

CONSTITUTION

of

ABLE2SAIL SCIO

TABLE OF CONTENTS

PART I - GENERAL	3
1. Definitions and interpretation	4
2. Type of organisation	4
3. Scottish principal office	5
4. Name	5
5. Purposes	5
6. Powers	6
7. Liability of Members	6
8. General structure.....	6
PART II – MEMBERSHIP	7
9. Members.....	7
10. Categories of membership	7
11. Qualifications for membership.....	7
12. Application for membership.....	7
13. Membership subscription.....	8
14. Register of Members	8
15. Withdrawal from membership	9
16. Transfer of membership	9
17. Re-registration of Members.....	9
18. Expulsion from membership	9
19. Termination	9
PART III - DECISION-MAKING BY THE MEMBERS	10
20. Members’ meetings	10
21. Power to request the Trustees to arrange a special Members’ meeting.....	10
22. Notice of Members’ meetings.....	10
23. Procedure at Members’ meetings	11
24. Voting at Members’ meetings.....	12
25. Written resolutions by Members.....	13
26. Minutes	13
PART IV – Trustees	14
27. Number of Trustees.....	14
28. Eligibility.....	14
29. Initial Trustees	14
30. Election, retiral, re-election	14
31. Appointment/re-appointment of co-opted Trustees.....	15
32. Termination of office	15
33. Register of Trustees.....	16
34. Office-bearers	17
35. Powers of Trustees	18
36. Trustees - general duties	18
37. Trustee Code of conduct	19
PART V - DECISION-MAKING BY THE TRUSTEES	20
38. Notice of Trustees meetings	20
39. Procedure at Trustees meetings.....	20
40. Minutes	21

41. Delegation to sub-committees	21
PART VI – ADMINISTRATION	23
42. Operation of accounts	23
43. Accounting records and annual accounts.....	23
PART VII – MISCELLANEOUS	24
44. Winding-up.....	24
45. Alterations to the constitution	24

PART I - GENERAL

1. DEFINITIONS AND INTERPRETATION

1.1. In the constitution, unless the context requires otherwise:

- 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;
- AGM: means the annual general meeting of the Members.
- Members: means the Associate Members, Ordinary Members and Youth Forum Members of the SCIO (each, a “**Member**”).
- OSCR: the Office of the Scottish Charity Regulator;
- PVG Scheme: means such scheme operated by Disclosure Scotland (or any successor organisation) for the protection of vulnerable groups;
- SCIO: able2sail SCIO; and
- Trustee: means those individuals appointed or elected to serve as a charity trustee (as defined in the 2005 Act) of the SCIO (together, the “**Trustees**”).

1.2. In this constitution, unless the context otherwise requires:

- 1.2.1. words or expressions importing the singular number only shall include the plural number and vice versa;
- 1.2.2. words or expressions importing the masculine gender only shall include the feminine gender and vice versa;
- 1.2.3. words or expressions importing persons shall include partnerships, companies and unincorporated associations; and
- 1.2.4. the provisions of the Interpretation Act 1978 with respect to interpretation and construction shall apply mutatis mutandis.

2. TYPE OF ORGANISATION

2.1. The SCIO will, upon registration, be a Scottish Charitable Incorporated Organisation.

- 2.2. The SCIO will operate as a Members club, operating power and sailing vessels for the purposes, pleasure, sport and the advancement of the Purposes.

3. SCOTTISH PRINCIPAL OFFICE

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

4. NAME

- 4.1. The name of the SCIO is “able2sail SCIO”.

5. PURPOSES

- 5.1. The SCIO’s purposes are:

- 5.1.1. the advancement of public participation in sport;
- 5.1.2. the provision of recreational facilities, or the organisation of recreational activities, with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended; and
- 5.1.3. the relief of those in need by reason of age, ill health, disability, financial hardship or other disadvantage.

(together being referred to as “**the Purposes**”)

- 5.2. The Purposes for which the SCIO is established are to be furthered by the SCIO through:

- 5.2.1. promoting the integration of the disabled and those affected by disability into the community by means of participation in sailing and sailing related activities;
- 5.2.2. working to help improve the quality of life for such persons by allowing access to the sport of sailing with the barriers of disability and finance being removed;
- 5.2.3. to promote the inclusion and education of disabled young people (being persons aged 25 and under) through the operation of a “Youth Forum” group comprising both able and disabled bodied young people working together to undertake sailing and sailing related activities.

6. POWERS

- 6.1. The SCIO has power to do anything that is calculated to further its Purposes or is conducive or incidental to doing so.
- 6.2. 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 where this is done in direct furtherance of the Purposes.
- 6.3. For the avoidance of doubt, Clause 6.2 shall not prevent the Trustees from arranging for the purchase, from the SCIO's funds, of insurance designed to indemnify the Trustees against personal liability in respect of any negligence, default or breach of duty committed by them in their capacity as Trustees.

7. LIABILITY OF MEMBERS

- 7.1. 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.
- 7.2. The Members and Trustees have certain legal duties under the 2005 Act; and this 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.

8. GENERAL STRUCTURE

- 8.1. The SCIO shall have a two tier structure consisting of:
 - 8.1.1. the Trustees who hold regular meetings between each AGM, set the strategy and policy of the SCIO, generally control and supervise the activities of the SCIO and, in particular, are responsible for monitoring its financial position and are responsible also for the day-to-day management of the SCIO; and
 - 8.1.2. the Members who have certain rights and powers under this Constitution and the 2005 Act.

PART II – MEMBERSHIP

9. MEMBERS

- 9.1. The Members of the SCIO shall consist of the ‘Ordinary Members’ of the existing unincorporated association known as ‘able2sail’ and such other persons as are admitted to membership in terms of this Part II.

10. CATEGORIES OF MEMBERSHIP

- 10.1. Subject to Clause 11, membership shall be open to:
- 10.1.1. Ordinary Members, who will be entitled to the full benefits and privileges offered by the SCIO;
 - 10.1.2. Associate Members, who will be entitled to attend any Members’ meeting but are not eligible to stand for election as Trustee and hold no voting rights;
 - 10.1.3. Youth Forum Members, who will be entitled to attend any Members’ meeting but are not eligible to stand for election as Trustee and hold no voting rights.

11. QUALIFICATIONS FOR MEMBERSHIP

- 11.1. Subject to Clauses 11.2 to 11.5, membership is open to any individual.
- 11.2. Any individual wishing to apply to become an Ordinary Member must:
- 11.2.1. have attained the age of 16 at the time of submitting an application for membership;
 - 11.2.2. have (i) completed an application for and (ii) been accepted for PVG Scheme membership to the satisfaction of the Trustees.
- 11.3. Any individual wishing to apply to become a Youth Forum Member must be aged between 12 and 25 at the time of submitting an application for membership.
- 11.4. Any individual wishing to apply to become an Associate Member must satisfy such criteria for Associate Membership as the Trustees may prescribe from time to time.
- 11.5. Employees of the SCIO are not eligible for membership.

12. APPLICATION FOR MEMBERSHIP

- 12.1. Any person who wishes to become a Member must submit an application for membership (in the form prescribed by the Trustees

from time to time); the application will then be considered by the Trustees.

- 12.2. The Trustees may, at their absolute discretion, refuse to admit any person to membership.
- 12.3. Subject to Clause 12.4, the Trustees must notify each applicant promptly (in writing or by e-mail) of its decision on whether or not to admit him/her to membership.
- 12.4. In respect of all applications for membership, a period of 48 hours must elapse between an application being made and any person being admitted to membership.

13. MEMBERSHIP SUBSCRIPTION

- 13.1. No membership subscription will be payable.

14. REGISTER OF MEMBERS

- 14.1. The Trustees must keep a register of Members, setting out for each current Member:

- 14.1.1. his/her full name and address; and

- 14.1.2. the date on which he/she was registered as a Member of the SCIO;

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

- 14.1.3. his/her name; and

- 14.1.4. the date on which he/she ceased to be a Member.

- 14.2. The Trustees must ensure that the register of Members is updated within 28 days of any change:

- 14.2.1. which arises from a resolution of the Trustees or a resolution passed by the Members of the SCIO; or

- 14.2.2. which is notified to the SCIO.

- 14.3. If a Member or Trustee of the SCIO requests a copy of the register of Members, the Trustees 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 Trustees must provide a copy which has the addresses blanked out.

15. WITHDRAWAL FROM MEMBERSHIP

- 15.1. Any person who wants to withdraw from membership must give a written notice of withdrawal to the SCIO, signed by him/her; he/she will cease to be a Member as from the time when the notice is received by the SCIO.

16. TRANSFER OF MEMBERSHIP

- 16.1. Membership of the SCIO may not be transferred by a Member.

17. RE-REGISTRATION OF MEMBERS

- 17.1. The Trustees may, at any time, issue notices to the Members requiring them to confirm that they wish to remain as Members of the SCIO, and allowing them a period of 28 days (running from the date of issue of the notice) to provide that confirmation to the Trustees.
- 17.2. If a Member fails to provide confirmation to the Trustees (in writing or by e-mail) that he/she wishes to remain as a Member of the SCIO before the expiry of the 28-day period referred to in Clause 17.1, the Trustees may expel him/her from membership.
- 17.3. A notice under Clause 17.1 will not be valid unless it refers specifically to the consequences (under Clause 17.2) of failing to provide confirmation within the 28-day period.

18. EXPULSION FROM MEMBERSHIP

- 18.1. The Trustees reserve the right to expel any person from membership by way of a two-thirds majority decision of the Trustees where they have reasonable grounds to believe that doing so is in the best interests of the SCIO.

19. TERMINATION

- 19.1. Membership of the SCIO shall terminate upon the earlier of death or:
- 19.1.1. in respect of an Associate Member, upon the 31st December of the year in which the Associate Member was admitted to membership of the SCIO;
 - 19.1.2. in respect of a Youth Forum Member, upon the Youth Forum Member attaining the age of 25.

PART III - DECISION-MAKING BY THE MEMBERS

20. MEMBERS' MEETINGS

- 20.1. The Trustees must arrange a meeting of Members (an annual general meeting or "**AGM**") in each calendar year.
- 20.2. The gap between one AGM and the next must not be longer than 15 months.
- 20.3. Notwithstanding Clause 20.1, 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.
- 20.4. The business of each AGM must include:
 - 20.4.1. a report by the chair on the activities of the SCIO;
 - 20.4.2. consideration of the annual accounts of the SCIO;
 - 20.4.3. the election/re-election of Trustees, as referred to in Clause 30.
- 20.5. The Trustees may arrange a special Members' meeting at any time.

21. POWER TO REQUEST THE TRUSTEES TO ARRANGE A SPECIAL MEMBERS' MEETING

- 21.1. The Trustees must convene 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 and delivered to the SCIO's principal office) by Ordinary Members who amount to 25% or more of the Ordinary Members of the SCIO at the time, providing:
 - 21.1.1. the notice states the purposes for which the meeting is to be held; and
 - 21.1.2. those purposes are not inconsistent with the terms of this constitution, the 2005 Act or any other statutory provision.
- 21.2. If the Trustees receive a notice under Clause 21.1, 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.

22. NOTICE OF MEMBERS' MEETINGS

- 22.1. At least 14 clear days' notice must be given of any AGM or any special Members' meeting.

- 22.2. The notice calling a Members' meeting must specify in general terms what business is to be dealt with at the meeting; and
- 22.2.1. in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s); or
 - 22.2.2. in the case of any other resolution falling within Clause 45 (requirement for two-thirds majority) must set out the exact terms of the resolution.
- 22.3. The reference to "clear days" in Clause 22.1 shall be taken to mean that, in calculating the period of notice,
- 22.3.1. the day after the notices are posted (or sent by e-mail) should be excluded; and
 - 22.3.2. the day of the meeting itself should also be excluded.
- 22.4. Notice of every Members' meeting must be given to all the Members of the SCIO, 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.
- 22.5. Any notice which requires to be given to a Member under this constitution must be:
- 22.5.1. sent by post to the Member, at the address last notified by him/her to the SCIO; or
 - 22.5.2. sent by e-mail to the Member, at the e-mail address last notified by him/her to the SCIO.

23. PROCEDURE AT MEMBERS' MEETINGS

- 23.1. No valid decisions can be taken at any Members' meeting unless a quorum is present.
- 23.2. The quorum for a Members' meeting is five Ordinary Members, present in person.
- 23.3. For the avoidance of doubt, Associate Members and Youth Forum Members shall not be counted in determining whether a quorum is present at a Members' meeting.
- 23.4. 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.

- 23.5. The chair of the SCIO should act as chairperson of each Members' meeting.
- 23.6. 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 Trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.

24. VOTING AT MEMBERS' MEETINGS

- 24.1. Every Ordinary Member has one vote, which must be given personally.
- 24.2. Associate Members and Youth Forum Members shall be entitled to attend and speak at Members' meetings but, for the avoidance of doubt, have no voting rights.
- 24.3. All decisions at Members' meetings will be made by majority vote - with the exception of the types of resolution listed in Clause 24.4.
- 24.4. 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 25):
 - 24.4.1. a resolution amending the constitution;
 - 24.4.2. a resolution expelling a person from membership under Clause 18;
 - 24.4.3. a resolution directing the Trustees to take any particular step (or directing the Trustees not to take any particular step);
 - 24.4.4. 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);
 - 24.4.5. 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);
 - 24.4.6. a resolution for the winding up or dissolution of the SCIO.
- 24.5. If there are an equal number of votes for and against any resolution, the chairperson of the meeting will be entitled to a second (casting) vote.

- 24.6. 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 Ordinary Members present at the meeting) ask for a secret ballot.
- 24.7. 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.

25. WRITTEN RESOLUTIONS BY MEMBERS

- 25.1. A resolution agreed to in writing (or by e-mail) by all the Ordinary 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.

26. MINUTES

- 26.1. The Trustees must ensure that proper minutes are kept in relation to all Members' meetings.
- 26.2. 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.
- 26.3. The Trustees shall make available copies of the minutes referred to in Clause 26.1 to any Member of the public requesting them; but on the basis that the Trustees may exclude confidential material to the extent permitted under Clause 40.3.

PART IV – TRUSTEES

27. NUMBER OF TRUSTEES

27.1. The maximum number of Trustees is 10; out of that:

27.1.1. no more than 10 shall be Trustees who were elected/appointed under Clause 30 (or deemed to have been appointed under Clause 29); and

27.1.2. no more than 7 shall be Trustees who were co-opted under the provisions of Clause 31.

27.2. The minimum number of Trustees is three.

28. ELIGIBILITY

28.1. A person shall not be eligible for election/appointment to the Trustees under Clause 30 unless he/she is a Member of the SCIO; a person appointed to the Trustees under Clause 31 need not, however, be a Member of the SCIO.

28.2. A person will not be eligible for election or appointment to the Trustees if he/she is:

28.2.1. disqualified from being a charity trustee under the 2005 Act; or

28.2.2. an employee of the SCIO.

29. INITIAL TRUSTEES

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

30. ELECTION, RETIRAL, RE-ELECTION

30.1. At each AGM, the Ordinary Members may elect any Ordinary Member (unless he/she is debarred from membership under Clause 28.2) to be a Trustee.

30.2. The Trustees may at any time appoint any Member (unless he/she is debarred from membership under Clause 28.2) to be a Trustee.

30.3. At the first AGM, one third (to the nearest round number) of the Trustees appointed under Clauses 29 and 30.2 shall retire from office; the question of which of them is to retire is to be determined by some random method.

- 30.4. At each AGM (other than the first):
- 30.4.1. any Trustees appointed under Clause 30.2 during the period since the preceding AGM shall retire from office;
 - 30.4.2. out of the remaining Trustees elected/appointed under Clauses 30.1 and 30.2, one third (to the nearest round number) shall retire from office.
- 30.5. The Trustees to retire under Clause 30.4 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 by some random method.
- 30.6. A Trustee who retires from office under Clause 30.3 or Clause 30.4 shall be eligible for re-election.
- 30.7. A charity trustee retiring at an AGM will be deemed to have been re-elected unless:
- 30.7.1. he/she advises the Trustees prior to the conclusion of the AGM that he/she does not wish to be re-appointed as a Trustee; or
 - 30.7.2. an election process was held at the AGM and he/she was not among those elected/re-elected through that process; or
 - 30.7.3. a resolution for the re-election of that Trustee was put to the AGM and was not carried.

31. APPOINTMENT/RE-APPOINTMENT OF CO-OPTED TRUSTEES

- 31.1. In addition to their powers under Clause 30.2, the Trustees may at any time appoint any non-Member of the SCIO to be a charity trustee (subject to Clause 27, and providing he/she is not debarred from membership under Clause 28.2) either on the basis that he/she has been nominated by a body with which the SCIO has close contact in the course of its activities or on the basis that he/she has specialist experience and/or skills which could be of assistance to the Trustees.
- 31.2. At each AGM, all of the Trustees appointed under Clause 31.1 shall retire from office – but shall then be eligible for re-appointment under that Clause.

32. TERMINATION OF OFFICE

- 32.1. A Trustee will automatically cease to hold office if:
- 32.1.1. he/she becomes disqualified from being a Trustee under the 2005 Act;

- 32.1.2. 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;
 - 32.1.3. (in the case of a Trustee elected/appointed under Clause 30) he/she ceases to be a Member of the SCIO;
 - 32.1.4. he/she becomes an employee of the SCIO;
 - 32.1.5. he/she gives the SCIO a notice of resignation, signed by him/her;
 - 32.1.6. he/she is absent (without good reason, in the opinion of the Trustees) from more than three consecutive meetings of the Trustees - but only if the Trustees resolve to remove him/her from office;
 - 32.1.7. he/she is removed from office by resolution of the Trustees on the grounds that he/she is considered to have committed a material breach of the Trustee Code of Conduct (as defined in Clause 37);
 - 32.1.8. he/she is removed from office by resolution of the Trustees 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 2005 Act; or
 - 32.1.9. he/she is removed from office by a resolution of the Members passed at a Members' meeting.
- 32.2. A resolution under Clause 32.1.7, 32.1.8 or 32.1.9 shall be valid only if:
- 32.2.1. 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;
 - 32.2.2. 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
 - 32.2.3. (in the case of a resolution under Clauses 32.1.7 or 32.1.8) at least two thirds (to the nearest round number) of the Trustees then in office vote in favour of the resolution.

33. REGISTER OF TRUSTEES

- 33.1. The Trustees must keep a register of Trustees, setting out

- 33.1.1. for each current charity trustee:
 - 33.1.2. his/her full name and address;
 - 33.1.3. the date on which he/she was appointed as a charity trustee; and
 - 33.1.4. any office held by him/her in the SCIO;
 - 33.1.5. for each former Trustee - for at least six years from the date on which he/she ceased to be a Trustee:
 - 33.1.6. the name of the Trustee;
 - 33.1.7. any office held by him/her in the SCIO; and
 - 33.1.8. the date on which he/she ceased to be a Trustee.
- 33.2. The Trustees must ensure that the register of Trustees is updated within 28 days of any change:
- 33.2.1. which arises from a resolution of the Trustees or a resolution passed by the Members of the SCIO; or
 - 33.2.2. which is notified to the SCIO.
- 33.3. If any person requests a copy of the register of Trustees, the Trustees 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 Trustees may provide a copy which has the addresses blanked out - if the SCIO is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

34. OFFICE-BEARERS

- 34.1. The Trustees must elect (from among themselves) a chair, a treasurer and a secretary.
- 34.2. In addition to the office-bearers required under Clause 34.1, the Trustees may elect (from among themselves) further office-bearers if they consider that appropriate.
- 34.3. All of the office-bearers will cease to hold office at the conclusion of each AGM, but may then be re-elected under Clause 34.1 or 34.2.
- 34.4. A person elected to any office will automatically cease to hold that office:
 - 34.4.1. if he/she ceases to be a Trustee; or

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

35. POWERS OF TRUSTEES

- 35.1. Except where this constitution states otherwise, the SCIO (and its assets and operations) will be managed by the Trustees; and the Trustees may exercise all the powers of the SCIO.
- 35.2. A meeting of the Trustees at which a quorum is present may exercise all powers exercisable by the Trustees.
- 35.3. The Ordinary Members may, by way of a resolution passed in compliance with Clause 24.4 (requirement for two-thirds majority), direct the Trustees to take any particular step or direct the Trustees not to take any particular step; and the Trustees shall give effect to any such direction accordingly.

36. TRUSTEES - GENERAL DUTIES

- 36.1. Each of the Trustees has a duty, in exercising functions as a Trustee, to act in the interests of the SCIO; and, in particular, must:
 - 36.1.1. seek, in good faith, to ensure that the SCIO acts in a manner which is in accordance with its purposes;
 - 36.1.2. act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person:
 - 36.1.3. in circumstances giving rise to the possibility of a conflict of interest between the SCIO and any other party:
 - 36.1.3.1. put the interests of the SCIO before that of the other party;
 - 36.1.3.2. 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 Trustees with regard to the matter in question; and
 - 36.1.4. ensure that the SCIO complies with any direction, requirement, notice or duty imposed under or by virtue of the 2005 Act.
- 36.2. In addition to the duties outlined in Clause 36.1, all of the Trustees must take such steps as are reasonably practicable for the purpose of ensuring:

- 36.2.1. that any breach of any of those duties by a charity trustee is corrected by the charity trustee concerned and not repeated; and
 - 36.2.2. that any trustee who has been in serious and persistent breach of those duties is removed as a trustee.
- 36.3. 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 36.3 and to the provisions relating to remuneration for services contained in the 2005 Act), he/she may retain any personal benefit which arises from that arrangement.
- 36.4. 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.

37. TRUSTEE CODE OF CONDUCT

- 37.1. Each of the Trustees shall comply with the code of conduct (incorporating detailed rules on conflict of interest) prescribed by the Trustees from time to time (the **Code of Conduct**).
- 37.2. The Trustee Code of Conduct shall be supplemental to the provisions relating to the conduct of Trustees contained in this constitution and the duties imposed on Trustees under the 2005 Act; and all relevant provisions of this constitution shall be interpreted and applied in accordance with the provisions of the Trustee Code of Conduct in force from time to time.

PART V - DECISION-MAKING BY THE TRUSTEES

38. NOTICE OF TRUSTEES MEETINGS

- 38.1. The chair or secretary (or where both offices are vacant, any Trustee) may call a meeting of the Trustees.
- 38.2. At least seven days' notice must be given of each Trustees meeting, unless (in the opinion of the person calling the meeting) there is a degree of urgency that makes that inappropriate.

39. PROCEDURE AT TRUSTEES MEETINGS

- 39.1. No valid decisions can be taken at a Trustees meeting unless a quorum is present; the quorum for Trustees meetings is three Trustees, present in person.
- 39.2. A Trustee may participate in a Trustees meeting 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.
- 39.3. If at any time the number of Trustees in office falls below the number stated as the quorum in Clause 39.1, 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.
- 39.4. The chair of the SCIO should act as chairperson of each Trustees meeting.
- 39.5. 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 Trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.
- 39.6. 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 39.2 will be taken to be given personally for the purposes of this Clause 39.6.
- 39.7. All decisions at Trustees meetings will be made by majority vote.
- 39.8. 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.
- 39.9. The Trustees may, at its discretion, allow any person to attend and speak at a Trustees meeting notwithstanding that he/she is not a

Trustee - but on the basis that he/she must not participate in decision-making.

39.10. A Trustee must not vote at a Trustees 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.

39.11. For the purposes of Clause 39.10:

39.11.1. 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;

39.11.2. 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.

40. MINUTES

40.1. The Trustees must ensure that proper minutes are kept in relation to all Trustees meetings and meetings of sub-committees.

40.2. The minutes to be kept under Clause 40.1 must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting.

40.3. The Trustees may exclude from any copy minutes made available to anyone other than a Trustee any material which the Trustees 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 SCIO or on the basis that the material contains reference to employee or other matters which it would be inappropriate to divulge.

41. DELEGATION TO SUB-COMMITTEES

41.1. The Trustees 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.

41.2. The Trustees 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.

- 41.3. When delegating powers under Clause 41.1 or 41.2, the Trustees must set out appropriate conditions (which must include an obligation to report regularly to the Trustees).
- 41.4. Any delegation of powers under Clause 41.1 or 41.2 may be revoked or altered by the Trustees at any time.
- 41.5. The rules of procedure for each sub-committee, and the provisions relating to membership of each sub-committee, shall be set by the Trustees.

PART VI – ADMINISTRATION

42. OPERATION OF ACCOUNTS

- 42.1. Subject to Clause 47.2, the signatures of two of the authorised signatories appointed by the Trustees from time to time (provided such persons must always be Trustees) 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.
- 42.2. 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 42.1.

43. ACCOUNTING RECORDS AND ANNUAL ACCOUNTS

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

PART VII – MISCELLANEOUS

44. WINDING-UP

- 44.1. 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 2005 Act.
- 44.2. 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 at Clause 5.

45. ALTERATIONS TO THE CONSTITUTION

- 45.1. This constitution may (subject to Clause 45.2) be altered by resolution of the Ordinary Members passed at a Members' meeting (subject to achieving the two thirds majority referred to in Clause 24.4) or by way of a written resolution of the Ordinary Members.
- 45.2. Where required by the 2005 Act, the Trustees will seek the consent of OSCR (for example, in respect of a change of name, alteration to the Purposes, amalgamation or a winding up).