



CONSTITUTION OF THE LOWER EARN TRUST

A Scottish Charitable Incorporated Organisation
Charity registered in Scotland No SC052869

Lower Earn Trust

Balmanno, Bridge of Earn, Perth PH2 9HG

Website: www.lowerearntrust.com Email: info@lowerearntrust.com

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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 "Lower Earn Trust", a SCIO.

Purposes

- 4 The SCIO/Trust's purposes are to fund raise, apply for grants, accumulate funds, manage applications, and make grant awards to local charities and charitable projects.

The Lower Earn Trust will consider grants to be applied to the geographic community known as the Ward of Earn Community Council, (as is at the date of inception 2023).

The SCIO/Trust has determined to support the following qualifying purposes, which are stated in the Charities and Trustee Investment (Scotland) Act 2005 (legislation.gov.uk).

- b. The advancement of education,
- d. The advancement of health,
- f. The advancement of citizenship or community development,
- h. The advancement of public participation in sport,
- i. The provision of recreational facilities, or the organisation of recreational activities, with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended,
- m. The advancement of environmental protection or improvement,

Powers

- 5 The SCIO/Trust 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 SCIO/Trust may be paid or transferred (directly or indirectly) to the Members - either in the course of the SCIO/Trust's existence or on dissolution - except where this is done in direct furtherance of the SCIO/Trust's charitable purposes.
- 7 Clause 6 does not prevent the SCIO/Trust making any payment which is permitted under clauses 95 to 99 (remuneration and expenses).

Liability of Members

- 8 The Members of the SCIO/Trust have no liability to pay any sums to help to meet the debts (or other liabilities) of the SCIO/Trust if it is wound up; accordingly, if the SCIO/Trust is unable to meet its debts, the Members will not be held responsible.
- 9 The Members and Charity Trustees have certain legal duties under the Scottish Charities Act; and clause 8 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

- 10 The structure of the SCIO/Trust consists of:
 - (a) the MEMBERS - who have the right to participate in Members' meetings (including any annual Members' meeting) and have important powers under the constitution; for example, the Members elect people to serve on the Board and take decisions on changes to the constitution itself.
 - (b) the BOARD - who hold regular meetings, and generally control the activities of the SCIO/Trust; for example, the Board is responsible for monitoring and controlling the financial position of the SCIO/Trust.
- 11 The people serving on the Board are referred to in this constitution as CHARITY TRUSTEES.

MEMBERS

Qualifications for Membership

- 12 Membership is open to any individual aged 16 or over who.
- (i) Reside in the geographic community recognised as the Ward of the Earn Community Council, as at the date of inception 2023, or,
 - (ii) Has a legitimate interest in the community.
- 13 Employees of the SCIO/Trust are not eligible for Membership; and a person who becomes an employee of the SCIO/Trust after admission to Membership will automatically cease to be a Member.

Application for Membership

- 14 Any person who wishes to become a Member must submit an application for Membership (in writing or by email); the application will then be considered by the Board at its next Board meeting.
- 15 The Board may, at its discretion, refuse to admit any person to Membership.
- 16 The Board must notify each applicant promptly (in writing or by email) of its decision on whether or not to admit them to Membership.

Membership subscription

- 17 No Membership subscription will be payable.

Register of Members

- 18 The Board must keep a register of Members, setting out:
- (a) for each current Member:
 - (i) their full name and address; and
 - (ii) the date on which they were registered as a Member of the SCIO/Trust.
 - (b) for each former Member - for at least six years from the date on which they ceased to be a Member:
 - (i) their name; and
 - (ii) the date on which they ceased to be a Member.

- 19 The Board must ensure that the register of Members is updated within 28 days of any change:
- (a) which arises from a resolution of the Board, or a resolution passed by the Members of the SCIO/Trust; or
 - (b) which is notified to the SCIO/Trust.
- 20 If a Member or Charity Trustee of the SCIO/Trust 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 redacted.

Withdrawal from Membership

- 21 Any person who wants to withdraw from Membership must submit a notice of withdrawal to the SCIO/Trust, (either in writing or by email); they will cease to be a Member as from the time when the notice is received by the SCIO/Trust, a confirmation of receipt must be provided by the Board.

Transfer of Membership

- 22 Membership of the SCIO/Trust may not be transferred by a Member.

Re-registration of Members

- 23 The Board may, at any time, issue notices to the Members (either in writing or by email) requiring them to confirm that they wish to remain as Members of the SCIO/Trust and allowing them a period of 28 days (running from the date of issue of the notice) to provide that confirmation to the Board.
- 24 If a Member fails to provide confirmation to the Board (in writing or by email) that they wish to remain as a Member of the SCIO/Trust before the expiry of the 28-day period referred to in clause 23, the Board may expel them from Membership.
- 25 A notice under clause 23 will not be valid unless it refers specifically to the consequences (under clause 24) of failing to provide confirmation within the 28-day period.

Expulsion from Membership

- 26 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:

- (a) 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.
- (b) the Member concerned will be entitled to be heard on the resolution at the Members' meeting at which the resolution is proposed.

Termination of Membership

27 Membership of the SCIO/Trust will terminate on death.

DECISION-MAKING BY THE MEMBERS

Members' meetings

- 28 The Board must arrange a meeting of Members (an annual Members' meeting or "AGM") in each calendar year.
- 29 The gap between one AGM and the next must not be longer than 15 months.
- 30 Notwithstanding clause 28, an AGM does not need to be held during the calendar year in which the SCIO/Trust is formed; but the first AGM must still be held within 15 months of the date on which the SCIO/Trust is formed.
- 31 The business of each AGM must include:
- (a) consideration and approval of the annual report by the Chairperson on the activities of the SCIO/Trust.
 - (b) consideration and approval by Proposer and Seconder of the minutes of the previous AGM
 - (c) consideration and approval by Proposer and Seconder of the annual accounts of the SCIO/Trust.
 - (d) the election/re-election of Charity Trustees, as referred to in clauses 73 to 76.
- 32 The Board may arrange a special Members' meeting at any time.

Power to request the Board to arrange a Members' meeting.

- 33 The Board must arrange a Members' meeting if they are requested to do so by a notice (in writing or by email) by Members, providing:

- (a) the notice states the purposes for which the meeting is to be held; and
 - (b) those purposes are not inconsistent with the terms of this constitution, the Scottish Charities Act or any other statutory provision.
- 34 A notice under clause 33 may take the form of:
 - (a) two or more documents in the same terms, received within 14 days of each other, each signed by one or more Members; and/or
 - (b) two or more emails, received within 14 days of each other, each issued by a Member.

and the Board will be taken to have received the notice on the date on which they receive sufficient documents and/or emails to equal or exceed the threshold referred to in clause 33.
- 35 If the Board receive a notice under clause 33, 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 last valid notice.

Notice of Members' meetings

- 36 At least 14 clear days' notice must be given of any AGM or any special Members' meeting.
- 37 The notice calling a Members' meeting must specify in general terms what business is to be dealt with at the meeting; and
 - (a) in the case of any resolution falling within clause 55 (requirement for two-thirds majority) must set out the exact terms of the resolution; and
 - (b) in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s).
- 38 The reference to "clear days" in clause 36 shall be taken to mean that, in calculating the period of notice:
 - (a) the day after the notices are posted (or sent by email) should be excluded; and
 - (b) the day of the meeting itself should also be excluded.
- 39 Notice of every Members' meeting must be given to all the Members of the SCIO/Trust, and to all the Charity Trustees; but the accidental

omission to give notice to one or more Members or Charity Trustees will not invalidate the proceedings at the meeting.

- 40 Any notice which requires to be given to a Member under this constitution must be:
- (a) sent by post to the Member, at the address last notified by them to the SCIO/Trust; or
 - (b) sent by email to the Member, at the email address last notified by them to the SCIO/Trust.
- 41 If Members and Charity Trustees are to be permitted to participate in a Members' meeting by way of audio and/or audio-visual link(s) (see clause 44), the notice (or notes accompanying the notice) must:
- (a) set out details of how to connect and participate via that link or links; and
 - (b) (particularly for the benefit of those Members who may have difficulties in using a computer or laptop for this purpose) draw Members' attention to the following options:
 - (i) participating in the meeting via an audio link accessed by phone, using dial-in details (if that forms part of the arrangements).
 - (ii) (where attendance in person is to be permitted, either on an open basis or with a restriction on the total number who will be permitted to attend) attending and voting in person at the meeting.

42 Paragraph not used.

43 Paragraph not used.

Procedure at Members' meetings

- 44 The Board may if they consider appropriate (and must, if this is required under clause 45) make arrangements for Members and Charity Trustees to participate in Members' meetings by way of audio and/or audio-visual link(s) which allow them to hear and contribute to discussions at the meeting, providing:
- (a) the means by which Members and Charity Trustees can participate via that link or links are not subject to technical complexities, significant costs or other factors which are likely to represent - for all or a significant proportion of the Membership - a barrier to participation.

- (b) the notice calling the meeting (or notes accompanying the notice) contains the information required under clause 41; and
 - (c) the manner in which the meeting is conducted ensures, so far as reasonably possible, that those Members and Charity Trustees who participate via an audio or audio-visual link are not disadvantaged with regard to their ability to contribute to discussions at the meeting, as compared with those Members and Charity Trustees, (if any), who are attending in person (and vice versa).
- 45 If restrictions arising from public health legislation or guidance are likely to mean that attendance in person at a proposed Members' meeting would not be possible or advisable for all or a significant proportion of the Membership, the Board must make arrangements for Members and Charity Trustees to participate in that Members' meeting by way of audio and/or audio-visual link(s) which allow them to hear and contribute to discussions at the meeting; and on the basis that the requirements set out in paragraphs (a) to (c) of clause 44 will apply.
- 46 A Members' meeting may involve two or more Members or Charity Trustees participating via attendance in person while other Members and/or Charity Trustees participate via audio and/or audio-visual links; or it may involve participation solely via audio and/or audio-visual links.
- 47 Paragraph not used.
- 48 The quorum for a Members' meeting is four, (4), Members, present in person.
- 49 An individual participating in a Members' meeting via an audio or audio-visual link which allows them to hear and contribute to discussions at the meeting will be deemed to be present in person.
- 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 Chair of the SCIO/Trust should act as Chairperson of each Members' meeting.
- 52 If the Chairperson of the SCIO/Trust 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.

Voting at Members' meetings

- 53 Every Member has one vote, which must be given personally, (subject to clause 58).
- 54 All decisions at Members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause 55.
- 55 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 63):
- (a) a resolution amending the constitution.
 - (b) a resolution expelling a person from Membership under clause 26;
 - (c) a resolution removing a person from office as a Charity Trustee under paragraph (i) of clause 79;
 - (d) a resolution directing the Board to take any step (or directing the Board not to take any particular step) under clause 90;
 - (e) a resolution approving the amalgamation of the SCIO/Trust with another SCIO, (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation).
 - (f) a resolution to the effect that all of the SCIO/Trust'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).
 - (g) a resolution for the winding up or dissolution of the SCIO/Trust.
- 56 If there is an equal number of votes for and against any resolution, the Chairperson of the meeting will be entitled to a second, (casting), vote.
- 57 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), ask for a secret ballot.
- 58 Where Members are participating in a meeting via an audio or audio-visual link, they may cast their votes on any resolution orally, or by way of some form of visual indication, or by use of a voting button or similar, or by way of a message sent electronically - and providing the

Board have no reasonable grounds for suspicion as regards authenticity, any such action shall be deemed to be a vote cast personally via a show of hands.

- 59 The Chairperson will decide how any secret ballot is to be conducted, and they will declare the result of the ballot at the meeting.
- 60 Where Members are participating in a meeting via audio and/or audio-visual links, the Chairperson's directions regarding how a secret ballot is to be conducted may allow those Members to cast their votes on the secret ballot via any or all of the methods referred to in clause 58, providing reasonable steps are taken to preserve anonymity, (while at the same time, addressing any risk of irregularities in the process).
- 61 Paragraph not used.

Technical objections to remote participation in Members' meetings

- 62 This constitution imposes certain requirements regarding the use of audio and/or audio-visual links as a means of participation and voting at Members' meetings; providing the arrangements made by the Board in relation to a given Members' meeting, (and the manner in which the meeting is conducted), are consistent with those requirements:
- (a) a Member cannot insist on participating in the Members' meeting, or voting at the Members' meeting, by any particular means.
 - (b) the Members' meeting need not be held in any particular place.
 - (c) the Members' meeting may be held without any particular number of those participating in the meeting being present in person at the same place (but, notwithstanding that, the quorum requirements - taking account of those participating via audio and/or audio-visual links - must still be met).
 - (d) the Members' meeting may be held by any means which permits those participating in the meeting to hear and contribute to discussions at the meeting.
 - (e) a Member will be able to exercise the right to vote at the Members' meeting, (including where a secret ballot is to be held), by such means as is determined by the Chairperson of the meeting, (consistent with the arrangements made by the Board), and which permits that Member's vote to be taken into account in determining whether or not a resolution is passed.

63 Paragraph not used.

Minutes of Members' meetings

- 64 The Board must ensure that proper minutes are kept, in the Approved Format, in relation to all Members' meetings, and that a proper record is kept of all resolutions agreed to in writing or by email.
- 65 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.
- 66 The records of resolutions kept must include confirmation that all Members agreed to the resolution; and should be signed by the Chairperson of the SCIO/Trust.
- 67 All documents, formal or supportive, must be prepared and circulated in the Approved Format.

BOARD

The rules for nomination and election to the LET Board are set out in Appendix 11.

Number of Charity Trustees

68 The maximum number of Charity Trustees is eleven, (11), out of that:

- (a) no more than seven, (7), shall be Charity Trustees who were elected/appointed under clauses 73 to 76 (or deemed to have been appointed by the Members under clause 72); and
- (b) no more than four, (4), shall be Charity Trustees who were co-opted by the Board under the provisions of clauses 77 and 78.

69 The minimum number of Charity Trustees is four, (4).

Eligibility

70 A person shall not be eligible for election/appointment to the Board under clauses 73 to 76 unless they are a Member of the SCIO/Trust.

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

- (a) disqualified from being a Charity Trustee under the Scottish Charities Act; or
- (b) an employee of the SCIO/Trust.
- (c) Related to more than two other Board Members such as:
 - i. Members of the same family, (within first cousins, or partners or married thereto).
 - ii. Officers of the same membership organisation, umbrella / holding or subsidiary.
 - iii. Officers of the same recognised body, e.g. club, association, or faith group.
 - iv. Directors of the same firm, holding company and / or subsidiaries.
 - v. Trustees of the same Trust.

Rules for managing such a Conflict among the Trustees.

- a) There should be a Declaration of Interest at each election to prevent this rule being breached.
- b) This is an issue covered by the Declaration of Interest at the commencement of each, and every, Board and Members meeting.
- c) In the event that it comes to pass that such a relationship evolves, develops or is discovered it must be declared and resolved at the first / next meeting; the associated persons must determine who remains and who resigns as a Trustee.
- (d) In the event that resolution cannot be reached within 10 minutes, the most recently elected will resign immediately, reference to the order of the election, or date of co-option shall determine the order.

Initial Charity Trustees

- 72 The individuals who signed the Charity Trustee declaration forms which accompanied the application for incorporation of the SCIO/Trust shall be deemed to have been appointed by the Members as Charity Trustees with effect from the date of incorporation of the SCIO/Trust.

Election, retiral, re-election

- 73 At each AGM, the Members may elect any Member, (subject to clause 68, and providing they are not debarred under clause 71), to be a Charity Trustee.
- 74 The Board may at any time appoint, (co-opt), any Member, (subject to clause 68, and providing they are not debarred under clause 71), to be a Charity Trustee.
- 75 At each and every AGM.
- (i) Two, (2), being volunteers, or, the longest serving of the Charity Trustees elected / appointed under clauses 73 and 74 shall retire from office – but shall then be eligible for re-election under clause 73.
 - (ii) A person who has served on the board for a period of six, (6), years shall automatically vacate office on expiry of that six-year period and shall then not be eligible for re-election until a further year has elapsed.

- (iii) For the purposes of clause 75(i) the period from the date of the formation of the SCIO / Trust to the first AGM shall be deemed to be a period of one year, unless it is of less than six months' duration, (in which case it shall be disregarded);
 - (iv) the period between the date of appointment of a charity trustee and the AGM which next follows shall be deemed to be a period of one year unless it is of less than six months' duration in which case it shall be disregarded.
 - (v) the period between one AGM and the next shall be deemed to be a period of one year.
 - (vi) if a charity trustee ceases to hold office but is reappointed to that office within a period of six months, they shall be deemed to have held office as a charity trustee continuously.
- 76 A Charity Trustee retiring at an AGM will be deemed to have been re-elected unless:
- (a) they advise the Board prior to the conclusion of the AGM that they do not wish to be re-appointed as a Charity Trustee; or
 - (b) an election process was held at the AGM, and they were not among those elected/re-elected through that process.
 - (c) if they give to the SCIO/Trust a notice of resignation from that office, (either in writing or by email), a confirmation of receipt must be provided by the Board.

Appointment/re-appointment of co-opted Special Advisors.

- 77 In addition to their powers under clause 74, the Board may at any time appoint any person to be a Special Advisor, (providing they are not debarred under clause 71), either on the basis that they have been nominated by the Board on the basis that they have specialist experience and/or skills which could be of assistance to the Board.
- 78 At each AGM, all of the Special Advisors appointed under clause 77 shall retire from office – but shall then be eligible for re-appointment by the Board, (after the AGM), under that clause.

Termination of office

- 79 A Charity Trustee will automatically cease to hold office if:
- (a) they become disqualified from being a Charity Trustee under the Scottish Charities Act.
 - (b) 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.
 - (c) in the case of a Charity Trustee elected/appointed under clauses 73 to 76, or deemed to have been appointed by the Members under clause 72 they cease to be a Member of the SCIO/Trust;
 - (d) they become an employee of the SCIO/Trust.
 - (e) they give the SCIO/Trust a notice of resignation, (either in writing or by email);
 - (f) they are absent, (without good reason, in the opinion of the Board), from more than three consecutive Board meetings - but only if the Board resolve to remove them from office.
 - (g) they are removed from office by resolution of the Board on the grounds that they are considered to have committed a serious breach of the code of conduct for Charity Trustees, (as referred to in clause 100);
 - (h) 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 Scottish Charities Act; or
 - (i) they are removed from office by a resolution of the Members passed at a Members' meeting.

- 80 A resolution under paragraph (g), (h) or (i) of clause 79 shall be valid only if:
- (a) the Charity Trustee concerned is given twenty-one (21) days prior notice, (in writing and delivered by Registered Post to the last address registered in the Register of Members), of the grounds upon which the resolution for their removal is to be proposed .
 - (b) 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.
 - (c) in the case of a resolution under paragraph (g) or (h), at least two thirds, (to the nearest round number), of the Charity Trustees then in office vote in favour of the resolution; and
 - (d) in the case of a resolution under paragraph (i), at least two thirds, (to the nearest round number), of the votes cast in relation to the resolution were in favour of the resolution.

Register of Charity Trustees

- 81 The Board must keep a register of Charity Trustees, setting out:
- (a) for each current Charity Trustee:
 - (i) their full name and address.
 - (ii) the date on which they were appointed as a Charity Trustee; and
 - (iii) any office held by them in the SCIO/Trust.
 - (b) for each former Charity Trustee - for at least 6 years from the date on which they ceased to be a Charity Trustee:
 - (i) the name of the Charity Trustee.
 - (ii) any office held by them in the SCIO/Trust; and
 - (iii) the date on which they ceased to be a Charity Trustee.
- 82 The Board must ensure that the register of Charity Trustees is updated within 28 days of any change:
- (a) which arises from a resolution of the Board, or a resolution passed by the Members of the SCIO/Trust; or
 - (b) which is notified to the SCIO/Trust.

- 83 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 SCIO/Trust, the Board may provide a copy which has the addresses redacted - if the SCIO/Trust is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

Office-bearers

- 84 The Charity Trustees must elect, (from among themselves), a Chairperson, a Treasurer and a Secretary.
- 85 In addition to the office-bearers required under clause 84, the Charity Trustees may elect, (from among themselves), further office-bearers if they consider that appropriate.
- 86 All of the office-bearers will cease to hold office at the conclusion of each AGM, but may then be re-elected by the Board, (after the AGM), under clause 84 or 85.
- 87 A person elected to any office will automatically cease to hold that office:
- (a) if they cease to be a Charity Trustee; or
 - (b) if they give to the SCIO/Trust a notice of resignation from that office, (either in writing or by email), a confirmation of must be provided by the Board.

Powers of Board

- 88 Except where this constitution states otherwise:
- (a) the SCIO/Trust, (and its assets and operations), will be managed by the Board; and
 - (b) the Board may exercise all the powers of the SCIO/Trust.
 - (c) The function of the Board is to implement the stated purposes of the SCIO / Trust, see section 4.
 - 88.c.i.1 The Board may review and change the stated Aims, Objectives and Outcomes sought, see section 3.
 - (ii) The Board shall be governed by the terms and expressions set out in the Grant Giving Regulations.
 - 88.c.ii.1 The Board may from time to time reconsider the Grant Giving Regulations.

- 89 A meeting of the Board at which a quorum is present may exercise all powers exercisable by the Board.
- 90 The Members may, by way of a resolution passed in compliance with clause 55, (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.

Charity Trustees - general duties

- 91 Each of the Charity Trustees has a duty, in exercising functions as a Charity Trustee, to act in the interests of the SCIO/Trust; and must.
- (a) seek, in good faith, to ensure that the SCIO/Trust acts in a manner which is in accordance with its purposes.
 - (b) act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person.
 - (c) in circumstances giving rise to the possibility of a conflict of interest between the SCIO/Trust and any other party.
 - (i) put the interests of the SCIO/Trust before that of the other party; or
 - (ii) where any other duty prevents them from doing so, disclose the conflicting interest to the SCIO/Trust and refrain from participating in any deliberation or decision of the other Charity Trustees with regard to the matter in question.
 - (d) ensure that the SCIO/Trust complies with any direction, requirement, notice or duty imposed under or by virtue of the Scottish Charities Act.
- 92 In addition to the duties outlined in clause 91, all of the Charity Trustees must take such steps as are reasonably practicable for the purpose of ensuring:
- (a) that any breach of any of those duties by a Charity Trustee is corrected by the Charity Trustee concerned and not repeated; and
 - (b) that any Charity Trustee who has been in serious or persistent breach of those duties is removed as a Charity Trustee.

Conflicts of interest involving Charity Trustees - general

- 93 The Board must use every effort to ensure that conflicts of interest involving Charity Trustees, (including those which relate to individuals or bodies connected with Charity Trustees), are identified at the earliest opportunity and appropriately managed; the following provisions of this constitution are of particular relevance:
- (a) clauses 94 and 97 require Charity Trustees to declare any personal interest which they may have in any transaction or other arrangement with the SCIO/Trust;
 - (b) clause 118 prohibits a Charity Trustee with a personal interest in a proposed arrangement from voting on the question of whether the SCIO/Trust should enter into that arrangement.
 - (c) clause 96, (reflecting similar provisions contained in the Scottish Charities Act), sets out restrictions and conditions for any arrangement under which remuneration would be paid to a Charity Trustee, (or where the Charity Trustee might benefit from remuneration paid to a connected party).
- 94 In addition to complying with the provisions referred to in clause 93:
- (a) the Board must maintain a register of Charity Trustees' interests.
 - (b) the Chairperson of each Board meeting must invite declarations of interest, shortly after the start of the meeting.
 - (c) the minutes of each Board meeting must record any conflicts of interest which have been declared at the meeting and must set out in detail how any such conflicts of interest have been managed.

Remuneration and expenses

- 95 No Charity Trustee may serve as an employee, (full time or part time), of the SCIO/Trust; and no Charity Trustee may be given any remuneration by the SCIO/Trust for carrying out their duties as a Charity Trustee.
- 96 Where a Charity Trustee provides services to the SCIO/Trust or might benefit from any remuneration paid to a connected party for such services:
- (a) the maximum amount of the remuneration must be specified in a written agreement and must be reasonable.

- (b) the Board must be satisfied that it would be in the interests of the SCIO/Trust 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 the SCIO/Trust, (or benefit from remuneration of that nature).
- 97 Provided they have declared their interest - and have not voted on the question of whether or not the SCIO/Trust should enter into the arrangement - a Charity Trustee will not be debarred from entering into an arrangement with the SCIO/Trust in which they have a personal interest where that is not prohibited under clause 95 or 96; and, (subject to clause 96 and to the provisions relating to remuneration for services contained in the Scottish Charities Act), they may retain any personal benefit which arises from that arrangement.
- 98 Subject to prior formal approval by the Board the SCIO/Trust may also enter into an arrangement with a Member who is not a Charity Trustee, (or with a person or body *connected* with a Member who is not a Charity Trustee), under which that Member, (or the connected person or body), receives payment for goods or services provided by them to the SCIO/Trust, but only if:
- (a) the terms and conditions, (including the amount of the payment(s)), are at least as good, (from the SCIO/Trust's point of view), as those which would be expected if the goods or services had been sourced on the open market; and
 - (b) the Board are satisfied, after careful consideration, that the arrangement is in the best interests of the SCIO/Trust.
- and the same principles will apply in relation to any arrangement under which a Member, (or a person or body connected with a Member), lets premises to the SCIO/Trust or makes a loan to the SCIO/Trust.
- 99 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

- 100 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.
- 101 The code of conduct referred to in clause 100 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 Scottish Charities Act; 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

- 102 Any Charity Trustee may request that the Chairperson calls a meeting of the Board.
- 103 At least twenty-eight, 28, days' notice must be given of each Board meeting, unless (in the opinion of the Chair), there is a degree of urgency which makes that inappropriate.
- 104 If Charity Trustees are to be permitted to participate in a Board meeting by way of audio and/or audio-visual link(s), the Charity Trustees must, in advance of the meeting, be provided with details of how to connect and participate via that link or links; and the Charity Trustees' attention should be drawn to the following options:
- (a) participating in the meeting via an audio link accessed by phone, using dial-in details, (if that forms part of the arrangements);
 - (b) where attendance in person is to be permitted, either on an open basis or subject to a restriction on the total number who will be permitted to attend the ability to attend the meeting in person.

Procedure at Board meetings

- 105 No valid decisions can be taken at a Board meeting unless a quorum is present; the quorum for Board meetings is four, (4), Charity Trustees, present in person.
- 106 An individual participating in a Board meeting via an audio or audio-visual link which allows them to hear and contribute to discussions at the meeting will be deemed to be present in person, (or, if they are not a Charity Trustee, will be deemed to be in attendance), at the meeting.
- 107 If at any time the number of Charity Trustees in office falls below the number of four, (4), stated as the quorum in clause 105, 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.
- 108 The Chair of the SCIO/Trust should act as Chairperson of each Board meeting.
- 109 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.
- 110 Every Charity Trustee has one vote, which must be given personally, (subject to clause 116).
- 111 All decisions at Board meetings will be made by majority vote.
- 112 If there is an equal number of votes for and against any resolution, the Chairperson of the meeting will be entitled to a second, (casting), vote.
- 113 The Board may if they consider appropriate, (and must, if this is required under clause 114), allow Charity Trustees to participate in Board meetings by way of an audio and/or audio-visual link or links which allow them to hear and contribute to discussions at the meeting, providing:
- (a) the means by which Charity Trustees can participate via that link or links are not subject to technical complexities, significant costs or other factors which are likely to represent - for all, or a significant proportion, of the Charity Trustees - a barrier to participation; and
 - (b) the manner in which the meeting is conducted ensures, so far as reasonably possible, that those Charity Trustees who participate via an audio or audio-visual link are not disadvantaged with regard to their ability to contribute to discussions at the meeting, as compared with those Charity Trustees, (if any), who are attending in person, (and vice versa).
- 114 If restrictions arising from public health legislation or guidance are likely to mean that attendance in person at a proposed Board meeting would not be possible or advisable for one or more of the Charity Trustees, the Board must make arrangements for Charity Trustees to participate in that Board meeting by way of audio and/or audio-visual link(s); and on the basis that:
- (a) the requirements set out in paragraphs (a) and (b) of clause 113 will apply; and
 - (b) the Board must use all reasonable endeavours to ensure that all Charity Trustees have access to one or more means by which they may hear and contribute to discussions at the meeting.
- 115 A Board meeting may involve two or more Charity Trustees participating via attendance in person while other Charity Trustees

participate via audio and/or audio-visual links; or it may involve participation solely via audio and/or audio-visual links.

- 116 Where a Charity Trustee or Charity Trustees are participating in a Board meeting via an audio or audio-visual link, they may cast their vote on any resolution orally, or by way of some form of visual indication, or by use of a voting button or similar, or by way of a message sent electronically.
- 117 The Board may, at its discretion, allow any person to attend, (whether in person or by way of an audio or audio-visual link), and speak at a Board meeting notwithstanding that they are not a Charity Trustee - but on the basis that they must not participate in decision-making.
- 118 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 have a personal interest or duty which conflicts, (or may conflict), with the interests of the SCIO/Trust; they must withdraw from the meeting while an item of that nature is being dealt with.
- 119 For the purposes of clause 118:
- (a) an interest held by an individual who is “connected” with the Charity Trustee under section 68(2) of the Scottish Charities Act, (any husband/wife, partner, child, parent, brother/sister etc, to be determined by the Board), shall be deemed to be held by that Charity Trustee.
 - (b) a Charity Trustee will, (subject to clause 121), be deemed to have a personal interest in relation to a particular matter if an organisation, body constituted or not, or firm, in relation to which they are an employee, director, Member of the management committee, officer or elected representative, (or a company in relation to which they are a major shareholder or have some other significant financial interest), has an interest in that matter.

120 Paragraph not used.

Technical objections to remote participation in Board meetings.

The principles set out in clause 62, (technical objections to remote participation), shall apply in relation to remote participation and voting at Board meetings, as if each reference in that clause to a Member were a reference to a Charity Trustee and each reference in that clause to a Members’ meeting were a reference to a Board meeting.

Board resolutions agreed in writing or by email

A resolution agreed to in writing (or by email) by a majority of the Charity Trustees then in office shall, (subject to clauses 121 and 122), be as valid as if duly passed at a Board meeting.

- 121 A resolution under clause 0 shall not be valid unless a copy of the resolution was circulated to all of the Charity Trustees, along with a cut-off time, (which must be reasonable in the circumstances), for notifications under clause 122.
- 122 If a resolution is circulated to the Charity Trustees under clause 121, any one or more Charity Trustees may, following receipt of a copy of the resolution, notify the secretary that they consider that a Board meeting should be held to discuss the matter which is the subject of the resolution; and if any such notification is received by the secretary prior to the cut-off time:
- (a) the secretary must convene a Board meeting accordingly, and on the basis that it will take place as soon as reasonably possible.
 - (b) the resolution cannot be treated as valid under clause 0 unless and until that Board meeting has taken place.
 - (c) the Board may, (if they consider appropriate, on the basis of the discussions at the meeting), resolve at that Board meeting that the resolution should be treated as invalid, notwithstanding that it had previously been agreed to in writing, (or by email), by a majority of the Charity Trustees then in office.
 - (d) All documents, formal or supportive, must be prepared and circulated in the Approved Format

Minutes of Board meetings

- 123 The Board must ensure that proper minutes are kept in relation to all Board meetings and meetings of sub-committees; and that a proper record is kept of all resolutions agreed to, (in writing or by email), by the Charity Trustees under clause 0.
- 124 The minutes to be kept under clause 123 must include the names of those present; and (so far as possible), should be approved and seconded then signed by the Chairperson of the meeting.
- 125 The records of resolutions kept under clause 123 must include the names of those Charity Trustees who agreed to the resolution, (as well as the names of any Charity Trustees who stated that they disagreed with the resolution); and should be signed by the Chair of the SCIO/Trust.
- 126 All documents, formal or supportive, must be prepared and circulated in the Approved Format.
- 127 The Board may exclude from any copy minutes, or records of resolutions, made available to a Member of the public any material which the Board considers ought properly to be kept confidential - on the grounds that allowing access to such material could cause significant prejudice to the interests of the SCIO/Trust or on the basis that the material contains reference to employee or other matters which it would be inappropriate to divulge.

ADMINISTRATION

Delegation to sub-committees

- 128 The Board may delegate any of their powers to sub-committees; a sub-committee must include at least one Charity Trustee, but other Members of a sub-committee need not be Charity Trustees.
- 129 The Board may also delegate to the Chair of the SCIO/Trust, (or the holder of any other post), such of their powers as they may consider appropriate.
- 130 When delegating powers under clause 128 or 129, the Board must set out appropriate conditions, (which must include an obligation to report regularly to the Board).
- 131 Any delegation of powers under clause 128 or 129 may be revoked or altered by the Board at any time.
- 132 The rules of procedure for each sub-committee, and the provisions relating to Membership of each sub-committee, shall be set by the Board.

Operation of accounts

- 133 The Board should ensure that the systems of financial control adopted by the SCIO/Trust in relation to the operation of the SCIO/Trust's bank accounts, (including online banking), reflect the recommendations made from time to time by the SCIO/Trust's auditors, (or independent examiners), or other external accountants.

Accounting records and annual accounts

- 134 The Board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.
- 135 The Board must prepare annual accounts, complying with all relevant statutory requirements; and
 - (a) 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.
 - (b) if an audit is not carried out, the Board must ensure that an independent examination of the accounts is carried out by a qualified independent examiner.

MISCELLANEOUS

Winding-up

- 136 If the SCIO/Trust 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 Scottish Charities Act.
- 137 Any surplus assets available to the SCIO/Trust immediately preceding its winding up or dissolution must be used for purposes which are the same as - or which closely resemble - the purposes of the SCIO/Trust as set out in this constitution; and the named recipient body, (or bodies), in the resolution for the winding-up and dissolution of the SCIO/Trust must also comply with any additional requirements which apply at the time under the regulations which govern the winding up and dissolution of SCIOs.

Alterations to the constitution

- 138 This constitution may, (subject to clause 139), be altered by resolution of the Members passed at a Members' meeting, (subject to achieving the two thirds majority referred to in clause 55), or by way of a written resolution of the Members.
- 139 The Scottish Charities Act prohibits taking certain steps, (e.g. change of name, an alteration to the purposes, amalgamation, winding-up), without the consent of the Office of the Scottish Charity Regulator (OSCR).

Interpretation

- 140 References in this constitution to the Scottish Charities Act should be taken to include:
- (a) any statutory provision which adds to, modifies or replaces that Act; and
 - (b) any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph (a) above.
- 141 In this constitution:
- (a) "Scottish Charities Act" means (subject to clause 140) the Charities and Trustee Investment (Scotland) Act 2005.
 - (b) "charitable purpose" means a charitable purpose under section 7 of the Scottish Charities Act which is also regarded as a charitable purpose in relation to the application of the Taxes Acts.

142 GLOSSARY OF TERMS.

OSCR	The Scottish Charity Regulator is a non-ministerial department of the Scottish Government with responsibility for the regulation of charities in Scotland. OSCR is the independent regulator and registrar for more than 24,000 Scottish charities	info@oscr.org.uk
SCVO	The Scottish Council for Voluntary Organisations is the membership organisation for Scotland's charities, voluntary organisations and social enterprises.	SCVO's information service is an online knowledge bank and enquiry service delivered by experts.
SCIO	The Scottish Charitable Incorporated Organisation is a legal form unique to Scottish charities and is able to enter into contracts, employ staff, incur debts, own property, sue and be sued. It also provides a high degree of protection against liability.	https://www.oscr.org.uk/becoming-a-charity/becoming-a-scio/
Two Tier SCIO, A large diverse group of members who elect Trustees to implement the stated and approved purposes of the SCIO.	With this two-tier structure, the board is elected by and accountable to a wider body of ordinary members at an AGM. Members have ultimate control, rather than the board, which manages and supervises the activities of the organisation, and monitors its financial position.	https://www.oscr.org.uk/

A Member	Any resident of the area of more than 16 years of age. Any approved person with legitimate interest in the area	The area is the mapped area of the Earn Community Council as at date of inception, 2023. The Quorum for a members meeting must be four (4).
A Charity Trustee	Elected by members, a maximum of seven.	
A Charity Trustee	Co-opted by the Board, a maximum of four	
Special Advisor	A Co-opted advisor to the Board	To provide specialist advice or information, no voting powers.
The Board	The group of Trustees	Maximum number eleven (11), (s.68a). Minimum number four (4), (s.69). Quorum four (4). (s.105).
The Officers	The designated Chairperson, Secretary and Treasurer	S. 84.
Additional Officers	In addition to the Chairperson, Secretary and Treasurer there will be appointed a Membership secretary, an IT / Data specialist, a Grant manager,	S. 85
A Quorum	The minimum number of eligible / legitimate persons present for a meeting to be legitimate,	
The Approved Style	The agreed font and font size for all formal documents	All primary documents shall be published in minimum Arial font 12. Supporting documents shall be minimum Calibri font 11

145 Appendix of Schedules.

1	LET explanation	Explanation for the creation of a SCIO/Trust	
2	Business Model	Lower Earn Trust Business Model Fv4	
3	Aims & Objectives	Lower Earn Trust Aims and Outcomes Fv1	
5	MAP	A map of the ECC Ward, 2023.	
7	Grant Giving Regulation	LET Grant Giving Regulation and Guidance Fv3	
8	Lesser Grant Application	LET Lesser Grant Application Form Fv1	
9	Grant Application Form	LET Lesser Grant Application Form Fv1	
10	Grant Award Monitoring Report	LET Grant Award Monitoring report Fv2	
11	Rules for the election of Trustees		
	LET Members.	Initial Members List	10 Feb 2023