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CONSTITUTION OF ASTLEY AINSLIE COMMUNITY TRUST

Based on the model prepared by Burness Paull LLP (Solicitors) for
Development Trusts Association Scotland

CONSTITUTION

of

ASTLEY AINSLIE COMMUNITY TRUST

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GENERAL

Type of organisation

- 1 The organisation will, upon registration, be a Scottish Charitable Incorporated Organisation (SCIO). At the date of registration as a SCIO by the Office of the Scottish Charity Regulator (OSCR) all members of the existing Astley Ainslie Community Trust will automatically become members of the SCIO without payment of a new joining fee; and all the property, records and assets of the existing AACT will be transferred to the SCIO. The provisions of this constitution should be interpreted accordingly.

Scottish principal office

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

Name

- 3 The name of the organisation is Astley Ainslie Community Trust (referred to below as AACT).

Purposes

- 4 AACT's purposes are to benefit the community surrounding the Ainslie Ainslie Hospital in south Edinburgh, with a particular focus on the Edinburgh South postcode sectors EH9-1; EH9-2; EH9-3; EH10-4; EH10-5; and EH10-6 ("the Community"), and the wider community, with the following objects:
 - 4.1 To promote the advancement of community development (including the advancement of regeneration) within the Community;
 - 4.2 To advance the provision of health, rehabilitation, and well-being in the Community;
 - 4.3 To advance the provision of educational opportunities in the Community relating to the environment, culture, heritage and history; and
 - 4.4 To advance environmental protection or improvement.

Powers

- 5 AACT 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 Charities and Trustee Investment (Scotland) Act 2005), AACT has power:

- 5.1 to register any interest in land and to exercise any right to buy under Part 2 of the Land Reform (Scotland) Act 2003;

- 5.2 to exercise any right to buy under Part 3A of the Land Reform (Scotland) Act 2003;
- 5.3 to exercise any right to buy under Part 5 of the Land Reform (Scotland) Act 2016; and
- 5.4 to make any participation request under Part 3 of the Community Empowerment (Scotland) Act 2015 and/or any asset transfer request under Part 5 of the Community Empowerment (Scotland) Act 2015, and to take any appropriate steps following upon the making of any such request.
- 5.5 Obtain, collect and receive money or funds by way of contributions, donations, grants and any other lawful method.
- 5.6 Engage with the Scottish Government, NHS Lothian, the local authority, companies, partnerships, trusts, voluntary organisations and residents of Edinburgh in a common effort to carry out the objects of the organisation.
- 5.7 Engage with appropriate support agencies.
- 5.8 Establish an executive committee and any subcommittee or subcommittees in pursuit of the objectives of the organisation.
- 5.9 Convene meetings and events
- 5.10 Undertake any other lawful activities.

Application of income and property

- 6 The income and property of AACT shall be applied solely towards promoting AACT's objects (as set out in clause 4) and in particular (but without limiting the generality of that provision) any surplus funds or assets of AACT must ultimately be applied for the benefit of the Community.
- 7 No part of the income or property of AACT may be paid or transferred (directly or indirectly) to the members of AACT, whether by way of dividend, bonus or otherwise - either in the course of AACT's existence or on dissolution - except where this is done in direct furtherance of AACT's charitable purposes.
- 8 No benefit (whether in money or in kind) shall be given by AACT to any charity trustee except:
 - (a) repayment of out-of-pocket expenses; or
 - (b) reasonable payment in return for particular services (outwith the ordinary duties of a charity trustee) actually rendered to AACT.

Liability of members

- 9 The members of AACT have no liability to pay any sums to help to meet the debts (or other liabilities) of AACT if it is wound up; accordingly, if AACT is unable to meet its debts, neither the trustees of AACT nor the members and associates of AACT can be held responsible individually or collectively unless they can be shown to have knowingly acted recklessly or in breach of their legal duties under the Charities and Trustee Investment (Scotland) Act 2005 or any other relevant legislation.

General structure

- 10 The structure of AACT consists of:-
- 10.1 the ORDINARY MEMBERS - who have the right to attend the annual general meeting and special members' meetings or events. Ordinary Members elect the Trustees to serve on the board and take decisions on changes to the constitution, major policy issues, subscriptions and fees etc. ORDINARY MEMBERS are overall in control of the strategy, organisation and management of the AACT, but can delegate the day-to-day supervision of the AACT to the Board.
 - 10.2 the ASSOCIATE MEMBERS – who can attend the annual general meeting and any special members’ meetings and events but are not able to vote or otherwise make decisions on AACT business. Associate Members have a voice and can seek to influence the members, but do not exercise any form of control over the strategy, organisation or management of the AACT.
 - 10.3 the BOARD - who hold regular meetings during the period between annual general meetings, and generally control and supervise the activities of AACT; in particular, the board is responsible for monitoring and controlling the financial position of AACT.
- 11 The people serving on the board are referred to in this constitution as CHARITY TRUSTEES.

MEMBERS

Categories of members

- 12 For the purposes of this constitution:-
- (a) “Ordinary Member” means a member who fulfils the qualifications set out in clause 14; “Ordinary Membership” shall be interpreted accordingly;
 - (b) “Associate Member” means a member who fulfils the qualifications set out in clause 15 (as read with Clause 16). “Associate Membership” shall be interpreted accordingly;

Qualifications for membership

- 13 The members of AACT shall consist of those individuals who made the application for registration of AACT and such other individuals and organisations as are admitted to membership under clauses 14 to 25.
- 14 Ordinary Membership shall (subject to clauses 18, 19 and 24) be open to any individual aged 16 years or over who:
- (a) is ordinarily resident in the Community (as defined in clause 4); and
 - (b) supports the objects and activities of AACT.
- 15 Associate Membership shall (subject to clauses 18, 19, 20 and 21) be open to individuals who are not ordinarily resident in the Community and (subject to clause 16) to organisations (irrespective of where they have their principal office or place of business or main area of operation) that support the objects and activities of AACT.
- 16 In the case of an organisation which is not a corporate body, the organisation itself cannot be a member of AACT; instead, membership shall be open to an individual nominated by that organisation (where the organisation would qualify for membership under clause 15), but on the basis that no more than one individual nominated by each organisation can be a member of AACT at any given time.
- 17 An individual, once admitted to Ordinary Membership, shall automatically become an Associate Member if he/she ceases to fulfil any of the qualifications for Ordinary Membership set out in clause 14, but still complies with the qualifications for Associate Membership.
- 18 Employees of AACT are not eligible for membership. A person who becomes an employee of AACT after admission to membership shall automatically cease to be a member. A person who has ceased to be a Member by virtue of being employed by ACCT will be reinstated as a Member once their employment with ACCT has ceased.

Application for membership

- 19 Any individual who wishes to become a member must sign, and lodge with AACT a written application for membership, specifying the category of membership for which he/she is applying.
- 20 Any organisation which is a corporate body and wishes to become an Associate Member must lodge with AACT a written application for membership, signed on its behalf by an appropriate officer of that organisation.
- 21 Any individual nominated under clause 16 by an organisation which is an unincorporated body who wishes to become an Associate Member must lodge with AACT a written application for membership, signed by him/her and also signed by an appropriate officer of the organisation which is nominating him/her for membership.
- 22 AACT shall supply on request to any individual or organisation applying for membership the appropriate form or electronic template.
- 23 In this constitution references to “written” should be interpreted to include material submitted or transmitted electronically.
- 24 An individual applying for Ordinary Membership shall, if AACT so requests, supply such evidence as AACT may reasonably request to demonstrate that he/she fulfils the qualifications set out in clause 14.
- 25 The board shall consider each application for membership at the first board meeting which is held after receipt of the application; the board shall, within a reasonable time after the meeting, notify the applicant of their decision on the application.

Minimum number of members

- 26 The minimum number of members is 100; and at least 70% of the members must, at all times, be Ordinary Members.
- 27 In the event that either or both of the requirements under clause 26 cease to be met and that cannot be expeditiously remedied, the board may not conduct any business other than to ensure the admission of sufficient Ordinary Members to ensure that the requirements of Clause 26 are met once more on a basis that is judged by the Trustees to be sustainable.

Membership subscription

- 28 Members and Associates shall pay a subscription which can be a fee payable on joining AACT, or an annual membership fee, or both.
- 29 The Board may propose to an annual general meeting that a joining fee should be paid by all new applicants to be Members or Associate members, or by existing members and Associate members, or by both. This will take effect if a resolution to this effect is passed by a majority of those present at an annual general meeting.
- 30 Any joining fee would be payable at the time that an application is submitted to become a Member or Associate member of AACT. The joining fee would not be refundable in cases where an application to become a Member or Associate member is rejected by the Board. An application to become a member or Associate member would not be approved unless the joining fee has been paid in full.
- 31 The Board shall propose to each annual general meeting the level of any subscription payable by Members and Associates, its duration and the date on which payment falls due. The level of the subscription payable by Members and by Associate Members may be different. The Members and Associate Members shall approve the subscription amount, its duration and the date that payment of it falls due, by way of a resolution to that effect passed by majority vote at an annual general meeting.
- 32 If the membership subscription payable by any Ordinary or Associate Member remains outstanding more than 3 months after the date on which it fell due (and providing he/she/it has been given at least one written reminder) the person or organisation concerned shall cease to be a member with immediate effect. It will be open to the individual or organisation to reapply for membership.
- 33 An individual or organisation who ceases (for whatever reason) to be a member shall not be entitled to any refund of any joining fee or annual subscription.

Arrangements involving AACT's website

- 34 The charity trustees may, if they consider appropriate, introduce arrangements under which an individual or organisation can apply for membership and/or membership subscriptions may be paid, by accessing AACT's website (and, where applicable, links from AACT's website), and completing and submitting forms electronically; the charity trustees shall ensure that any such arrangements incorporate appropriate security measures and reserve the right for AACT to request signed hard copy documentation and/or evidence of eligibility in any case where the charity trustees consider that to be appropriate.

Register of members

- 35 The board must keep a register of members, which records
- 35.1 for each current member:
 - 35.1.1 his/her/its full name and address;
 - 35.1.2 the date on which he/she/it was registered as a member of AACT;
 - 35.1.3 the category of membership into which he/she/it falls;
 - 35.1.4 whether the payment of any fees or subscriptions is up-to-date; and
 - 35.1.5 whether the Member has consented to their personal details being shared with third parties in accordance with the current legislation on data protection.
 - 35.2 for each former member for at least six years from the date on he/she/it ceased to be a member:
 - 35.2.1 his/her/its name; and
 - 35.2.2 the date on which he/she/it ceased to be a member.
- 36 Where an individual was admitted to Associate Membership on the basis of nomination by an organisation which is not a corporate body, the entries against his/her name in the register of members shall include details of the organisation which nominated him/her for membership.
- 37 The board must ensure that the register of members is updated within 28 days of any change:
- 37.1 which arises from a resolution of the board or a resolution passed by the members of AACT; or
 - 37.2 which is notified to AACT.
- 38 If a member or charity trustee of AACT requests a copy of the register of members, the board must ensure that a copy is supplied to him/her/it within 28 days, providing the request is reasonable and the reply complies with current legislation on data protection. 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.

Withdrawal from membership

- 39 Any individual or organisation who/which wants to withdraw from membership must give a written notice of withdrawal to AACT, signed by him/her or, in the case of a corporate body, signed on its behalf by an

appropriate officer of that body. He/she/it will cease to be a member as from the time when the notice is received by AACT.

- 40 An organisation which has nominated an individual for membership under clause 16 may withdraw its nomination at any time, by way of notice to AACT to that effect, signed by an appropriate officer of that organisation. On receipt of the notice by AACT, he/she will automatically cease to be a member.

Transfer of membership

- 41 Membership of AACT may not be transferred by a member.

Expulsion from membership

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

42.1 at least 21 days' notice of the intention to propose the resolution must be given to the member concerned, specifying the grounds for the proposed expulsion; for example: actions going against the aims of the organisation; bringing the organisation into disrepute; breach of criminal law impacting on the organisation. This is not an exhaustive list.

42.2 the member concerned (or, in the case of a corporate body, an individual authorised by it) will be entitled to be heard on the resolution at the members' meeting at which the resolution is proposed.

Termination of membership

- 43 Membership shall cease:

- (a) in the case of an individual, on death;
- (b) in the case of an organisation, on the liquidation, winding-up, dissolution or striking-off of that organisation;
- (c) in the case of an individual admitted to membership on the basis of nomination by an organisation which is not a corporate body, if that organisation is wound-up or dissolved.

DECISION-MAKING BY THE MEMBERS

Members' meetings

- 44 The board must arrange a meeting of members (an annual general meeting or "AGM") in each calendar year.
- 45 The gap between one AGM and the next must not be longer than 15 months.
- 46 The business of each AGM must include:-
- 46.1 a report by the chair on the activities of AACT;
 - 46.2 approval of the annual accounts of AACT;
 - 46.3 the election/re-election of charity trustees, as referred to in clauses 91 to 96.
- 47 The board may arrange a special members' meeting at any time.

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

- 48 The board must arrange a special members' meeting if they are requested to do so by a notice (which may take the form of two or more documents in the same terms, each signed by one or more members) by members who amount to 5% or more of the total membership of AACT at the time, providing:
- 48.1 the notice states the purposes for which the meeting is to be held; and
 - 48.2 those purposes are not inconsistent with the terms of this constitution, the Charities and Trustee Investment (Scotland) Act 2005 or any other statutory provision.
- 49 If the board receive a notice under clause 48, the date for the meeting which they arrange in accordance with the notice must not be later than 28 days from the date on which they received the notice.

Notice of members' meetings

- 50 At least 14 clear days' notice must be given of any AGM. At least 5 clear days' notice must be given for any special members' meeting.
- 51 The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; and
- 51.1 in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s); or
 - 51.2 in the case of any other resolution falling within clause 73 (requirement for two-thirds majority) must set out the exact terms of the resolution.

- 52 The reference to “clear days” in clause 50 shall be taken to mean that, in calculating the period of notice,
- 52.1 the day after the notices are posted (or sent by e-mail) should be excluded; and
 - 52.2 the day of the meeting itself should also be excluded.
- 53 Notice of every members' meeting must be given to all the members of AACT, 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.
- 54 Any notice which requires to be given to a member under this constitution must be: -
- 54.1 sent by post to the member, at the address last notified by him/her/it to AACT; *or*
 - 54.2 sent by e-mail to the member, at the e-mail address last notified by him/her/it to AACT.

Procedure at members’ meetings

- 55 No valid decisions can be taken at any members' meeting unless a quorum is present.
- 56 The quorum for a members' meeting (subject to clause 58) is 10% of the total number of members entitled to vote (each being an Ordinary Member or a proxy for an Ordinary Member), present in person or represented by proxy.
- 57 A quorum shall not be deemed to be present at any members’ meeting unless the Ordinary Members present or represented by proxy at the meeting form a majority of the members present or represented by proxy at the meeting.
- 58 For the avoidance of doubt, Associate Members shall not be counted in determining whether a quorum is present at any members’ meeting.
- 59 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.
- 60 The chair of AACT should act as chairperson of each members' meeting.
- 61 If the chair of AACT 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 charity trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.

62 The chairperson of a members' meeting may, with the consent of the meeting, adjourn the meeting to such date, time and place as the chairperson may determine.

Voting at members' meetings

63 Every Ordinary Member has one vote, which may be given (whether or a show of hands or on a secret ballot) either personally or by proxy.

64 For the avoidance of doubt, Associate Members shall have no power to vote at members' meetings.

65 Any Ordinary Member who wishes to appoint a proxy to vote on his/her behalf at any members' meeting (or adjourned meeting):-

65.1 must give to AACT a proxy form (in such terms as the board requires), signed by him/her; or

65.2 must send by electronic means to AACT at such electronic address as may have been notified to the members for that purpose, a proxy form (in such terms as the board requires);

providing (in either case) the proxy form is received by AACT at the relevant address not less than 48 hours before the time for holding the meeting (or, as the case may be, adjourned meeting).

66 In calculating the 48-hour period referred to in clause 65, no account shall be taken of any part of a day that is a Saturday or Sunday.

67 An instrument of proxy which does not comply with the provisions of clause 65, or which is not lodged or given in accordance with such provisions, shall be invalid.

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

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

70 A vote given, or ballot demanded, by proxy shall be valid notwithstanding that the authority of the person voting or demanding a ballot had terminated prior to the giving of such vote or demanding of such ballot, unless notice of such termination was received by AACT at AACT's principal office (or, where sent by electronic means, was received by AACT at the address notified by AACT to the members for the purpose of electronic communications) before the commencement of the meeting or adjourned meeting at which the vote was given or the ballot demanded.

71 An Associate Member which is a corporate body shall be entitled to appoint an individual to attend and speak at any members' meeting as its authorised representative. Such representatives have no voting rights.

- 72 All decisions at members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause 73.
- 73 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 79) providing proper notice of the meeting and of the intention to propose the resolution has been given in accordance with clauses 50 to 54:
- 73.1 a resolution amending the constitution (subject to clauses 77 and 78);
 - 73.2 a resolution expelling an individual or organisation from membership under clause 42;
 - 73.3 a resolution directing the board to take any particular step (or directing the board not to take any particular step);
 - 73.4 a resolution approving the amalgamation of AACT with another SCIO (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation);
 - 73.5 a resolution to the effect that all of AACT'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);
 - 73.6 a resolution for the winding up or dissolution of AACT.
- 74 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.
- 75 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 members present at the meeting and entitled to vote, whether as Ordinary Members or as proxies for Ordinary Members) asks for a secret ballot. A secret ballot may be demanded after the result of the show of hands is declared and the result of the secret ballot will be final.
- 76 If a secret ballot is demanded, it shall be taken at the meeting and shall be conducted in such manner as the chairperson may direct; the result of the ballot shall be declared at the meeting at which the ballot was demanded.
- 77 If AACT is a community body or Part 3A community body (in each case, as defined in clause 163) amendments to the constitution of AACT may require the prior written consent of Scottish Ministers.
- 78 Amendments to the purposes of AACT (as set out in clause 4) will require the prior approval of OSCR.

Written resolutions by members

- 79 A resolution agreed to in writing (or by e-mail) by all the members will be as valid as if it had been passed at a members' meeting; the date of the resolution will be taken to be the date on which the last member agreed to it.

Minutes

- 80 The board must ensure that proper minutes are kept in relation to all members' meetings.
- 81 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.
- 82 Any person may request a copy of the minutes of members' meetings and, provided that the request is reasonable, AACT must, subject to clause 83, provide a copy of the minutes to that person within 28 days of the request.
- 83 Where a request for a copy of minutes is made under clause 82, AACT may withhold information contained in the minutes provided that the person requesting a copy of the minutes is informed of the reasons for doing so.

BOARD

Categories of charity trustee

84 In this constitution:

84.1 “Member Trustee” means a charity trustee (drawn from the membership of AACT) elected/appointed under clauses 91 to 96;

84.2 “Co-opted Trustee” means a (non-member) charity trustee appointed by the board under clauses 97 and 98.

Number of charity trustees

85 The maximum number of charity trustees is thirteen, of whom

85.1 no more than seven shall be Member Trustees; and

85.2 no more than six shall be Co-opted Trustees.

86 At any given time, charity trustees who are also Ordinary Members must form a majority of the total number of charity trustees in office.

87 The minimum number of charity trustees shall be seven, of whom a majority must be Member Trustees.

Eligibility

88 A person shall not be eligible for election/appointment as a Member Trustee unless he/she is a member of AACT; a person appointed as a Co-opted Trustee need not, however, be a member of AACT.

89 A person will not be eligible for election or appointment as a charity trustee if he/she is: -

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

89.2 an employee of AACT.

Initial charity trustees

90 The individuals who signed the charity trustee declaration forms which accompanied the application for incorporation of AACT shall be deemed to have been appointed by the members as charity trustees (within the category of “Member Trustees”) with effect from the date of incorporation of AACT.

Election, retirement, re-election: Member Trustees

- 91 At each AGM, the Ordinary Members may (subject to clauses 85, 85 and 89) elect any member (providing he/she is willing to act) to be a charity trustee (a “Member Trustee”).
- 92 The board may (subject to clauses 85, 85 and 89) at any time appoint any member (providing he/she is willing to act) to be a charity trustee (a “Member Trustee”).
- 93 ¹At the first AGM after AACT has been designated as a Scottish Charitable Incorporated Organisation, one third (rounded up to the nearest whole number) of the Member Trustees shall retire from office. The Trustees to retire will be determined by random selection.
- 94 At each AGM (other than the first)
- 94.1 any Member Trustee appointed under clause 92 during the period since the preceding AGM shall retire from office;
- 94.2 out of the remaining Member Trustees, one third (rounded up to the nearest whole number) shall retire from office.
- 95 The charity trustees to retire under paragraph 94.2 shall be those who have been longest in office since they were last elected or re-elected; as between persons who were last elected/re-elected on the same date, the question of which of them is to retire shall be determined by some random method.
- 96 A charity trustee who retires from office under clause 94 shall be eligible for re-election.

Appointment/re-appointment: Co-opted Trustees

- 97 In addition to their powers under clause 92, the board may (subject to clauses 85 and 89) at any time appoint any non-member of AACT (providing he/she is willing to act) to be a charity trustee (a “Co-opted Trustee”) either on the basis that he/she has been nominated by a body with which AACT 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 board.
- 98 At the conclusion of each AGM, all of the Co-opted Trustees shall retire from office – but shall then (subject to clauses 85 and 89) be eligible for re-appointment under clause 97.

¹ If no public meeting is held prior to the formation of the SCIO to ensure that the community is happy with those who are to form the initial board (and give an opportunity for others to come forward), then it may be felt appropriate - in line with principles of democratic accountability - that all the Member Trustees should retire from office at the first AGM. It is important, however, to take into account the issues round loss of continuity if the effect of that was that a completely new board (lacking the experience built up by the initial board) was put in place.

Termination of office

- 99 A charity trustee will automatically cease to hold office if: -
- 99.1 he/she becomes disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005;
 - 99.2 he/she becomes incapable for medical reasons of carrying out his/her duties as a charity trustee - but only if that has continued (or is expected to continue) for a period of more than six months;
 - 99.3 (in the case of a Member Trustee) he/she ceases to be a member of AACT;
 - 99.4 he/she becomes an employee of AACT;
 - 99.5 he/she gives AACT a notice of resignation, signed by him/her;
 - 99.6 he/she is absent (without good reason, in the opinion of the board) from more than three consecutive meetings of the board - but only if the board resolves to remove him/her from office;
 - 99.7 he/she is removed from office by resolution of the board on the grounds that he/she is considered to have committed a serious breach of the code of conduct for charity trustees (as referred to in clause 128);
 - 99.8 he/she is removed from office by resolution of the board on the grounds that he/she is considered to have been in serious or persistent breach of his/her duties under section 66(1) or (2) of the Charities and Trustee Investment (Scotland) Act 2005; or
 - 99.9 he/she is removed from office by a resolution of the members passed at a members' meeting.
- 100 A resolution under paragraph 99.7, 99.8 or 99.9 shall be valid only if: -
- 100.1 the charity trustee who is the subject of the resolution is given reasonable prior written notice of the grounds upon which the resolution for his/her removal is to be proposed;
 - 100.2 the charity trustee concerned is given the opportunity to address the meeting at which the resolution is proposed, prior to the resolution being put to the vote; and
 - 100.3 (in the case of a resolution under paragraph 99.7 or 99.8) at least two thirds (rounded up to the nearest whole number) of the charity trustees then in office vote in favour of the resolution.

Register of charity trustees

- 101 The board must keep a register of current and former charity trustees, which records :
- 101.1.1 his/her full name and address;
 - 101.1.2 the date on which he/she was appointed as a charity trustee;
 - 101.1.3 any office held by him/her in AACT; and
 - 101.1.4 whether the Trustee has consented to their personal details being shared with third parties in accordance with the current legislation on data protection.
- 101.2 For former charity trustee the record must be retained for at least for at least 6 years from the date on which he/she ceased to be a charity trustee.
- 102 The board must ensure that the register of charity trustees is updated within 28 days of any change:
- 102.1 which arises from a resolution of the board or a resolution passed by the members of AACT; or
 - 102.2 which is notified to AACT.
- 103 If any person requests a copy of the register of charity trustees, the board must ensure that a copy is supplied to him/her within 28 days, providing the request is reasonable; if the request is made by a person who is not a charity trustee of AACT, the board may provide a copy which has the addresses blanked out - if AACT is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

Office-bearers

- 104 The charity trustees must elect (from among themselves) a chair and a treasurer.
- 105 In addition to the office-bearers required under clause 104, the charity trustees may elect (from among themselves) further office-bearers if they consider that appropriate.
- 106 All of the office-bearers will cease to hold office at the conclusion of each AGM, but may then be re-elected under clause 104 or 105.
- 107 A person elected to any office will automatically cease to hold that office: -
- 107.1 if he/she ceases to be a charity trustee; *or*
 - 107.2 if he/she gives to AACT a notice of resignation from that office, signed by him/her.

Powers of board

- 108 Except where this constitution states otherwise, AACT (and its assets and operations) will be managed by the board; and the board may exercise all the powers of AACT.
- 109 A meeting of the board at which a quorum is present may exercise all powers exercisable by the board.
- 110 The members may, by way of a resolution passed in compliance with clause 73 (requirement for two-thirds majority), direct the board to take any particular step or direct the board not to take any particular step; and the board shall give effect to any such direction accordingly.
- 111 The board may also delegate to the chair of AACT (or the holder of any other post) such of their powers as they may consider appropriate.

Committees of the Board

- 112 The Board must appoint an Audit and Risk Committee (ARC). The membership shall be at least two members of the Board. With the agreement of the Board, the ARC may co-opt at least one independent member with experience in finance and accountancy. The Chair of the Board cannot be a member of the ARC, but may be invited to attend where this would expedite the business.
- 113 The ARC should review and report regularly to the Board on :-
budget and financial performance;
governance;
risks and how these are being mitigated or managed;
membership retention and recruitment; and
any other matter referred to it by the Board.
- 114 The Board may appoint such other sub-committees as it judges necessary to enable issues to be explored in detail. A sub-committee should consist of three Trustees, one of who should be appointed by the Board as Chair. With the agreement of the Board a sub-committee may co-opt up to two members, who need not be members of AACT, to provide the sub-committee with specialised expertise or other assistance not available from within the Trustee membership. No Trustee should be a member of more than two sub-committees.
- 115 The board may delegate any of their powers to sub-committees.

- 116 When delegating powers under clause 115, the board must set out the specific extent of the delegation and specify any particular requirements, which must include an obligation to report regularly to the board.
- 117 Any delegation of powers under clause 115 may be revoked or altered by the board at any time.
- 118 The rules of procedure for each sub-committee shall be set by the board.
- 119 The provisions relating to membership of each sub-committee shall be set by the board.

Charity trustees - general duties

- 121 Each of the charity trustees has a duty, in exercising functions as a charity trustee, to act in the interests of AACT; and, in particular, must:-
- 121.1 seek, in good faith, to ensure that AACT acts in a manner which is in accordance with its purposes (as set out clause 4);
 - 121.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
 - 121.3 in circumstances giving rise to the possibility of a conflict of interest between AACT and any other party:
 - 121.3.1 put the interests of AACT before that of the other party;
 - 121.3.2 where any other duty prevents him/her from doing so, disclose the conflicting interest to AACT and refrain from participating in any deliberation or decision of the other charity trustees with regard to the matter in question;
 - 121.4 ensure that AACT complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.
- 122 In addition to the duties outlined in clause 121, all of the charity trustees must take such steps as are reasonably practicable for the purpose of ensuring: -
- 122.1 that any breach of any of those duties by a charity trustee is corrected by the charity trustee concerned and not repeated; and
 - 122.2 that any trustee who has been in serious and persistent breach of those duties is removed as a trustee.
- 123 A charity trustee who has a personal interest in any transaction or other arrangement which AACT is proposing to enter into, must declare that interest at a board meeting; he/she will be debarred (under clause 144) from voting on the question of whether or not AACT should enter into that arrangement.

- 124 For the purposes of the preceding clause, a charity trustee shall be deemed to have a personal interest in an arrangement if any partner or other close relative of his/hers or any firm of which he/she is a partner or any limited company of which he/she is a substantial shareholder or director or any limited liability partnership of which he/she is a member (or any other party who/which is deemed to be connected with him/her), has a personal interest in that arrangement.
- 125 Provided he/she has declared his/her interest - and has not voted on the question of whether or not AACT 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 127 and to the provisions relating to remuneration for services contained in the Charities and Trustee Investment (Scotland) Act 2005), he/she may retain any personal benefit which arises from that arrangement.
- 126 Where a charity trustee provides services to AACT or might benefit from any remuneration paid to a connected party for such services, then:
- (a) the maximum amount of the remuneration must be specified in a written agreement and must be reasonable;
 - (b) the charity trustees must be satisfied that it would be in the interests of AACT to enter into the arrangement (taking account of that maximum amount); and
 - (c) less than half of the charity trustees must be receiving remuneration from AACT (or benefit from remuneration of that nature).
- 127 No charity trustee may serve as an employee (full time or part time) of AACT; and no charity trustee may be given any remuneration by AACT for carrying out his/her duties as a charity trustee.
- 128 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

- 129 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.
- 130 The code of conduct referred to in clause 129 shall be supplemental to the provisions relating to the conduct of charity trustees contained in this constitution and the duties imposed on charity trustees under the Charities and Trustee Investment (Scotland) Act 2005; and all relevant provisions of this constitution shall be interpreted and applied in accordance with the provisions of the code of conduct in force from time to time.

DECISION-MAKING BY THE CHARITY TRUSTEES

Notice of board meetings

- 131 Any charity trustee may call a meeting of the board *or* ask the secretary to call a meeting of the board.
- 132 At least 7 days' notice must be given of each board meeting, unless (in the opinion of the person calling the meeting) there is a degree of urgency which makes that inappropriate.

Procedure at board meetings

- 133 No valid decisions can be taken at a board meeting unless the meeting is quorate. The quorum for board meetings (subject to clause 134) is five charity trustees.
- 134 A quorum shall not be deemed to be constituted at any board meeting unless the Member Trustees who are also Ordinary Members form a majority of the total number of charity trustees present at the meeting.
- 135 Any or all of the charity trustees may participate in a board meeting by means of a conference telephone, video conferencing facility or similar communications equipment whereby 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.
- 136 If at any time the number of charity trustees in office falls below the number stated as the quorum in clause 133, the remaining charity trustee(s) will have power to fill the vacancies or call a members' meeting - but will not be able to take any other valid decisions.
- 137 The chair of AACT should act as chairperson of each board meeting.
- 138 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 charity trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.
- 139 Every charity trustee has one vote, which must be given personally.
- 140 All decisions at board meetings will be made by majority vote.
- 141 If there are an equal number of votes for and against any resolution, the chairperson of the meeting will (subject to clause 142) be entitled to a second (casting) vote.
- 142 A chairperson who is not an Ordinary Member shall not be entitled to a casting vote.

- 143 The board may, at its discretion, allow any person to attend and speak at a board meeting notwithstanding that he/she is not a charity trustee - but on the basis that he/she must not participate in decision-making.
- 144 A charity trustee must not vote at a board meeting (or at a meeting of a sub-committee) on any resolution which relates to a matter in which he/she has a personal interest or duty which conflicts (or may conflict) with the interests of AACT; he/she must withdraw from the meeting while an item of that nature is being dealt with.
- 145 For the purposes of clause 144: -
- 145.1 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;
- 145.2 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.
- 146 A charity trustee shall not be counted in the quorum present at a meeting in relation to a resolution on which he/she is not entitled to vote.
- 147 AACT may, by majority vote, suspend or relax to any extent – either generally or in relation to any particular matter – the provisions of clauses 144 to 146.

Minutes

- 148 The board must ensure that proper minutes are kept in relation to all board meetings and meetings of sub-committees.
- 149 The minutes to be kept under clause 148 must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting.
- 150 Any person may request a copy of the minutes of meetings of the charity trustees of AACT and, provided that the request is reasonable, AACT must, subject to clause 151, provide a copy of the minutes to that person within 28 days of the request.
- 151 Where a request for a copy of minutes is made under clause 150, AACT may withhold information contained in the minutes provided that the person requesting a copy of the minutes is informed of the reasons for doing so.

ADMINISTRATION

Operation of accounts

- 152 Subject to clause 153, the signatures of two out of three signatories appointed by the board will be required in relation to all operations (other than the lodging of funds) on the bank and building society accounts held by AACT; at least one out of the two signatures must be the signature of a charity trustee.
- 153 Where AACT 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 152.

Secretary

- 154 The board shall appoint a secretary. The term of the appointment, the remuneration (if any) payable to the secretary, and the conditions of appointment shall be as determined by the board. The secretary may be removed by the board at any time, subject to the requirements of employment law in force at the time.

Accounting records and annual accounts

- 155 The board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.
- 156 The accounting records shall be maintained by the treasurer and overseen by the chair, or otherwise by, or as determined by, the board; such records shall be kept at such place or places as the board think fit and shall always be available for inspection by the board.
- 157 The board must prepare annual accounts, complying with all relevant statutory requirements; if an audit is required under any statutory provisions (or if the board consider that an audit would be appropriate for some other reason), the board should ensure that an audit of the accounts is carried out by a qualified auditor.
- 158 No member shall (unless he/she is a charity trustee) have any right of inspecting any accounting or other records, or any document of AACT, except as conferred by statute or authorised by a resolution passed at a meeting of the members of AACT.

MISCELLANEOUS

Winding-up

- 159 If AACT is to be wound up or dissolved, the winding-up or dissolution process will be carried out in accordance with the procedures set out under the Charities and Trustee Investment (Scotland) Act 2005.
- 160 Any surplus assets (including any land acquired by AACT under Part 3 or Part 3A of the Land Reform (Scotland) Act 2003 or Part 5 of the Land Reform (Scotland) Act 2016) available to AACT immediately preceding its winding up or dissolution must be applied for the benefit of the Community to be used for purposes which are the same as - or which closely resemble - the purposes of AACT as set out in this constitution.

Alterations to the constitution

- 161 This constitution may (subject to clause 16) be altered by resolution of the members passed at a members' meeting (subject to achieving the two thirds majority referred to in clause 73) or by way of a written resolution of the members.
- 162 The Charities and Trustee Investment (Scotland) Act 2005 prohibits taking certain steps (e.g. change of name, an alteration to the purposes, amalgamation, winding-up) without the consent of OSCR.

Interpretation

- 163 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include: -
- 163.1 any statutory provision which adds to, modifies or replaces that Act; and
- 163.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph 163.1 above.
- 164 In this constitution: -
- 164.1 "charity" means a body which is either a "Scottish charity" within the meaning of section 13 of the Charities and Trustee Investment (Scotland) Act 2005 or a "charity" within the meaning of section 1 of the Charities Act 2011, providing (in either case) that its objects are limited to charitable purposes;
- 164.2 "charitable purpose" means a charitable purpose under section 7 of the Charities and Trustee Investment (Scotland) Act 2005 which is also regarded as a charitable purpose in relation to the application of the Taxes Acts;

- 164.3 “community body” means a community body within the meaning of section 34 of the Land Reform (Scotland) Act 2003 (as amended by section 37 of the Community Empowerment (Scotland) Act 2015);
- 164.4 “OSCR” means the Office of the Scottish Charity Regulator;
- 164.5 “Part 3A community body” means a Part 3A community body with the meaning of section 97D of the Land Reform (Scotland) Act 2003 (as inserted by section 74 of the Community Empowerment (Scotland) Act 2015);
- 164.6 “Part 5 community body” means a Part 5 community body within the meaning of section 49 of the Land Reform (Scotland) Act 2016;
- 164.7 “sustainable development” means development which meets the needs of the present without compromising the ability of future generations to meet their own needs.
- 164.8 “member” means either an Ordinary Member or an Associate Member
- 164.9 “members” means both Ordinary Members and Associate Members