

CONSTITUTION

OF

THE KILLEARN TRUST

**Adopted on the creation of a
Scottish Charitable Incorporated Organisation**

PART I

{ TC "1 DEFINED TERMS" \1 }DEFINITIONS, GENERAL AND PURPOSES

1. { TC "1 DEFINED TERMS" \1 }DEFINITIONS

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

- “2005 Act”** means the Charities and Trustee Investment (Scotland) Act 2005 including any statutory modification or re-enactment thereof for the time being in force;
- “Accounts Regulations”** means the Charities Accounts (Scotland) Regulations 2006 (or any statutory modification or re-enactment of them);
- “board”** has the meaning given in clause 5;
- “chairman of the SCIO”** has the meaning given in clause 10.3;
- “chairman of the meeting”** has the meaning given in clauses 18 and 28 respectively; See also clause 10.3.
- “charitable”** means charitable for the purposes of the Taxes Acts and also the 2005 Act;
- “charity trustee”** means a charity trustee (as defined in the 2005 Act) of the SCIO, and includes any person occupying the position of charity trustee, by whatever name called;
- “constitution”** means the SCIO’s constitution;
- “document”** includes, unless otherwise specified, any document sent or supplied in electronic form;
- “first charity trustees”** has the meaning given to it in clause 10.3;
- “OSCR”** means the Office of the Scottish Charity Regulator or other successor regulator and registrar of charities in Scotland;

- “Scottish Charitable Incorporated Organisation”** has the meaning given in section 49 of the 2005 Act;
- “the SCIO”** means The Killearn Trust, a registered Scottish charity;
- “the SCIO Regulations”** means The Scottish Charitable Incorporated Organisations Regulations 2011 and The Scottish Charitable Incorporated Organisations (Removal from Register and Dissolution) Regulations 2011 (including any statutory modification or re-enactment thereof for the time being in force); and
- “writing”** means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

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 LEGAL ENTITY**

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

3. **PRINCIPAL OFFICE**

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

4. **NAME**

The name of the SCIO is “The Killearn Trust”.

5. **GENERAL STRUCTURE**

The SCIO shall operate as a “single tier” entity where there must be a coincidence of the identity of charity trustees and members. The legal structure of the SCIO consists of:-

- 5.1 the charity trustees - who hold regular meetings, communicate with each other regularly and generally control the activities of the SCIO. The charity trustees are referred to collectively as the “board”;
- 5.2 the members - who have the right to attend members’ meetings (including annual general meetings).
- 5.3 where the charity trustees of the SCIO are also the members of the SCIO for the purposes of the 2005 Act, any requirements for actions or meetings of members shall be deemed to be satisfied by the charity trustees so acting or meeting in a manner consistent with the 2005 Act and the SCIO Regulations.

6. **POWERS**

- 6.1 The SCIO has the full range of powers available to a Scottish Charitable Incorporated Organisation in terms of section 50(5) of the 2005 Act (that is to say the power to do anything which is calculated to further the purposes of the SCIO or is conducive or incidental to doing so), subject to clauses 7, 9 and 11 together with the powers set out in clause 13 of this constitution.

7. **PURPOSES**

- 7.1 The SCIO will promote, advance and further the following charitable purposes:-
 - 7.1.1 the prevention or relief of poverty;
 - 7.1.2 the advancement of education;
 - 7.1.3 the relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage;

- 7.1.4 the promotion of the effectiveness or efficiency of charities;
 - 7.1.5 the advancement of the arts and heritage;
 - 7.1.6 the advancement of citizenship or community development; and
 - 7.1.7 the advancement of environmental protection or improvement.
- 7.2 The charitable purposes for which the SCIO is established are to be furthered by the SCIO operating:-
- 7.2.1 to provide, at the discretion of the charity trustees, social welfare and financial support (including the provision of affordable housing) primarily to inhabitants of the parish of Killearn (the extent of such area to be determined by the charity trustees) in need by reason of age, ill health, disability, financial hardship or other disadvantages and whose personal circumstances are such that the support provided by the SCIO will improve and/or relieve their personal and financial circumstances, all for the purpose of promoting better social welfare and social inclusion primarily in the parish of Killearn); and
 - 7.2.2 act as a “grant giving” foundation supporting local community charities, organisations and charitable purposes primarily in the parish of Killearn; and
 - 7.2.3 promoting conservation, heritage and environmental protection in, around or affecting the parish of Killearn, its community and inhabitants.

8. **LIABILITY OF CHARITY TRUSTEES AND MEMBERS**

- 8.1 In terms of section 49(4) of the 2005 Act or otherwise, the charity trustees have no liability to pay any sums to help to meet the debts (or other liabilities) of the SCIO if it is dissolved.
- 8.2 The charity trustees have certain legal duties under the 2005 Act and clause 8.1 does not apply to any personal liabilities they might incur if they are in breach of those duties, which would result in personal liability.

9. **LIMITATION ON PRIVATE BENEFITS**

- 9.1 The income and property of the SCIO shall be applied solely towards the promotion of its purposes as set forth in the constitution.

9.2 Subject to clause 9.3, no part of the income and property of the SCIO shall be paid or transferred, directly or indirectly, by way of benefit to its members or charity trustees.

9.3 Nothing herein shall prevent any payment in good faith by the SCIO:-

9.3.1 of a reasonable and proper remuneration in accordance with sections 67 and 68 of the 2005 Act and any amendment or alteration thereto;

9.3.2 of interest on money lent by any member of the SCIO or a charity trustee at a reasonable and proper rate per annum and not exceeding the base lending rate for the time being of the SCIO's bankers; or reasonable and proper rent for premises let by any member or charity trustee to the SCIO; and

9.3.3 to any charity trustee of out-of-pocket expenses.

PART 2**CHARITY TRUSTEES****10. ELIGIBILITY**

- 10.1 A person will not be eligible for election or appointment as a charity trustee unless he is a member of the SCIO.
- 10.2 The minimum number of charity trustees is four and shall include a chairman of the SCIO. The number of charity trustees may be altered by a resolution of the charity trustees.
- 10.3 The affairs of the SCIO shall be managed by the charity trustees, which shall initially consist of JAMES PARKER, DL, who shall also act as the chairman of the SCIO, KATHARIN POLLOCK, JAMES ALEXANDER FALLAS and GILLIAN SMITH as the first appointed trustees and PAMELA CRAIGIE, REVEREND LEE MESSEDER and ALISTAIR ANTHONY HUDSON BERRILL as the first *ex officio* trustees (“the first charity trustees”); other charity trustees may be appointed in terms of clause 21 of the constitution.

11. CHARITABLE DECLARATION AND CONFLICT OF INTEREST

- 11.1 It is declared that the assets of the SCIO shall only be applied for charitable purposes and the charity trustees shall:-
- 11.1.1 act in accordance with the 2005 Act; and
 - 11.1.2 do nothing to prevent the SCIO qualifying and continuing to qualify as charitable.
- 11.2 Without prejudice to the foregoing, each of the charity trustees shall, in exercising his powers and duties as a charity trustee, act in the interests of the SCIO. In doing so:-
- 11.2.1 the charity trustees must seek, in good faith, to ensure that the charity trustees act in a manner which is in accordance with the purposes of the SCIO and act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person; and
 - 11.2.2 in circumstances giving rise to the possibility of a conflict of interest between the SCIO and any other party, each charity trustee:-
 - (a) must put the interests of the SCIO before those of the other party; or

- (b) where any other duty or interest prevents him/her from doing so, he must disclose the conflicting duty or interest to his fellow charity trustees and refrain from participating in any discussions or decisions with regard to the matter in question.

11.3 All of the charity trustees must take such steps as are reasonably practicable for the purpose of ensuring:-

11.3.1 that any breach of any duties under the 2005 Act by a charity trustee is corrected by the charity trustee concerned and not repeated; and

11.3.2 that action is commenced in accordance with clause 22 to remove any charity trustee who has been in serious and persistent breach of duties under the 2005 Act.

11.4 Each of the charity trustees must ensure that (a) he complies, and (b) the SCIO complies with any direction, requirement or notice imposed in terms of the 2005 Act.

POWERS AND RESPONSIBILITIES

12. CHARITY TRUSTEES' GENERAL AUTHORITY

12.1 Subject to the constitution, the charity trustees are responsible for the management and control of the SCIO's activities to further its charitable purposes, for which purpose they may exercise all the powers of the SCIO.

12.2 All powers and actings by the charity trustees shall be restricted by and subject to clauses 7, 9 and 11.

13. POWERS

Notwithstanding the terms of Section 50(5) of the 2005 Act the charity will have the following specific powers to promote the SCIO's purposes but not for any other purpose:-

13.1 accept subscriptions, fees, payments grants, donations, gifts, legacies and endowments of all kinds, either absolutely or conditionally or in trust for any of the purposes of the SCIO and take such steps (by way of personal or written appeals, public meetings or otherwise, including for the avoidance of doubt the appointment of professional fundraisers or employment of an individual to undertake such activities) as may be deemed expedient for procuring contributions to the funds of the SCIO,

whether by way of subscriptions, fees, payments, grants, loans, donations or otherwise including the provisions of services and selling of goods and other products produced or acquired in connection with or ancillary to the purposes of the SCIO (such subscriptions, fees, payments etc set having regard to section 8(2)(b) of the 2005 Act);

- 13.2 establish, subsidise, promote, co-operate or federate with, affiliate or become affiliated to, act as trustees or agents for or manage or lend money or other assistance to any person, company, association, society, institution or other body, corporate or unincorporated bodies (wherever established in the world), established for charitable purposes only, or having primary purposes wholly or partly similar to those of the SCIO, or non-charitable entities in such manner which is consistent with the furthering of the SCIO's charitable purposes or for the purpose of promoting the primary purposes of the SCIO to co-operate with manufacturers, dealers, and other traders and organisations, and with the press and other sources of publicity;
- 13.3 undertake, execute, establish, promote, or assist any charitable trusts, companies or others with charitable purposes all or any of which are similar to the purposes of the SCIO for the purpose of acquiring all or any of the property, rights and liabilities of or for the purpose of carrying on any activity which the SCIO is authorised to carry on or for any other charitable purpose directly or indirectly calculated to benefit in the furtherance of its purposes;
- 13.4 establish or promote companies and other bodies (whether or not charitable or with charitable purposes) insofar as such action is consistent with the SCIO's purposes;
- 13.5 print, publish and distribute or procure to be printed, published or distributed (whether gratuitously or not) any newspaper, newsletter, periodical, magazine, book, pamphlet, circular, leaflet or other publication including audio and visual recordings and internet based communication which the SCIO may consider desirable for the promotion of its purposes;
- 13.6 hold, sponsor, arrange or organise meetings, conferences, lectures, seminars, film shows, appeals and educational classes and talks in furtherance of the purposes of the SCIO;
- 13.7 organise, manage, present, produce and support exhibitions, workshops, press conferences, trade fairs, festivals, advertising campaigns, promotions, displays and assist and advise any person, corporation or organisation in relation thereto;

- 13.8 advertise the SCIO, its purposes and activities whether through radio, television or other similar media or through printed advertisement, poster, periodical, article, feature, internet based communication or otherwise in writing;
- 13.9 purchase, take on lease or in exchange, hire or otherwise acquire and hold, sell, lease or otherwise dispose of any real or personal property and any rights or privileges which may be necessary or convenient for the promotion of the purposes of the SCIO and construct, maintain and alter any buildings or erections necessary or convenient for the work of the SCIO;
- 13.10 purchase or otherwise acquire plant, machinery, furniture, fixtures, fittings, equipment and all other effects of every description necessary or convenient or usually or normally used in connection with or for the purpose of all or any of the purposes of the SCIO;
- 13.11 take any gift of property, whether subject to any trust or not, for any one or more of the purposes of the SCIO;
- 13.12 subject to such consents as may be required by law sell, let, mortgage, dispose of or turn to account all or any of the property or assets of the SCIO as may be expedient in the promotion of its purposes;
- 13.13 insure the SCIO, its property and assets against such risks as the charity trustees shall consider it prudent and necessary to insure against;
- 13.14 retain or employ staff, professional or technical advisers in connection with the purposes of the SCIO and pay reasonable and proper salaries, wages and fees for their services;
- 13.15 establish and support pension and superannuation schemes for the benefit of persons employed by the SCIO, and make reasonable and necessary provision for payment of pensions, life assurances and/or superannuation and grant pensions or retiring allowances to persons who have been employed by the SCIO or to their dependants. Enter into any arrangement with any governments or authorities (supreme, municipal, local or otherwise) or any corporations, companies or persons that may seem conducive to the attainment of the SCIO's purposes or any of them;
- 13.16 purchase and maintain insurance (including trustee indemnity insurance for the purposes of section 68A of the 2005 Act) for or for the benefit of any persons who are or were at any time charity trustees, charity trustees, officers or employees of the

SCIO or who are or were at any time trustees of any pension or retirement benefit scheme for the benefit of any employees or ex-employees of the SCIO including (without prejudice to the generality of the foregoing) insurance against any liability incurred by such persons in respect of any act or omission in the actual or purported execution or discharge of their duties or in the exercise of their powers or otherwise in connection with their duties, powers or offices in relation to the SCIO or pension or retirement benefit scheme;

- 13.17 act as agents in the channelling of funds, grants and any other monies available from any source;
- 13.18 subject to such consents as may be required by law, borrow or raise money for the purposes of the SCIO on such terms and on such security as may be thought fit, and whether by the creation and issue of debentures or debenture stock or otherwise.
- 13.19 guarantee and/or give security (either by way of mortgage or charge on all or any part of the property of the SCIO or otherwise) for the payment of money by or in the performance of obligations of any company being a charitable company;
- 13.20 draw, make, accept, endorse, discount, execute and issue promissory notes, bills, cheques and other instruments and to operate banking accounts (including online, telephone and other forms of account);
- 13.21 make any charitable donation either in cash or assets in furtherance of the primary purposes of the SCIO;
- 13.22 to hold and invest (including by way of discretionary fund management) the SCIO property in any form of investment (whether involving liability or not and whether or not authorised by law for the investment of trust monies) which the charity trustees could make if they were absolutely and beneficially entitled to the SCIO property. In doing so, the charity trustees shall act in accordance with Part 3 of the 2005 Act as if they were trustees in terms of Part 3 of the 2005 Act. Namely:-
- 13.22.1 before exercising any power of investment, the charity trustees shall:-
- (a) have regard to the suitability to the SCIO of the proposed investment;
 - (b) have regard to the need for diversification of investments of the trust, in so far as is appropriate to the circumstances of the SCIO;

- (c) before exercising that power of investment, obtain and consider proper advice about the way in which the power should be exercised; and
- (d) when reviewing the investments of the trust, obtain and consider proper advice about whether the investments should be varied.

13.22.2 In particular but without limitation, the charity trustees may invest all or any part of the SCIO property:-

- (a) in stocks, shares, debenture stocks or other investments (whether quoted on a stock exchange or not);
- (b) in any interest in land or property and/or in the development or redevelopment of land or property; and
- (c) by placing the same on deposit or current account with any bank, insurance company, building society, finance company or local authority at such rate of interest (if any) and upon such terms as the charity trustees may think fit;

13.23 lend any such monies to any other companies (charitable or otherwise), institutions, societies, foundations or associations formed for the said purposes having objects altogether or in part similar to or compatible with those of the SCIO or to any individuals or firms for any purpose similar to such objects and that on such terms as to security or otherwise as the SCIO thinks fit, subject nevertheless to such conditions (if any) and such consents (if any) as may for the time being be imposed or required by law and subject also as hereinafter provided;

13.24 purchase or otherwise acquire and undertake all or any of the property, assets, liabilities and engagements of any one or more of the charitable associations, foundations, institutions, companies, societies or bodies with which the SCIO is authorised to co- operate or federate;

13.25 pay out of the funds of the SCIO the costs, charges and expenses of and incidental to the formation and registration of the SCIO;

13.26 do all such other things as are necessary or incidental to the attainment of the purposes of the SCIO or any of them; and

13.27 undertake any activity which directly or indirectly promotes any of the purposes of the SCIO.

14. **CHARITY TRUSTEES MAY DELEGATE**

14.1 Subject to the constitution, the charity trustees may delegate any of the powers which are conferred on them under the constitution to such person, committee or sub-committee, by such means (including by power of attorney), to such an extent, in relation to such matters or territories and on such terms and conditions as they think fit.

14.2 The charity trustees may revoke any delegation in whole or part, or alter its terms and conditions.

14.3 When delegating powers under clause 14, the charity trustees must set out appropriate conditions (which must include an obligation to report regularly to the charity trustees).

14.4 Any delegation of powers under clause 14 may be revoked or altered by the charity trustees at any time.

14.5 Notwithstanding the power to delegate, the overall governance and legal responsibility rests with the charity trustees.

15. **COMMITTEES**

15.1 The charity trustees may delegate any of their powers to sub-committees. A sub-committee will include at least one charity trustee. Other members of a sub-committee need not be charity trustees.

15.2 The rules of procedure for each sub-committee, and the provisions relating to membership of each sub-committee, shall be set by the board.

15.3 The charity trustees may establish committees covering issues such as care, financial and such other committees as the charity trustees consider appropriate.

16. **OFFICE BEARERS**

16.1 The charity trustees may elect (from among themselves and in terms consistent with clause 18) office-bearers, if they consider that appropriate.

- 16.2 All of the office-bearers will cease to hold office with effect from the end of each financial year of the SCIO, but may then be re-elected under clause 16.1, with the exception of the first chairman of the SCIO who shall hold office in accordance with clause 10.

CHARITY TRUSTEES' MEETINGS AND DECISION MAKING

17. CALLING A CHARITY TRUSTEES' MEETING

- 17.1 At least 14 days' notice must be given by the chairman of the SCIO or by two charity trustees of each charity trustees' meeting (so as to comply with regulation 8 of the SCIO Regulations), unless (in the opinion of the person calling the meeting) there is a degree of urgency which makes that inappropriate.
- 17.2 Notice of a charity trustees' meeting must be given to each charity trustee, but need not be in writing.
- 17.3 Notice of a charity trustees' meeting need not be given to charity trustees who waive their entitlement to notice of that meeting, by giving notice to that effect to the SCIO not more than 7 days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

18. DECISION-MAKING BY CHARITY TRUSTEES

- 18.1 No valid decisions (other than the appointing of a chairman in terms of clause 18.4) can be taken at a charity trustees' meeting unless a quorum is present; the quorum for charity trustees' meetings is one-half (rounded down to the nearest whole number) of the charity trustees.
- 18.2 If at any time the number of charity trustees falls below the number stated as the quorum in clause 18.1, the remaining charity trustee(s) will have power to fill the vacancies, but will not be able to take any other valid decisions.
- 18.3 The chairman of the SCIO shall chair the meeting if present and willing to do so.
- 18.4 If the chairman 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 chairman), the charity trustees present at the meeting must elect (from among themselves) the person who will act as chairman of that meeting ("chairman of the meeting").

- 18.5 Every charity trustee has one vote, which must be given personally. A charity trustee may participate in a meeting by means of telephone or similar conference communications equipment whereby all the charity trustees participating in the meeting can communicate with each other and the charity trustees participating in a meeting in this manner shall be deemed to be present in person at such meeting. For the avoidance of doubt a decision (in terms of clause 18.7) can be constituted by, for example, an exchange of emails.
- 18.6 Except where the constitution or the 2005 Act states that a higher threshold should apply, all decisions at board meetings will be made by majority vote.
- 18.7 If there are an equal number of votes for and against any resolution, the chairman of the meeting will be entitled to a second (casting) vote.
- 18.8 The charity trustees may, at their discretion, allow any person to attend and speak at a charity trustees' meeting notwithstanding that he is not a charity trustee, but on the basis that he must not participate in decision-making.
- 18.9 The charity trustees must ensure that proper minutes are kept in relation to all charity trustees' meetings, members' meetings and meetings of sub-committees.
- 18.10 All minutes of meetings must include the names of those present, and (so far as possible) should be signed by the chairman of the meeting.

19. **PARTICIPATION IN CHARITY TRUSTEES' MEETINGS**

- 19.1 Subject to the constitution, charity trustees participate in a charity trustees' meeting, or part of a charity trustees' meeting, when:-
- 19.1.1 the meeting has been called and takes place in accordance with the constitution; and
 - 19.1.2 they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- 19.2 In determining whether or not charity trustees are participating in a charity trustees' meeting, it is irrelevant where any charity trustee is or how they communicate with each other.
- 19.3 If all the charity trustees participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

20. **CHARITY TRUSTEES' DISCRETION TO MAKE FURTHER RULES**

- 20.1 Subject to the constitution, the charity trustees may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to charity trustees.

APPOINTMENT AND REMOVAL OF CHARITY TRUSTEES

21. **METHODS OF APPOINTING CHARITY TRUSTEES**

- 21.1 The first charity trustees shall be appointed as charity trustees in terms of clause 10.3 as at the date of adoption of this constitution.
- 21.2 One of the elected members for the Forth and Endrick ward of Stirling Council (the individual to be agreed amongst the said elected members, failing which agreement no elected member will act as a charity trustee), the Minister of Killearn Parish Church and the Head Teacher of Killearn Primary School shall be appointed charity trustees on an *ex officio* basis ("the *ex officio* charity trustees").
- 21.3 The charity trustees may appoint any person who is willing to act as a charity trustee either to fill a vacancy or as an additional charity trustee for a period of four years by way of a resolution passed unanimously at a charity trustees' meeting.
- 21.4 A charity trustee shall offer their resignation at the first charity trustee meeting following the fourth anniversary of their appointment (either under the SCIO or the predecessor legal form).
- 21.5 A charity trustee who is due to retire in accordance with clause 21.4 shall be eligible for re-appointment under clause 21.3 for a further four year period. There is no point or period of time in office at which a charity trustee will be prohibited from seeking re-appointment.
- 21.6 The charity trustees shall endeavour to recruit to the board individuals with appropriate and relevant experience and skills and be ordinarily resident or connected with Killearn and the surrounding vicinity.
- 21.7 In any case where, as a result of death, the SCIO has no members and no charity trustees, the personal representatives of the last charity trustee to have died have the right, by notice in writing, to appoint a person person(s) to be a charity trustee(s).
- 21.7.1 For the purposes of clause 21.5, where two or more members die in circumstances rendering it uncertain who was the last to die, the younger charity trustee is deemed to have survived an older member.

22. **TERMINATION OF APPOINTMENT AS A CHARITY TRUSTEE**

22.1 A person ceases to be a charity trustee as soon as he:-

- 22.1.1 is prohibited by law from being a charity trustee within the meaning of the 2005 Act, a charity trustee within the meaning of the Companies Act 2006 or ceases to be a fit and proper person for the purposes of the Taxes Acts;
- 22.1.2 a sequestration order is made against that person;
- 22.1.3 a composition is made with that person's creditors generally in satisfaction of that person's debts;
- 22.1.4 a registered medical practitioner who is treating that person gives a written opinion to the SCIO stating that that person has become physically or mentally incapable of acting as a charity trustee and may remain so for more than three months;
- 22.1.5 by reason of that person's mental health, a court makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have;
- 22.1.6 notification is received by the SCIO from the charity trustee that the charity trustee is resigning from office, and such resignation has taken effect in accordance with its terms;
- 22.1.7 is absent (without permission of the board or good reason, in the reasonable 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 (by way of a resolution passed by majority vote at a charity trustees' meeting); or
- 22.1.8 is removed from office by resolution of the charity trustees or members on the grounds that he is considered to have been in serious or persistent breach of his duties under section 66(1) or (2) of the 2005 Act.
- 22.1.9 A resolution under clauses 22.1.7 and 22.1.8 shall be valid only if:-
 - (a) the charity trustee who is the subject of the resolution is given reasonable prior written notice by the charity trustees or members

of the grounds upon which the resolution for his removal is to be proposed;

- (b) the charity trustee concerned is given the opportunity to address the meeting of charity trustees or members' meeting at which the resolution is proposed, prior to the resolution being put to the vote; and
- (c) at least two thirds (to the nearest round number) of the charity trustees or members (excluding for this purpose the charity trustee who is the subject matter of the resolution) vote in favour of the resolution.

PART 3

MEMBERS ONLY

BECOMING AND CEASING TO BE A MEMBER

23. ELIGIBILITY FOR MEMBERSHIP

23.1 Membership is open to any person (legal or natural) who/which, in the view of the charity trustees, demonstrate(s) a genuine commitment to further the purposes of the SCIO.

23.2 The charity trustees shall have the power to create different categories of membership with different rights attaching thereto. Initially, there shall be two categories of membership:-

23.2.1 Full membership; and

23.2.2 Supporter membership.

23.3 Full members shall have all rights afforded to members in this constitution, the 2005 Act and the SCIO Regulations.

23.4 Supporter members shall have such rights as the charity trustees determine.

24. APPLICATIONS FOR MEMBERSHIP

24.1 No person shall become a member of the SCIO unless:-

24.1.1 that person has completed an application for membership in a form approved by the charity trustees,

24.1.2 the charity trustees have approved the application, and

24.1.3 that person has paid the appropriate subscription charge.

25. SUBSCRIPTIONS ETC

25.1 Without prejudice to the generality of clause 6 and 13, the SCIO shall have the power to accept subscriptions, grants, donations, gifts, legacies and endowments of all kinds, either absolutely or conditionally or in trust for any of the purposes of the company and take such steps (by way of personal or written appeals, public meetings or otherwise, including for the avoidance of doubt the appointment of professional

fundraisers) as may be deemed expedient for procuring contributions to the funds of the company, whether by way of subscriptions (set having regard to section 8(2)(b) of the 2005 Act), grants, loans, donations or otherwise.

26. **TERMINATION OF MEMBERSHIP**

26.1 A member may withdraw from membership of the SCIO by giving 7 days' notice to the SCIO in writing.

26.2 Membership is not transferable.

26.3 A person's membership terminates when that person dies or becomes bankrupt or compounds with his creditors or his estate is sequestrated.

26.4 A member who is not an individual shall cease to be a member of the SCIO upon:-

26.4.1 (if a partnership) the firm passing a resolution to wind up or otherwise being dissolved or becoming bankrupt or compounding with its creditors;

26.4.2 (if a company) it passing a resolution to wind up or having a winding up petition presented against it (and not subsequently dismissed within twenty eight days) or a receiver or administrative receiver or liquidator or administrator or other statutory manager being appointed in respect of any of its assets; or

26.4.3 (if a body corporate other than a partnership or company including without limitation bodies corporate established pursuant to Acts of Parliament or Royal Charter) the body corporate being wound up or dissolved or becoming bankrupt or compounding with its creditors.

26.5 A member shall cease to be a member of the SCIO if, at a charity trustees' meeting at which a majority of the charity trustees are present, a resolution is passed resolving that the member be expelled on the ground that his continued membership is harmful to, or is likely to become harmful to, the interests of the company.

26.6 A resolution under clause 26.5 shall be valid only if:-

26.6.1 the member has been given at least fourteen clear days' written notice that the resolution is to be proposed (specifying the circumstances alleged to justify expulsion); and

26.6.2 the member has been afforded a reasonable opportunity of being heard by, or of making written representations, to the charity trustees.

26.7 A member expelled by such a resolution shall nevertheless remain liable to pay to the SCIO any sum owed by him/her. An expelled member may reapply to be a member of the SCIO.

ORGANISATION OF MEMBERS' MEETINGS

27. ORGANISING A MEMBERS' MEETING

27.1 The charity trustees must arrange a meeting of members (a "members' meeting") in each calendar year.

27.2 The gap between one members' meeting and the next must not be longer than 15 months.

27.3 Notwithstanding clause 27.1 a members' meeting does not need to be held during the calendar year in which the SCIO is formed; but the first members' meeting must still be held within 15 months of the date on which the SCIO is formed.

27.4 At least 14 days' notice must be given of each members' meeting.

27.5 Notice of a members' meeting must be given to each member, but need not be in writing.

27.6 Notice of a members' meeting need not be given to members who waive their entitlement to notice of that meeting, by giving notice to that effect to the SCIO not more than 7 days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

28. BUSINESS AT A MEMBERS' MEETING

28.1 The chairman of the SCIO shall chair the members' meeting if present and willing to do so.

28.2 If the chairman is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as chairman), the charity trustees present at the meeting must elect (from among themselves) the person who will act as chairman of that meeting ("chairman of the meeting").

- 28.3 The business of each members' meeting must include:-
- 28.3.1 a report by the chairman of the meeting on the activities of the organisation;
 - 28.3.2 consideration of the annual accounts of the organisation; and
 - 28.3.3 the election/re-election of charity trustees.
- 28.4 No valid decisions (other than the appointing of a chairman of the meeting in terms of clause 28.2) can be taken at a members' meeting unless a quorum is present; the quorum for members' meetings is one-half (rounded up to the nearest whole number) of the members.
- 28.5 Every member has one vote which shall be given personally.
- 28.5.1 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the chairman of the meeting whose decision shall be final and conclusive.
- 28.6 Except where the constitution or the 2005 Act states that a higher threshold should apply, all decisions at members' meetings will be made by majority vote.
- 28.7 If there are an equal number of votes for and against any resolution, the chairman of the meeting will be entitled to a second (casting) vote.
- 28.8 The charity trustees must ensure that proper minutes are kept in relation to all members' meetings.

PART 4**ACCOUNTS, ADMINISTRATIVE, DISSOLUTION AND ALTERATIONS TO THE
CONSTITUTION****29. ACCOUNTS AND INDEPENDENT EXAMINATION**

- 29.1 Except as provided by law or authorised by the charity trustees by a resolution, no person is entitled to inspect any of the SCIO's accounting or other records or documents merely by virtue of being a member. The charity trustees shall publish the annual accounts, which have been submitted to OSCR in terms of the Accounts Regulations, within one month of their submission to OSCR. The charity trustees may determine the appropriate method of publication, which shall until determined otherwise be by way of publication on the SCIO's website.
- 29.2 The charity trustees shall comply with the provisions of the Accounts Regulations. The Chartered Accountant (or firm) or Independent Examiner shall have access to all papers, books, vouchers, accounts and documents relating to the SCIO.

30. REGISTER OF CHARITY TRUSTEES AND MEMBERS

- 30.1 In terms of Regulations 3 and 5 of the SCIO Regulations the charity trustees must keep a register of charity trustees and members, setting out:-
- 30.2 The full name and address of each person who is or was within the preceding five years a charity trustee or member;
- 30.3 the date on which each person became a charity trustee or member; and
- 30.4 the date on which any person ceased to be a charity trustee or member.

31. DISSOLUTION/ WINDING UP

If the SCIO is to be wound up or dissolved or if at any time it appears to the charity trustees that the property of the SCIO is of such size that there is no reasonable prospect of the SCIO property or some part of it being required, either as source of income or for payment or application as capital, in any future year or years for the purposes of the SCIO, or it appears to the charity trustees that the SCIO cannot continue to serve a useful purpose or that its property could be more suitably and effectively applied, the charity trustees may decide that the SCIO property or such part of it, shall be transferred or made over to such charitable institution(s), trust(s),

fund(s) or other recipient(s) (in furtherance of the SCIO's purposes) as the charity trustees shall decide, subject to the satisfaction of debts and liabilities and to the provisions of clauses 7, 9 and 11. For the avoidance of doubt, the charity trustees' decision is subject to any requirement(s) under the SCIO Regulations and/or requirement to seek consent under the 2005 Act.

32. ALTERATIONS TO THE CONSTITUTION

- 32.1 In terms of section 63 of the 2005 Act the constitution may be altered (a) by a resolution passed by the charity trustees, providing at least two thirds of the charity trustees voted in favour of the resolution or (b) by a written resolution passed unanimously by the charity trustees (which may take the form of a number of copies of the resolution, each signed by one or more charity trustees).
- 32.2 Any alteration to the constitution shall be made in accordance with the requirement of the 2005 Act to obtain consent from and/or notify OSCR.