

# Constitution of Transition Edinburgh

## GENERAL

- 1 Transition Edinburgh (hereinafter called TE) is **[or will be!]** a Scottish Charitable Incorporated Organisation (SCIO) with offices and principal activities in Scotland.

### ***Purposes***

- 2 TE is a city-wide network of individuals and groups working on practical projects for a fairer, greener, healthier, more resilient Edinburgh through the advancement of:
  1. Community-led local developments promoting environmental sustainability and tackling climate disruption – moving towards a low carbon, circular economy
  2. Education for the public benefit through training and skill-sharing initiatives
  3. Citizens' engagement in development / regeneration of carbon neutral Edinburgh.
- 3 These purposes will be delivered by applying the seven **Cooperative Principles**:
  1. Voluntary and Open Membership
  2. Democratic Member Control
  3. Member Participation
  4. Autonomy and Independence
  5. Education, Training, and Information
  6. Cooperation among Cooperatives
  7. Concern for Community

### ***General structure***

- The structure of the two-tier organisation consists of:-
- MEMBERS – who have the right to attend Members' Meetings and have important powers under the constitution; in particular, Members appoint people to serve as Trustees and take decisions on changes to the constitution itself;
- 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.

### ***Powers and Asset Lock***

- 4 The organisation has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so long as 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.

## **MEMBERS**

### ***Qualifications for membership***

- 5 Membership is open to any individual aged 16 or over who supports the Purposes of the organisation. Any employee of the organisation is eligible for Membership as long as employees do not account for more than 30% of Membership.
- 6 Trustees shall arrange for timely consideration of Membership applications and may refuse to admit any person to Membership. They must notify applicants – in writing or by e-mail – whether or not they are admitted to Membership.

### ***Register of Members***

- 7 The Trustees must keep a Register of Members – including their full name and email address and the date on which they were registered as a Member – and retain such details for at least six years from the date on which they cease to be a Member.
- 8 The Register of Members must be updated within 28 days of any change, which arises from a resolution of the Trustees, or a resolution passed by the Members, or which is notified to the organisation.
- 9 If a Member or Trustee requests a copy of the Register, the Trustees must provide a copy to them within 28 days, providing the request is reasonable; if the request is made by a Member (rather than a Trustee), the Trustees may provide a copy with only Members' names and dates of joining / leaving.

### ***Ending Membership***

- 10 Any person who wants to withdraw from Membership must give written notice. They cease to be a Member when notice is received by the organisation, or they fail to respond to persistent attempts to make contact if they move away / change their contact details without advising the organisation, or when they die.
- 11 Any person may be expelled from membership by way of a resolution passed at a Members' Meeting IF at least 21 days' notice of the intention to propose the resolution was given to the Member concerned, specifying the grounds for the proposed expulsion; AND the Member concerned was entitled to be heard on the resolution at the Members' Meeting at which the resolution is proposed; AND if there is any objection to the decision reached by Members present, this leads to a search for an acceptable adaptation of the original proposal to gain consent.

### ***Liability of Members***

- 12 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.
- 13 The Members and Trustees have certain legal duties under the Charities and Trustee Investment (Scotland) Act 2005. These do 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.

## **TRUSTEES**

### ***Number of Trustees and Eligibility***

- 14 The maximum number of Trustees is 12 and the minimum number is three.
- 15 A person shall be eligible for election as a Trustee if they are a Member – so long as they are not a) disqualified from being a Trustee under the Charities and Trustee Investment (Scotland) Act 2005 or b) an employee of the organisation.

### ***Election, Retiral and Re-election***

- 16 Trustees are elected by Members for a period of three years and are eligible to be re-elected for a second three-year term. They are then required to relinquish the position for a year before being eligible for appointment to one further three-year period. One third retire each year and, if eligible, may be nominated for election for a further term.

### ***Co-option of Trustees***

- 17 Trustees may co-opt Members to fill vacant posts and up to three non-Member Trustees on the basis that they have specialist experience / skills. Such co-opted Trustees must put themselves up for election at the following AGM.

### ***Termination of office***

- 18 A Trustee will automatically cease to hold office if they:-
  - become an employee;
  - submit a written notice of resignation;
  - are disqualified from being a Trustee under the Charities and Trustee Investment (Scotland) Act 2005;
  - become incapable for medical reasons of serving as a Trustee – where their condition has continued (or is expected to continue) for more than six months;
  - are removed by the Trustees because they are considered to have been absent without good reason from more than three consecutive meetings of the Trustees;
  - are removed by the Trustees because they are considered to have committed a breach of the Code of Conduct for Charity Trustees or persistent breach of duties under the Charities & Trustee Investment (Scotland) Act 2005; or
  - are removed from office by a resolution passed at a Members' Meeting.
- 19 A resolution for removal of a Trustee shall only be valid if the Trustee concerned is given 21 days prior written notice of the grounds upon which the resolution for their removal is to be proposed and is given the opportunity to address the meeting at which the resolution is proposed, prior to the resolution being considered.

### ***Register of Trustees***

- 20 The Trustees must keep a Register of Trustees – including their full name and home and email address and the date on which they were registered as a Trustee, as well as any office held by them in the organisation. Such details must be kept for at least six years from date on which they cease to be a Trustee.

- 21 The Register of Trustees must be updated within 28 days of any change, which arises from a resolution of the Trustees, or a resolution passed by the Members, or which is notified to the organisation.
- 22 If any person requests a copy of the Register of Trustees, a copy must be supplied to them within 28 days, providing the request is reasonable. Trustees may provide a copy that has the personal addresses blanked out.

### ***Office-bearers***

- 23 The Trustees must elect from among themselves a convener, treasurer and secretary. Beyond these office-bearers, Trustees may elect other such roles if desired. All office-bearers cease to hold office at each AGM but may then be re-elected.
- 24 A person elected to any office will automatically cease to hold that office if they cease to be a Trustee; or if they submit a written notice of resignation from that office.

### ***Trustee' General Duties***

- 25 Each Trustee has a duty to act in the interests of the organisation, and must:-
  - ensure the organisation acts in a manner which is in accordance with its Purposes;
  - act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
  - where the possibility arises of a conflict of interest, between the organisation and any other party, put the interests of the organisation before that of the other party;
  - disclose any conflicting interest to the organisation and not participate in any decision on the matter in question;
  - ensure that the organisation complies with any direction, requirement, notice or duty imposed under the Charities and Trustee Investment (Scotland) Act 2005.
- 26 In addition to the duties outlined in the clause above, all Trustees must ensure that any Trustee corrects any breach they make of any of those duties and it is not repeated; and any Trustee in serious, persistent breach of those duties is removed as a Trustee.
- 27 Provided they have declared their interest – and have not participated in any decision making by the organisation 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 the following clause 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.
- 28 No Trustee may serve as an employee (full time or part time) of the organisation; and no Trustee may be given any remuneration for carrying out their duties as a Trustee.
- 29 The Trustees may be paid travelling and other expenses reasonably incurred by them in carrying out their duties, including expenses relating to their attendance at meetings.

### ***Code of Conduct for Trustees***

- 30 Each of the Trustees shall comply with the Scottish Governance Code for the Third Sector – along with any guidance issued by OSCR and SCVO.

## **DECISION-MAKING**

### ***Roles of Trustees and of Members***

- 31 Except where this constitution states otherwise, a quorate meeting of the Trustees is responsible for the management of the organisation and its assets and operations.
- 32 The Members may, by way of a duly notified resolution passed at a Members' Meeting, direct the Trustees to take any particular step or direct the Trustees not to take any particular step; and the Trustees shall comply with such direction accordingly.

### ***Members' Meetings***

- 33 The Trustees must arrange an Annual General Meeting (AGM) of Members where the gap between one AGM and the next must be no longer than 15 months.
- 34 The business of each AGM must include discussion on the Annual Report, review of the financial accounts and the election / re-election of Trustees.
- 35 The Trustees may arrange other Special Members' Meeting as required / on request.

### ***Power to request the Trustees to arrange a Special Members' Meeting***

- 36 If Members make a request – by a notice (which may take the form of two or more documents in the same terms, from one or more members) signed by over 5% of the Members (providing that the notice states the purpose of the meeting, consistent with the terms of this constitution, Charities and Trustee (Investment) Scotland Act 2005 or other statutory provision) – Trustees must arrange a Special Members' Meeting within 28 calendar days from the date on which they received the notice.

### ***Notice of Members' Meetings***

- 37 The notice calling a Special Members' Meeting must give 21 calendar days' notice and must indicate clearly what business is to be dealt with at the meeting. For any change to the Constitution, the notice must provide the exact text of the proposed changes.
- 38 Notice of every Members' Meeting must be sent by email or by post to all Members; but the accidental omission to give notice to one or more members will not invalidate the proceedings at the meeting.

### ***Notice of Trustees Meetings***

- 39 Any Trustee may call a meeting or ask the secretary to call a meeting of the Trustees. At least seven calendar days' notice must be given of each Trustees' Meeting, unless there is a very high degree of urgency, which makes a shorter timescale necessary.

### ***Decision making at Meetings***

- 40 Valid decisions require a quorum – with a minimum of nine Members for a Members' Meeting / three Trustees for a Trustees' Meeting – present or by conference call.
- 41 If a quorum is not present 15 minutes after the start time – or if a quorum ceases to be present during a Meeting – the meeting cannot make formal decisions.

- 42 Meetings are organised using the principles of Sociocracy on the basis of consent rather than either consensus or majority voting in decision-making. Members discuss agenda items using a consent-based governance process.
- 43 Members commonly ask themselves if it is "*good enough for now, safe enough to try*". If not, then there is an Objection, which leads to a search for an acceptable adaptation of the original proposal to gain consent.
- 44 The Trustees or the Members may allow any person to attend and speak at a meeting notwithstanding that they are not a Trustee or Member – but on the basis that they may not participate in decision-making.

### ***Written Resolutions***

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

### ***Minutes of both Members' and Trustees' Meetings***

- 46 A record of the participants attending, and the decisions taken and the date for review of each decision must be prepared and circulated shortly after each meeting. The facilitator of the meeting should approve the minutes prior to circulation and they should be adopted as an accurate record at the next meeting.

### ***Delegation to Sub-Groups and Office-Bearers***

- 47 Trustees may delegate any of their powers to a Working Group – which should each include at least one Trustee as the lead link – or to a Member or Trustee.  
Trustees shall agree the membership and the remit for each Working Group, or delegated role-holder – which includes an obligation to report regularly to Trustees; and may revoke or alter such powers at any time.

## **ADMINISTRATION**

### ***Managing the Bank Account***

- 48 Trustees will appoint three signatories to be responsible for all operations (other than the lodging of funds) on bank and building society accounts held by the organisation; and at least one out of the two signatures required must be of a Trustee.
- 49 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 the preceding clause.

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

- 50 The Trustees must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements and must prepare annual accounts, complying with all relevant statutory requirements. Trustees should ensure that an audit of the accounts is carried out by a qualified auditor if required under any statutory provisions.

## **MISCELLANEOUS**

### ***Alterations to the constitution, amalgamation or winding up***

- 51 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 the Office of the Scottish Charity Regulator (OSCR).
- 52 This constitution may only be altered by resolution of the members passed at a Members' Meeting or by way of a written resolution of the Members.
- 53 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.
- 54 Any surplus assets available to the organisation 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 organisation as set out in this constitution.

### ***Interpretation***

- 55 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include any statutory provision which adds to, modifies or replaces that Act; and any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under the clause directly above.
- 56 In this constitution “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;
- 57 “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.

END

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This document has been derived from the SCVO Model Constitution for a SCIO – adapted to meet the needs of Transition Edinburgh. It was drafted by the steering group of the unincorporated association founded in 2008 in order to formalise and clarify the charitable objectives of the organisation and ensure its governance remains fully transparent and properly reflect its nature as a community-led local development.

Comments and any suggested improvements are invited by the end of December 2018 from all those who support the organisation. We hope to submit a draft for approval by the Office of Scottish Charity Regulator (OSCR) early in 2019.