

Model Constitution of Religious CIO with one voting member and other non-member Trustees (based on 'Association' model constitution)

Date of constitution (last amended):

Terms used with capital initials are defined in clause 30 (Interpretation)

1. Name

The name of the CIO is

.....

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][Wales].

3. Object

The object of the CIO is the advancement of the Roman Catholic religion through the religious and other charitable work of the [Society] [Congregation] [Order] [Monastic Community] [Diocese] as the Trustees with the approval of the [Superior] [Abbot] [Bishop] shall from time to time think fit.

[Nothing in this constitution shall authorise an application of the property of the CIO for 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 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 if it wishes to mortgage land;
- (2) enter into one or more Derivative Contracts for the purpose of hedging any interest rate exposure in relation to a secured borrowing;
- (3) buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;
- (4) 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;

- (5) make grants or loans of money and to give guarantees in each case with or without security and upon such terms as the Trustees decide;
- (6) employ and remunerate such staff as are necessary for carrying out the work of the CIO and for the avoidance of doubt to employ or remunerate a Trustee but only to the extent that it is permitted to do so by clause 6 (Benefits and payments to Trustees and Connected Persons) and provided it complies with the conditions of that clause;
- (7) 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;
- (8) set aside funds for special purposes or as reserves against future expenditure [provided that any accumulation of income or capital is in the interests of the CIO and its beneficiaries and in accordance with a reserves policy adopted by the Trustees and published in the CIO's annual return sent to the Commission under clause 25(1)] and (subject to any restrictions applicable thereto) to resort to the capital or income of any such funds for any of the CIO's charitable purposes.

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 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 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.
- (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, except that:
 - (a) a member, Trustee or Connected Person who is a member of the [Society] [Congregation] [Order] [Monastic Community] [or a priest or other ordained person incardinated within the Diocese] may, in that capacity as a member, be employed and remunerated housed and maintained at the expense of the CIO; and
 - (b) this does not prevent a member who is not also a Trustee receiving:
 - (i) a benefit from the CIO as a beneficiary of the CIO;
 - (ii) reasonable and proper remuneration for any goods or services supplied to the CIO.
- (3) Nothing in this clause shall prevent a Trustee or Connected Person receiving any benefit or payment which is authorised by clause 6.

6. Benefits and payments to Trustees and Connected Persons

(1) General provisions

No 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 goods, services, or any interest in land to the CIO;
- (c) be employed by, or receive any remuneration from, the CIO;
- (d) receive any other financial benefit from the CIO;

unless the payment or benefit is permitted by sub-clause (2) of this clause, or authorised by the court or the Commission. 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

Subject to clause 5 (application of income and property):

- (a) a 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 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;
- (c) subject to sub-clause (3) of this clause a Trustee or Connected Person may provide the CIO with goods that are not supplied in connection with services provided to the CIO by the Trustee or Connected Person;
- (d) a 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 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 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 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 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 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 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 Trustee or Connected Person. In reaching that decision the Trustees must balance the advantage of contracting with a 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 Trustees is present at the meeting.
- (f) The reason for their decision is recorded by the Trustees in the minute book.
- (g) A majority of the Trustees then in office are not in receipt of remuneration or payments authorised by clause 6.

(4) Company controlled by CIO

In sub-clauses (2) and (3) of this clause "the CIO" includes any company in which the CIO:

- (a) holds more than 50% of the shares; or
- (b) controls more than 50% of the voting rights attached to the shares; or
- (c) has the right to appoint one or more directors to the board of the company.

7. Conflicts of interest and conflicts of loyalty

A 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 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 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 Trustees on the matter.

8. Liability of member to contribute to the assets of the CIO if it is wound up

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

9. Membership of the CIO

(1) Sole member

The sole member of the CIO shall be ex officio the [Superior] [Abbot] [Bishop].

(2) Transfer of membership

Membership of the CIO cannot be transferred to anyone else.

(3) Duty of member

It is the duty of the member of the CIO to exercise his or her powers as a member of the CIO in the way he or she decides in good faith would be most likely to further the purposes of the CIO.

10. Member's decisions

(1) General provisions

Except for those decisions that must be taken in a particular way as indicated in sub-clause (4) of this clause, the member of the CIO must provide the CIO with details of any decision that may be taken, and has effect as if agreed, by the CIO in general meeting unless the decision has been taken by way of a written resolution.

(2) Decisions that must be taken in a particular way

- (a) Any decision to remove a Trustee must be taken in accordance with clause 15(2).
- (b) Any decision to amend this constitution must be taken in accordance with clause 28 of this constitution (Amendment of Constitution).
- (c) Any decision to wind up or dissolve the CIO must be taken in accordance with clause 29 of this constitution (Voluntary winding up or dissolution). Any decision to amalgamate or transfer the

undertaking of the CIO to one or more other CIOs must be taken in accordance with the provisions of the Charities Act.

11. General meeting of member

There being only one member of the CIO, the member shall take decisions in accordance with clause 10.1 and is not required to hold a general meeting [but where general meetings would otherwise be required by the General Regulations or this constitution the member may call a meeting and should invite the Trustees to attend on reasonable notice].

12. Trustees

(1) Functions and duties of Trustees

The Trustees shall manage the affairs of the CIO and may for that purpose exercise all the powers of the CIO [with the approval of the [Superior] [Abbot] [Bishop]]. It is the duty of each Trustee:

- (a) to exercise his or her powers and to perform his or her functions 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 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 Trustee must be a natural person.
- (b) No one may be appointed as a Trustee:
 - if he or she is under the age of 18 years; or
 - if he or she would automatically cease to hold office under the provisions of clause 15(1)(f).
- (c) No one is entitled to act as a Trustee whether on appointment or on any re-appointment until he or she has expressly acknowledged, in whatever way the Trustees decide, his or her acceptance of the office of Trustee.

(3) Number of Trustees

- (a) There must be at least three Trustees. If the number falls below this minimum, the remaining Trustee or Trustees may act only to call a meeting of the Trustees, or appoint a new Trustee.
- (b) The maximum number of Trustees is [12].

(4) First Trustees

The first Trustees of the CIO are –

.....

13. Appointment of Trustees

- (1) The [Superior][Abbot][Bishop] shall be an ex-officio Trustee.
- (2) The [Superior][Abbot][Bishop] shall appoint and remove the other Trustees in writing.
- (3) Trustees shall be appointed for a term of 3 years or such other term as the [Superior][Abbot][Bishop] shall decide and they may (subject to Clause 16) be reappointed.

14. Information for new Trustees

The Trustees will make available to each new Trustee, on or before his or her first appointment:

- (1) a copy of this constitution and any amendments made to it; and
- (2) a copy of the CIO’s latest trustees’ annual report and statement of accounts.

15. Retirement and removal of Trustees

- (1) A Trustee ceases to hold office if he or she:
 - (a) retires by notifying the CIO in writing (but only if enough 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 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) becomes incapable by reason of mental disorder, illness or injury of managing and administering his or her own affairs;
 - (e) is removed as Trustee by the [Superior][Abbot][Bishop] in accordance with sub-clause (2) of this clause; or
 - (f) is disqualified from acting as a Trustee by virtue of sections 178-180 of the Charities Act.
- (2) A resolution to remove a Trustee in accordance with sub-clause 15(1)(e) shall not take effect unless the individual concerned has been given at least 14 clear days' notice in writing that the resolution is to be proposed, specifying the circumstances alleged to justify removal from office, and has been given a reasonable opportunity of making oral and/or written representations to the member of the CIO.

16. Reappointment of Trustees

Any person who retires as a Trustee is eligible for reappointment. Except in the case of a member of the [Society] [Congregation] [Order] [Monastic Community], a Trustee who has served for consecutive terms may not be reappointed for a fourth consecutive term but may be reappointed after an interval of at least [one year].

17. Taking of decisions by Trustees

Subject to clause 12(1), any decision may be taken either:

- at a meeting of the Trustees; or
- by resolution in writing by hard copy or Electronic Means sent to all the Trustees and agreed by 75% of the Trustees, which may comprise either a single document or several documents containing the text of the resolution in like form to each of which one or more charity trustees has signified their agreement.

18. Delegation by Trustees

- (1) The Trustees may delegate any of their powers or functions to a committee or committees, and, if they do, they must determine the terms of reference on which the delegation is made. The Trustees may at any time alter those terms of reference, or revoke the delegation.
- (2) The power is in addition to the power of delegation in the General Regulations and any other power of delegation available to the Trustees, but is subject to the following requirements –

- (a) a committee may consist of two or more persons, but at least one member of each committee must be a Trustee;
- (b) the acts and proceedings of any committee must be brought to the attention of the Trustees as a whole as soon as is reasonably practicable; and
- (c) the Trustees shall from time to time review the arrangements which they have made for the delegation of their powers.

19. Meetings and proceedings of Trustees

(1) Calling meetings

- (a) The [Superior][Abbot][Bishop] may call a meeting of the Trustees.
- (b) Subject to that, the Trustees shall decide how their meetings are to be called, and what notice is required.

(2) Chairing of meetings

The [Superior][Abbot] [Bishop] shall be chairman ex-officio but if [s]he shall not be willing or able to act the Trustees may appoint one of their number to chair their meetings and may at any time revoke such appointment. If no-one has been so appointed, or if the person appointed is unwilling to preside or is not present within 10 minutes after the time of the meeting, the Trustees present may appoint one of their number to chair that meeting.

(3) Procedure at meetings

- (a) No decision shall be taken at a meeting unless a quorum is present at the time when the decision is taken. The quorum is [two] Trustees, or the number nearest to [one third] of the total number of Trustees, whichever is greater, or such larger number as the Trustees may decide from time to time. A Trustee shall not be counted in the quorum present when any decision is made about a matter upon which he or she is not entitled to vote.
- (b) Questions arising at a meeting shall be decided by a majority of those eligible to vote.

(4) Participation in meetings by Electronic Means

- (a) A meeting may be held by suitable Electronic Means agreed by the Trustees in which each participant may communicate with all the other participants.
- (b) Any Trustee participating at a meeting by suitable Electronic Means agreed by the Trustees in which a participant or participants may communicate with all the other participants shall qualify as being present at the meeting.

- (c) Meetings held by Electronic Means must comply with rules for meetings, including chairing and the taking of minutes.

20. Saving provisions

- (1) Subject to sub-clause (2) of this clause, all decisions of the Trustees, or of a committee of Trustees, shall be valid notwithstanding the participation in any vote of a Trustee:

- who was disqualified from holding office;
- who had previously retired or who had been obliged by the constitution to vacate office;
- who was not entitled to vote on the matter, whether by reason of a conflict of interest or otherwise;

if, without the vote of that Trustee and that Trustee being counted in the quorum, the decision has been made by a majority of the Trustees at a quorate meeting.

- (2) Sub-clause (1) of this clause does not permit a Trustee to keep any benefit that may be conferred upon him or her by a resolution of the Trustees or of a committee of Trustees if, but for sub-clause (1), the resolution would have been void, or if the Trustee has not complied with clauses 5 (Application of income and property), 6 (Benefits and payments to Trustees and Connected Persons), and 7 (Conflicts of interest).

21. Execution of documents

- (1) The CIO shall execute documents either by signature or by affixing its seal (if it has one)
- (2) A document is validly executed by signature if it is signed by at least two of the Trustees.
- (3) If the CIO has a seal:
 - (a) it must comply with the provisions of the General Regulations; and
 - (b) it must only be used by the authority of the Trustees or of a committee of Trustees duly authorised by the Trustees. The Trustees may determine who shall sign any document to which the seal is affixed and unless otherwise determined it shall be signed by two Trustees.

22. Use of electronic communications

(1) General

The CIO will comply with the requirements of the Communications Provisions in the General Regulations and in particular:

- (a) the requirement to provide within 21 days to any member on request a hard copy of any documents or information sent to the member otherwise than in hard copy form;
- (b) any requirements to provide information to the Commission in a particular form or manner.

(2) To the CIO

Any member or Trustee of the CIO may communicate by Electronic Means with the CIO to an address specified by the CIO for the purpose, so long as the communication is authenticated in a manner which is satisfactory to the CIO.

(3) By the CIO

- (a) Any member or Trustee of the CIO, by providing the CIO with his or her email address or similar, is taken to have agreed to receive communications from the CIO by Electronic Means at that address, unless the member has indicated to the CIO his or her unwillingness to receive such communications in that form.
- (b) The Trustees or the member of the CIO or the CIO itself as the case may be may, subject to compliance with any legal requirements, by means of publication on its website:
 - (i) give Trustees notice of their meetings in accordance with clause 19(1) (Calling meetings); and
 - (ii) submit any proposal to the member or Trustees for decision by written resolution in accordance with the CIO's powers under clause 10 (Member's decisions).
- (c) The Trustees must:
 - (i) take reasonable steps to ensure that the member and Trustees are promptly notified of the publication of any such notice or proposal;
 - (ii) send any such notice or proposal in hard copy form to any member or Trustee who has not consented to receive communications by electronic means.

23. Keeping of Registers

The CIO must comply with its obligations under the General Regulations in relation to the keeping of, and provision of access to, registers of its members and Trustees.

24. Minutes

The Trustees must keep minutes of all:

- (1) appointments of officers made by the Trustees;
- (2) proceedings at general meetings of the CIO;
- (3) meetings of the Trustees and committees of Trustees including:
 - the names of the trustees present at the meeting;
 - the decisions made at the meetings; and
 - where appropriate the reasons for the decisions;
- (4) decisions made by the Trustees otherwise than in meetings.

25. Accounting records, accounts, annual reports and returns, register maintenance

- (1) The Trustees must comply with the requirements of the Charities Act with regard to the keeping of accounting records, to the preparation and scrutiny of statements of accounts, and to the preparation of annual reports and returns. The statements of accounts, reports and returns must be sent to the Commission, regardless of the income of the CIO, within 10 months of the financial year end.
- (2) The Trustees must comply with their obligation to inform the Commission within 28 days of any change in the particulars of the CIO entered on the Central Register of Charities.

26. Rules

The Trustees may from time to time make such reasonable and proper rules or bye laws as they may deem necessary or expedient for the proper conduct and management of the CIO, but such rules or bye laws must not be inconsistent with any provision of this constitution. Copies of any such rules or bye laws currently in force must be made available to any member of the CIO on request.

27. Disputes

If a dispute arises between the member and the Trustees about the validity or propriety of anything done by the Trustees under this constitution, and the dispute cannot be resolved by agreement, the parties to the dispute must first try in good faith to settle the dispute by mediation before resorting to litigation.

28. Amendment of constitution

As provided by clauses 224-227 of the Charities Act:

- (1) This constitution can only be amended by a resolution passed by the member.
- (2) Any alteration of clause 3 (Objects), clause 29 (Voluntary winding up or dissolution), this clause, or of any provision where the alteration would provide authorisation for any benefit to be obtained by Trustees or members of the CIO or persons connected with them, requires the prior written consent of the Commission.
- (3) No amendment that is inconsistent with the provisions of the Charities Act or the General Regulations shall be valid.
- (4) A copy of any resolution altering the constitution, together with a copy of the CIO's constitution as amended, must be sent to the Commission within 15 days from the date on which the resolution is passed. The amendment does not take effect until it has been recorded in the Register of Charities.

29. Voluntary winding up or dissolution

- (1) As provided by the Dissolution Regulations, the CIO may be dissolved by resolution of the member.
- (2) If the CIO is dissolved the assets (if any) remaining after provision has been made for all its liabilities must be applied to or for the advancement of the Roman Catholic religion as the Member shall decide.
- (3) The CIO must observe the requirements of the Dissolution Regulations in applying to the Commission for the CIO to be removed from the Register of Charities, and in particular:
 - (a) the Trustees must send with their application to the Commission:
 - (i) a copy of the resolution passed by the members of the CIO;
 - (ii) a declaration by the Trustees that any debts and other liabilities of the CIO have been settled or otherwise provided for in full; and
 - (iii) a statement by the Trustees setting out the way in which any property of the CIO has been or is to be applied prior to its dissolution in accordance with this constitution;
 - (b) the Trustees must ensure that a copy of the application is sent within seven days to every member and employee of the CIO, and to any Trustee of the CIO who was not privy to the application.
- (4) If the CIO is to be wound up or dissolved in any other circumstances, the provisions of the Dissolution Regulations must be followed.

30. Interpretation

In this constitution:

["the **Abbot**" means the superior for the time being of the [] Monastic Community (or in his absence such other person as appointed by that Community to act in his place and in the event of there being no such community the person appointed to act in place of the Abbot by the superior of the [] Monastic Community)[English Benedictine Congregation].]

["the **Bishop**" means the bishop of the Diocese of [] or in his absence the person exercising ecclesiastical jurisdiction as ordinary in that diocese.]

"**Canon law**" means the Canon law of the Roman Catholic church for the time being in force.

"**Charities Act**" means the Charities Act 2011 (or any statutory re-enactment or modification of that provision).

"**CIO**" means the Charitable Incorporated Organisation created by this constitution

"the **Commission**" means the Charity Commission

the "**Communications Provisions**" means the Communications Provisions in Part 9 of the General Regulations.

"**Connected Person**" means:

- (a) a child, parent, grandchild, grandparent, brother or sister of the Trustee;
- (b) the spouse or civil partner of the Trustee or of any person falling within sub-clause (a) above;
- (c) a person carrying on business in partnership with the Trustee or with any person falling within sub-clause (a) or (b) above;
- (d) an institution which is controlled –
 - (i) by the Trustee or any Connected Person falling within sub-clause (a), (b) or (c) above; or
 - (ii) by two or more persons falling within sub-clause (d)(i), when taken together
- (e) a body corporate in which –
 - (i) the Trustee or any Connected Person falling within sub-clauses (a) to (c) has a substantial interest; or
 - (ii) two or more persons falling within sub-clause (e)(i) who, when taken together, have a substantial interest.

Section 118 of the Charities Act applies for the purposes of interpreting the terms used in this constitution.

“**Derivative Contract**” means any transaction (including an agreement with respect to any such transaction) which is a rate swap transaction, interest rate option, cap transaction, floor transaction or collar transaction as such terms are commonly used in investment parlance.

[“the **Diocese**” means the Roman Catholic Diocese of [].]

“**Dissolution Regulations**” means the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012.

“**Electronic Means**” refers to communications addressed to specified individuals by telephone, fax, email or website or, in relation to meetings, by telephone conference call or video conference.

“**General Regulations**” means the Charitable Incorporated Organisations (General) Regulations 2012.

the [“**Order**”][“**Congregation**”][“**Society**”][“**Institute**”][“**Monastic Community**”][“**Other**”] means the voluntary association of Roman Catholic [women][men] known as [].

“**Roman Catholic**” means [as defined by Canon 205 of the Code of Canon Law (1983 Edition) and any subsequent Code or] [in communion with the See of Rome].

The “**Superior**” means the person who for the time being under the ecclesiastical constitution of the [Society] is entitled to exercise the functions of the superior of the [Society] or the member of the [Society] to whom [s]he delegates those functions.

“**Trustee**” means a charity trustee of the CIO.