

CONSTITUTION OF DEEP BLUE SCUBA DIVE CLUB
A Scottish Charitable Incorporated Organisation (SCIO)

CONSTITUTION

of

Deep Blue Scuba Dive Club

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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 "Deep Blue Scuba Dive Club".

Purposes

- 4 The organisation's purposes are:
 - 4.1 **To promote public participation in the sport of scuba diving by training scuba divers, providing opportunities to dive, and generally facilitating, developing and promoting training, knowledge, and understanding of scuba diving and all related activities in, on and out of the water**
 - 4.2 **To advance environmental protection by developing and promoting an awareness of the marine environment and our impact on it through scuba diving and all related activities in, on and out of the water**

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 Committee members have certain legal duties under the Charities and Trustee Investment (Scotland) Act 2005; and 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 on the Committee and take decisions on changes to the constitution itself;
 - 9.2 the COMMITTEE - who hold regular meetings, and generally control the activities of the organisation; for example, the Committee is responsible for monitoring and controlling the financial position of the organisation.
- 10 The people serving on the Committee are referred to in this constitution as COMMITTEE MEMBERS.

MEMBERS

Qualifications for membership

- 11 Membership is open to any individual.
- 12 Employees of the organisation are not eligible for membership.

Application for membership

- 13 Any person who wishes to become a member must sign a written application for membership or such other form of application as the Committee shall require.
- 14 The Committee may, at its discretion, refuse to admit any person to membership.
- 15 The Committee must notify each applicant promptly (in writing or by e-mail) if it decides not to admit him/her to membership.

Membership subscription

- 16 Members shall require to pay an annual membership subscription; unless and until otherwise determined by ordinary resolution, the amount of the annual membership subscription shall be £80.
- 17 The annual membership subscriptions shall be payable on or before 1st April in each year.

- 17.1 The members may vary the classes of membership, the amount of the annual membership subscription (if any) for each class and/or the date on which it falls due in each year, by way of an ordinary resolution to that effect passed at an annual general meeting.
- 17.2 If the membership subscription payable by any member remains outstanding more than 8 weeks after the date on which it fell due (and providing he/she has been given at least one written reminder) the Committee may, by resolution to that effect, expel him/her from membership.
- 17.3 A person who ceases (for whatever reason) to be a member shall not be entitled to any refund of the membership subscription.
- 17.4 The Committee shall be empowered to reduce or waive the annual membership fee for any member on application by that member setting out the reasons for such reduction or waiver; unless the Committee decide otherwise, if such a reduction or waiver is granted it shall only take effect until the next annual renewal date.

Register of members

- 18 The Committee must keep a register of members, setting out
 - 18.1 for each current member:
 - 18.1.1 his/her full name and address; and
 - 18.1.2 the date on which he/she was registered as a member of the organisation;
 - 18.2 for each former member - for at least six years from the date on he/she ceased to be a member:
 - 18.2.1 his/her name; and
 - 18.2.2 the date on which he/she ceased to be a member.
- 19 The Committee must ensure that the register of members is updated within 28 days of any change:
 - 19.1 which arises from a resolution of the Committee or a resolution passed by the members of the organisation; or
 - 19.2 which is notified to the organisation.
- 20 If a member or Committee member of the organisation requests a copy of the register of members, the Committee must ensure that a copy is supplied to him/her within 28 days, providing the request is

reasonable; if the request is made by a member (rather than a Committee member), the Committee may provide a copy which has the addresses blanked out.

Withdrawal from membership

- 21 Any person who wants to withdraw from membership must give a written notice of withdrawal to the organisation, signed by him/her; he/she will cease to be a member as from the time when the notice is received by the organisation.

Transfer of membership

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

Re-registration of members

- 23 The Committee may, at any time, issue notices to the members requiring them to confirm that they wish to remain as members of the organisation, and allowing them a period of 28 days (running from the date of issue of the notice) to provide that confirmation to the Committee.
- 24 If a member fails to provide confirmation to the Committee (in writing or by e-mail) that he/she wishes to remain as a member of the organisation before the expiry of the 28-day period referred to in clause 23, the Committee may expel him/her 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:-
- 26.1 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;
- 26.2 the member concerned will be entitled to be heard on the resolution at the members' meeting at which the resolution is proposed.

Termination

- 27 Membership of the organisation shall end on death.

DECISION-MAKING BY THE MEMBERS

Members' meetings

- 28 The Committee must arrange a meeting of members (an annual general 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 organisation is formed; but the first AGM must still be held within 15 months of the date on which the organisation is formed.
- 31 The business of each AGM must include:-
- 31.1 a report by the President on the activities of the organisation;
 - 31.2 consideration of the annual accounts of the organisation;
 - 31.3 the election/re-election of Committee members, as referred to in clauses 59 to 62.
- 32 The Committee may arrange a special members' meeting at any time.

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

- 33 The Committee 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:
- 33.1 the notice states the purposes for which the meeting is to be held; and
 - 33.2 those purposes are not inconsistent with the terms of this constitution, the Charities and Trustee (Investment) Scotland Act 2005 or any other statutory provision.
- 34 If the Committee 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 notice.

Notice of members' meetings

- 35 At least 14 clear days' notice must be given of any AGM or any special members' meeting.
- 36 The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; and

- 36.1 in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s); or
- 36.2 in the case of any other resolution falling within clause 45 (requirement for two-thirds majority) must set out the exact terms of the resolution.
- 37 The reference to “clear days” in clause 35 shall be taken to mean that, in calculating the period of notice,
- 37.1 the day after the notices are posted (or sent by e-mail) should be excluded; and
- 37.2 the day of the meeting itself should also be excluded.
- 38 Notice of every members' meeting must be given to all the members of the organisation, and to all the Committee members; but the accidental omission to give notice to one or more members will not invalidate the proceedings at the meeting.
- 39 Any notice which requires to be given to a member under this constitution must be: -
- 39.1 sent by post to the member, at the address last notified by him/her to the organisation; *or*
- 39.2 sent by e-mail to the member, at the e-mail address last notified by him/her to the organisation.

Procedure at members' meetings

- 40 No valid decisions can be taken at any members' meeting unless a quorum is present.
- 41 The quorum for a members' meeting is 10 members, present in person.
- 42 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.
- 43 The President of the organisation should act as chairperson of each members' meeting.
- 44 If the President 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 chairperson), the Committee members present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.

Voting at members' meetings

- 45 Every member has one vote, which must be given personally.
- 46 All decisions at members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause 47.
- 47 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 51):
- 47.1 a resolution amending the constitution;
 - 47.2 a resolution expelling a person from membership under clause 26;
 - 47.3 a resolution directing the Committee to take any particular step (or directing the Committee not to take any particular step);
 - 47.4 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);
 - 47.5 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);
 - 47.6 a resolution for the winding up or dissolution of the organisation.
- 48 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.
- 49 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.
- 50 The chairperson will decide how any secret ballot is to be conducted, and he/she will declare the result of the ballot at the meeting.

Written resolutions by members

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

Minutes

- 52 The Committee must ensure that proper minutes are kept in relation to all members' meetings.
- 53 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.

COMMITTEE

Number of Committee members

- 54 The maximum number of Committee members is 10.
- 55 The minimum number of Committee members is 3.

Eligibility

- 56 A person shall not be eligible for election/appointment to the Committee under clauses 58 to 61 unless he/she is a member of the organisation; a person appointed to the Committee under clause 63 need not, however, be a member of the organisation.
- 57 A person will not be eligible for election or appointment to the Committee if he/she is: -
- 57.1 disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005; or
 - 57.2 an employee of the organisation.

Initial Committee members

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

Election, retiral, re-election

- 59 At each AGM, the members may elect any member (unless he/she is debarred from membership under clause 57) to be a Committee member.
- 60 The Committee may at any time appoint any member (unless he/she is debarred from membership under clause 57) to be a Committee member.
- 61 At each AGM, all of the Committee members elected/appointed under clauses 59 and 60 (and, in the case of the first AGM, those deemed to have been appointed under clause 58) shall retire from office – but shall then be eligible for re-election under clause 59.

- 62 A Committee member retiring at an AGM will be deemed to have been re-elected unless: -
- 62.1 he/she advises the Committee prior to the conclusion of the AGM that he/she does not wish to be re-appointed as a Committee member; or
 - 62.2 an election process was held at the AGM and he/she was not among those elected/re-elected through that process; or
 - 62.3 a resolution for the re-election of that Committee member was put to the AGM and was not carried.

Appointment/re-appointment of co-opted Committee members

- 63 In addition to their powers under clause 60, the Committee may at any time appoint any non-member of the organisation to be a Committee member (subject to clause 54, and providing he/she is not debarred from membership under clause 57) on the basis that he/she has specialist experience and/or skills which could be of assistance to the Committee.
- 64 At each AGM, all of the Committee members appointed under clause 63 shall retire from office – but shall then be eligible for re-appointment under that clause.

Termination of office

- 65 A Committee member will automatically cease to hold office if: -
- 65.1 he/she becomes disqualified from being a Committee member under the Charities and Trustee Investment (Scotland) Act 2005;
 - 65.2 he/she becomes incapable for medical reasons of carrying out his/her duties as a Committee member - but only if that has continued (or is expected to continue) for a period of more than six months;
 - 65.3 (in the case of a Committee member elected/appointed under clauses 58 to 62) he/she ceases to be a member of the organisation;
 - 65.4 he/she becomes an employee of the organisation;
 - 65.5 he/she gives the organisation a notice of resignation, signed by him/her;
 - 65.6 he/she is absent (without good reason, in the opinion of the Committee) from more than three consecutive meetings of the Committee - but only if the Committee resolves to remove him/her from office;

- 65.7 he/she is removed from office by resolution of the Committee on the grounds that he/she is considered to have committed a material breach of the code of conduct for Committee members (as referred to in clause 82);
 - 65.8 he/she is removed from office by resolution of the Committee on the grounds that he/she is considered to have been in serious or persistent breach of his/her duties under section 66(1) or (2) of the Charities and Trustee Investment (Scotland) Act 2005; or
 - 65.9 he/she is removed from office by a resolution of the members passed at a members' meeting.
- 66 A resolution under paragraph 65.7, 65.8 or 65.9 shall be valid only if: -
- 66.1 the Committee member who is the subject of the resolution is given reasonable prior written notice of the grounds upon which the resolution for his/her removal is to be proposed;
 - 66.2 the Committee member 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
 - 66.3 (in the case of a resolution under paragraph 65.7 or 65.8) at least two thirds (to the nearest round number) of the Committee members then in office vote in favour of the resolution.

Register of Committee members

- 67 The Committee must keep a register of Committee members, setting out
- 67.1 for each current Committee member:
 - 67.1.1 his/her full name and address;
 - 67.1.2 the date on which he/she was appointed as a Committee member; and
 - 67.1.3 any office held by him/her in the organisation;
 - 67.2 for each former Committee member - for at least 6 years from the date on which he/she ceased to be a Committee member:
 - 67.2.1 the name of the Committee member;
 - 67.2.2 any office held by him/her in the organisation; and
 - 67.2.3 the date on which he/she ceased to be a Committee member.

- 68 The Committee must ensure that the register of Committee members is updated within 28 days of any change:
- 68.1 which arises from a resolution of the Committee or a resolution passed by the members of the organisation; or
 - 68.2 which is notified to the organisation.
- 69 If any person requests a copy of the register of Committee members, the Committee must ensure that a copy is supplied to him/her within 28 days, providing the request is reasonable; if the request is made by a person who is not a Committee member of the organisation, the Committee may provide a copy which has the addresses blanked out - if the SCIO is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

Office-bearers

- 70 The Committee members must elect (from among themselves) a President, a treasurer and a secretary.
- 71 In addition to the office-bearers required under clause 70, the Committee members may elect (from among themselves) further office-bearers if they consider that appropriate.
- 72 All of the office-bearers will cease to hold office at the conclusion of each AGM, but may then be re-elected under clause 70 or 71.
- 73 A person elected to any office will automatically cease to hold that office: -
- 73.1 if he/she ceases to be a Committee member; *or*
 - 73.2 if he/she gives to the organisation a notice of resignation from that office, signed by him/her.

Powers of Committee

- 74 Except where this constitution states otherwise, the organisation (and its assets and operations) will be managed by the Committee; and the Committee may exercise all the powers of the organisation.
- 75 A meeting of the Committee at which a quorum is present may exercise all powers exercisable by the Committee.
- 76 The members may, by way of a resolution passed in compliance with clause 47 (requirement for two-thirds majority), direct the Committee to take any particular step or direct the Committee not to take any particular step; and the Committee shall give effect to any such direction accordingly.

Committee members - general duties

- 77 Each of the Committee members has a duty, in exercising functions as a Committee member, to act in the interests of the organisation; and, in particular, must:-
- 77.1 seek, in good faith, to ensure that the organisation acts in a manner which is in accordance with its purposes;
 - 77.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
 - 77.3 in circumstances giving rise to the possibility of a conflict of interest between the organisation and any other party:
 - 77.3.1 put the interests of the organisation before that of the other party;
 - 77.3.2 where any other duty prevents him/her from doing so, disclose the conflicting interest to the organisation and refrain from participating in any deliberation or decision of the other Committee members with regard to the matter in question;
 - 77.4 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.
- 78 In addition to the duties outlined in clause 77, all of the Committee members must take such steps as are reasonably practicable for the purpose of ensuring: -
- 78.1 that any breach of any of those duties by a Committee member is corrected by the Committee member concerned and not repeated; and
 - 78.2 that any Committee member who has been in serious and persistent breach of those duties is removed as a Committee member.
- 79 Provided he/she has declared his/her interest - and has not voted on the question of whether or not the organisation should enter into the arrangement - a Committee member will not be debarred from entering into an arrangement with the organisation in which he/she has a personal interest; and (subject to clause 80 and to the provisions relating to remuneration for services contained in the Charities and Trustee Investment (Scotland) Act 2005), he/she may retain any personal benefit which arises from that arrangement.
- 80 No Committee member may serve as an employee (full time or part time) of the organisation; and no Committee member may be given any remuneration by the organisation for carrying out his/her duties as a Committee member.

- 81 The Committee members 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 Committee members

- 82 Each of the Committee members shall comply with the code of conduct (incorporating detailed rules on conflict of interest) prescribed by the Committee from time to time.
- 83 The code of conduct referred to in clause 82 shall be supplemental to the provisions relating to the conduct of Committee members contained in this constitution and the duties imposed on Committee members 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 COMMITTEE MEMBERS

Notice of Committee meetings

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

Procedure at Committee meetings

- 86 No valid decisions can be taken at a Committee meeting unless a quorum is present; the quorum for Committee meetings is 4 Committee members, present in person or by telephone, of which at least 1 should be a Staff member.
- 87 If at any time the number of Committee members in office falls below the number stated as the quorum in clause 86, the remaining Committee member(s) will have power to fill the vacancies or call a members' meeting - but will not be able to take any other valid decisions.
- 88 The President of the organisation should act as chairperson of each Committee meeting.
- 89 If the President 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 Committee members present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.
- 90 Every Committee member has one vote, which must be given personally.
- 91 All decisions at Committee meetings will be made by majority vote.
- 92 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.
- 93 The Committee may, at its discretion, allow any person to attend and speak at a Committee meeting notwithstanding that he/she is not a Committee member - but on the basis that he/she must not participate in decision-making.
- 94 A Committee member must not vote at a Committee meeting (or at a meeting of a sub-committee) on any resolution which relates to a matter in which he/she has a personal interest or duty which conflicts (or may conflict) with the interests of the organisation; he/she must withdraw from the meeting while an item of that nature is being dealt with.

- 95 For the purposes of clause 94: -
- 95.1 an interest held by an individual who is “connected” with the Committee member under section 68(2) of the Charities and Trustee Investment (Scotland) Act 2005 (husband/wife, partner, child, parent, brother/sister etc) shall be deemed to be held by that Committee member;
- 95.2 a Committee member will be deemed to have a personal interest in relation to a particular matter if a body in relation to which he/she is an employee, director, member of the management committee, officer or elected representative has an interest in that matter.

Minutes

- 96 The Committee must ensure that proper minutes are kept in relation to all Committee meetings and meetings of sub-committees.
- 97 The minutes to be kept under clause 96 must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting.

ADMINISTRATION

Delegation to sub-committees

- 98 The Committee may delegate any of their powers to sub-committees; a sub-committee must include at least one Committee member, but other members of a sub-committee need not be Committee members.
- 99 The Committee may also delegate to the President of the organisation (or the holder of any other post) such of their powers as they may consider appropriate.
- 100 When delegating powers under clause 98 or 99, the Committee must set out appropriate conditions (which must include an obligation to report regularly to the Committee).
- 101 Any delegation of powers under clause 98 or 99 may be revoked or altered by the Committee at any time.
- 102 The rules of procedure for each sub-committee, and the provisions relating to membership of each sub-committee, shall be set by the Committee.

Operation of accounts

- 103 bank and building society accounts held by the organisation shall be as decided by the Committee from time to time. Where a signature or signatures are required (for instance for cheques) then at least one out of the signatures must be the signature of a Committee member.

- 104 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 103.

Accounting records and annual accounts

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

MISCELLANEOUS

Winding-up

- 107 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.
- 108 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.

Alterations to the constitution

- 109 This constitution may (subject to clause 110) be altered by resolution of the members passed at a members' meeting (subject to achieving the two thirds majority referred to in clause 47) or by way of a written resolution of the members.
- 110 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

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

- 111.1 any statutory provision which adds to, modifies or replaces that Act; and
 - 111.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph 111.1 above.
- 112 In this constitution: -
- 112.1 “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;
 - 112.2 “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.