09/10463

Books of Council and Session

Extract Registered 16 Mar 2009

TRUST DEED

GLENGARRY TRUST

REGISTERS OF SCOTLAND

[Deed Extract]

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Registers of Scotland

09/10463
AT EDINBURGH the Sixteenth day of March Two thousand and nine the Deed hereinafter reproduced was presented for registration in the Books of the Lords of Council and Session for preservation and is registered in the said Books as follows:-

We, Jon Paul Fleming residing at [redacted], Andrew Duncan Gordon residing at [redacted], David MacNaughton MacCallum residing at [redacted], Catherine Marigold MacLennan residing at [redacted] and Thomas Wynne [redacted]

in order to create a trust to be known as THE GLENGARRY TRUST ("the Trust")

(One) appoint as trustees ourselves (who and whose successors are referred to as "the Trustees")

(Two) pay the sum of £1 to the Trustees;

And we direct as follows:-

Trust purposes

1 The Trustees shall hold and apply the sum of £1 paid by us to them, and such other funds and assets as may from time to time be comprised in the Trust Property, in trust for the following purposes:-

(a) to advance community development (including the advancement of rural regeneration) within the community council area of Glengarry ("**the Area of Benefit**");

(b) to relieve poverty within the Area of Benefit;

(c) to advance education within the Area of Benefit;

(d) to advance heritage through preserving for public benefit the historical, architectural and constructional heritage that may exist within the Area of Benefit in buildings (including any part of a building, and any other structure or erection) of particular beauty or of historical, architectural or constructional interest;

(e) to advance citizenship, including the promotion of civic responsibility, volunteering, the voluntary sector and/or the effectiveness or efficiency of charities within the Area of Benefit;

(f) to advance the arts or culture within the Area of Benefit;

(g) to advance public participation in sport within the Area of Benefit;

(h) to assist in the provision of recreational facilities and/or the organisation of recreational activities, within the Area of Benefit (which may include, without prejudice to that generality, the creation and maintenance of footpaths, cycle tracks, picnic areas and other amenities), such facilities/activities being available to members of the public at large with the object of improving their conditions of life;

(i) to advance environmental protection or improvement (which may include, without prejudice to that generality, the preservation of natural habitats and other measures to protect wildlife) within the Area of Benefit;

(j) to relieve those in need within the Area of Benefit by reason of age, ill-health, disability, financial hardship or other disadvantage;

(k) to further other charitable purposes of a similar nature for the benefit of residents of the Area of Benefit;

and in particular through raising funds and other contributions for, and providing support to a range of projects which advance any of the above aims.

2 The expenses of creating and administering the Trust, and any tax payable in relation to the Trust, shall be met in priority to all other payments and transfers of assets out of the Trust Property.

Powers

3 In the administration of the Trust, the Trustees shall, in addition to the powers and rights which are conferred by law upon trustees who are acting without remuneration, have the fullest powers with regard to investment, sale, administration and management of the Trust Property as if they were owners; in particular (but without limiting the scope of the powers which they may exercise under the preceding provision), the Trustees shall have the following powers:-

(a) To provide financial support through the award of grants in pursuance of the Trust Purposes.

(b) To take such steps as may be deemed appropriate for the purpose of raising funds and obtaining in-kind donations.

(c) To accept grants, donations and legacies of all kinds (and to accept any reasonable conditions attaching to them).

(d) To form companies whose activities may generate income to support the furtherance of the Trust Purposes, acquire and hold shares and other interests in such companies, and carry out in relation to any such company all such functions as may be associated with a holding company.

(e) To carry on any other activities which further any of the Trust Purposes.

(f) To establish and/or support any other charity, and to make donations for any charitable purpose falling within the Trust Purposes.

(g) To purchase, take on lease, hire, or otherwise acquire, any property or rights.

(h) To improve, manage, develop, or otherwise deal with, all or any part of the Trust Property.

(i) To sell, let, hire out, license, or otherwise dispose of, all or any part of the Trust Property.

(j) To borrow money, and to give security in support of any such borrowings by the Trust.

(k) To engage such consultants and advisers as are considered appropriate from time to time.

(l) To effect insurance of all kinds (which may include officers' liability insurance).

(m) To invest any funds which are not immediately required for the administration of the Trust or for the Trust's activities, in such investments as may be considered appropriate (and to dispose of, and vary, such investments).

(n) To liaise with other voluntary sector bodies, local authorities, international, European, UK or Scottish government departments and agencies, and other bodies, all with a view to furthering the Trust Purposes.

(o) To form any company which is a charity with objects which are similar (wholly or in part) to the Trust Purposes, and, if considered appropriate, to transfer to any such company (without any payment being required from the company) the whole or any part of the Trust Property.

(p) To retain any property comprised in the Trust Property for such time as the Trustees think proper.

(q) To have any part of the Trust Property registered in the name of a nominee and to pay reasonable fees to such nominee.

(r) To grant proxies in favour of any of the Trustees (or any other person) to attend, act and vote for the Trustees at any meetings (whether of the nature of general meetings, class meetings, creditors' meetings or otherwise) relating to any investment held by the Trustees or relating to any claim by the Trustees in any liquidation or sequestration proceedings.

(s) To compromise or settle by arbitration all disputed claims by or against the Trust or the Trust Property.

(t) To reimburse any of the Trustees out of the Trust Property, in relation to all expenses reasonably incurred by him/her in the administration of the Trust.

(u) To do anything which may be incidental or conducive to the administration of the Trust Property, the operations of the Trust or the furtherance of the Trust Purposes.

Number of Trustees

4 The number of Trustees shall not be less than 5 nor more than 7.

Appointment/removal/resignation

5 The Trustees shall be entitled, by way of a resolution passed by majority vote at a meeting of the Trustees, to appoint any individual (subject to clause 6) as a Trustee.

6 The Trustees shall exercise their powers under clause 5 so as to secure that (so far as reasonably practicable) at any given time:

6.1 one of the Trustees is an individual nominated by Glengarry Community Council

6.2 one of the Trustees is an individual nominated by the management committee of the hall association which manages Glengarry Community Hall

6.3 (subject to clause 7) one of the Trustees is an individual nominated by the parent council of [Glengarry primary school]

6.4 one of the Trustees is an individual nominated by one of the churches situated within the Area of Benefit;

and (unless one or more of the Trustees appointed in pursuance of paragraphs 6.1 to 6.4 fulfils this requirement)

6.5 one of the Trustees is an individual with strong financial expertise.

7 With reference to paragraphs 6.1 to 6.4, in the event that any of the parties having powers of nomination under those paragraphs fails to nominate an individual for appointment as a trustee, the Trustees may appoint any individual who they consider reasonably appropriate to fill the vacancy (and on the basis that if the vacancy relates to paragraph 6.3, he/she must be a parent of a child attending [Glengarry primary school]); an individual appointed by the Trustees under the preceding provisions of this clause 7 will, however, automatically cease to be a Trustee upon receipt by the Trustees of a notice by the relevant party nominating some other person for appointment as a Trustee.

8 An individual holding office as a Trustee may retire by giving notice in writing to that effect to the secretary to the Trust.

9 An individual appointed as a Trustee on the basis of nomination by one of the bodies referred to in clause 6 will automatically vacate office as a Trustee if the relevant body withdraws his/her notification by notice to the Trustees to that effect.

10 The Trustees shall have power to remove any individual from office as a Trustee, by way of a resolution passed at a meeting of the Trustees by a majority of two thirds or more of the Trustees then in office.

Procedure at Trustees' meetings

11 Subject to the provisions of the following paragraphs, the Trustees may regulate their proceedings as they think fit.

12 A meeting of the Trustees shall be held at least twice in each year.

13 Any Trustee may call a meeting of the Trustees, or request the secretary to the Trust to call a meeting of the Trustees.

14 No notice of a meeting of the Trustees need be given to any Trustee who is absent from the United Kingdom.

15 Questions arising at a meeting of the Trustees shall be decided by a majority of votes; where there is an equality of votes, the chairperson of the meeting shall have a casting vote.

16 No business shall be dealt with at a meeting of the Trustees unless a quorum is present; the quorum for meetings of the Trustees shall be three.

17 If at any time the number of Trustees in office falls below the number fixed as the quorum, the remaining Trustee or Trustees may act only for the purpose of appointing an additional Trustee or Trustees.

18 The Trustees shall appoint one of the Trustees to be chair on an annual basis, and may at any time remove the person so appointed from that office.

19 Unless he/she is unwilling to do so, the Trustee serving as chair shall preside as chairperson at every meeting of the Trustees at which he/she is present; if the chair is unwilling to act as chairperson or is not present within 15 minutes after the time when the meeting was due to commence, the Trustees present may elect from among themselves the person who will act as chairperson of the meeting.

20 A Trustee shall not vote at a meeting of the Trustees on any resolution concerning a matter in which he/she has, directly or indirectly, a personal interest or duty (unless immaterial) which conflicts or may conflict with the interests of the company.

21 For the purposes of the preceding clause:-

21.1 an interest of a person who is a member of the immediate family of a Trustee shall be treated as a personal interest of that Trustee; and

21.2 a Trustee shall 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, trustee, major shareholder, partner, officer or elected representative has an interest in that matter;

and on the basis that

(a) an individual's "immediate family" shall be taken to comprise his/her spouse/partner, parents and children/step-children;

(b) a "major shareholder" shall be taken to be an individual who holds more than 20% of the equity share capital of the relevant body (or is entitled to more than 20% of the profits of the relevant body available for distribution) or is able to control more than 20% of the voting power at general meetings of the relevant body – in each case either alone or in conjunction with members of his/her immediate family.

22 The minutes of all Trustees' meetings shall be made available in the local post office (and/or any other appropriate public facility) for inspection by members of the public within the Area of Benefit.

23 Subject to the arrangements referred to in clause 22, each of the Trustees shall maintain confidentiality in relation to the detailed discussions which have taken place at meetings of the Trustees and in relation to any other information of which he/she may become aware in the course of his/her period in office as a Trustee.

24 All acts *bona fide* done by any meeting of the Trustees, by a committee of the Trustees or by a person acting as a Trustee, shall, notwithstanding that it is afterwards discovered that there was a defect in the appointment of any Trustee or that any of them had ceased to hold office or was not entitled to vote, be as valid as if every such person had been duly appointed and had continued to be a Trustee and had been entitled to vote.

25 A resolution in writing signed by all the persons holding office as Trustees at the time shall be as valid and effective as if it had been passed at a meeting of the Trustees duly convened and held; a resolution of that kind may take the form of a number of copies containing the text of the resolution, with each copy being signed by one or more Trustees.

Delegation

26 The Trustees may delegate any of their powers to any committee consisting of two or more Trustees; any such delegation of powers may be made subject to such conditions as the Trustees may impose, and may be revoked or altered.

27 Subject to any condition imposed in pursuance of the preceding clause, the proceedings of a committee consisting of two or more Trustees shall be governed by the provisions of clauses 11 to 25 so far as they are capable of applying.

Remuneration

28 No Trustee may serve as an employee (full-time or part-time) of the Trust, and no Trustee may be given any remuneration by the Trust for carrying out his/her duties as a trustee

Secretary

29 The Trustees shall appoint a secretary to the Trust for such term, at such remuneration (if any), and on such conditions, as the Trustees may think fit; and any secretary so appointed may be removed by them.

30 The Trustees shall ensure that the secretary:

(a) keeps proper minutes of all proceedings at meetings of the Trustees (and at meetings of committees of the Trustees), including the names of the Trustees present at each such meeting

(b) keeps proper records and documents in relation to all other matters connected with the administration and management of the Trust.

Accounts

31 The Trustees shall ensure that proper accounting records are maintained, in accordance with all applicable statutory requirements.

32 The Trustees shall prepare annual accounts, complying with all relevant statutory requirements; if an audit is required under any statutory provisions or if the Trustees otherwise think fit, the Trustees shall ensure that an audit of such accounts is carried out by a qualified auditor.

33 An accountant engaged in an audit of the Trust's accounts shall be entitled to have access to all accounting records and other documents relating to the Trust.

34 In addition to their statutory duties in relation to the supply of annual accounts upon request by a member of the public, the Trustees shall ensure that copies of the annual accounts of the Trust are available for inspection at the local post office and/or any other appropriate public facility.

Annual public meeting

35 The Trustees shall arrange an annual public meeting, at which the Trustees shall outline the work of the Trust over the period covered by the most recent completed annual accounts, any changes in the composition of the board of Trustees, and any significant changes in policy or other developments affecting the work of the Trust.

36 The Trustees shall take all reasonable steps to ensure that the time and venue of the annual public meeting is conducive to encouraging as many people from the local community as possible (and having regard to issues of mobility and accessibility) to attend the meeting.

37 For the avoidance of doubt, no member of the public attending the annual public meeting shall have a right to vote, nor shall the meeting have power to direct the Trustees to take, or refrain from, any particular course of action.

Operation of bank accounts

38 The signature of two Trustees shall be required in relation to all cheques issued by the Trust and all other operations (excluding lodgement of funds) on the bank and building society accounts held by the Trust; for the avoidance of doubt, the Trustees may authorise all or any of the Trustees to act as authorised signatories for this purpose.

Payments to charities etc

39 The receipt of the treasurer or other appropriate officer for any funds or other assets paid or transferred by the Trustees to any charity shall represent sufficient discharge to the Trustees.

Limitations on liability

40 The Trustees shall not be liable for loss or depreciation of the value of investments retained or made by them, nor for omissions, nor for neglect in management, nor for insolvency of debtors, nor for the acts, omissions, neglect or default of one another or of any banker, solicitor, factor or other agent employed by them.

Conduct of Trustees

41 Each of the Trustees shall, in exercising his/her functions as a trustee of the Trust, act in the interests of the Trust; and, in particular, must

(a) seek, in good faith, to ensure that the Trust acts in a manner which is in accordance with its objects (as set out in this trust deed)

(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 of interest between the Trust and any other party

(i) put the interests of the Trust before that of the other party, in taking decisions as a Trustee

(ii) where any other duty prevents him/her from doing so, disclose the conflicting interest to the Trust and refrain from participating in any discussions or decisions involving the other Trustees with regard to the matter in question

(d) ensure that the Trust complies with any direction, requirement, notice or duty imposed on it by virtue of the Charities and Trustee Investment (Scotland) Act 2005.

Amendment of trust deed/winding-up

42 If in the opinion of the Trustees any change in circumstances or alteration in the law has made or is likely to make execution of the Trust Purposes impossible or impracticable, *or* if in the opinion of the Trustees the administration of the Trust could be improved or the Trust Purposes be advanced in a more appropriate manner *or* if the Trustees consider that the name of the Trust should be changed, the Trustees may (subject to clause 43) in their discretion,

(a) supplement or amend the provisions of this trust deed or any deed supplemental to this trust deed; or

(b) wind up the Trust and transfer the Trust Property (after settlement of all debts and liabilities) to some other charity or charities having similar objects to those of the Trust.

43 In no circumstances is the Trust Estate to be held or applied for any purpose which is not an exclusively charitable purpose.

Interpretation

44 In this trust deed

"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 2006
"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 part 10 of the Income Tax Act 2007;
"the Trust Deed"	means this trust deed (including any supplementation or amendment effected in accordance with the provisions of clauses 42 and 43);
"the Trust Property"	means the sum of £1 paid by us to the Trustees, and such other funds and assets as may from time to time be received by the Trustees as trustees under the Trust Deed (from us or any other person), and the assets in which; any funds so received may from time to time be invested.
"the Trust Purposes"	means the purposes specified in clause 1.

45 Any reference in this trust deed to a provision of any legislation shall include any statutory modification or re-enactment of that provision in force from time to time.

We declare that the Trust Deed shall be irrevocable.

This trust deed, consisting of this and the 9 preceding pages, is executed as follows:-

SIGNED by the said JON PAUL FLEMING J. P. Fleming
at GLENGARRY COMMUNITY VILLAGE HALL
on 26 JANUARY 2009
in the presence of

P.B. WINNER PETER BEGG WALKER
SEVEN HEADS
BY SPEAN BRIDGE

SIGNED by the said ANDREW DUNCAN GORDON

at [redacted]

on 18 Dec. 2008

in the presence of Claire Slott

CLAIRE SLOTT
AUCHLEYBAL
GLEN TILT
BLAIR ATHOLL

David M. MacCallum

SIGNED by the said DAVID MACNAUGHTON MACCALLUM

at Glengarry Community Hall

on 26.1.09

in the presence of D. Ferguson

DOROTHY FERGUSON

4 DUMFRIES PLACE

FORT WILLIAM.

Catherine Marigold MacLennan
SIGNED by the said CATHERINE MARIGOLD MACLENNAN
at Glengarry Community Hall
on 26-1-09.
in the presence of D. Ferguson

DOROTHY FERGUSON
4 DUMFRIES PLACE
FORT WILLIAM

Thomas Wynne

SIGNED by the said THOMAS WYNNE
at [illegible]
on 12th December 2008
in the presence of

S Cameron.
SHEILA CAMERON
OAK BANK
BUNROY
ROY BRIDGE

EXTRACTED by me having commission to that effect from the Keeper of the Registers of Scotland.