tuition, expertise and assistance;

5.2.3 to promote and carry out research, surveys and investigations and develop initiatives, projects and programmes;

5.2.4 to prepare, organise, promote and implement training courses, exhibitions, lectures, seminars, conferences, events and workshops, to collect, collate, disseminate and exchange information and to prepare, produce, edit, publish, exhibit and distribute articles, pamphlets, books and other publications, tapes, motion and still pictures, music and drama and other materials, all in any medium;

5.3 **Property**

5.3.1 to purchase, take on lease, hire, or otherwise acquire any property suitable for the Trust and to construct, convert, improve, develop, maintain, alter and demolish any buildings or erections whether of a permanent or temporary nature, and manage and operate or arrange for the professional or other appropriate management and operation of the Trust's property;

5.3.2 to sell, let, hire, licence, give in exchange and otherwise dispose of all or any part of the property of the Trust;

5.3.3 to establish and administer a building fund or funds or guarantee fund or funds or endowment fund or funds;

5.4 Employment

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 Trust;

5.5 Funding and Financial

5.5.1 to take such steps as may be deemed appropriate for the purpose of raising funds for the activities of the Trust;

5.5.2 to accept subscriptions, grants, donations, gifts, legacies and endowments of all kinds, either absolutely or conditionally or in trust;

5.5.3 to borrow or raise money for the Trust's purposes and to give security in support of any such borrowings by the Trust and/ or in support of any obligations undertaken by the Trust;

5.5.4 to set aside funds not immediately required as a reserve of for specific purposes;

5.5.5 to open, operate and manage bank and other accounts and to invest any funds which are not immediately required for the activities of the Trust in such investments as may be considered appropriate and to dispose of any vary, such investments;

5.5.6 to make grants of loans of money and to give guarantees;

5.5.7 to employ as a professional investment manager any person who is entitled to carry on investment business under the supervision of the Financial Conduct Authority (or its successors) and to delegate to any such manager the exercise of all or any of its powers or investment or such terms and at such reasonable remuneration as the Board of Trustees thinks fit, and to enable investments to be held for the Trust in nominee names, but subject always to the provision of the Charities and Trustee Investment (Scotland) Act 2005;

5.6 Development

5.6.1 to establish, manage and/or support any other charity, and to make donations for any charitable purpose falling within the Trust's purposes;

5.6.2 to establish, operate and administer and/or otherwise acquire any separate trading company or association, whether charitably or not;

5.6.3 to enter into any arrangements with any organisation, government or authority which may be advantageous for the purposes of the activities of the Trust and to enter into any arrangement for cooperation, mutual assistance, or sharing profit with any charity;

5.6.4 to enter into contracts to provide services to or on behalf of others;

5.7 Insurance and Protection

5.7.1 to effect insurance of all kinds (which may include indemnity insurance in respect of Trustees and employees);

5.7.2 to oppose, or object to, any application or proceedings which may prejudice the interests of the Trust;

5.8 Ancillary

5.8.1 to pay the costs of forming the Trust and its subsequent development;

5.8.2 to carry out the Trust's purposes in any part of the world as principal, agent, contractor, trustee or in any other capacity; and

5.8.3 to do anything which may be incidental or conducive to the Trust's purposes so long as these are charitable;

Declaring that the order in which these powers are listed or the terms of the sub headings above are of no significance in terms of their respective priority which shall be deemed to be equal.

6

6.1 The income and property of the Trust shall be applied solely towards promoting the Trust's purposes.

6.2 No part of the income or property of the Trust shall be paid or transferred (directly or indirectly) to the members of the Trust - either in the course of the Trust's existence or on dissolution - except where this is done in direct furtherance of the Trust's purposes.

6.3 No Trustee of the Trust shall be appointed as a paid employee of the Trust.

- 6.4 No benefit (whether in money or in kind) shall be given by the Trust to any member or Trustee except the possibility of:
- 6.4.1 repayment of out of pocket expenses to Trustees (subject to prior agreement by the Board); or
 - 6.4.2 reasonable remuneration to any member or any Trustees in return for specific services actually rendered to the Trust (not being of a management nature normally carried out by a director of a company); or
 - 6.4.3 payment of interest at a rate not exceeding the commercial rate on money lent to the Trust by any member or Trustee; or
 - 6.4.4 payment of rent at a rate not exceeding the open market rent for property let to the Trust by any member or Trustee; or
 - 6.4.5 the purchase of property from any member or Trustee provided that such purchase is at or below market value or the sale of property to any member or Trustee provided that such sale is at or above market value; or
 - 6.4.6 payment by way of indemnity where appropriate.

Liability of members

- 7 The members of the Trust have no liability to pay any sums to help to meet the debts (or other liabilities) of the Trust if it is wound up; accordingly, if the Trust is unable to meet its debts, the members will not be held responsible.
- 8 The members and Trustees have certain legal duties under the Charities and Trustee Investment (Scotland) Act 2005; and clause 7 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

- 9 The structure of the Trust consists of:-
- 9.1 the MEMBERS - who have the right to attend members' meetings (including any annual general meeting) and have important powers

under the constitution; in particular, the members appoint people to serve on the Board and take decisions on changes to the constitution itself;

- 9.2 the BOARD - who hold regular meetings, and generally control the activities of the Trust; for example, the Board is responsible for monitoring and controlling the financial position of the Trust.
- 10 The people serving on the Board are referred to in this constitution as TRUSTEES.

MEMBERS

Qualifications for membership

- 11 Membership is open to any individual aged 16 or over who is interested in the Trust's charitable purposes.
- 12 Employees of the Trust are not eligible for membership.

Application for membership

- 13 Clauses 14, 15 and 16 are subject to the terms of clause 18 in relation to members of Border Ice Rink Club.
- 14 Any person who wishes to become a member must sign a written application for membership and lodge this with the Trust along with a remittance to meet the annual membership subscription; the application will then be considered by the Board at its next Board meeting.
- 15 The Board may, at its discretion, refuse to admit any person to membership.
- 16 The Board must notify each applicant promptly (in writing or by e-mail) of its decision on whether or not to admit him/her to membership. If the decision was to refuse admission, the Board shall return to the applicant the remittance lodged by him/her under clause 14.

Membership subscription

- 17 This clause shall only apply from a date before 1st September in a year to be decided on by the Board.

- 17.1 Members shall require to pay an annual membership subscription except if they are named in clause 18; unless and until otherwise determined by the members, the amount of the annual membership shall be £30.
- 17.2 The annual membership subscription shall be payable on or before 30th September in each year.
- 17.3 The members may vary the amount of the annual membership subscription and/or date on which it falls due in each year, by way of a resolution to that effect passed at an AGM.
- 17.4 If the membership subscription payable by any member remains outstanding more than 4 weeks after the date on which it fell due – and providing he/she has been given at least one written reminder – the Board may, by resolution to that effect, cancel his/her membership.
- 17.5 Any person who ceases (for whatever reason) to be a member shall not be entitled to any refund of the membership subscription.

Border Ice Rink Club (“BIRC”)

- 18 This clause applies to members of BIRC (“BIRC members”) and notwithstanding the terms of clauses 14, 15 and 16.
- 18.1 Subject to not being an employee of the Trust or of BIRC each of the following BIRC members (who are Honorary or Life BIRC members) shall within 28 days of the date of incorporation of the Trust as a SCIO (“the incorporation date”) be invited by the Trust to become a member of the Trust unless already a member of the Trust, and, on accepting such invitation, shall become a member of the Trust:

Mr John F Somervail
Mrs Margaret Somervail
Mr James J Walker
Mrs Catherine Walker
Mr James Helm
Mr James M Wood
Mrs Irene Wood
Mr Harry Fleming
Mrs Margaret A Robertson
Mr John G Robertson

Mrs Anne Harvey
Mr James R Straughan
Mrs Elizabeth Martin
Mrs Colin Martin
Mrs Anne Pate
Mr John Pate
Mr Thomas Laing
Mr Graeme W Patterson
Mr William Potts
Mr James Keddie
Mr Ian I Hill
Mr Keith Prentice
Ms Sadie Whitson
Mr Andrew Adams
Mr Thomas Fleming

18.2 Subject to not being an employee of the Trust or of BIRC and in so far as not named in clause 18.1:

18.2.1 the BIRC members on or after the incorporation date may, at the discretion of and when judged appropriate by the Board, be invited by the Trust to become members of the Trust and, on that invitation being accepted by any person so invited, that person shall become a member of the Trust; and

18.2.2 Any of the existing BIRC members on or after the incorporation date shall, if not already a member of the Trust, become a member of the Trust on tendering to the Trust a remittance to meet the annual membership subscription.

Register of members

19 The Board must keep a register of members, setting out

19.1 for each current member:

19.1.1 his/her full name and address; and

19.1.2 the date on which he/she was registered as a member of the Trust;

19.2 for each former member - for at least six years from the date on he/she ceased to be a member:

19.2.1 his/her name; and

19.2.2 the date on which he/she ceased to be a member.

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

20.1 which arises from a resolution of the Board or a resolution passed by the members of the Trust; or

20.2 which is notified to the Trust.

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

Withdrawal from membership

22 Any person who wants to withdraw from membership must give a written notice of withdrawal to the Trust and this may be given by email; he/she will cease to be a member as from the time when the notice is received by the Trust.

Transfer of membership

23 Membership of the Trust may not be transferred by a member.

Expulsion from membership

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;

24.2 the member concerned will be entitled to be heard on the resolution at the members' meeting at which the resolution is proposed.

Termination

- 25 Membership of the Trust will terminate on (i) death or (ii) on becoming an employee of the Trust.

DECISION-MAKING BY THE MEMBERS

Members' meetings

- 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 Trust is formed; but the first AGM must still be held within 15 months of the date on which the Trust is formed.
- 29 The business of each AGM must include:-
- 29.1 a report by the Chair on the activities of the Trust;
- 29.2 consideration of the annual accounts of the Trust;
- 29.3 the election/re-election of Trustees, as referred to in clauses 64 to 72.
- 30 The Board may arrange a special members' meeting at any time.

Power to request the Board to arrange a special members' meeting

- 31 The Board must arrange a special members' meeting if they are requested to do so by a notice (which may take the form of two or more documents in the same terms, each signed by one or more members) by members who amount to 5% or more of the total membership of the Trust 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 21 clear days' notice must be given of any AGM or any special members' meeting.

- 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 51 (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 Trust, and to all the 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 him/her to the Trust; or

- 37.2 sent by e-mail to the member, at the e-mail address last notified by him/her to the Trust.

Procedure at members' meetings

- 38 No valid decisions can be taken at any members' meeting unless a quorum is present.

- 39 The quorum for a members' meeting is 5% of the persons entitled to vote, each being a member or a proxy for a member.
- 40 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.
- 41 The Chair of the Trust, whom failing the Vice-Chair of the Trust, should act as chairperson of each members' meeting.
- 42 If neither the Chair nor the Vice-Chair of the Trust is present and willing to act as chairperson of the meeting within 15 minutes after the time at which the meeting was due to start, the Trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.

Voting at members' meetings

- 43 Every member has one vote, which (whether on a show of hands or on a secret ballot) may be given either personally or by proxy.
- 44 A member who wishes to appoint a proxy to vote on his/her behalf at any members' meeting:-
- 44.1 must give to the Trust a proxy form (in such terms as the Board requires), signed by him/her; or
- 44.2 must send by electronic means to the Trust at the email address notified to the members for that purpose, a proxy form (in such terms as the Board requires) providing (in either case) the proxy form is received by the Trust at the relevant address not less than 48 hours before the time for holding the members' meeting.
- 45 An instrument of proxy which does not comply with the provisions of clause 44, or which is not lodged or given in accordance with such provisions, shall be invalid.
- 46 A member shall not be entitled to appoint more than one proxy to attend on the same occasion.
- 47 A proxy must be a member of the Trust.

- 48 Subject to clause 49, in relation to each resolution proposed at a members' meeting, an individual shall not be entitled to cast more than 10 votes as a proxy (in addition to any vote to which he/she is entitled personally, by virtue of being a member of the Trust).
- 49 Where members have appointed the chairperson of a members' meeting to vote as their proxy - and have directed the chairperson (through wording in the proxy form) on whether he/she should vote on their behalf in favour of, or against, each resolution - the provisions of clause 48 shall not apply in relation to the chairperson, in acting as proxy for those members.
- 50 All decisions at members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause 51.
- 51 The following 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 55):
- 51.1.1 a resolution amending the constitution;
 - 51.2 a resolution expelling a person from membership under clause 24;
 - 51.3 a resolution directing the Board to take any particular step (or directing the Board not to take any particular step);
 - 51.4 resolution approving the amalgamation of the Trust with another SCIO (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation);
 - 51.5 a resolution to the effect that all of the Trust'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);
 - 51.6 a resolution for the winding up or dissolution of the Trust.
- 52 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.
- 53 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 persons

present at the meeting and entitled to vote, whether as members or as proxies for members) ask for a secret ballot.

- 54 The chairperson will decide how any secret ballot is to be conducted, and he/she will declare the result of the ballot at the meeting.
- 55 A resolution agreed to in writing (or by e-mail) by all 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.

Minutes

- 56 The Board must ensure that proper minutes are kept in relation to all members' meetings.
- 57 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.
- 58 The Board shall make available copies of the minutes referred to in clause 56 to any member of the public requesting them; but on the basis that the Board may exclude from any copy minutes made available to a member of the public 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 Trust or on the basis that the material contains reference to employee or other matters which it would be inappropriate to divulge.

BOARD

Number of Trustees

- 59 The maximum number of Trustees is 12; out of that:
- 59.1 no more than 10 shall be Trustees who were elected/appointed under clauses 64 and 65 (or deemed to have been appointed under clause 63); and
- 59.2 no more than 3 shall be Trustees who were co-opted under the provisions of clauses 71 and 72.
- 60 The minimum number of Trustees is 6.

Eligibility

- 61 A person shall not be eligible for election/appointment to the Board under clauses 63 to 70 unless he/she is a member of the Trust; a person appointed to the Board under clause 71 need not, however, be a member of the Trust.
- 62 A person will not be eligible for election or appointment to the Board if he/she is: -
- 62.1 disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005; or
- 62.2 an employee of the Trust.

Initial Trustees

- 63 The individuals who signed the charity trustee declaration forms which accompanied the application for incorporation of the Trust shall be deemed to have been appointed by the members as Trustees with effect from the date of incorporation of the Trust.

Election, retiral, re-election

- 64 At each AGM, the members may elect any member (unless he/she is debarred from membership under clause 62) to be a Trustee.
- 65 The Board may at any time appoint any member (unless he/she is debarred from membership under clause 62) to be a Trustee.
- 66 At the first AGM, all of the Trustees shall retire from office.
- 67 At each AGM (other than the first)
- 67.1 any Trustees appointed under clause 65 during the period since the preceding AGM shall retire from office;
- 67.2 out of the Trustees elected under clause 64, one third (to the nearest round number) shall retire from office.
- 68 The Trustees to retire under paragraph 67.2 shall be those who have been longest in office since they were last elected or re-elected; as

between persons who were last elected/re-elected on the same date, the question of which of them is to retire shall be determined, failing agreement amongst them, by lot.

- 69 A Trustee who retires from office under clause 66 or clause 67 shall then be eligible for re-election except that no Trustee can serve more than three consecutive terms of office as a Trustee elected under clause 64 without at least three years out of office before being eligible for election again under clause 64.
- 70 A Trustee retiring at an AGM but eligible for re-election will be deemed to have been re-elected unless: -
- 70.1 he/she advises the Board prior to the conclusion of the AGM that he/she does not wish to be re-appointed as a Trustee; or
- 70.2 an election process was held at the AGM and he/she was not among those elected/re-elected through that process; or
- 70.3 a resolution for the re-election of that Trustee was put to the AGM and was not carried.

Appointment/re-appointment of co-opted Trustees

- 71 In addition to their powers under clause 65, the Board may at any time appoint any non-member of the Trust to be a Trustee (subject to clause 59, and providing he/she is not debarred from membership under clause 62) on the basis that he/she has specialist experience and/or skills which could be of assistance to the Board.
- 72 At each AGM, all of the Trustees appointed under clause 71 shall retire from office – but shall then be eligible for re-appointment under that clause.

Termination of office

- 73 A Trustee will automatically cease to hold office if: -
- 73.1 he/she becomes disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005;
- 73.2 he/she becomes incapable for medical reasons of carrying out his/her duties as a Trustee - but only if that has continued (or is expected to continue) for a period of more than six months;

- 73.3 (in the case of a Trustee elected/appointed under clauses 63 to 70) he/she ceases to be a member of the Trust;
- 73.4 he/she becomes an employee of the Trust;
- 73.5 he/she gives the Trust a notice of resignation, signed by him/her;
- 73.6 he/she is 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 him/her from office;
- 73.7 he/she is removed from office by resolution of the Board on the grounds that he/she is considered to have committed a material breach of the code of conduct for Trustees (as referred to in clause 90);
- 73.8 he/she is removed from office by resolution of the Board on the grounds that he/she is considered to have been in serious or persistent breach of his/her duties under section 66(1) or (2) of the Charities and Trustee Investment (Scotland) Act 2005; or
- 73.9 he/she is removed from office by a resolution of the members passed at a members' meeting.
- 74 A resolution under paragraph 73.7, 73.8 or 73.9 shall be valid only if: -
- 74.1 the Trustee who is the subject of the resolution is given reasonable prior written notice of the grounds upon which the resolution for his/her removal is to be proposed;
- 74.2 the 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
- 74.3 (in the case of a resolution under paragraph 73.7 or 73.8) at least two thirds (to the nearest round number) of the Trustees then in office vote in favour of the resolution.

Register of Trustees

- 75 The Board must keep a register of Trustees, setting out

- 75.1 for each current Trustee:
 - 75.1.1 his/her full name and address;
 - 75.1.2 the date on which he/she was appointed as a Trustee; and
 - 75.1.3 any office held by him/her in the Trust;
- 75.2 for each former Trustee - for at least 6 years from the date on which he/she ceased to be a Trustee:
 - 75.2.1 the name of the Trustee;
 - 75.2.2 any office held by him/her in the Trust; and
 - 75.2.3 the date on which he/she ceased to be a Trustee.
- 76 The Board must ensure that the register of Trustees is updated within 28 days of any change:
 - 76.1 which arises from a resolution of the Board or a resolution passed by the members of the Trust; or
 - 76.2 which is notified to the Trust.
- 77 If any person requests a copy of the register of Trustees, the Board must ensure that a copy is supplied to him/her within 28 days, providing the request is reasonable; if the request is made by a person who is not a Trustee of the Trust, the Board may provide a copy which has the addresses blanked out - if the Trust is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

Office-bearers

- 78 The Trustees must elect (from among themselves) a Chair, a Vice-Chair, a Treasurer (which office may, at the discretion of the Board, be honorary and the office bearer referred to as Honorary Treasurer) and a Secretary.
- 79 In addition to the office-bearers required under clause 78, the Trustees may elect (from among themselves) further office-bearers if they consider that appropriate.

80 All of the office-bearers will cease to hold office at the conclusion of each AGM, but may then be re-elected under clause 78 or 79.

81 A person elected to any office will automatically cease to hold that office: -

81.1 if he/she ceases to be a Trustee; or

81.2 if he/she gives to the Trust a notice of resignation from that office, signed by him/her.

Powers of Board

82 Except where this constitution states otherwise, the Trust (and its assets and operations) will be managed by the Board; and the Board may exercise all the powers of the Trust.

83 A meeting of the Board at which a quorum is present may exercise all powers exercisable by the Board.

84 The members may, by way of a resolution passed in compliance with clause 51 (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.

Trustees - general duties

85 Each of the Trustees has a duty, in exercising functions as a Trustee, to act in the interests of the Trust; and, in particular, must:-

85.1 seek, in good faith, to ensure that the Trust acts in a manner which is in accordance with its purposes;

85.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;

85.3 in circumstances giving rise to the possibility of a conflict of interest between the Trust and any other party:

85.3.1 put the interests of the Trust before that of the other party;

- 85.3.2 where any other duty prevents him/her from doing so, disclose the conflicting interest to the Trust and refrain from participating in any deliberation or decision of the other Trustees with regard to the matter in question;
- 85.4 ensure that the Trust complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.
- 86 In addition to the duties outlined in clause 85, all of the Trustees must take such steps as are reasonably practicable for the purpose of ensuring: -
- 86.1 that any breach of any of those duties by a Trustee is corrected by the Trustee concerned and not repeated; and
- 86.2 that any Trustee who has been in serious and persistent breach of those duties is removed as a Trustee.
- 87 Provided he/she has declared his/her interest - and has not voted on the question of whether or not the Trust should enter into the arrangement - a Trustee will not be debarred from entering into an arrangement with the Trust in which he/she has a personal interest; and (subject to clause 88 and to the provisions relating to remuneration for services contained in the Charities and Trustee Investment (Scotland) Act 2005), he/she may retain any personal benefit which arises from that arrangement.
- 88 No Trustee may serve as an employee (full time or part time) of the Trust; and no Trustee may be given any remuneration by the Trust for carrying out his/her duties as a Trustee.
- 89 The 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 Trustees

- 90 Each of the Trustees shall comply with the code of conduct (incorporating detailed rules on conflict of interest) prescribed by the Board from time to time.
- 91 The code of conduct referred to in clause 90 shall be supplemental to the provisions relating to the conduct of Trustees contained in this

constitution and the duties imposed on 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 TRUSTEES

Notice of Board meetings

- 92 Any Trustee may call a meeting of the Board or ask the Secretary to call a meeting of the Board.
- 93 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

- 94 No valid decisions can be taken at a Board meeting unless a quorum is present; the quorum for Board meetings is 5 Trustees, present in person.
- 95 A 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 Trustees participating in the meeting can hear each other; a Trustee participating in a meeting in this manner shall be deemed to be present in person at the meeting.
- 96 If at any time the number of Trustees in office falls below the number stated as the quorum in clause 94, the remaining 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.
- 97 The Chair of the Trust, whom failing the Vice-Chair of the Trust, should act as chairperson of each Board meeting.
- 98 If neither the Chair nor the Vice-Chair of the Trust is present and willing to act as chairperson of the meeting within 15 minutes after the time at which the meeting was due to start, the Trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.

- 99 Every Trustee has one vote, which must be given personally; for the avoidance of doubt, a vote given by a Trustee participating in the meeting through any of the methods referred to in clause 95 will be taken to be given personally for the purposes of this clause.
- 100 All decisions at Board meetings will be made by majority vote.
- 101 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.
- 102 The Board may, at its discretion, allow any person to attend and speak at a Board meeting notwithstanding that he/she is not a Trustee - but on the basis that he/she must not participate in decision-making.
- 103 A 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 he/she has a personal interest or duty which conflicts (or may conflict) with the interests of the Trust; he/she must withdraw from the meeting while an item of that nature is being dealt with.
- 104 For the purposes of clause 103: -
- 104.1 an interest held by an individual who is “connected” with the 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 Trustee;
- 104.2 a Trustee will be deemed to have a personal interest in relation to a particular matter if a body in relation to which he/she is an employee, director, member of the management committee, officer or elected representative has an interest in that matter.

Minutes

- 105 The Board must ensure that proper minutes are kept in relation to all Board meetings and meetings of sub-committees.
- 106 The minutes to be kept under clause 105 must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting.

ADMINISTRATION

Delegation to sub-committees

- 107 The Board may delegate any of their powers to sub-committees; a sub-committee must include at least one Trustee, but other members of a sub-committee need not be Trustees.
- 108 The Board may also delegate to the Chair of the Trust (or the holder of any other post) such of their powers as they may consider appropriate.
- 109 When delegating powers under clause 107 or 108, the Board must set out appropriate conditions (which must include an obligation to report regularly to the Board).
- 110 Any delegation of powers under clause 107 or 108 may be revoked or altered by the Board at any time.
- 111 The rules of procedure for each sub-committee, and the provisions relating to membership of each sub-committee, shall be set by the Board.

Operation of accounts

- 112 Subject to clause 113, the signatures of two out of four 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 Trust; at least one out of the two signatures must be the signature of a Trustee.
- 113 Where the Trust 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 112.

Accounting records and annual accounts

- 114 The Board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.
- 115 The Board must prepare annual accounts, complying with all relevant statutory requirements; if an audit is required under any statutory provisions (or if the Board consider that an audit would be appropriate for some other reason), the Board should ensure that an audit of the accounts is carried out by a qualified auditor.

MISCELLANEOUS

Winding-up

- 116 If the Trust is to be wound up or dissolved, the winding-up or dissolution process will be carried out in accordance with the procedures set out under the Charities and Trustee Investment (Scotland) Act 2005.
- 117 Any surplus assets available to the Trust immediately preceding its winding up or dissolution must be used for purposes which are the same as - or which closely resemble - the purposes of the Trust as set out in this constitution.

Alterations to the constitution

- 118 This constitution may (subject to clause 119) be altered by resolution of the members passed at a members' meeting (subject to achieving the two thirds majority referred to in clause 51) or by way of a written resolution of the members.
- 119 The Charities and Trustee Investment (Scotland) Act 2005 prohibits taking certain steps (eg change of name, an alteration to the purposes, amalgamation, winding-up) without the consent of the Office of the Scottish Charity Regulator (OSCR).

Interpretation

- 120 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include: -
- 120.1 any statutory provision which adds to, modifies or replaces that Act; and
- 120.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph 120.1 above.
- 121 In this constitution: -
- 121.1 "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;

121.2 “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.