

**CONSTITUTION**  
**of**  
**AYR GAIETY PARTNERSHIP**  
**Charity no SC041464**

**CONSTITUTION**

**of**

**AYR GAIETY PARTNERSHIP**

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## **GENERAL**

### **Type of organisation**

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

### **Scottish principal office**

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

### **Name**

- 3 The name of the SCIO is “Ayr Gaiety Partnership”.

### **Purposes**

- 4 The SCIO’s purposes are:
  - 4.1 To advance the arts (and particularly the performing arts), heritage and culture, primarily within Ayrshire;
  - 4.2 To advance education, in particular informal and formal education linked to, or through the medium of, theatre-related arts and technology, primarily within Ayrshire.

primarily through (a) the operation of The Gaiety Theatre and other venues in South Ayrshire and (b) the delivery and/or provision of support (whether financial or otherwise) to a range of initiatives, activities and events which further one or more of the above purposes.

### **Powers**

- 5 The SCIO has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so.
- 6 No part of the income or property of the SCIO may be paid or transferred (directly or indirectly) to the members - either in the course of the SCIO’s existence or on dissolution - except (a) where this is done in direct furtherance of the SCIO’s purposes or (b) by way of reasonable remuneration (and/or reasonable pension and other benefits) paid or provided to a trustee (in compliance with clauses 100 and 117) in respect of services provided by him/her (whether as an employee of the organisation or on a self-employed basis) to the organisation.

### **Liability of members**

- 7 The members of the SCIO have no liability to pay any sums to help to meet the debts (or other liabilities) of the SCIO if it is wound up; accordingly, if the SCIO is unable to meet its debts, the members will not be held responsible.

- 8 The members and charity 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 SCIO consists of:-
- 9.1 the MEMBERS - who have the right to attend members' meetings (including any annual members' meeting) and have important powers under the constitution; in particular, the members elect/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 SCIO; for example, the board is responsible for monitoring and controlling the financial position of the SCIO.
- 10 The people serving on the board are referred to in this constitution as CHARITY TRUSTEES.

## **MEMBERS**

### **Qualifications for membership**

- 11 Membership is open (subject to clause 17) to the following:
  - 11.1 any individual aged 16 or over who wishes to support the aims and activities of the SCIO;
  - 11.2 South Ayrshire Council;
  - 11.3 University of the West of Scotland;
  - 11.4 any other corporate body (subject to a maximum of two further organisations at any given time) which, in the opinion of the board, is a key partner of the SCIO in the context of its ongoing activities.
- 12 Employees of the SCIO (excluding for this purpose, an individual holding the post of Chief Executive/Executive Director if he/she is an employee of the SCIO) are not eligible for membership.

### **Application for membership**

- 13 Any individual eligible for membership under paragraph 11.1 who wishes to become a member must submit a written application for membership, signed by him/her.
- 14 Any corporate body eligible for membership under paragraph 11.2, 11.3 or 11.4 which wishes to become a member must submit a written application for membership, signed by an appropriate officer of that body.
- 15 An individual or body applying for membership shall give to the SCIO such evidence to confirm eligibility for membership as the SCIO may reasonably request.
- 16 Each application for membership must be considered by the board at the next board meeting which follows receipt of the application and any evidence required under clause 15.
- 17 The board may, at its discretion, refuse to admit any individual or body (other than a body applying under paragraph 11.2 or 11.3) to membership.

### **Membership subscription**

- 18 No membership subscription will be payable.

### **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/its full name and address; and

- 19.1.2 the date on which he/she/it was registered as a member of the SCIO;
- 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/its name; and
  - 19.2.2 the date on which he/she/it 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 SCIO; or
  - 20.2 which is notified to the SCIO.
- 21 If a member or charity trustee of the SCIO requests a copy of the register of members, the board must ensure that a copy is supplied to him/her/it 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 deleted or omitted.

### **Withdrawal from membership**

- 22 Any individual or body who/which wants to withdraw from membership must give a written notice of withdrawal to the SCIO, signed by him/her or (in the case of a corporate body) signed on its behalf by an appropriate officer; he/she/it will cease to be a member as from the time when the notice is received by the SCIO.

### **Transfer of membership**

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

### **Re-registration**

- 24 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.
- 25 If a member fails to provide confirmation to the board (in writing or by e-mail) that he/she/it wishes to remain as a member of the organisation before the expiry of the 28-day period referred to in clause 24, the board may expel him/her/it from membership.
- 26 A notice under clause 24 will not be valid unless it refers specifically to the consequences (under clause 25) of failing to provide confirmation within the 28-day period.

### **Review of membership: corporate bodies**

- 27 The board may at any time review the question of whether or not any body admitted to membership under paragraph 11.4 should continue to be a member of the SCIO, having regard to the strength or otherwise of its ongoing relationship with the SCIO; if the outcome of any such review is that the board consider that a given body should not continue to be a member of the SCIO, the board may give notice to that body to that effect, and the body will automatically cease to be a member of the SCIO with effect from the time when the notice is given or deemed to be given to the body.

### **Expulsion from membership**

- 28 Any individual or body may be expelled from membership by way of a resolution passed by not less than two thirds of those present (or represented) and voting at a members' meeting, providing the following procedures have been observed:-

- 28.1 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;
- 28.2 the member concerned (in the case of a corporate body, his/her duly authorised representative) will be entitled to be heard on the resolution at the members' meeting at which the resolution is proposed.

### **Termination of membership**

- 29 Membership will automatically terminate:
- 29.1 in the case of an individual, on death;
- 29.2 in the case of a corporate body, on the appointment of an administrator or receiver, on liquidation, on dissolution or on striking-off.

## **DECISION-MAKING BY THE MEMBERS**

### **Members' meetings**

- 30 The board must convene a meeting of members (an annual general meeting or "AGM") in each calendar year.
- 31 The gap between one AGM and the next must not be longer than 15 months.
- 32 Notwithstanding clause 30, an AGM does not need to be held during the calendar year in which the SCIO is formed; but the first AGM must still be held within 15 months of the date on which the SCIO is formed.
- 33 The business of each AGM must include:-
- 33.1 a report by the chair on the activities of the SCIO;
  - 33.2 the election/re-election of charity trustees, as provided for in clauses 0 to 80; and
  - 33.3 consideration of the annual accounts of the SCIO.
- 34 The board may convene a special members' meeting at any time.

### **Notice of members' meetings**

- 35 At least 14 clear days' notice must be given of any AGM or any special members' meeting.
- 36 The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; and
- 36.1 in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s); or
  - 36.2 in the case of any other resolution falling within clause 57 (requirement for two-thirds majority) must set out the exact terms of the resolution.
- 37 The reference to "clear days" in clause 35 shall be taken to mean that, in calculating the period of notice,
- 37.1 the day after the notices are posted (or sent by e-mail) should be excluded; and
  - 37.2 the day of the meeting itself should also be excluded.
- 38 Notice of every members' meeting must be given to all the members of the SCIO, 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.



- 39 Any notice which requires to be given to a member under this constitution must be: -
- 39.1 sent by post to the member, at the address last notified by him/her/it to the SCIO; *or*
- 39.2 sent by e-mail to the member, at the e-mail address last intimated by him/her/it to the SCIO.
- 39.3 Procedure at members' meetings
- 40 No valid decisions can be taken at any members' meeting unless a quorum is present.
- 41 The quorum for a members' meeting is
- 41.1 10 members;
- or, if a smaller number,
- 41.2 one half (rounded upwards if necessary) of the total number of members at the time;
- present in person (in the case of a member which is a corporate body, present via its duly authorised representative) or represented by proxy.
- 42 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.
- 43 The chair of the SCIO should act as chairperson of each members' meeting.
- 44 If the chair of the SCIO 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 vice chair should act as chairperson.
- 45 If neither the chair nor the vice chair of the SCIO is present within 15 minutes after the time at which the meeting was due to start - or if neither of them is 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.

### **Voting at members' meetings**

- 46 Every member has one vote, which may be given *either* personally (in the case of a member which is a corporate body, via its authorised representative present at the meeting) *or* by proxy.
- 47 A member who/which wishes to appoint a proxy to vote on his/her/its behalf at any members' meeting:-

47.1 must give to the SCIO a proxy form (in such terms as the board requires), signed by him/her or (in the case of a member which is a corporate body) signed by an appropriate officer of the member; or

47.2 must send by electronic means to the SCIO at such electronic address as may have been 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 SCIO at the relevant address not less than 48 hours before the time for holding the meeting (or, as the case may be, adjourned meeting).

48 In calculating the 48-hour period referred to in clause 47, no account shall be taken of any part of a day that is not a working day

49 An instrument of proxy which does not comply with the provisions of clause 47, or which is not lodged or given in accordance with such provisions, shall be invalid.

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

51 Subject to clause 52, in relation to each resolution proposed at a members' meeting, an individual shall not be entitled to cast more than one vote (as the representative of a member which is a corporate body; or as a proxy), in addition to any vote to which he/she is entitled in his/her own right as a member.

52 Where members have appointed the chair of a members' meeting to vote as their proxy - and have directed the chair (through wording in the instrument of proxy) on whether he/she should vote on their behalf in favour of, or against, each resolution - the provisions of clause 51 shall not apply in relation to the chair, in acting as proxy for those members.

53 A proxy appointed to attend and vote at any members' meeting instead of a member shall have the same right as the member who/which appointed him/her to speak at the meeting; and need not be a member of the SCIO.

54 A member which is a corporate body may authorise an individual to act as its representative at any members' meeting, providing particulars of the individual so authorised and of the body which he/she is to represent are received by the SCIO prior to the commencement of the members' meeting.

55 An individual authorised under clause 54 as the representative of a corporate body shall be entitled to exercise the same powers on behalf of the member which he/she represents as that corporate body could exercise if it were an individual member.

56 All decisions at members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause 57.

- 57 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 61):
- 57.1 a resolution amending the constitution;
  - 57.2 a resolution directing the board to take any particular step (or directing the board not to take any particular step);
  - 57.3 a resolution approving the amalgamation of the SCIO with another SCIO (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation);
  - 57.4 a resolution to the effect that all of the SCIO'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);
  - 57.5 a resolution for the winding up or dissolution of the SCIO.
- 58 If there is an equal number of votes for and against any resolution at a members' meeting, the chairperson of the meeting will be entitled to a second (casting) vote.
- 59 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 other individuals present at the meeting and entitled to vote, whether as members, proxies for members or representatives of members which are corporate bodies) ask for a secret ballot.
- 60 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.

### **Written resolutions by members**

- 61 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**

- 62 The board must ensure that proper minutes are kept in relation to all members' meetings.
- 63 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.

## **BOARD**

### **Number of charity trustees**

64 The maximum number of charity trustees is 11.

65 The minimum number of charity trustees is 3.

### **Composition of the board**

66 Subject to any vacancies which may exist from time to time, the board shall consist of:

66.1 up to 4 charity trustees appointed under clauses 72 to 74;

66.2 up to 4 charity trustees elected/appointed under clauses 75 to 80 (trustees drawn from the membership);

66.3 up to 6 charity trustees (or, if less, whatever number would bring the total number of trustees to no more than 11) appointed by the board under clauses 81 and 82 on the basis of the special skills/experience that they are able to contribute to the work of the board.

67 The members of the company and the board should, in exercising their powers in relation to election/appointment of charity trustees, have due regard to equalities issues.

### **Initial charity trustees**

68 The individuals holding office as directors of the company immediately prior to conversion of the company into the SCIO shall automatically hold office as charity trustees with effect from the time when the SCIO is incorporated.

### **Eligibility**

69 A person will not be eligible for election/appointment to the board if he/she is: -

69.1 disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005; or

69.2 (except in the case of an individual holding the post of Executive Director/Chief Executive) an employee of the SCIO.

70 In addition to the requirements under clause 69, no individual shall be eligible for appointment/election to the board unless, in the view of the committee established by the board for this purpose, he/she has the requisite skills and understanding to enable him/her to make a substantial contribution to the work of the board.

71 With reference to clause 70, each individual proposed for appointment to the board, or proposing to put himself/herself forward for election to the board,

shall supply such information and evidence, and shall (if required) attend in person at a meeting of the committee, to enable the committee referred to in clause 70 to assess his/her fitness to serve as a charity trustee; if any individual is considered by the committee not to satisfy the requirements under clause 70, the committee shall notify him/her in writing accordingly (giving reasons for their decision) and he/she shall then be debarred from being appointed as a charity trustee or (as the case may be) from being elected as a charity trustee, accordingly.

### **Charity trustees appointed by corporate bodies - appointment/removal**

72 Each of the bodies admitted to membership under paragraphs 11.2, 11.3 and 11.4 (so long as it remains a member of the SCIO) may (subject to clauses 66 and 69 to 71) by notice in writing, signed on its behalf by an authorised officer and given to the SCIO:-

72.1 appoint any individual who is a board member, or chair or vice chair of a Council committee or member of the senior management team/senior officer of that body (providing he/she is willing so to act) to be a charity trustee; or

72.2 remove any individual previously appointed by it, from office as a charity trustee.

73 Any appointment or removal of a charity trustee under clause 72 shall have effect from

73.1 the date on which the relevant notice is given to the SCIO; or

73.2 any later date stated in the notice.

74 At the conclusion of each AGM, the charity trustee appointed by each corporate body will retire from office, but may then be re-appointed under clause 72.

### **Charity trustees drawn from the individual members - election/appointment**

75 At each AGM, the members may (subject to clauses 66 and 69 to 71) elect any individual member) to be a charity trustee.

76 The board may at any time (subject to clauses 66 and 69 to 71) appoint any individual member to be a charity trustee.

77 At the first AGM, one of the charity trustees (disregarding for this purpose those appointed under clauses 81 and 72) shall retire from office; the question of which of them is to retire shall be determined by some random method.

78 At each AGM (other than the first):

78.1 any charity trustees appointed under clause 76 during the period since the preceding AGM shall retire from office;

- 78.2 out of the remaining charity trustees (disregarding for this purpose those appointed under clauses 81 and 72), one shall retire from office.
- 79 The charity trustee to retire under paragraph 78.2 shall be the one who has been longest in office since he/she 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 by some random method.
- 80 A charity trustee retiring at an AGM under clause 77 or 78 will (subject to clauses 66 and 69 to 71) be eligible for re-election.

### **Charity trustees appointed on the basis of special skills/experience**

- 81 The board may at any time (subject to clauses 66 and 69 to 71) appoint any individual to be a charity trustee - but on the understanding that the board's powers of appointment under this clause shall be directed towards ensuring an appropriate balance of skills and experience on the board, in the interests of good governance.
- 82 At the conclusion of each AGM, each of the charity trustees appointed under clause 81 will vacate office - but will then be eligible (subject to clauses 66 and 69 to 71) for re-appointment under clause 81, at the discretion of the board.

### **Transitional arrangements**

- 83 The provisions of clauses 66 to 82 shall be modified in their application to the first few years after the incorporation of the SCIO, as follows:
- 83.1 in relation to those individuals who serve as charity trustees as from incorporation of the SCIO on the basis that they held office as directors immediately prior to the conversion of the company into the SCIO, the board of the SCIO shall, at the first board meeting which follows incorporation of the SCIO determine which category of charity trustee into which each of them falls;
- 83.2 the number of charity trustees who may be elected at each AGM up to and including the AGM held in 2016 shall be determined by the board, but on the understanding that there must be at least two charity trustees falling within clauses 75 to 80 in office as from the AGM held in 2015.

### **Termination of office**

- 84 A charity trustee will automatically cease to hold office if: -
- 84.1 he/she becomes disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005;

- 84.2 he/she becomes incapable for medical reasons of carrying out his/her duties as a charity trustee - but only if that has continued (or is expected to continue) for a period of more than six months;
  - 84.3 (in the case of a charity trustee elected/appointed under clauses 75 to 80) he/she ceases to be a member of the SCIO;
  - 84.4 (in the case of a charity trustee appointed under clause 72) if he/she ceases to be a board member or chair or vice chair of Council committee or member of the senior management team/senior officer of the relevant body;
  - 84.5 (except in the case of an individual holding the post of Executive Director/Chief Executive) he/she becomes an employee of the SCIO;
  - 84.6 he/she gives the SCIO a notice of resignation, signed by him/her;
  - 84.7 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;
  - 84.8 he/she is removed from office by resolution of the board on the grounds that he/she is considered to have committed a serious breach of the code of conduct for charity trustees (as referred to in clause 102);
  - 84.9 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
  - 84.10 he/she is removed from office by a resolution of the members passed at a members' meeting.
- 85 A resolution under paragraph 84.8, 84.9 or 84.10 shall be valid only if: -
- 85.1 the charity trustee who is the subject of the resolution is given reasonable prior written notice of the grounds upon which the resolution for his/her removal is to be proposed;
  - 85.2 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
  - 85.3 (in the case of a resolution under paragraph 84.8 or 84.9) 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**

- 86 The board must keep a register of charity trustees, setting out

- 86.1 for each current charity trustee:
  - 86.1.1 his/her full name and address;
  - 86.1.2 the date on which he/she was appointed as a charity trustee;
  - 86.1.3 (where applicable) the name of the corporate body which nominated or appointed him/her as a charity trustee; and
  - 86.1.4 any office held by him/her in the SCIO;
- 86.2 for each former charity trustee - for at least 6 years from the date on which he/she ceased to be a charity trustee:
  - 86.2.1 the name of the charity trustee;
  - 86.2.2 (where applicable) the name of the corporate body which nominated or appointed him/her as a charity trustee;
  - 86.2.3 any office held by him/her in the SCIO; and
  - 86.2.4 the date on which he/she ceased to be a charity trustee.
- 87 The board must ensure that the register of charity trustees is updated within 28 days of any change:
  - 87.1 which arises from a resolution of the board or a resolution passed by the members of the SCIO; or
  - 87.2 which is notified to the SCIO.
- 88 If any person requests a copy of the register of charity 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 charity trustee of the SCIO, the board may provide a copy which has the addresses deleted or omitted - if the SCIO is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

**Office-bearers**

- 89 The charity trustees must elect (from among themselves) a chair, a vice chair, a treasurer and a secretary.
- 90 In addition to the office-bearers required under clause 89, the charity trustees may elect (from among themselves) further office-bearers if they consider that appropriate.
- 91 All of the office-bearers will cease to hold office at the conclusion of each AGM, but may then be re-elected under clause 89 or 90.
- 92 A person elected to any office will automatically cease to hold that office: -
  - 92.1 if he/she ceases to be a charity trustee; *or*



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

### **Powers of board**

- 93 Except where this constitution states otherwise, the SCIO (and its assets and operations) will be managed by the board; and the board may exercise all the powers of the SCIO.
- 94 A meeting of the board at which a quorum is present may exercise all powers exercisable by the board.
- 95 The members may, by way of a resolution passed in compliance with clause 57 (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**

- 96 Each of the charity trustees has a duty, in exercising functions as a charity trustee, to act in the interests of the SCIO; and, in particular, must:-
- 96.1 seek, in good faith, to ensure that the SCIO acts in a manner which is in accordance with its purposes;
- 96.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
- 96.3 in circumstances giving rise to the possibility of a conflict of interest between the SCIO and any other party:
- 96.3.1 put the interests of the SCIO before that of the other party;
- 96.3.2 where any other duty prevents him/her from doing so, disclose the conflicting interest to the SCIO and refrain from participating in any deliberation or decision of the other charity trustees with regard to the matter in question;
- 96.4 ensure that the SCIO complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.
- 97 In addition to the duties outlined in clause 96, all of the charity trustees must take such steps as are reasonably practicable for the purpose of ensuring: -
- 97.1 that any breach of any of those duties by a charity trustee is corrected by the charity trustee concerned and not repeated; and
- 97.2 that any trustee who has been in serious and persistent breach of those duties is removed as a trustee.

- 98 Provided he/she has declared his/her interest - and has not voted on the question of whether or not the SCIO should enter into the arrangement - a charity trustee will not be debarred from entering into an arrangement with the SCIO in which he/she has a personal interest; and (subject to clause 99 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.

### **Remuneration and expenses**

- 99 Subject to clause 100, no charity trustee may serve as an employee (full time or part time) of the SCIO; and no charity trustee may be given any remuneration by the SCIO for carrying out his/her duties as a charity trustee.
- 100 The charity trustee holding office as Executive Director/Chief Executive of the SCIO may (notwithstanding that he/she is a charity trustee) be paid such reasonable remuneration (and may be provided with such reasonable pension and/or other benefits) as the board may determine in respect of services provided by him/her (whether in the capacity of employee of the organisation or on a self-employed basis) to the organisation.
- 101 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**

- 102 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.
- 103 The code of conduct referred to in clause 102 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**

- 104 Any charity trustee may call a meeting of the board *or* ask the secretary to call a meeting of the board.
- 105 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**

- 106 No valid decisions can be taken at a board meeting unless a quorum is present; the quorum for board meetings shall be three or a majority of trustees holding office at the time – whichever is the greater.
- 107 If at any time the number of charity trustees in office falls below three, 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.
- 108 The chair of the SCIO should act as chairperson of each board meeting.
- 109 If the chair of the SCIO 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 vice chair should act as chairperson.
- 110 If neither the chair nor the vice chair is present within 15 minutes after the time at which the meeting was due to start - or if neither of them is 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.
- 111 Every charity trustee has one vote, which must be given personally.
- 112 All decisions at board meetings will be made by majority vote.
- 113 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.
- 114 The board may, at its discretion, allow any person to attend and speak at a board meeting notwithstanding that he/she is not a charity trustee - but on the basis that he/she must not participate in decision-making.
- 115 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 he/she has a personal interest or duty which conflicts (or may conflict) with the interests of the SCIO; he/she must withdraw from the meeting while an item of that nature is being dealt with.
- 116 For the purposes of clause 115: -

- 116.1 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;
- 116.2 a charity trustee will be deemed to have a personal interest in relation to a particular matter if a body in relation to which he/she is an employee, director, member of the management committee, officer or elected representative has an interest in that matter.
- 117 For the avoidance of doubt, the Executive Director/Chief Executive shall not be entitled to vote in relation to any matter connected with the remuneration and/or other benefits provided to him/her in respect of services provided by him/her to the organisation, nor in relation to any matter connected with the other terms and conditions (whether terms and conditions of employment or terms and conditions of a services contract) attaching to the provision of such services.

### **Minutes**

- 118 The board must ensure that proper minutes are kept in relation to all board meetings and meetings of sub-committees.
- 119 The minutes to be kept under clause 118 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**

- 120 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.
- 121 The board may also delegate to the chair of the SCIO (or the holder of any other post) such of their powers as they may consider appropriate.
- 122 When delegating powers under clauses 120 or 121, the board must set out appropriate conditions (which must include an obligation to report regularly to the board).
- 123 Any delegation of powers under clause 120 or 121 may be revoked or altered by the board at any time.
- 124 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**

- 125 Subject to clause 126, 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 SCIO involving a sum of £500 or more; at least one out of the two signatures must be the signature of a charity trustee.
- 126 Where the SCIO 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 125.

### **Accounting records and annual accounts**

- 127 The board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.
- 128 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**

- 129 If the SCIO 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.
- 130 Any surplus assets available to the SCIO 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 SCIO, as set out in this constitution.

### **Alterations to the constitution**

- 131 This constitution may (subject to clause 132) be altered by resolution of the members passed at a members' meeting (subject to achieving the two thirds majority referred to in clause 57) or by way of a written resolution of the members.
- 132 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**

- 133 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include: -
- 133.1 any statutory provision which adds to, modifies or replaces that Act; and
- 133.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph 133.1 above.
- 134 In this constitution: -
- 134.1 "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 2006, providing (in either case) that its objects are limited to charitable purposes;

134.2 “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.

This is the proposed constitution referred to in the accompanying form, applying for an SCIO to be constituted with the name set out in clause 3 above.