

SCIO Constitution (two tier) for asset transfer

CONSTITUTION OF Mill of Benholm Enterprise

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SCIO

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Charities and Trustee Investment (Scotland) Act 2005

**Constitution
of
Mill of Benholm Enterprise**

In this constitution, the following definitions apply throughout:

- **“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 an Annual General Meeting.
- **“Board”** means the Board of Charity Trustees.
- **“Charity”** means a body entered in the Scottish Charity Register as defined under section 106 of Charities and Trustee Investment (Scotland) Act 2005.
- **“Charity Trustees”** means the persons having the general control and management of the Organisation.
- **“Clauses”** means any clause.
- **“Clear days”**, in relation to notice of a meeting, means a period excluding the day when notice is given and the day of the meeting.
- **“Community”** has the meaning given in clause 4.
- **“GM”** means a General Meeting.
- **“Group”** means those other organisations (incorporated or not) that are not this organisation .
- **“Individual”** means a human/person.
- **“Members”** means those individuals and groups who have joined this organisation.
- **“Organisation”** means the SCIO whose constitution this is.
- **“OSCR”** means the Office of the Scottish Charity Regulator”
- **“Property”** means any property, assets or rights, heritable or moveable, wherever situated in the world.
- **“SCIO”** means Scottish Charitable Incorporated Organisation.
- **“them”** and **“their”** refer to individuals or groups (either he, she or they).

Words in the singular include the plural and words in the plural include the singular.

These Clauses supersede any model clauses. Any words or expressions defined in the 2005 Act shall, if not inconsistent with the subject or context, bear the same meanings in the Clauses.

The Schedule to these Clauses is deemed to form an integral part of these Clauses.

	NAME
1	The name of the organisation is “Mill of Benholm Enterprise” (“ the Organisation ”).
2	The Organisation is a Scottish Charitable Incorporated Organisation (SCIO), Registered Charity Number: SCO47943.
	REGISTERED OFFICE
3	The principal office of the organisation will be in Scotland (and must remain in Scotland).
	DEFINITION OF COMMUNITY AND PURPOSES
4	<p>The Organisation has been formed to benefit the residents of the community council areas of:</p> <ol style="list-style-type: none"> 1. Benholm and Johnshaven 2. Arbuthnott 3. Gourdon 4. Mearns 5. Royal Burgh of Inverbervie 6. St Cyrus 7. Catterline, Kinneff & Dunnotter <p>(the “Community”), with the following purposes (the “Purposes”):</p>
4.1	To advance heritage by preserving and developing the historic Mill of Benholm within the local unique environment.
4.2	To enhance the enjoyment of art and culture on site and in the environs of the Mill
4.3	To promote and protect the natural heritage.
4.4	To promote citizenship, community development, and to create volunteering opportunities for the benefit of the community of Benholm, the surrounding area and beyond by delivering a diverse variety of services and initiatives
4.5	To provide leisure and recreation facilities within the Mill, the surrounding woods and the wider environment, with the object of improving the health and wellbeing of the people of Benholm and the surrounding area
4.6	To advance education and learning by providing workshops, training sessions and courses on the site and in the surrounding woodland
	POWERS
5	The SCIO has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so.

	In particular, (but without limiting the range of powers available under the 2005 Act), the SCIO has power:
5.1	to encourage and develop a spirit of voluntary or other commitment by, or co-operation with, individuals, unincorporated associations, societies, federations, partnerships, corporate bodies, agencies, undertakings, local authorities, unions, co-operatives, trusts and others and any groups or groupings thereof willing to assist the Organisation to achieve the Purposes;
5.2	to promote and carry out research, surveys and investigations and to promote, develop and manage initiatives, projects and programmes;
5.3	to provide advice, consultancy, training, tuition, expertise and assistance;
5.4	to prepare, organise, promote and implement training courses, exhibitions, lectures, seminars, conferences, events and workshops, to collect, collate, disseminate and exchange information and to prepare, produce, edit, publish, exhibit and distribute clauses, pamphlets, books and other publications, tapes, motion and still pictures, music and drama and other materials, all in any medium;
5.5	to purchase, take on lease, hire, or otherwise acquire any property suitable for the organisation;
5.6	to construct, convert, improve, develop, conserve, maintain, alter and demolish any buildings or erections whether of a permanent or temporary nature, and manage and operate (or arrange for the professional or other appropriate management and operation of) the organisation's property;
5.7	to sell, let, hire, license, give in exchange and otherwise dispose of all or any part of the property of the organisation;
5.8	to establish and administer a building fund or funds or guarantee fund or funds or endowment fund or funds;
5.9	to employ, contract with, train and pay such staff (whether employed or self-employed) as are considered appropriate for the proper conduct of the activities of the organisation;
5.10	to take such steps as may be deemed appropriate for the purpose of raising funds for the activities of the organisation;
5.11	to accept subscriptions, grants, donations, gifts, legacies and endowments of all kinds, either absolutely, conditionally or in trust;
5.12	to borrow or raise money for the Purposes and to give security in support of any such borrowings by the organisation and/or in support of any obligations undertaken by the organisation;
5.13	to set aside funds not immediately required as a reserve or for specific purposes;

5.14	to invest any funds which are not immediately required for the activities of the organisation in such investments as may be considered appropriate, which may be held in the name of a nominee organisation under the instructions of the Board of Trustees, and to dispose of, and vary, such investments;
5.15	to make grants or loans of money and to give guarantees;
5.16	to establish, manage and/or support any other charity, and to make donations for any charitable purpose falling within the purposes;
5.17	to establish, operate and administer and/or otherwise acquire any separate trading organisation or association, whether charitable or not;
5.18	to enter into any arrangement with any organisation, government or authority which may be advantageous for the purposes of the activities of the organisation and to enter into any arrangement for co-operation, mutual assistance, or sharing profit with any charitable organisation;
5.19	to enter into contracts to provide services to or on behalf of others;
5.20	to effect insurance of all kinds (which may include indemnity insurance in respect of Trustees and employees);
5.21	to oppose, or object to, any application or proceedings which may prejudice the interests of the organisation;
5.22	to pay the costs of forming the organisation and its subsequent development;
5.23	to carry out the Purposes as principal, agent, contractor, trustee or in any other capacity.
GENERAL STRUCTURE OF THE ORGANISATION	
6	The organisation is composed of:
6.1	Members (composed of Ordinary Members);
6.2	Junior Members
6.3	Associate members
6.4	Charity Trustees (composed of Elected Charity Trustees, Appointed Charity Trustees; and Co-Opted Charity Trustees, following the first GM).
MEMBERSHIP	
7	The members of the organisation shall consist of those individuals who made the application for registration of the organisation and such other individuals and groups as are admitted to membership under the following clauses.

8	The organisation shall have not fewer than 20 members at any time; and
8.1	In the event that the number of members falls below 20 the Board may conduct only essential business other than taking steps to ensure the admission of sufficient Ordinary Members to achieve the minimum number.
9	Membership of the organisation is open to:
9.1	Individuals aged 16 or over who (and groups which) are members of the Community (“Ordinary Members”); and
9.2	Individuals age up to 15 who are members of the Community (“Junior Members”) (such Members not being eligible to serve as Charity Trustees).
9.3	If an Individual or group ceases to fulfil the criteria within clause 9.1 or 9.2, that Individual or group must inform the Organisation. The Organisation may choose to reclassify a Junior Member as an Ordinary Member.
APPLICATION FOR MEMBERSHIP	
10	No Individual or Group may become a Member unless that Individual or Group has submitted a written application for membership in the form prescribed by the Charity Trustees and the Charity Trustees have approved the application. An application submitted by a Group must be signed on behalf of that Group.
10.1	The Charity Trustees shall consider applications for membership promptly. The Charity Trustees shall assess each application to determine whether the applicant meets the criteria for becoming an Ordinary Member or Junior Member.
11	Membership of the organisation may not be transferred by a member.
MEMBERSHIP SUBSCRIPTIONS	
12	Members may be required to pay an annual membership subscription.
12.1	The Board will recommend to members and associated members the level of membership subscription. Annual subscriptions (if any) shall be set by Members at the AGM. Different rates may be set for Ordinary Members and Junior Members.
12.2	Any Individual or Organisation who/which ceases to be a Member shall not be entitled to a refund of their/its membership subscription.
RE-REGISTRATION OF MEMBERS	
13	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.

13.1	If a member fails to provide confirmation to the Board (in writing or by e-mail) that they wish to remain as a member of the organisation before the expiry of the 28-day period referred to in clause 13, the Board may expel them from the membership.
13.2	A notice under clause 13 will not be valid unless it refers specifically to the consequences (under clause 13.1) of failing to provide confirmation within the 28-day period.
	LIABILITY OF MEMBERS
14	The members of the organisation have no liability to pay any sums to help to meet the debts (or other liabilities) of the organisation if it is wound up; accordingly, if the organisation is unable to meet its debts, the members will not be held responsible.
15	The members and Charity Trustees have certain legal duties under the Charities and Trustee Investment (Scotland) Act 2005; and clause 14 does not exclude (or limit) any personal liabilities they might incur if they are in breach of those duties or in breach of other legal obligations or duties that apply to them personally.
	CESSATION OF MEMBERSHIP
16	A member shall cease to be a member if:
16.1	that Member sends a written notice of resignation to registered office of the Organisation; they will cease to be a member as from the time when the notice is received by the organisation;
16.2	If the membership subscription payable by any member remains outstanding more than 28 working days after the date on which it fell due – and providing that he/she/it has been given at least one written reminder – the board may, by resolution to that effect, expel him/her/it from membership
16.3	that Member has failed to respond to any re-registration request under clause 13;
16.4	a resolution that that Member be expelled (where that Member’s conduct, in their/its capacity as a Member, has been detrimental to the effective functioning of the Organisation) is passed by special resolution at a GM (notice of which shall state: (a) the full text of the resolution proposed; and (b) the grounds on which it is proposed) at which the Member is entitled to be heard;
16.5	in the case of an Individual, that Individual has died (membership of the Organisation not being transferable);
16.6	in the case of a group, that group goes into receivership or liquidation, or is dissolved or otherwise ceases to exist (membership of the Organisation not being transferable);
16.7	where the Member is a Charity Trustee of the Organisation, that Member has failed to comply with the code of conduct for Trustees in a manner which would result in them ceasing to be a Trustee and a member.

REGISTER OF MEMBERS	
17	The Board must keep a register of members, setting out for each current member: <ul style="list-style-type: none"> a) their full name; b) their address; and c) the date on which they were registered as a member of the organisation.
17.1	Where any member is not an individual, the register must also contain: <ul style="list-style-type: none"> a) any other name by which the member is known; b) the principal contact for the member; c) any number assigned to it in the Scottish Charity Register, if it is a charity; and d) any number with which it is registered as a company, if it is a company.
17.2	For each former member the register must set out, for at least six years from the date on they ceased to be a member: <ul style="list-style-type: none"> a) their name; and b) the date on which they ceased to be a member.
17.3	The Board must ensure that the register of members is updated within 28 days of receiving notice of any change.
17.4	If a member or Charity Trustee of the Organisation requests a copy of the register of members, the Board must ensure that a copy is supplied to them within 28 days, providing the request is reasonable. If the request is made by a member (rather than a Charity Trustee), the Board may provide a copy which has the addresses blanked out.
ASSOCIATES	
18	Individuals and Groups wishing to support the Purposes who are not members of the Community may become associates of the Organisation ("Associates"). Associates may attend and speak at GMs but may not participate in such meetings for voting or quorum purposes.
18.1	No Individual or Group may become an Associate unless that Individual or Group has submitted a written application to become an Associate in the form prescribed by the Charity Trustees and the Charity Trustees have approved the application. An application submitted by a Group must be signed on behalf of that Group.
18.2	The Charity Trustees shall consider applications for associateship promptly. The Charity Trustees shall assess each application to determine whether the applicant meets the criteria for becoming an Associate.
19	The Charity Trustees shall cause a register of associates to be maintained containing: <ul style="list-style-type: none"> (a) the name and address of each Associate;

	<p>(b) the date on which each Individual or Group was registered as an Associate; and</p> <p>(c) the date at which any Individual or Organisation ceased to be an Associate.</p>
20	An Associate shall cease to be an Associate if:
20.1	that Associate sends a written notice of resignation to the Organisation;
20.2	that Associate becomes a member of the Community;
20.3	a resolution that that Associate be expelled from being an Associate (where that Associate's conduct, in their capacity as Associate, has been detrimental to the effective functioning of the Organisation) is passed by special resolution at a GM (notice of which shall state: (a) the full text of the resolution proposed; and (b) the grounds on which it is proposed) at which the Associate is entitled to be heard);
20.4	in the case of an Individual: <p>(a) that Individual becomes insolvent or apparently insolvent or makes any arrangement with their creditors; or</p> <p>(b) that Individual has died; or</p>
20.5	in the case of a Group, that Group goes into receivership or liquidation, or is dissolved or otherwise ceases to exist.
GENERAL MEETINGS (Meetings of the Members)	
21	The Board may call a GM at any time and must call a GM within 28 days of a valid requisition. To be valid, such requisition must be signed by at least 5% of the Members, must clearly state the purposes of the meeting, and must be delivered to the registered office of the Organisation. The requisition may consist of several documents in like form each signed by one or more of the Members.
Annual General Meeting	
22	The Board shall convene one GM a year as an AGM. An AGM need not be held during the calendar year during which the Organisation is incorporated, provided an AGM is held within 15 months of the date of incorporation. Thereafter, not more than 15 months shall elapse between one AGM and the next.
22.1	The business of each AGM shall include: <p>(a) a report by the Chairperson on the activities of the Organisation;</p> <p>(b) the election of Elected Charity Trustees;</p> <p>(c) the fixing of annual subscriptions;</p> <p>(d) consideration of the accounts of the Organisation;</p> <p>(e) a report of the auditor if applicable; and</p> <p>(f) the appointment of the auditor if applicable.</p>

	Notice of General Meetings
23	Subject to the terms of clause 67, notice of a GM shall be given as follows:
23.1	At least 14 Clear Days' notice must be given of any GM.
23.2	The notice must specify the place, date and time of the GM, the general nature of business to be dealt with at the meeting; and (a) in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s); and (b) in the case of any special resolution (as defined in clause 30) must set out the exact terms of the resolution.
23.3	Notice of every members' meeting must be given to all the members of the organisation, and to all the Charity Trustees; but the accidental omission to give notice to one or more members will not invalidate the proceedings at the meeting.
	CHAIRPERSON OF GENERAL MEETINGS
24	(a) The Chairperson of the organisation shall act as Chairperson of each GM. (b) If the Chairperson is not present or willing to do so the Vice-Chairperson of the organisation shall act as Chairperson of the GM. (c) If neither the Chairperson nor the Vice-Chairperson is present or willing to act as Chairperson of the GM within 15 minutes after the time at which it was due to start, the Charity Trustees present shall elect from among themselves one of the Elected Charity Trustees who will act as Chairperson of that GM.
	QUORUM AT GENERAL MEETINGS
25	The quorum for a GM shall be the greater of: (a) ten Members; or (b) 10% of members Present either in person or by proxy. No business shall be dealt with at any GM unless a quorum is present.
25.1	If a quorum is not present within 15 minutes after the time at which the GM was due to start (or if, during a GM, a quorum ceases to be present) the GM shall be adjourned until such time, date and place as may be fixed by the Chairperson of the GM.
25.2	The Board may make arrangements in advance of a GM to allow members (or their proxies) to fully participate remotely, so long as all those participating in the meeting can communicate with each other; and all Members (or their proxies) may vote during the meeting. A Member or proxy participating remotely by such means shall be deemed to be present in person at the GM.

VOTING AT GENERAL MEETINGS	
26	The Chairperson of the meeting shall endeavour to achieve consensus wherever possible but, if necessary, questions arising shall be decided by being put to the vote.
26.1	Each Member shall have one vote, to be exercised in person or by proxy, by a show of hands
26.2	A secret ballot may be demanded by: <ul style="list-style-type: none"> (a) the chairperson of the GM; or (b) at least two Members present at the GM, before a show of hands and must be taken immediately and in such manner as the chairperson of the GM directs. The result of a secret ballot shall be declared at that GM.
27	Whilst the attendance of Members at GMs is encouraged, a Member may appoint a proxy to attend a GM on behalf of that Member. A proxy appointed to attend and vote at a GM on behalf of a Member need not be a Member and shall have the same rights as the Member who appointed them to speak and vote at the GM.
27.1	The form appointing the Proxy shall be in the form set out in Schedule 1 annexed to these Clauses;
27.2	The form appointing a proxy and the power of attorney or other authority (if any) under which it is signed, or a certified copy thereof, shall be lodged at the Registered Office not less than 48 hours before the time of the GM at which the proxy is to be used; and
27.3	No form of proxy shall be valid more than 12 months from the date it was granted.
28	In the event of an equal number of votes for and against any resolution, the Chairperson of the meeting shall have a vote in their capacity as a member of the organisation.
Resolutions	
29	At any GM an Ordinary Resolution put to the vote of the meeting may be passed by a simple majority of the Members voting (in person or by proxy).

30	<p>Certain resolutions must be passed as Special Resolutions, including resolutions:</p> <ul style="list-style-type: none"> a) to alter the name of the Organisation; or b) to amend the Purposes; or c) to amend these Clauses; or d) to wind up the Organisation in terms of clause 72. <p>At any GM a Special Resolution put to the vote of the meeting may be passed by not less than two thirds of the Members voting (in person or by proxy).</p>
31	<p>Ordinary and Special Resolutions may be passed in writing, rather than at a General Meeting, and shall have effect as if they had been passed at a GM, provided the terms of this Clause are followed.</p>
31.1	<p>An Ordinary Resolution may be passed in writing if signed by a simple majority of all the Members.</p>
31.2	<p>A Special Resolution to wind up the Organisation may be passed in writing if signed by all the Members.</p>
31.3	<p>Any other Special Resolution may be passed in writing if signed by not less than two thirds of all the Members.</p>
31.4	<p>Written resolutions must be sent to all Members at the same time (the "Circulation Date") in hard copy (posted or hand-delivered) or electronic form (faxed or e-mailed), or by means of a website.</p>
31.5	<p>Written resolutions must be accompanied by a statement informing the Member:</p> <ul style="list-style-type: none"> (a) how to signify agreement to the resolution; (b) how to return the signed resolution to the Organisation (in hard copy (posted or hand-delivered) or electronic form (faxed or e-mailed)); (c) the date by which the resolution must be passed if it is not to lapse (that is, the date which is 28 days after the Circulation Date); and (d) that they will not be deemed to have agreed to the resolution if they fail to reply.
31.6	<p>A written resolution may consist of several documents in the same form, each signed by or on behalf of one or more Members.</p>
31.7	<p>Once a Member has signed and returned a written resolution in agreement thereto, that Members' agreement is irrevocable.</p>
31.8	<p>The Members may require the Organisation to circulate a written resolution.</p>

31.8.1	The resolution must be requested by at least 5% of the Members. Requests must be in hard copy (posted or hand-delivered) or electronic form (faxed or e-mailed), must identify the resolution and may be accompanied by a statement not exceeding 1,000 words which the Organisation will also be required to circulate.
31.8.2	The Board may reject the resolution but must provide reasons for doing so to the members requesting the resolution.
31.8.3	If accepted, the Organisation must circulate the resolution and any accompanying statement within 21 days, and may require the requesting Members to cover the expenses it incurs circulating the resolution.
MEETING ADJOURNMENT	
32	The Chairperson of the GM may, with the consent of a majority of the Members voting (in person or by proxy), adjourn the General Meeting to such time, date and place as the Chairperson may determine.
ORGANISATION MANAGEMENT	
33	The affairs, property and funds of the organisation shall be directed and managed by a Board of Charity Trustees. The Board:
33.1	shall set the strategy and policy of the Organisation;
33.2	shall, where no employees or managers are appointed, be responsible for the day-to-day management of the Organisation;
33.3	shall hold regular meetings between each AGM, meeting as often as necessary to despatch all business of the Organisation;
33.4	shall monitor the financial position of the Organisation;
33.5	shall direct and manage the affairs and Property of the Organisation;
33.6	shall generally control and supervise the activities of the Organisation;
33.7	may, on behalf of the Organisation, do all acts which may be performed by the Organisation (other than those required to be performed by the Members at a GM);

33.8	may exercise the powers of the Organisation; and
33.9	may not also be paid employees of the Organisation.
INTERIM BOARD	
34	The individuals who signed the Charity Trustee declaration forms which accompanied the application for incorporation of the organisation shall be deemed to have been appointed by the members as Charity Trustees with effect from the date of incorporation of the Organisation.
34.1	Members of the Interim Board shall retire at the third AGM as per para 37.4, which shall be held no longer than 15 months following incorporation, but shall remain eligible for re-election (the period of office between the date of incorporation and the date of the first AGM not being regarded as a “term of office”).
COMPOSITION OF THE BOARD OF CHARITY TRUSTEES	
35	The number of Charity Trustees shall be not less than four and the total number of Charity Trustees shall not be more than 9.
APPOINTMENT OF CHARITY TRUSTEES	
36	From and after the first General Meeting of the organisation, the Board shall comprise the following individual persons (a majority of whom shall always be Elected Charity Trustees):
36.1	up to 9 individual persons elected as Charity Trustees by the Members in accordance with clause 37 (“the Elected Charity Trustees”), who must themselves be Ordinary Members; and
36.2	up to 3 individual persons co-opted in accordance with clause 39 (“the Co-opted Charity Trustees”), so as to ensure a spread of skills and experience within the Board.
36.3	Employees of the organisation may not be nominated as or become Charity Trustees.
ELECTED CHARITY TRUSTEES	
37	The Members shall elect up to 9 individual Ordinary Members as Elected Charity Trustees to serve a term of three (3) years.
37.1	Elected Charity Trustees must be nominated in writing by at least two Members. Such nominations must contain confirmation from the nominee that they are willing to act as an Elected Charity Trustee and must be delivered to the registered office of the Organisation at least seven days before the GM.
37.2	Each Member has one vote for each vacancy in the Elected Charity Trustees on the Board.

37.3	At the first AGM, there shall be no changes in the Charity Trustees (except to fill any vacancies).
37.4	At the third and subsequent AGMs, one-third of the Elected Charity Trustees (rounding upwards if this is not a whole number) shall retire from office at the close or adjournment of that meeting.
37.5	A retiring Charity Trustee shall be eligible for re-election.
37.6	The Elected Charity Trustee(s) to retire at an AGM shall be those who have been longest in office since their election/re-election (unless other Elected Charity Trustee(s) have agreed to retire at that AGM). As between Individuals who were appointed as Elected Charity Trustees on the same date, the Elected Charity Trustee(s) to retire shall be agreed between the Individuals appointed on the same date or determined by lot.
CO-OPTED CHARITY TRUSTEES	
39	Subject to clause 35, the Charity Trustees may appoint Individuals as Charity Trustees to ensure a spread of skills and experience within the Board ("Co-opted Charity Trustees") and may remove a Co-opted Charity Trustee at any time.
39.1	A Co-opted Charity Trustee shall retire at the AGM following their appointment unless re-appointed by the Charity Trustees.
39.2	A Co-opted Charity Trustee can be removed from office at any time by a simple majority of the Board.
39.3	For the avoidance of doubt, a Co-opted Charity Trustee may participate fully in at all Board meetings which they attend, and is eligible to vote at them.
VACANCY	
40	The Board may from time to time fill any casual vacancy arising as a result of the retiral (or deemed retiral for any reason) of any Elected Charity Trustee from or after the date of such retiral or deemed retiral until the next AGM.
CHARITY TRUSTEES – GENERAL DUTIES	
41	Each of the Charity Trustees has a duty, in exercising functions as a Charity Trustee, to act in the interests of the organisation; and, in particular, must:
41.1	seek, in good faith, to ensure that the organisation acts in a manner which is in accordance with its purposes;
41.2	act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
41.3	in circumstances giving rise to the possibility of a conflict of interest between the organisation and any other party, put the interests of the organisation before that of the other party; where any other duty prevents them from doing so, disclose the conflicting interest to the organisation and refrain from participating in any

	deliberation or decision of the other Charity Trustees with regard to the matter in question;
41.4	ensure that the organisation complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.
42	In addition to the duties outlined in clause 41, all of the Charity Trustees must take such steps as are reasonably practicable for the purpose of ensuring:
42.1	that any breach of any of those duties by a Charity Trustee is corrected by the Charity Trustee concerned and not repeated; and
42.2	that any Charity Trustee who has been in serious and persistent breach of those duties is removed as a Charity Trustee.
43	Provided they have declared their interest - and have not voted on the question of whether or not the organisation should enter into the arrangement - a Charity Trustee will not be debarred from entering into an arrangement with the group in which they have a personal interest; and (subject to clause 61 and to the provisions relating to remuneration for services contained in the Charities and Trustee Investment (Scotland) Act 2005), they may retain any personal benefit which arises from that arrangement.
44	No Charity Trustee may serve as an employee (full time or part time) of the organisation; and no Charity Trustee may be given any remuneration by the organisation for carrying out their duties as a Charity Trustee.
45	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	
46	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.
46.1	The code of conduct 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.
REGISTER OF CHARITY TRUSTEES	
47	The Board must keep a register of Charity Trustees, setting out for each current Charity Trustee: <ul style="list-style-type: none"> a) the name of the Charity Trustee; b) the address of the Charity Trustee; c) the date on which they were appointed as a Charity Trustee; and d) any office held by them in the organisation.

47.1	Where a Charity Trustee is not an individual the register must also contain: a) Any other name by which the Charity Trustee is known; b) the principal contact for the Charity Trustee; c) any number assigned to it in the Scottish Charity Register (if it is a charity); and d) any number with which it is registered as a company, if it is a company.
47.2	Where the Charity Trustee is appointed by OSCR under section 70A of the 2005 Act it must be recorded in the register.
47.3	For each former Charity Trustee the register must set out, for at least 6 years from the date on which they ceased to be a Charity Trustee: a) the name of the Charity Trustee; b) any office held by the Charity Trustee in the Organisation; and c) the date on which they ceased to be a Charity Trustee.
47.4	The Board must ensure that the register of Charity Trustees is updated within 28 days of receiving notice of any change.
47.5	If any person requests a copy of the register of Charity Trustees, the Board must ensure that a copy is supplied to them within 28 days, providing the request is reasonable; if the request is made by a person who is not a Charity Trustee of the Organisation, the Board may provide a copy which has the name and address of any of the Charity Trustees blanked out. The name of a Charity Trustee may only be blanked out if the Organisation is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.
TERMINATION OF CHARITY TRUSTEES OFFICE	
48	A Charity Trustee will automatically cease to hold office if: -
48.1	they give the Organisation a notice of resignation, signed by them;
48.2	they become an employee of the Organisation;
48.3	in the case of a Charity Trustee elected under clause 37) they cease to be a member of the Organisation;
48.4	in the case of a Charity Trustee appointed under clause 38) they cease to be a member of the appointing group;
48.5	in the case of a Charity Trustee co-opted under clause 39) the Board under clause 39.2 vote to end the appointment;

48.6	they become disqualified from being a Charity Trustee under the Charities and Trustee Investment (Scotland) Act 2005;
48.7	they are absent (without good reason, in the opinion of the Board) from more than three consecutive meetings of the Board - but only if the Board resolves to remove them from office;
48.8	they become incapable for medical reasons of carrying out their duties as a Charity Trustee - but only if that has continued (or is expected to continue) for a period of more than six months;
48.9	they are removed from office by resolution of the Board on the grounds that they are considered to have committed a material breach of the code of conduct for Charity Trustees (as referred to in clauses 46);
48.10	they are removed from office by resolution of the Board on the grounds that they are considered to have been in serious or persistent breach of their duties under section 66(1) or (2) of the 2005 Act;
48.11	they become prohibited from being a Charity Trustee by virtue of section 69(2) of the 2005 Act
48.12	they commit any offence under section 53 of the 2005 Act.
49	Clauses 48.9 and 48.10 apply only if the following conditions are met:
49.1	the Charity Trustee who is subject of the resolution is given reasonable prior written notice of the grounds upon which the resolution for removal is to be proposed;
49.2	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 a vote; and
49.3	at least two thirds of the Charity Trustees then in office vote in favour of the resolution.
CHAIRPERSON AND VICE-CHAIRPERSON	
50	The Board shall meet as soon as practicable meeting immediately after each AGM or following the resignation of the existing Chairperson/Vice-Chairperson to appoint: (a) an Elected Charity Trustee to chair Board meetings and GMs (the "Chairperson"), and (b) an Elected Charity Trustee to chair Board meetings and GMs in the event that the Chairperson is not present and willing to do so (the "Vice Chairperson").
50.1	In the event that:

	<p>(a) the Chairperson is not present and willing to act within 15 minutes of the time at which the GM/Board meeting is due to start, or no Chairperson is currently appointed; and</p> <p>(b) the Vice-Chairperson is not present and willing to act within 15 minutes of the time at which the GM/Board meeting is due to start, or no Vice-Chairperson is currently appointed,</p> <p>the Charity Trustees present must appoint an Elected Charity Trustee to chair the GM/Board meeting.</p>
	BOARD MEETINGS
51	The quorum for Board meetings shall be not less than 4, a majority of whom are Elected Charity Trustees. No business shall be dealt with at a Board meeting unless such a quorum is present.
51.1	A Charity Trustee shall not be counted in the quorum at a meeting (or at least the relevant part thereof) in relation to a resolution on which, whether because of personal interest or otherwise, they are not entitled to vote.
51.2	The Board may make any arrangements in advance of any Board meeting to allow members to fully participate in such meetings so long as all those participating in the meeting can clearly comprehend each other; a member participating in any such means other than in person shall be deemed to be present in person at the Board meeting.
52	7 Clear Days' notice in writing shall be given of any meeting of the Board at which a decision in relation to any of the matters referred to in clause 30 is to be made, which notice shall be accompanied by an agenda and any papers relevant to the matter to be decided.
52.1	All other Board meetings shall require not less than 7 days' prior notice, unless all Charity Trustees agree unanimously in writing to dispense with such notice on any specific occasion.
52.2	On the request of a Charity Trustee the Chairperson shall summon a meeting of the Board by notice served upon all Charity Trustees, to take place at a reasonably convenient time and date.
53	No alteration of the Clauses and no direction given by Special Resolution shall invalidate any prior act of the Board which would have been valid if that alteration had not been made or that direction had not been given.
54	The Board may act notwithstanding any vacancy in it, but where the number of Charity Trustees falls below the minimum number specified in clause 35, it may not conduct any business other than to appoint sufficient Charity Trustees to match or exceed that minimum.
55	The Board may invite or allow any person to attend and speak, but not to vote, at any meeting of the Board or of its sub-committees.
56	The Board may from time to time promulgate, review and amend any Ancillary Regulations, Guidelines and/or Policies, subordinate at all times to these Clauses, as it

	deems necessary and appropriate to provide additional explanation, guidance and governance to members/Charity Trustees.
	VOTING AT BOARD MEETINGS
57	The Chairperson of the Board meeting shall endeavour to achieve consensus wherever possible but, if necessary, questions arising shall be decided by being put to the vote,
57.1	Each Charity Trustee present (and who is eligible to vote) has one vote. In the event of an equal number of votes for and against any resolution at a Board meeting, the Chairperson of the meeting shall have a casting vote as well as a deliberative vote.
57.2	A resolution in writing shall be as valid and effectual as if it had been passed at a meeting of the Board or of a sub-committee. A resolution may consist of one or several documents in the same form each signed by one or more Charity Trustees or members of any relative sub-committee as appropriate.
	SUB-COMMITTEES
58	The Board may delegate any of its powers to sub-committees, each consisting of not less than one Charity Trustee and such other person or persons as it thinks fit or which it delegates to the committee to appoint.
58.1	Any sub-committee so formed shall, in the exercise of the powers so delegated, conform to any remit and regulations imposed on it by the Board. The meetings and proceedings of any such sub-committee shall be governed by the provisions of these Clauses for regulating the meetings and proceedings of the Board so far as applicable and so far as they are not superseded by any regulations made by the Board.
58.2	Each sub-committee shall ensure the regular and prompt circulation of, the minutes of its meetings to all Charity Trustees.
	CONSTRAINTS ON PAYMENTS/BENEFITS TO MEMBERS AND CHARITY TRUSTEES
59	The income and property of the Organisation shall be applied solely towards promoting the Purposes and do not belong to the members. Any surplus income or assets of the Organisation are to be applied for the benefit of the Community.
60	No part of the income or property of the Organisation shall be paid or transferred (directly or indirectly) to the members of the Organisation, or to any other individual, whether by way of dividend, bonus or otherwise, except in the circumstances provided for in clause 61.
61	No benefit (whether in money or in kind) shall be given by the Organisation to any member or Charity Trustee except the possibility of:
61.1	repayment of out-of-pocket expenses (subject to prior agreement by the Board);

61.2	reasonable remuneration in return for specific services actually rendered to the Organisation (in the case of a Charity Trustee such services must not be of a management nature normally carried out by a Trustee of an Organisation);
61.3	payment of interest at a rate not exceeding the commercial rate on money lent to the Organisation;
61.4	payment of rent at a rate not exceeding the open market rent for property let to the Organisation;
61.5	the purchase of property from any member or Charity Trustee provided that such purchase is at or below market value;
61.6	the sale of property to any member or Charity Trustee provided that such sale is at or above market value; or
61.7	payment by way of any indemnity, where appropriate in accordance with clause 94.
62	Where any payment is made under clause 61, the terms of clause 63 must be observed.
PERSONAL INTERESTS & CONFLICTS OF INTEREST	
63	Whenever a Charity Trustee finds that there is a personal interest, as defined in sub-clauses 63.3 and 63.4, they have a duty to declare this to the Board meeting in question.
63.1	A Charity trustee must not vote at a Board meeting (or at a meeting of a sub-committee) on any resolution which relates to a matter in which they has a personal interest or duty which conflicts (or may conflict) with the interests of the SCIO.
63.2	It will be up to the Chairperson of the meeting in question to determine: <ul style="list-style-type: none"> (a) whether the potential or real conflict simply be noted in the Minutes of any relevant meeting, or (b) whether the Charity Trustee in question, whilst being permitted to remain in the meeting in question, must not partake in discussions or decisions relating to such matter, or (c) whether the Charity Trustee in question should be required to be absent during that particular element of the meeting. Where a Charity Trustee leaves, or is required to leave, the meeting they no longer form part of the quorum for that meeting.

63.3	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;
63.4	A Charity trustee will be deemed to have a personal interest in relation to a particular matter if a body in relation to which they are an employee, director, member of the management committee, officer or elected representative has an interest in that matter.
63.5	The Board shall determine from time to time what interests shall be relevant interests and shall ensure that a Register of Notices of Relevant Interests is maintained, which shall be open for inspection by both the Board and members of the Organisation and, with the express prior written approval of the Charity Trustee or employee concerned, by members of the public.
	OFFICER BEARERS
64	The Board may appoint office bearers for such term and upon such terms and conditions as they think fit. Any officer bearer may be removed by the Board at any time
64.1	The Board may appoint a treasurer for such term and upon such terms and conditions as they think fit. The treasurer may be removed by the Board at any time. The treasurer may be required to attend Board and sub-committee meetings but: <ul style="list-style-type: none"> (a) may not participate in such meetings for voting or quorum purposes unless they are also a Charity Trustee; (b) may not attend meetings (or parts of meetings) at which their remuneration or employment is to be discussed; and (c) (if the treasurer is not a Charity Trustee) may not attend meetings at which confidential matters are to be discussed.
	FINANCES & ACCOUNTS
65	The Board shall determine:
65.1	which banks or building societies the bank accounts of the Organisation shall be opened with;
65.2	how bank accounts shall be maintained and operated; and
65.3	how cheques and other negotiable instruments, and receipts for monies paid to the Organisation, shall be signed, drawn, accepted, endorsed or otherwise executed.

66	The Board shall cause accounting records to be kept for the Organisation in accordance with the requirements of the 2005 Act and other relevant legislation.
66.1	The accounting records shall be maintained by the Treasurer (if there is one) and overseen by the Principal Officer (if there is one), or otherwise by, or as determined by, the Board. Such records shall be kept at such place or places as the Board thinks fit and shall always be open to the inspection of the Trustees.
66.2	The Board must prepare annual accounts, complying with all relevant statutory requirements, and must ensure the accounts are examined or audited, as appropriate, by a qualified examiner or auditor.
66.3	At each AGM, the Board shall provide the members with a copy of the accounts for the period since the last preceding accounting reference date (or, in the case of the first account, since the incorporation of the Organisation). The accounts shall be accompanied by proper reports of the Board.
66.4	Copies of such accounts shall, not less than 21 clear days before the date of the General Meeting, be delivered or sent to all members, Charity Trustees, the Office Bearers and the auditor, or otherwise be available for inspection on the website or other location of the Organisation (with all members, Charity Trustees, the Organisation Secretary and the auditor being made aware that they are so available for inspection there).
	NOTICES
67	The Organisation may serve a notice on a Member in hard copy (addressed to the address given for that Member in the register of members, and posted or hand-delivered) or electronic form (faxed or e-mailed). A notice is deemed to have been served on the day following the day on which it is hand-delivered, posted faxed or e-mailed.
68	The Organisation may communicate with a Member by electronic means (including fax and e-mail) unless the Member has requested that communications from the Organisation be sent in hard copy. The Organisation may publish notifications by means of a website provided the Organisation has advised Members of this and taken reasonable steps to notify Members who have informed the Organisation that they do not have internet access.
	RECORDS OF MEETINGS
69	The Board shall cause minutes to be made of all appointments of officers made by it and of the proceedings of all General Meetings and of all Board meetings and of sub-committees, including the names of those present, and all business transacted at such meetings and any such minutes of any meeting, if purporting to be signed after

	approval, either by the Chairperson of such meeting, or by the Chairperson of the next succeeding meeting, shall be sufficient evidence without any further proof of the facts therein stated.
	INDEMNITY
70	Subject to the terms of the 2005 Act and without prejudice to any other indemnity, the Charity Trustees, or member of any sub-committee, the Organisation Office Bearers and all employees of the Organisation may be indemnified out of the funds of the Organisation against any loss or liability (including the costs of defending successfully any court proceedings) which he, she or they may incur or sustain, in connection with or on behalf of the Organisation.
	ALTERATION TO THE CLAUSES
71	Subject to the terms of this clause, this constitution may be altered by a Special Resolution of the members passed in accordance with clause 30 or 31.3
71.1	Any changes to the purposes set out in clause 4 are subject to written consent being obtained from OSCR (and its successors) in terms of section 16 of the Charities and Trustee Investment (Scotland) Act 2005
71.2	The Board must notify OSCR (and its successors) of any changes to the constitution not relating to the purposes, in terms of section 17 of The Charities and Trustee Investment (Scotland) Act 2005
	DISSOLUTION
72	The Organisation may be wound up or dissolved only on the passing of a Special Resolution for that purpose in accordance with clauses 30 and 31.4, and subject to written consent being obtained from OSCR.
72.1	<p>If, on the winding-up of the Organisation, any property or assets remains after satisfaction of all its debts and liabilities, such property shall be given or transferred to such other community body or bodies or charitable group, which has purposes which resemble closely the purposes of the Organisation, as may be:</p> <ul style="list-style-type: none"> (a) determined by not less than two thirds of the Ordinary Members of the Organisation voting (in person or by proxy) at a General Meeting called specifically (but not necessarily exclusively) for the purpose; and (b) approved by OSCR (and its successors).

**Schedule 1
Form of Proxy**

Mill of Benholm Enterprise

I ,

residing at

being a Member of the above Organisation hereby appoint

.....

of

and, failing him or her,

of

as my proxy to vote on my behalf at the [Annual General Meeting / General Meeting] of the Organisation to be held on

.....
and at any adjournment thereof.

I hereby instruct my proxy to vote in favour of/against the following resolution[s]:

[insert resolution(s)]

Signed the day of

Signature of member appointing proxy