# Pre-school Learning Alliance

# Model CIO Constitution for Childcare Providers 2013

Constitution of a Charitable Incorporated Organisation with voting members other than its charity trustees.

Date of constitution (last amended):

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## 1. Name

The name of the Charitable Incorporated Organisation ("the CIO") is

Perranporth Pre-School

and is referred to in this constitution as 'the CIO'. The CIO is a body in membership of the Pre-school Learning Alliance.

## 2. National location of principal office

The principal office of this CIO is in England (please state here whether you are located in England or Wales)

## 3. Objects

The charity works for the public benefit having as its objects the development and education of children and young people in particular by:

(1) promoting their care and safety;

(2) promoting their education and promoting parental involvement;

(3) promoting their health and wellbeing;

(4) providing services to support them and their families and carers;

(5) providing services to individuals holding membership of the CIO; and

(6) furthering the aims of the Pre-school Learning Alliance.

## 4. Powers

The CIO has the power to do anything which is calculated to further its objects or is conducive or incidental to doing so. In particular, the CIO's powers include the power to:

(1) provide accommodation and equipment;

(2) raise money to pay for the CIO's activities;

(3) make such payments as shall be necessary;

(4) fix and collect the fees payable in respect of children attending groups run by the CIO;

(5) subject to adherence with all applicable legislation, control the admission of children to the groups run by the CIO and if appropriate, require parents or guardians to withdraw them;

(6) as a member of the Pre-school Learning Alliance, send a representative to vote at local Sub-committee meetings and to the national Annual General Meeting of the Pre-school Learning Alliance and to participate in local meetings;

(7) 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 part 7 of the Charities Act 2011 if it wishes to mortgage land;

(8) hire or acquire assets of any kind;

(9) buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;

(10) 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 part 7 of the Charities Act 2011;

(11) set aside funds for special purposes or as reserves against future expenditure;

(12) maintain and pay for membership of the Pre-school Learning Alliance;

(13) insure the property and assets of the CIO against any foreseeable risk and to take out other insurance policies to protect the CIO and its staff as required;

(14) 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) of this constitution and provided it complies with the conditions of the clause.

## 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 to any member of the CIO. This does not prevent a member who is not also a charity trustee receiving:

(a) a benefit from the CIO as a beneficiary of the CIO;

(b) reasonable and proper remuneration for any goods or services supplied to 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 (Benefits and payments to charity trustees and connected persons).

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

### (1) General provisions

No charity trustee or connected person may:

(a) receive any payment for serving as a charity trustee;

(b) buy or receive any goods or services from the CIO on terms preferential to those applicable to members of the public;

(c) sell goods, services, or any interest in land to the CIO;

(d) be employed by, or receive any remuneration from, the CIO;

(e) 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 Charity 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

(a) A charity trustee or connected person may receive a benefit from the CIO as a beneficiary, provided that it is available generally to the beneficiaries of the charity.

(b) Subject to the conditions in sub-clause (3) of this clause:

i. 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;

ii. 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;

iii. a paid employee of the CIO may be appointed as a charity trustee, where his or her employment occurs prior to his or her trusteeship.

(c) 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.

(d) 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) Controls for the supply of services and goods by a trustee or connected person and for the appointment of an employee as a trustee**

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

(a) The amount of the payment received by the employee is reasonable in relation to the nature of the employment; or the amount or maximum amount of the payment for the services and/or goods provided is reasonable in the circumstances and set out in a written agreement between the CIO and the charity trustee or connected person supplying the services and/or goods ("the supplier").

(b) The other charity trustees are satisfied that it is in the best interests of the CIO to appoint the paid employee as a charity trustee, or to enter into the agreement 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 advantages against the disadvantages of doing so.

(c) The reason for their decision is recorded by the charity trustees in the minute book.

(d) The paid employee or supplier is absent from the part of any meeting at which there is discussion of the appointment or the proposal to enter into a contract or arrangement with him, her or it and withdraws from all discussions which have any bearing on the terms of the agreement or his or her employment, or on the acceptability of the standard of service provided.

(e) The paid employee or 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) A majority of the charity trustees are not in receipt of any remuneration or payments, or connected to someone in receipt of remuneration or payments, authorised by this clause.

**(4) In sub-clauses (2) and (3) of this clause:**

(a) "Connected person" includes any person within the definition set out in clause 30(Interpretation).

(b) Nothing permits a trustee or a connected person to be employed under a contract of employment to work for the CIO during their term of office, without prior authorisation by the court or the Charity Commission.

## 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 or a connected person 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 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. Membership of the CIO

### (1) Admission of new members

Membership of the CIO is divided into two kinds:

#### (a) Family membership

##### i. Eligibility

Family membership is available to the parents or guardians of all children who attend any group run by the CIO wishing to support the aims of the CIO.

##### ii. Voting rights

Each family holding family membership will count as one member of the CIO and will be entitled to one vote at any general meetings of the members of the CIO.

#### (b) Affiliate membership

##### i. Eligibility

Affiliate membership of the CIO is open to anyone who is interested in furthering its purposes and who, by applying for membership, has indicated his, her or its agreement to become a member and acceptance of the duty of members set out in sub-clause (3) of this clause.

A member may be an individual or corporate body, or an individual or corporate body representing an organisation which is not incorporated.

##### ii. Voting rights

Each individual or organisation holding affiliate membership will count as one member of the CIO and will be entitled to one vote at any general meetings of the members of the CIO.

#### (c) Admission procedure

The charity trustees:

a. May require applications for membership to be made in any reasonable way that they decide;

b. Shall, if they approve an application for membership, notify the applicant of their decision within 21 days;

c. May refuse an application for membership if they believe that it is in the best interests of the CIO for them to do so;

d. Shall, if they decide to refuse an application for membership, give the applicant their reasons for doing so within 21 days of the decision being taken and give the applicant the opportunity to appeal against the refusal; and

e. Shall give fair consideration to any such appeal and shall inform the applicant of their decision, but any decision to confirm refusal of the application for membership shall be final.

**(2) Transfer of membership**

Membership of the CIO cannot be transferred to anyone else, except in the case of:

(a) a family with membership of the CIO who may appoint amongst themselves one parent or guardian to act as a representative; or

(b) an unincorporated organisation, whose membership may be transferred to a new representative. Such transfer of membership does not take effect until the CIO has received written notification of the transfer from the unincorporated organisation.

**(3) Duty of members**

It is the duty of each 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.

**(4) Termination of membership**

(a) Membership of the CIO comes to an end:

i. if the member dies, or in case of an organisation (or the representative of an organisation) that organisation goes into liquidation or ceases to exist;

ii. if the member sends a written notice of resignation or their intention to opt out of membership to the charity trustees;

iii. if any sum of money owed by the member to the CIO is not paid in full within six months of its falling due;

iv. in the case of family members, at the end of the last term in which any child or children of the family attended any group run by the CIO; or

v. if the charity trustees decide that it is in the best interests of the CIO that the member in question should be removed from membership, and pass a resolution to that effect.

(b) Before the charity trustees take any decision to remove someone from membership of the CIO they must:

i. inform the member of the reasons why it is proposed to remove him, her or it from membership;

ii. give the member at least 14 clear days notice in which to make written representations to the charity trustees as to why he, she or it should not be removed from membership;

iii. at a duly constituted meeting of the charity trustees, consider whether or not the member should be removed from membership;

iv. consider at that meeting any representations which the member makes as to why he, she or it should not be removed; and

v. allow the member, or the member's representative, to make those representations in person at that meeting, if the member so chooses.

## 10. Members' decisions

### (1) Decisions that must be taken in a particular way

(a) Any decision to remove a trustee must be taken in accordance with sub-clauses 15(2) and (3).

(b) Any decision to amend this constitution must be taken in accordance with clause 28 (Amendment of constitution)of this constitution.

(c) Any decision to wind up or dissolve the CIO must be taken in accordance with clause 29 (Voluntary winding up or dissolution)of this constitution. 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 2011.

### (2) General provisions

Except for those decisions in sub-clause (1) of this clause, decisions of the members of the CIO may be taken either by vote at a general meeting as provided in sub-clause (3) of this clause or by written resolution as provided in sub-clause (4) of this clause.

### (3) Taking ordinary decisions by vote

Decisions of the members of the CIO may be taken by means of a resolution at a general meeting, held in accordance with clause 11 (General meetings of members) of this constitution. Such a resolution may be passed by a simple majority of votes cast at a meeting (including votes cast by postal or email ballot).

### (4) Taking ordinary decisions by written resolution without a general meeting

(a) A resolution in writing agreed by a simple majority of all the members entitled to vote upon it shall be effective, provided that:

i. a copy of the proposed resolution has been sent out to all the members eligible to vote; and

ii. the document or documents in which members have signified their agreement are received at the specified address within the period of 28 days beginning with the circulation date. The document signifying a member's agreement must be authenticated by their signature or in such manner as the CIO has specified.

(b) The resolution in writing may comprise several copies to which one or more members have signified their agreement.

(c) Eligibility to vote on the resolution is limited to members who are members of the CIO on the date when the proposal is first circulated.

(d) A proposal for decision by written resolution by the members may be made at any time by the charity trustees or at the request of not less than 10% of the members of the CIO.

(e) The charity trustees must within 21 days of receiving such a request comply with it if:

i. the proposal is not frivolous or vexatious, and does not involve the publication of defamatory material;

ii. the proposal is stated with sufficient clarity to enable effect to be given to it if it is agreed by the members; and

iii. effect can lawfully be given to the proposal if it is so agreed.

## 11. General meetings of the members

### (1) Types of general meeting

(a) There must be an annual general meeting (AGM) of the members of the CIO. The first AGM must be held within 18 months of the registration of the CIO, and subsequent AGMs must be held at intervals of not more than 15 months. The AGM must:

i. receive the annual statement of accounts (duly audited or examined where applicable);

ii. receive the trustees' annual report; and

iii. elect trustees as required under clause 13 (Appointment of charity trustees) of this constitution.

(b) Other general meetings of the members of the CIO may be held at any time.

(c) All general meetings must be held in accordance with the following provisions.

**(2) Calling general meetings**

(a) Any charity trustee or member of the CIO may submit a resolution that may properly be proposed at a general meeting.

(b) A resolution may only properly be proposed if it is lawful, and is not defamatory, frivolous or vexatious.

(c) The charity trustees:

i. must call the annual general meeting of the members of the CIO in accordance with sub-clause (1) of this clause, and identify it as such in the notice of the meeting; and

ii. may call any other general meeting of the members at any time.

(d) The charity trustees must, within two months, call a general meeting of the members of the CIO if:

i. they receive a request to do so from at least one quarter of the members of the CIO; and

ii. the request states the general nature of the business to be dealt with at the meeting, and is authenticated by the member(s) making the request.

(e) If the charity trustees fail to call a general meeting at the request of its members, then the members who requested the meeting may call a general meeting themselves in accordance with the procedures in this clause 11 (General meetings of the members) of the constitution.

(f) The CIO must reimburse any reasonable expenses incurred by the members calling a general meeting by reason of the failure of the charity trustees to duly call the meeting, but the CIO shall be entitled to be indemnified by the charity trustees who were responsible for such failure.

**(3) Notice of general meetings**

(a) The charity trustees or the relevant members of the CIO must give at least 14 clear days notice of any general meeting to all of the members and the charity trustees of the CIO.

(b) If it is agreed by not less than 90% of all members of the CIO, any resolution may be proposed and passed at the meeting even though the notice period within sub-clause (3)(a) of this clause has not been met. This sub-clause does not apply where a specific period of notice is strictly required by another clause in this constitution, by the Charities Act 2011 or by the General Regulations.

(c) The notice of any general meeting must:

i. state the time and date of meeting;

ii. give the address at which the meeting is to take place;

iii. give particulars of any resolution which is to be moved at the meeting, and of the general nature of any other business to be dealt with at the meeting;

iv. if a proposal to alter the constitution of the CIO is the considered at the meeting, include the text of the proposed alteration; and

v. include, with the notice for the AGM, the annual statement of accounts and trustees' annual report, details of persons who have so far notified their willingness to stand for election or re-election as trustee or, where allowed under clause 22 (Use of electronic communication), details of where the information may be found on the CIO's website.

(d) Proof that an envelope containing a notice was properly addressed, prepaid and posted, or that an electronic form of notice was properly addressed and sent, shall be conclusive evidence that the notice was given. Notice shall be deemed to be given 48 hours after it was posted or sent.

(e) The proceedings of a meeting shall not be invalidated because a member who was entitled to receive notice of the meeting did not receive it because of accidental omission by the CIO.

**(4) Chairing of general meetings**

The person nominated as chair by the charity trustees under sub-clause 19(2) (Chairing of meetings) shall, if present and willing to act, chair the meeting. Subject to that, the members of the CIO who are present at a general meeting shall appoint a chair for the meeting.

**(5) Quorum at general meetings**

(a) No business may be transacted at any general meeting of the members of the CIO unless a quorum is present.

(b) Subject to the following provisions, the quorum for general meetings shall be the greater of 5% or three members. Any individual with membership, or any organisation or family represented by a person in accordance with sub-clause (9) of this clause, who is present at the meeting is counted in the quorum.

(c) If at any time during the meeting a quorum ceases to be present, the meeting may discuss issues and make recommendations to the trustees, but may not make any decisions. If decisions are required which must be made by a meeting of the members, the meeting must be adjourned.

(d) If the meeting has been called by or at the request of the members in accordance with sub-clause (2)(e) of this clause and a quorum is not presented within 15 minutes of the starting time specified in the notice of the meeting, the meeting is closed.

(e) If the meeting has been called in any other way and a quorum is not present within 15 minutes of the starting time specified in the notice of the meeting, the chair must adjourn the meeting. The date, time and place at which the meeting will resume must be notified to the CIO's members at least seven clear days before the date on which it will resume.

(f) If a quorum is not present within 15 minutes of the start time of any adjourned meeting, the members present at the meeting constitute a quorum.

**(6) Voting at general meetings**

(a) Any decisions other than those within clause 10(1) (Decisions that must be taken in a particular way) shall be taken by a simple majority of votes cast at the meeting (including postal or email votes).Every member of the CIO has one vote.

(b) A resolution put to the vote of a meeting shall be decided on a show of hands, unless a poll is duly demanded by the chair or by at least 10% of the members present at the meeting.

(c) A poll demanded on the election of a person to chair the meeting or on a question of adjournment must be taken immediately.

(d) A poll on any other matter may be taken:

i. at the meeting at which it was demanded;

ii. at some other time and place specified by the chair; or

iii. through the use of postal or electronic communications;

provided that the result of the poll is announced within 30 days of the demand for the poll. The manner of the poll shall be decided by the chair of the meeting.

(e) In the event of an equality of votes, whether on a show of hands or on a poll, the chair of the meeting shall have a second, or casting, vote.

(f) Any objection to the qualification of any voter must be raised at the meeting at which the vote is cast and the decision of the chair of the meeting shall be final.

**(7) Adjournment of meetings**

The chair may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting to another time and/or place. No business may be transacted at an adjourned meeting except business which could properly have been transacted at the original meeting.

**(8) Postal and email voting**

(a) The CIO may, if the charity trustees so decide, allow the members to vote by post or electronic mail ("email") to elect charity trustees or to make a decision on any matter that is being decided at a general meeting of the members.

(b) The charity trustees must appoint at least two independent scrutineers to supervise the conduct of the postal/email ballot and the counting of votes.

(c) If postal and/or email voting is to be allowed on a matter, the CIO must send a notice to the members of the CIO at least 21 days before the deadline for receipt of votes cast in this way.

(d) Notice may be sent either by email, if the member has agreed to receive notices in this way under clause 22 (Use of electronic communication), or by post to all other members and must include:

i. an explanation of the purpose of the vote;

ii. the voting procedure to be followed by the member; and

iii. a voting form capable of being returned by email or post to the CIO, which contains details of the resolution being put to a vote or of the candidates for election, as applicable.

(e) The voting procedure must:

i. require all forms returned by post to have the member's name and signature at the top of the form and to be addressed to 'The Scrutineers for [name of CIO]', at such postal address as is specified;

ii. require all votes cast by email to have the member's name to be at the top of the email and to be returned to an email address used only for this purpose and accessed only by a scrutineer;

iii. specify the closing date and time for receipts of votes; and

iv. state that any votes received after the closing date or not complying with the voting procedure will be invalid and not be counted.

(f) For postal and email votes, the scrutineers must cut off and retain the top of the form or email (with the member's name and/or signature). A scrutineer must record on this whether the vote has been counted and, if the vote has been declared invalid, the reason for such declaration. This provides the evidence of whether the member's vote was valid or invalid.

(g) Votes cast by post or email must be counted by all the scrutineers before the meeting at which the vote is to be taken. The scrutineers must provide written confirmation of the total number of valid and invalid votes, making a list of members casting valid votes and a separate list of members casting votes which were invalid. These lists must be provided to a charity trustee or other person overseeing admission to, and voting at, the general meeting.

(h) A member who has cast a valid postal or email vote must not vote or be counted in the quorum for any part if the meeting on which he, she or it has already cast a valid vote. A member who has cast an invalid vote by post or email is allowed to vote at the meeting and counts towards the quorum.

(i) Only after votes taken by hand or by poll at, or after, the meeting have been counted shall the scrutineers declare the result of the valid postal and email votes received, and these votes shall be included in the declaration of the result of the vote.

(j) Following the final declaration of the result of the vote, the scrutineers must provide to a charity trustee or other authorised person separate bundles containing:

i. the evidence of members submitting valid postal and email votes;

ii. the evidence of members submitting invalid votes;

iii. the valid votes; and

iv. the invalid votes.

(k) Any dispute about the conduct of a postal or email ballot must be referred initially to a panel set up by the charity trustees to consist of two trustees and two persons independent of the CIO. If the dispute cannot be satisfactorily resolved via the panel, it must be referred to the Electoral Reform Society.

**(9) Representation of families, organisations and corporate members**

A family, organisation or a corporate body that is a member of the CIO may nominate one person to act as its representative at any general meeting of the CIO or to vote by post or email. In the case of a family member, the representative must be a parent or guardian of a child who attends a group run by the CIO.

The representative is entitled to exercise the same powers on behalf of the family, organisation or corporate body as they could exercise as an individual with membership of the CIO.

## 12. 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. The charity trustees may regulate their functions and duties as they see fit. It is the duty of each charity 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 if 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 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 one may be appointed as a charity trustee:

i. if he or she is not a member of the CIO, or a nominated representative of a family or an organisation that is a member of the CIO, at the time of their appointment;

ii. if he or she is under the age of 16 years; or

iii. 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 charity trustee, whether on appointment or on any reappointment, 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) The total number of trustees under the age of 18 years must not at any time be more than half of the total number of trustees in office.

**(3) Number of charity trustees**

(1) There must be at least three 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 to appoint a new charity trustee.

(2) The maximum number of charity trustees is 12. 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 of the CIO are:

.....
Beatrice Cudmore
.....
Thomas Shilton
.....
Sophie O'Shea
.....
Sarah Thomas
.....

## 13. Appointment of charity trustees

(1) The charity trustees are appointed at the AGM of the charity to serve for two successive years and shall retire from office with effect from the conclusion of the second AGM following their appointment.

(2) At every AGM of the members of the CIO, one third (or the number nearest to one third) of the elected charity trustees shall retire from office.

(3) The charity trustees to retire by rotation shall be those who have been longest in office since their last appointment or reappointment. If any charity trustees were last appointed or

reappointed on the same day, those to retire shall (unless otherwise agreed amongst themselves) be determined by lot.

(4) The vacancies so arising may be filled by the decision of the members at the AGM; any vacancies not filled at the AGM may be filled as provided in sub-clause (5) of this clause.

(5) The members or the charity trustees may at any time decide to appoint a new charity trustee, whether in place of a charity trustee who has retired or been removed in accordance with clause 15 (Retirement and removal of charity trustees), or as an additional charity trustee, provided that the limit specified in sub-clause 12(3) (Number of charity trustees) would not as a result be exceeded. A person so appointed, shall serve for two successive years and shall retire in accordance with sub-clauses (2) and (3) of this clause.

(6) Where an individual is appointed as a charity trustee, it is that individual who is the charity trustee. No other individual with whom they share membership shall be entitled to stand in their place at meetings of the charity trustees or have any other rights as a charity trustee.

(7) To encourage parental involvement, at least two thirds of the charity trustees shall normally at the time of election be family members. In the event that this figure cannot be achieved however, the CIO may elect affiliate members to make up the balance of the charity trustees.

## 14. Information for new charity trustees

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

(1) a copy of this constitution and any amendments made to it;

(2) a copy of the CIO's latest trustees' annual report and statement of accounts; and

(3) a copy of the roles and responsibilities of trustees as produced by the Charity Commission.

## 15. 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 satisfy clause 12(3) (Number of trustees));

(b) is absent without permission of the charity trustees from all their meetings held within a period of six months and the charity 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 by the charity trustees or the members of the CIO in accordance with sub-clauses (2) and (3) of this clause; or

(f) is disqualified from acting as a charity trustee by virtue of sections 178 and 179 of the Charities Act 2011 (or any statutory re-enactment or modification of that provision).

(2) A charity trustee shall be removed from office if a resolution to remove that trustee is proposed at a meeting of the charity trustees or a general meeting of the members called for that purpose and properly convened in accordance with clause 19 (Meetings and proceedings of the charity trustees) or clause 11 (General meetings of the members), and the resolution is passed by a two-thirds majority of votes cast at the meeting.

(3) Before the charity trustees or the members of the CIO take any decision to remove someone as a charity trustee of the CIO they must:

(a) inform the individual of the reasons why it is proposed to remove him or her as a charity trustee, specifying the circumstances alleged to justify removal from office;

(b) give the individual at least 14 clear days notice in which to make written representations to the charity trustees or the members as to why he or she should not be removed as a charity trustee;

(c) at a duly constituted meeting of the charity trustees or general meeting of the members, consider whether or not the individual should be removed as a charity trustee;

(d) consider at that meeting any representations which the charity trustee makes as to why he or she should not be removed; and

(e) allow the charity trustee, or the charity trustee's representative, to make those representations in person at that meeting, if the charity trustee so chooses.

## 16. Reappointment of charity trustees

Any person who retires as a charity trustee at the annual general meeting or by giving notice to the CIO is eligible for reappointment. A charity trustee who has served for five consecutive terms may not be reappointed for a sixth consecutive term, but may be reappointed after an interval of at least one year.

## 17. Taking of decisions by charity trustees

Except the decision to remove a trustee, which must be taken in accordance with sub-clauses 15(2) and (3), any decision of the trustees may be taken either:

(1) at a meeting of the charity trustees; or

(2) by a resolution in writing or electronic form agreed by all of the charity trustees, which may comprise either a single document or several documents containing the text of the resolution in like form to which one or more charity trustees has signified their agreement.

## 18. Delegation of charity trustees

(1) The charity trustee may delegate any of their powers or functions to a committee or committees, and, if they do, they must determine the terms and conditions on which the delegation is made. The charity trustees may at any time alter those terms and conditions, or revoke the delegation.

(2) This power is in addition to the power of delegation in the General Regulations and any other power of delegation available to the charity 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 charity trustee;

(b) the acts and proceedings of any committee must be brought to the attention of the charity trustees as a whole as soon as is reasonably practicable for authorisation; and

(c) the charity trustees shall from time to time review the arrangements, which they have made for the delegation of their powers.

## 19. Meetings and proceedings of charity trustees

### (1) Calling meetings

(a) Any charity trustee may call a meeting of the charity trustees.

(b) Subject to that, the charity trustees shall decide how their meetings are to be called, and what notice is required.

### (2) Chairing of meetings

The charity 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 of the starting time of the meeting, the charity trustees present shall 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 half the charity trustees, or such larger number as the charity trustees may decide from time to time. A charity trustee shall not be counted in the quorum when any decision is made about a matter upon which he or she is not entitled to vote.

(b) Subject to clause 7 (Conflicts of interest and conflicts of loyalty) of this constitution, each charity trustee will have one vote at meetings of the charity trustees.

(c) Questions arising at a meeting shall be decided by a majority of those eligible to vote.

(d) In the case of an equality of votes, the chair shall have a second or casting vote.

**(4) Participation in meetings by electronic means**

(a) A meeting may be held by suitable electronic means agreed by the charity trustees, in which each participant may communicate with all the other participants.

(b) Any charity trustee participating at a meeting in such a manner 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) All decisions of the charity trustees, or of a committee of charity trustees, shall be valid despite the participation in any vote of a charity trustee:

(a) who is disqualified from holding office;

(b) who has previously retired or had been obliged by the constitution to vacate office; or

(c) 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 charity trustee and that charity trustee being counted in the quorum, the decision has been made by a majority of the charity trustees at a quadrate meeting.

(2) Nothing in this clause permits a charity trustee to keep any benefit that may be conferred upon him or her by a resolution of the charity trustees or of a committee of charity trustees if, but for sub-clause (1), the resolution would have been void, or if the charity trustee has not complied with clause 6 (Benefits and payments to charity trustees and connected persons) or clause 7 (Conflicts of interest and conflicts of loyalty).

## 21. Execution of documents

(1) The CIO shall execute documents by signature.

(2) A document is validly executed as a deed if signed by two of the charity trustees and a simple contract is validly executed if it is signed by one trustee.

## 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 document or information sent to the member in electronic form.

(b) Any requirements to provide information to the Charity Commission in a particular form or manner.

**(2) To the CIO**

Any member or charity trustee of the CIO may communicate electronically 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 charity trustee of the CIO, by providing the CIO with his or her email address, is taken to have agreed to receive communications from the CIO in electronic form at that address, unless they have indicated to the CIO an unwillingness to receive such electronic communications.

(b) The charity trustees may, subject to compliance with any legal requirements, by means of publication on its website:

i. provide the members with the notice referred to in clause 11(3) (Notice of general meetings);

ii. give charity trustees notice of their meetings in accordance with clause 19(1) (Calling meetings); and

iii. submit a proposal to the members or charity trustees for a decision by written resolution or postal vote in accordance with the CIO's powers under clause 10 (Members' decisions), 17(2) (Taking of decisions by charity trustees) or 11(8) (Postal and email voting).

(c) The charity trustees must:

i. take reasonable steps to ensure that members and charity trustees are promptly notified of the publication of any such notice or proposal; and

ii. send any such notice or proposal in hard copy form to any member or charity trustee who has not consented to receive communications in electronic form.

## 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 charity trustees.

## 24. Minutes

The charity trustees must keep minutes of all:

(1) allocations of functions and duties made by the charity trustees;

(2) proceedings at general meetings of the CIO, at meetings of the charity trustees and at meetings of the committees of charity trustees, including:

(a) the names of the individuals present at the meeting;

(b) the decisions made at the meetings;

(c) where appropriate, the reasons for and any actions arising from the decisions; and

(d) any other material details regarding the meeting;

(3) decisions made by the charity trustees otherwise than in meetings.

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

(1) The charity trustees must comply with their obligations under the Charities Act 2011 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.

(2) The statements of accounts, reports and returns must be sent to the Charity Commission within 10 months of the financial year end.

(3) The charity trustees must inform the Charity Commission within 28 days of any change in the particulars of the CIO entered on the Central Register of Charities.

(4) An up to date written statement of accounts shall normally be presented at each meeting of the charity trustees.

(5) All accounting records relating to the CIO shall be available for inspection by any charity trustee at any reasonable time during normal office hours and may be available for inspection by members of the CIO at the discretion of the charity trustees.

(6) The CIO may open one or more bank accounts. All bank accounts will be in the name of the CIO.

(7) Payment of money from these accounts shall normally be authorised by two designated persons, one of whom shall be a charity trustee. Where the CIO is not subject to any conditions of a grant which requires two signatories, the charity trustees may decide to allow payment for small amounts set by the charity trustees to be authorised by a single signatory.

(8) The charity trustees shall set aside income as a reserve against future expenditure in accordance with a written reserves policy.

## 26. Rules

The charity trustees may make such reasonable and proper rules or bye laws as they deem necessary or useful 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 rules or bye laws currently in force must be made available to all charity trustees and to any member of the CIO on request.

## 27. Disputes

If a dispute arises between members or charity trustees of the CIO about the validity or propriety of anything done by the members or charity 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

In accordance with sections 224 to 227of the Charities Act 2011:

(1) This constitution can only be amended:

(a) by resolution agreed in writing by all members of the CIO; or

(b) by resolution passed by a 75% majority of votes cast at a general meeting of the members of the CIO.

(2) No amendments may be made to this constitution without the prior written consent of the Pre-school Learning Alliance.

(3) Any alteration of clause 3 (Objects), clause 29 (Voluntary winding up or dissolution), this clause 28 (Amendment of constitution), or any alteration that would provide authorisation for any benefit to be obtained by charity trustees or members of the CIO or persons connected with them, requires the prior written consent of the Charity Commission.

(4) No amendment that would have the effect of making the charity cease to be a charity by law or that is inconsistent with the provisions of the Charities Act 2011 or the General Regulations shall be valid.

(5) A copy of any resolution altering the constitution, together with a copy of the CIO's constitution as amended, must be sent to the Charity Commission within 15 days of 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 its members. Any decision by the members to wind up or dissolve the CIO can only be made:

(a) at a general meeting of the members of the CIO called in accordance with clause 11 (General meetings of members), of which not less than 14 days' notice has been given to those eligible to attend and vote:

i. by a resolution passed by a 75% majority of those voting; or

ii. by a resolution passed by decision taken without a vote and without any expression of dissent in response to the question put to the general meeting; or

(b) by a resolution agreed in writing by all members of the CIO.

(2) Subject to the payment of all the CIO's debts:

(a) A resolution for the winding up of the CIO, or for the dissolution of the CIO without winding up, may contain a provision directing how any remaining assets of the CIO shall be applied.

(b) If the resolution does not contain such a provision, the charity trustees must decide how any remaining assets of the CIO shall be applied.

(c) In either case the remaining assets shall not be paid to or distributed amongst the members of the CIO, but shall be applied in one or more of the following ways:

i. Transferred to the Pre-school Learning Alliance.

ii. With the agreement of the Pre-school Learning Alliance, transferred to another childcare provider established as a charity to be applied for charitable purposes the same as or similar to those of the CIO. Agreement will not be unreasonably withheld.

iii. In such other manner consistent with the charitable status of the CIO as the Pre-school Learning Alliance and Charity Commission have approved in writing.

(3) The CIO must observe the requirements of the Dissolution Regulations in applying to the Charity Commission for the CIO to be removed from Register of Charities, and in particular:

(a) the charity trustees must send with their application to the Charity Commission:

i. a copy of the resolution passed by the members of the CIO;

ii. a declaration by the charity 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 charity 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 charity 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 charity 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:

"**connected person**" means:

(a) a child, parent, grandchild, grandparent, brother or sister of the charity trustee;

(b) the spouse or civil partner of the charity trustee or of any person falling within sub-clause (a) above;

(c) a person carrying on business in partnership with the charity trustee or with any person falling with sub-clause (a) or (b) above;

(d) an institution which is controlled –

i. by the charity 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 charity trustee or any connected persons 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 2011 apply for the purposes of interpreting the terms used in this constitution.

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

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

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

"**charity trustee**" or "**trustee**" means a charity trustee of the CIO.

A "**poll**" means a counted vote or ballot, usually (but not necessarily) in writing.

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