



# Constitution of a Charitable Incorporated Organisation whose only voting members are its charity trustees

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### (‘Foundation’ model constitution)

Date of constitution (last amended):

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### 1. Name

The name of the Charitable Incorporated Organisation (“the CIO”) is

TBC on November 14<sup>th</sup> at FC

### 2. National location of principal office

The CIO must have a principal office in England or Wales. The principal office of the CIO is in England

### 3. Object[s]

The objects of the CIO are

***To provide or assist in the provision of facilities in the interest of social or economic welfare for individuals who have need of such facilities by reason of their youth, age, infirmity or disability, financial hardship or social circumstances with the object of improving their conditions of life.***

Nothing in this constitution shall authorise an application of the property of the CIO for the purposes which are not charitable in accordance with [section 7 of the Charities and Trustee Investment (Scotland) Act 2005] and [section 2 of the Charities Act (Northern Ireland) 2008]

### 4. Powers

The CIO has power to do anything which is calculated to further its object[s] or is

conducive or incidental to doing so. In particular, the CIO has power to:

- (1) borrow money and to charge the whole or any part of its property as security for the repayment of the money borrowed. The CIO must comply as appropriate with sections 124 and 125 of the Charities Act 2011, if it wishes to mortgage land;
- (2) buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;
- (3) sell, lease or otherwise dispose of all or any part of the property belonging to the CIO. In exercising this power, the CIO must comply as appropriate with sections 117 and 119-123 of the Charities Act 2011;
- (4) employ and remunerate such staff as are necessary for carrying out the work of the CIO. The CIO may employ or remunerate a charity trustee only to the extent that it is permitted to do so by clause 6 (Benefits and payments to charity trustees and connected persons) and provided it complies with the conditions of that clause;
- (5) deposit or invest funds, employ a professional fund-manager, and arrange for the investments or other property of the CIO to be held in the name of a nominee, in the same manner and subject to the same conditions as the trustees of a trust are permitted to do by the Trustee Act 2000.
- (6) **operate a Community Transport Scheme for the benefit of the community of Thame and the surrounding area**
- (7) **operate a not-for-profit trading business/s to support community facilities in Thame**
- (8) **operate a community building for Thame and the surrounding area**

## **5. Application of income and property**

- (1) The income and property of the CIO must be applied solely towards the promotion of the objects.
  - (a) A charity trustee is entitled to be reimbursed from the property of the CIO or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the CIO.
  - (b) A charity trustee may benefit from trustee indemnity insurance cover purchased at the CIO's expense in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011.
- (2) None of the income or property of the CIO may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to any member of the CIO.

- (3) Nothing in this clause shall prevent a charity trustee or connected person receiving any benefit or payment which is authorised by Clause 6.

## **6. Benefits and payments to charity trustees and connected persons**

### **(1) General provisions**

No charity trustee or connected person may:

- (a) buy or receive any goods or services from the CIO on terms preferential to those applicable to members of the public
- (b) sell any goods, services, or any interest in land to the CIO
- (c) be employed by, or receive any remuneration from, the CIO
- (d) receive their financial benefit from the CIO; unless the payment or benefit is permitted by sub-clause (2) of this clause or authorized by the court of the prior written consent of the charity commission (“the Commission”) has been obtained. In this clause, a “financial benefit” means a benefit, direct or indirect, which is either money or has a monetary value.

### **(2) Scope and powers permitting trustees’ or connected persons’ benefits**

- (a) A charity trustee or connected person may receive a benefit from the CIO as a beneficiary of the CIO provided that a majority of the trustees do not benefit in this way.
- (b) A charity trustee or connected person may enter into a contract for the supply of services, or of goods that are supplied in connection with the provision of services, to the CIO where that is permitted in accordance with, and subject to the conditions in, sections 185 to 188 of the Charities Act 2011.
- (c) Subject to sub-clause (3) of this clause a charity trustee or connected person may provide the CIO with goods that are not supplied in connection with services provided to the CIO by the charity trustee or connected person.
- (d) A charity trustee or connected person may receive interest on money lent to the CIO at a reasonable and proper rate which must be not more than the Bank of England bank rate (also known as the base rate).
- (e) A charity trustee or connected person may receive rent for premises let by the trustee or connected person to the CIO. The amount of the rent and the other terms of the lease must be reasonable and proper. The charity trustee concerned must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion.
- (f) A charity trustee or connected person may take part in the normal trading and fundraising activities of the CIO on the same terms as members of the public.

(3) Payment for supply of goods only – controls

The CIO and its charity trustees may only rely upon the authority provided by sub-clause (2)(c) of this clause if each of the following conditions is satisfied:

- (a) The amount or maximum amount of the payment for the goods is set out in a written agreement between the CIO and the charity trustee or connected person supplying the goods (“the supplier”).
  - (b) The amount or maximum amount of the payment for the goods does not exceed what is reasonable in the circumstances for the supply of the goods in question.
  - (c) The other charity trustees are satisfied that it is in the best interests of the CIO to contract with the supplier rather than with someone who is not a charity trustee or connected person. In reaching that decision the charity trustees must balance the advantage of contracting with a charity trustee or connected person against the disadvantages of doing so.
  - (d) The supplier is absent from the part of any meeting at which there is discussion of the proposal to enter into a contract or arrangement with him or her or it with regard to the supply of goods to the CIO.
  - (e) The supplier does not vote on any such matter and is not to be counted when calculating whether a quorum of charity trustees is present at the meeting.
  - (f) The reason for their decisions is recorded by the charity trustees in the minute book.
  - (g) A majority of the charity trustees then in office are not in receipt of remuneration or payments authorised by clause 6.
- (4) In sub-clauses (2) and (3) of this clause:
- (a) “the CIO” includes any company in which the CIO:
    - (i) holds more than 50% of the shares; or
    - (ii) controls more than 50% of the voting rights attached to the shares;  
or
    - (iii) has the right to appoint one or more directors to the board of the company;
  - (b) “connected person” includes any person within the definition set out in clause [30] (Interpretation);

## **7. Conflicts of interest and conflicts of loyalty**

A charity trustee must:

- (1) declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the CIO or in any transaction or arrangement entered into by the CIO which has not previously been declared; and
- (2) absent himself or herself from any discussions of the charity trustees in which it is possible that a conflict of interest will arise between his or her duty to act solely in the interests of the CIO and any personal interest (including but not limited to any financial interest). Any charity trustee absenting himself or herself from any discussions in accordance with this clause must not vote or be counted as part of the quorum in any decision of the charity trustees on the matter.

## **8. Liability of members to contribute to the assets of the CIO if it is wound up**

If the CIO is wound up, the members of the CIO have no liability to contribute to its assets and no personal responsibility for settling its debts and liabilities.

## **9. Charity trustees**

- (1) Functions and duties of charity trustees

The charity trustees shall manage the affairs of the CIO and may for that purpose exercise all the powers of the CIO. It is the duty of each charity trustee:

- (a) to exercise his or her powers and to perform his or her functions in his or her capacity as a trustee of the CIO in the way he or she decides in good faith would be most likely to further the purposes of the CIO; and
  - (b) to exercise, in the performance of those functions, such care and skill as is reasonable in the circumstances having regard in particular to:
    - (i) any special knowledge or experience that he or she has or holds himself or herself out as having; and,
    - (ii) if he or she acts as a charity trustee of the CIO in the course of a business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession.
- (2) Eligibility for trusteeship
    - (a) Every charity trustee must be a natural person.
    - (b) No individual may be appointed as a charity trustee of the CIO:

- if he or she is under the age of 16 years; or
  - if he or she would automatically cease to hold office under the provisions of clause [12(1)(e)].
- (c) No one is entitled to act as a charity trustee whether on appointment or on any re-appointment until he or she has expressly acknowledged, in whatever way the charity trustees decide, his or her acceptance of the office of charity trustee.
- (d) At least one of the trustees of the CIO must be 18 years of age or over. If there is no trustee aged at least 18 years, the remaining trustees may only act to call a meeting of the charity trustees, or appoint a new charity trustee.]
- (3) Number of charity trustees

**Option 1**

- (a) There must be at least [five] charity trustees. If the number falls below this minimum, the remaining trustee or trustees may act only to call a meeting of the charity trustees, or appoint a new charity trustee.

Option 1a

The maximum number of charity trustees is [11]. The charity trustees may not appoint any charity trustee if as a result the number of charity trustees would exceed the maximum

- (4) First charity trustees

The first charity trustees are as follows [and are appointed for the following terms] –

Town Clerk (Ex officio),

TTC Rep X2 (DB (Treasurer) – HR)

TYP Rep X2 (PC & LN)

Community Reps x 2 (TBC)

[for [4] years]

**10. Appointment of charity trustees**

- (1) Appointed charity trustees

- (a) Apart from the first charity trustees, every appointed trustee must be appointed [for a term of [four] years] by a resolution passed at a properly convened meeting of the charity trustees.

- (b) In selecting individuals for appointment as appointed charity trustees, the charity trustees must have regard to the skills, knowledge and experience needed for the effective administration of the CIO
- (2) Ex officio Trustee[s]
- (a) The **Town Clerk** for the time being (“the office holder”) shall automatically (“ex-officio”) be a charity trustee, for as long as he or she holds that office.
  - (b) If unwilling to act as a charity trustee, the office holder may:
    - (i) before accepting appointment as a charity trustee, give notice in writing to the trustees of his or her unwillingness to act in that capacity; or
    - (ii) after accepting appointment as a charity trustee, resign under the provisions contained in clause [12] (Retirement and removal of charity trustees).

The office of ex officio charity trustee will then remain vacant until the office holder ceases to hold office.

- (3) Nominated Trustee[s]
- (a) **Thame Town Council** and **Thame Youth Projects** (“the appointing bodies”) may appoint **[Two]** charity trustees each.
  - (b) Any appointment must be made at a meeting held according to the ordinary practice of the appointing **bodies**.
  - (c) Each appointment must be for a term of **[four]** years.
  - (d) The appointment will be effective from the later of:
    - (i) the date of the vacancy; and
    - (ii) the date on which the charity trustees or their secretary or clerk are informed of the appointment.
  - (e) The person/s appointed need not be a member of the appointing body.
  - (f) A trustee appointed by the appointing body has the same duty under clause 9(1) as the other charity trustees to act in the way he or she decides in good faith would be most likely to further the purposes of the CIO]

## 11. Information for new charity trustees

The charity trustees will make available to each new charity trustee, on or before his or her first appointment:

- (a) a copy of the current version of this constitution; and
- (b) a copy of the CIO's latest Trustees' Annual Report and statement of accounts.

## **12. Retirement and removal of charity trustees**

- (1) A charity trustee ceases to hold office if he or she:
  - (a) retires by notifying the CIO in writing (but only if enough charity trustees will remain in office when the notice of resignation takes effect to form a quorum for meetings);
  - (b) is absent without the permission of the charity trustees from all their meetings held within a period of six months and the trustees resolve that his or her office be vacated;
  - (c) dies;
  - (d) in the written opinion, given to the company, of a registered medical practitioner treating that person, has become physically or mentally incapable of acting as a director and may remain so for more than three months;
  - (e) is disqualified from acting as a charity trustee by virtue of sections 178-180 of the Charities Act 2011 (or any statutory re-enactment or modification of that provision).
- (2) Any person retiring as a charity trustee is eligible for reappointment.
- (3) A charity trustee who has served for [three] consecutive terms may not be reappointed for a [fourth] consecutive term but may be reappointed after an interval of at least [one year].