

**CONSTITUTION**  
of  
**SHRUB COOPERATIVE**  
(final draft)

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This constitution was formally enacted and the organisation incorporated on  
(DD MMMMM YYYY)

## **GENERAL**

### **Type of organisation**

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

### **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 "SHRUB Cooperative.

### **Purposes**

- 4 The organisation's purposes are:
  - 4.1 The advancement of environmental protection and improvement by contributing to a zero waste community in Edinburgh. In particular, providing year round re-use, up-cycling and redistribution of household items discarded by the transient populations.
  - 4.2 The advancement of education by providing training and skill-sharing in all functions of the enterprise.
  - 4.3 The advancement of citizenship and community development through active participation.

In a manner which promotes equality and diversity, and is consistent with the principles defined in the International Cooperative Alliance Statement of Cooperative Identity.

### **Powers**

- 5 The organisation has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so.
- 6 No part of the income or property of the organisation may be paid or transferred (directly or indirectly) to the members - either in the course of the organisation's existence or on dissolution - except where this is done in direct furtherance of the organisation's charitable purposes.

### **Liability of members**

- 7 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.
- 8 The members and trustees have certain legal duties under the Charities and Trustee Investment (Scotland) Act 2005. Clause 7 does not exclude (or limit) any personal liabilities they might incur if they are in breach of those duties or in breach of other legal obligations or duties that apply to them personally.

### **General structure**

- 9 The structure of the organisation consists of:
  - 9.1 The MEMBERS - who have the right to attend members' meetings (including any annual general meeting) and have important powers under the constitution; in particular, the members appoint people to serve as trustees and take decisions on changes to the constitution itself.
  - 9.2 The TRUSTEES - who hold regular meetings, and generally control the activities of the organisation; for example, the trustees are responsible for monitoring and controlling the financial position of the organisation.
- 10 The people serving as Charity Trustees are referred to in this constitution as trustees.
- 11 Both members and the trustees have a duty to respect the confidentiality of decisions and information they may be party to.

## **MEMBERS**

### **Qualifications for membership**

- 12 Membership is open to any individual aged 16 or over who supports the objectives of the organisation.
- 13 Employees of the organisation are eligible for membership as long as employees do not account for more than 30% of membership.
- 14 The paths to membership are as:
  - 14.1 VOLUNTEER MEMBERS who contribute time in a capacity which is mutually agreed. As a cooperative, SHRUB exists as a result of the collaboration of its diverse community and the sharing of their skills and knowledge. Volunteer members are the heart of SHRUB and will

have access to support from the organisation for education, training and development that is not available to Supporter Members.

- 14.2 SUPPORTER MEMBERS, who want to be a part of our community and have access to its benefits, but cannot contribute time, can make a financial contribution membership through a subscription fee as described in clause 17.
- 15 For the avoidance of doubt, where a clause refers to members it applies equally to Volunteer and Supporter Members unless otherwise specified.
- 16 If a member contributes both as a Volunteer Member and a Supporter Member, they shall be considered a Volunteer Member as long as they are an active volunteer as describe in clause 24.

### **Application for membership**

- 17 Any person who wishes to become a member must make a written application for membership, indicating their support for the aims of the organisation, and lodge this with the organisation along with:
  - 17.1 a remittance to meet the annual membership subscription; or
  - 17.2 a volunteer agreement to become an active volunteer for the organisation.
- 18 The application will then be considered by the trustees. Consideration of applications for memberships may be delegated by the trustees in line with clauses 116 to 120.
- 19 The trustees may, at their discretion, refuse to admit any person to membership if there is evidence that this person might act against the interests of the organisation. No refusal to admit a person to membership may be based directly or indirectly on the grounds of any protected characteristic as defined in the Equalities Act 2010.
- 20 The organisation must notify each applicant promptly (in writing or by e-mail) of the trustees' decision on whether or not to admit them to membership. If the decision was to refuse admission, the organisation shall return to the applicant any remittance lodged by them under clause 17.

### **Membership subscription**

- 21 Supporter Members shall require to pay an annual membership subscription; the amount of the annual membership subscription shall be determined by the members at members meetings at a level which will not be unduly restrictive.

- 21.1 The annual membership subscriptions shall be payable on or before the yearly anniversary of their admission to membership.
  - 21.2 The half year membership subscriptions shall be payable on or before the 6 month anniversary of their admission to membership.
  - 21.3 If the membership subscription payable by any member remains outstanding more than 4 weeks after the date on which it fell due - and providing they have been given at least one written reminder - the member will be considered to have withdrawn from membership.
  - 21.4 A person who ceases (for whatever reason) to be a member shall not be entitled to any refund of the membership subscription.
- 22 The members may vary the amount of the annual membership subscription and/or the date on which it falls due in each year, by way of a resolution to that effect passed at an AGM.
- 23 Volunteer Members shall be required to actively volunteer with the organisation.
- 24 Active volunteers are defined as having contributed their time and efforts to the organisation within the last 3 months. After this time they will be considered inactive.
- 25 If a Volunteer Member becomes inactive:
- 25.1 If they are also a Supporter Member they will revert to Supporter Member status and clause 18 will apply; or
  - 25.2 If they are not a Supporter Member they will be considered to have withdrawn from membership.

### **Register of members**

- 26 The organisation must keep a register of members, setting out:
- 26.1 for each current member:
    - 26.1.1 their full name, address and email address; and
    - 26.1.2 the date on which they were registered as a member of the organisation;

- 26.2 for each former member - for at least six years from the date on they ceased to be a member:
- 26.2.1 their name; and
  - 26.2.2 the date on which they ceased to be a member.
- 27 The trustees must ensure that the register of members is updated within 28 days of any change:
- 27.1 which arises from a resolution of the trustees or a resolution passed by the members of the organisation; or
  - 27.2 which is notified to all members of the organisation.
- 28 If a member or trustee of the organisation requests a copy of the register of members:
- 28.1 The trustees must ensure that a copy is supplied to them within 28 days, providing the request is reasonable;
  - 28.2 If the request is made by a member (rather than a trustee), the trustees may take such action as they consider reasonable to protect personal or sensitive information such as members' contact details.

### **Withdrawal from membership**

- 29 Any person who wants to withdraw from membership must give signed, written notice of their withdrawal to the organisation. They will cease to be a member as from the time when the notice is received by the organisation.
- 30 Members will also be considered to have withdrawn from membership if they cease to meet the subscription requirements (clauses 21 - 25).

### **Transfer of membership**

- 31 Membership of the organisation may not be transferred by a member.

### **Expulsion from membership**

- 32 Any person 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:-
- 32.1 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; and

- 32.2 the member concerned will be entitled to be heard on the resolution at the members' meeting at which the resolution is proposed.

## **Termination**

- 33 A Member shall cease to be a Member of the organisation immediately if they:
- 33.1 Cease to meet the criteria for membership;
  - 33.2 Fail in the opinion of the trustees unreasonably to pay any fee or other monies due to the organisation;
  - 33.3 Are expelled or withdraw from membership in accordance with these clauses; or
  - 33.4 Die, or in the opinion of the trustees are unable to carry out their role.

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

### **Members' meetings**

- 34 The organisation may make decisions through meetings held by its membership ("members' meetings"). The organisation:
- 34.1 must hold a regular annual general meeting ("AGM"); and
  - 34.2 may hold additional special members' meetings.
- 35 In accordance with the Cooperative Principle of democratic member control, the organisation shall ensure that, in addition to the annual general meeting, at least one other special members' meeting is held annually to ensure that Members are given the opportunity to participate in the decision-making process of the organisation, review the business planning and management processes and to ensure the Cooperative manages itself in accordance with the cooperative values and Cooperative Principles.
- 36 The trustees must arrange an AGM in each calendar year.
- 37 The gap between one AGM and the next must not be longer than 15 months.
- 38 Notwithstanding clause 37, an AGM does not need to be held during the calendar year in which the organisation is formed; but the first

AGM must still be held within 15 months of the date on which the organisation is formed.

39 The business of each AGM must include:-

39.1 a report by the convener on the activities of the organisation;

39.2 consideration of the annual accounts of the organisation;

39.3 the election / re-election of trustees, as referred to in clauses 77 to 80.

### **Power to request the trustees to arrange a special members' meeting**

40 The trustees may arrange a special members' meeting at any time.

41 The trustees 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 the organisation at the time, providing:

41.1 the notice states the purposes for which the meeting is to be held; and

41.2 those purposes are not inconsistent with the terms of this constitution, the Charities and Trustee (Investment) Scotland Act 2005 or any other statutory provision.

42 If the trustees receive a notice under clause 41, 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**

43 At least 14 clear calendar days' notice must be given of any AGM or any special members' meeting.

44 The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; and

44.1 in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s); or

44.2 in the case of any other resolution falling within clause 63 (requirement for two-thirds majority) must set out the exact terms of the resolution.

- 45 The reference to “clear days” in clause 43 shall be taken to mean that, in calculating the period of notice,
- 45.1 the day after the notices are posted (or sent by e-mail) should be excluded; and
  - 45.2 the day of the meeting itself should also be excluded.
- 46 Notice of every members' meeting must be sent to all the members of the organisation, and to all the trustees; but the accidental omission to give notice to one or more members will not invalidate the proceedings at the meeting.
- 47 Any notice which requires to be given to a member under this constitution must be:
- 47.1 sent by e-mail to the member, at the e-mail address last notified by them to the organisation.
  - 47.2 sent by post to the member, at the address last notified by them to the organisation; or

#### **Procedure at members' meetings**

- 48 No valid decisions can be taken at any members' meeting unless a quorum is present.
- 49 The quorum for a members' meeting is 10 members or one-third of the membership, whichever is the lesser, present in person or represented by proxy for a member.
- 49.1 The trustees may make arrangements, in advance of any members' meeting, to allow members to participate in the members' meeting by means of a conference telephone, video conferencing facility or similar communications equipment - so long as all those participating in the meeting can hear each other.
  - 49.2 A member participating in a members' meeting in this manner shall be deemed to be present in person at the meeting.
  - 49.3 Staff who are members must account for less than half of quorum.
- 50 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.

- 51 The convener of the organisation may act as facilitator of each members' meeting.
- 52 If the convener of the organisation is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as convener), the members present at the meeting must identify the person who will act as convener of that meeting.

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

- 53 Staff who are members must account for less than half of any vote, whether given personally or by valid proxy.
- 54 Every member has one vote, which must be given personally or by a valid proxy.
- 55 For the avoidance of doubt, a vote given by a member participating in the meeting through any of the methods referred to in clause 49.1 will be taken to be given personally for the purposes of clause 54.
- 56 A member may appoint a proxy to vote on their behalf at any members' meeting so long as:
- 56.1 they provide the organisation a duly completed proxy form (in such terms as the trustees require) signed by them;
  - 56.2 the proxy form is received, by electronic or hard copy, at the address stipulated on the proxy form, before the start of the members' meeting.
  - 56.3 any form that does not meet these requirements shall be invalid.
- 57 For the avoidance of doubt:
- 57.1 A proxy need not be a member of the organisation.
  - 57.2 A member shall not be entitled to appoint more than one proxy to attend on the same occasion.
- 58 Subject to clause 59, in relation to each resolution proposed at a members' meeting, an individual shall not be entitled to cast more than 2 votes as a proxy (in addition to any vote to which they are entitled personally, if they are a member of the organisation).

- 59 Where members have appointed the convener of a members' meeting to vote as their proxy - and have directed them (through wording in the proxy form) on whether they should vote on their behalf in favour of, or against, each resolution - the provisions of clause 58 shall not apply in relation to the chair, in acting as proxy for those members.
- 60 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 them to speak at the meeting.
- 61 All decisions at members meetings will normally be made by consensus. In extremis decisions can be made by majority vote - with the exception of the types of resolution listed in clause 62
- 62 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 66):
- 62.1 a resolution amending the constitution;
  - 62.2 a resolution expelling a person from membership under clause 32;
  - 62.3 a resolution directing the trustees to take any particular step (or directing the trustees not to take any particular step);
  - 62.4 a resolution approving the amalgamation of the organisation with another SCIO (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation);
  - 62.5 a resolution to the effect that all of the organisation'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); or
  - 62.6 a resolution for the winding up or dissolution of the organisation.
- 63 If there is an equal number of votes for and against any resolution, the convener of the meeting will not be entitled to a second (casting) vote and the status quo shall be maintained. The trustees may choose to refer the matter to a future general meeting of the organisation.
- 64 A resolution put to the vote at a members' meeting will be decided on a show of hands - unless the convener (or at least two other members present at the meeting and entitled to vote, whether as members or proxies for their members) ask for a secret ballot.

- 65 The convener will decide how any secret ballot is to be conducted, and they will declare the result of the ballot at the meeting.

### **Written resolutions by members**

- 66 A resolution agreed to in writing (or by e-mail) by all 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**

- 67 The trustees must ensure that proper minutes are kept in relation to all members' meetings.
- 68 Minutes of members' meetings must include the names of those present; and (so far as possible) should be signed by the convener of the meeting.

## **TRUSTEES**

### **Number of Trustees**

- 69 The minimum number of trustees is 4 and the maximum number is 12.
- 70 Of the members of the trustees:
- 70.1 All of the trustees may be elected / appointed under clauses 76 and 77 (or deemed to have been appointed under clause 75); and
- 70.2 no more than 3 shall be trustees who were co-opted under the provisions of clauses 80 and 81.
- 71 In particular the trustees should endeavour to co-opt one trustee each from the University of Edinburgh Department for Social Responsibility and Sustainability and the Edinburgh University Student Association (or their successor entities) as key representatives of the community served by the organisation.

### **Eligibility**

- 72 A person shall be eligible for election or appointment to the trustees, under clauses 76 to 79, if they are a member of the organisation.
- 73 A person appointed to the trustees under clause 80 need not be a member of the organisation.

74 A person will not be eligible for election or appointment to the trustees if they are:

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

74.2 an employee of the organisation.

### **Initial trustees**

75 The individuals who signed the trustee declaration forms which accompanied the application for incorporation of the organisation shall be deemed to have been appointed by the members as trustees with effect from the date of incorporation of the organisation.

### **Election, retirement and re-election of trustees**

76 At each AGM, the members may elect any member (unless they are debarred from membership under clause 74) to be a trustee.

77 The trustees may at any time appoint any member (unless they are debarred from membership under clause 74) to be a trustee.

78 At each AGM, all of the trustees elected / appointed under clauses 76 and 77 (and, in the case of the first AGM, those deemed to have been appointed under clause 75) shall retire from office – but shall then be eligible for re-election under clause 76.

79 A trustee retiring at an AGM will be deemed to have been re-elected unless:

79.1 they advise the trustees prior to the conclusion of the AGM that they do not wish to be re-appointed as a trustee; or

79.2 an election process was held at the AGM and they were not among those elected / re-elected through that process; or

79.3 a resolution for the re-election of that trustee was put to the AGM and was not carried.

### **Appointment / re-appointment of co-opted trustees**

80 In addition to their powers under clause 77, the trustees may at any time appoint any non-member of the organisation to be a trustee (subject to clause 70, and providing they are not debarred from membership under clause 74) either on the basis that:

80.1 They have been nominated by a body with which the organisation has close contact in the course of its activities;

- 80.2 They have specialist experience and / or skills which could be of assistance to the trustees.
- 81 At each AGM, all of the trustees appointed under clause 80 shall retire from office – but shall then be eligible for re-appointment under that clause.

### **Termination of office**

- 82 A trustee will automatically cease to hold office if:
- 82.1 they become disqualified from being a trustee under the Charities and Trustee Investment (Scotland) Act 2005;
  - 82.2 they become incapable for medical reasons of carrying out their duties as a trustee - but only if that has continued (or is expected to continue) for a period of more than six months - and only if the trustees resolves to remove them from office;
  - 82.3 (in the case of a trustee elected / appointed under clauses 76 to 79) they cease to be a member of the organisation;
  - 82.4 they become an employee of the organisation;
  - 82.5 they give the organisation a signed notice of their resignation;
  - 82.6 they are absent (without good reason, in the opinion of the trustees) from more than three consecutive meetings of the trustees - but only if the trustees resolve to remove them from office;
  - 82.7 they are removed from office by resolution of the trustees on the grounds that they are considered to have committed a material breach of the code of conduct for trustees (as referred to in clause 99);
  - 82.8 they are removed from office by resolution of the trustees 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 Charities and Trustee Investment (Scotland) Act 2005; or
  - 82.9 they are removed from office by a resolution of the members passed at a members' meeting.
- 83 A resolution under paragraph 71.7, 71.8 or 71.9 shall be valid only if:
- 83.1 the trustee who is the subject of the resolution is given reasonable prior written notice of the grounds upon which the resolution for their removal is to be proposed;

83.2 the trustee concerned is given the opportunity to address the meeting at which the resolution is proposed, prior to the resolution being put to the vote; and

83.3 (in the case of a resolution under paragraph 71.7 or 71.8) at least two thirds (to the nearest round number) of the trustees then in office vote in favour of the resolution.

### **Register of trustees**

84 The trustees must keep a register of trustees, setting out

84.1 for each current trustee:

84.1.1 their full name, address and email address;

84.1.2 the date on which they were appointed as a trustee; and

84.1.3 any office held by them in the organisation;

84.2 for each former trustee - for at least 6 years from the date on which they ceased to be a trustee:

84.2.1 the name of the trustee;

84.2.2 any office held by them in the organisation; and

84.2.3 the date on which they ceased to be a trustee.

85 The trustees must ensure that the register of trustees is updated within 28 days of any change:

85.1 which arises from a resolution of the trustees or a resolution passed by the members of the organisation; or

85.2 which is notified to the organisation.

86 If any person requests a copy of the register of trustees:

86.1 The trustees must ensure that a copy is supplied to them within 28 days, providing the request is reasonable;

86.2 If the request is made by a person who is not a trustee of the organisation, the trustees may take such steps as they consider reasonable to protect personal or sensitive information such as members' addresses - if the organisation is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

### **Office-bearers**

- 87 The trustees must elect (from among themselves) a convener, a treasurer and a secretary.
- 88 In addition to the office-bearers required under clause 87, the trustees may elect (from among themselves) further office-bearers if they consider that appropriate.
- 89 All of the office-bearers will cease to hold office at the conclusion of each AGM, but may then be re-elected under clause 87 or 88.
- 90 A person elected to any office will automatically cease to hold that office: -
- 90.1 if they cease to be a trustee; or
- 90.2 if they provide a signed notice of their resignation from that office.

### **Powers of trustees**

- 91 Except where this constitution states otherwise, the organisation (and its assets and operations) will be managed by the trustees; and the trustees may exercise all the powers of the organisation subject to clause 97.
- 92 A meeting of the trustees at which a quorum is present may exercise all powers exercisable by the trustees.
- 93 The members may, by way of a resolution passed in compliance with clause 62 (requirement for two-thirds majority), direct the trustees to take any particular step or direct the trustees not to take any particular step; and the trustees shall give effect to any such direction accordingly.

### **Trustees - general duties**

- 94 Each of the trustees has a duty, in exercising functions as a trustee, to act in the interests of the organisation; and, in particular, must:-
- 94.1 seek, in good faith, to ensure that the organisation acts in a manner which is in accordance with its purposes;
- 94.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
- 94.3 in circumstances giving rise to the possibility of a conflict of interest between the organisation and any other party:

94.3.1 put the interests of the organisation before that of the other party;

94.3.2 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 trustees with regard to the matter in question; and

94.4 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.

95 In addition to the duties outlined in clause 94, all of the trustees must take such steps as are reasonably practicable for the purpose of ensuring: -

95.1 that any breach of any of those duties by a trustee is corrected by the trustee concerned and not repeated; and

95.2 that any trustee who has been in serious and persistent breach of those duties is removed as a trustee.

96 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 trustee will not be debarred from entering into an arrangement with the organisation in which they have a personal interest; and (subject to clause 97 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.

97 No trustee may serve as an employee (full time or part time) of the organisation; and no trustee may be given any remuneration by the organisation for carrying out their duties as a trustee.

98 The 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 trustees**

99 Each of the trustees shall comply with any code of conduct (incorporating detailed rules on conflict of interest) prescribed by the trustees from time to time.

100 Any code of conduct referred to in clause 99 shall be supplemental to the provisions relating to the conduct of trustees contained in this constitution and the duties imposed on 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 TRUSTEES**

### **Notice of trustee meetings**

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

### **Procedure at trustees meetings**

- 103 No valid decisions can be taken at a trustees meeting unless a quorum is present; the quorum for trustees meetings is 50% of the trustees or 3, whichever is greater.
- 103.1 A trustee may participate in a meeting of the trustees by means of a conference telephone, video conferencing facility or similar communications equipment so long as all the trustees participating in the meeting can hear each other; a trustee participating in a meeting in this manner shall be deemed to be present in person at the meeting
- 104 If at any time the number of trustees in office falls below the number stated as the quorum in clause 103, the remaining trustee(s) will have power to fill the vacancies or call a members' meeting - but will not be able to take any other valid decisions.
- 105 The convener of the organisation may act as facilitator of each trustees meeting or the trustees may identify another trustee to facilitate the meeting.
- 106 If the convener is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as facilitator), the trustees present at the meeting must identify (from among themselves) the person who will act as facilitator of that meeting.
- 107 Every trustee has one vote, which must be given personally; for the avoidance of doubt, a vote given by a trustee participating in the meeting through any of the methods referred to in clause 103.1 will be taken to be given personally for the purposes of this clause.
- 108 All decisions at trustees meetings will normally be made by consensus and only in extremis be made by majority vote.
- 109 If there is an equal number of votes for and against any resolution, the chairperson of the meeting will not be entitled to a second (casting)

vote, the status quo shall be maintained and the trustees may choose to refer the matter to a general meeting of the Cooperative.

- 110 The trustees may, at their discretion, allow any person to attend and speak at a trustees meeting notwithstanding that they are not a trustee - but on the basis that they do not participate in decision-making.
- 111 A trustee must not vote at a trustees meeting (or at a meeting of a sub-committee) on any resolution which relates to a matter in which they has a personal interest or duty which conflicts (or may conflict) with the interests of the organisation; they must withdraw from the meeting while an item of that nature is being dealt with.
- 112 For the purposes of clause 111:
- 112.1 an interest held by an individual who is “connected” with the trustee under section 68(2) of the Charities and Trustee Investment (Scotland) Act 2005 (a husband / wife, partner, child, parent, brother / sister etc) shall be deemed to be held by that trustee; and
- 112.2 a 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.

## **Minutes**

- 113 The trustees must ensure that proper minutes are kept in relation to all trustees meetings and meetings of sub-committees.
- 114 The minutes to be kept under clause 113 must include the names of those present; and (so far as possible) should be signed by the convener of the meeting.

## **ADMINISTRATION**

### **Delegation to sub-committees**

- 115 The trustees may delegate any of their powers to sub-committees; a sub-committee should normally include at least one trustee, but other members of a sub-committee need not be trustees.
- 116 The trustees may also delegate to the convener of the organisation (or the holder of any other post) such of their powers as they may consider appropriate.

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

### **Operation of accounts**

- 120 Subject to clause 121, the signatures of two out of three signatories appointed by the trustees will be required in relation to all operations (other than the lodging of funds) on the bank and building society accounts held by the organisation; at least one out of the two signatures must be the signature of a trustee.
- 121 Where the organisation 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 120.

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

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

## **MISCELLANEOUS**

### **Winding-up**

- 124 If the organisation 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.
- 125 Any surplus assets available to the organisation immediately preceding its winding up or dissolution:

125.1 must be used for purposes which are the same as - or which closely resemble - the purposes of the organisation as set out in this constitution.

125.2 must be given to an organisation with provisions equivalent to clause 6 and clause 124.

125.3 as far as possible should be given to organisations with a cooperative structure.

### **Alterations to the constitution**

126 This constitution may (subject to clause 127) be altered by resolution of the members passed at a members' meeting (subject to achieving the two thirds majority referred to in clause 62) or by way of a written resolution of the members.

127 The Charities and Trustee Investment (Scotland) Act 2005 prohibits taking certain steps (eg change of name, an alteration to the purposes, amalgamation, winding-up) without the consent of the Office of the Scottish Charity Regulator (OSCR).

### **Interpretation**

128 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include:

128.1 any statutory provision which adds to, modifies or replaces that Act; and

128.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph 110.1 above.

129 In this constitution:

129.1 "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;

129.2 "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.