

Exeter City AFC Supporters' Society Limited

# Club / Trust Agreement

October 2023



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THIS AGREEMENT is dated 23<sup>rd</sup> October 2023

**PARTIES**

- I. EXETER CITY A.F.C. LIMITED ("The Club") of St James Park Stadium way Exeter EX4 6PX
- II. EXETER CITY AFC SUPPORTERS' SOCIETY LIMITED ("The Trust") of St James Park Stadium Way Exeter EX4 6PX

The parties have agreed to enter into this agreement for the purpose of regulating the involvement of the Trust in the governance of the Club.

**DEFINITIONS**

**"The Club"** means the private company limited by shares incorporated and registered in England and Wales with company number 00097808.

**"The Trust"** means the Registered Society incorporated under the Cooperative and Community Benefit Society Act 2014 with registered number 29339R.

**"Director"** means a Director of the Club according to law and its Articles of Association.

**"Club Board"** means the Board of the Club, not including any Associate Directors from time to time in office.

**"Trust Board"** means the Board of the Trust, including any co-opted members from time to time in office.

**1. AGREED TERMS****INTERPRETATIONS**

Clause headings do not affect the interpretation of this agreement.

A reference to a person includes a natural person or a corporate or unincorporated body (whether or not having a separate legal personality).

A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment, and includes any subordinate legislation for the time being in force made under it.

A reference to writing or written includes e-mail.

Words in the singular include the plural and in the plural include the singular, where appropriate.

Any words indicating any specific gender shall not be regarded as exclusive to that gender.

## 2. MATTERS WHICH REQUIRE THE PRIOR WRITTEN CONSENT OF THE TRUST

The Club shall not take any action nor pass any resolution without the prior written consent of the Trust Board in any matter that pertains or relates to:

- (i) a) the total number of shares or rights attaching to such shares;  
b) approval of new issue of shares;  
c) subject to the appropriate authority from the shareholders, the allotment of unissued shares in the capital of the Club;
- (ii) a) any change in stadium location or name;  
b) any change in the badges, logos or other devices used in the signage, publications, advertising, promotional material, affiliated teams or other branding of the Club;  
c) the colours and styles of the Club's home playing strip;
- (iii) any change in the name or nickname of the Club or team or its status with the Football Association or English Football League;
- (iv) purchase or disposal of any land or buildings or interest therein owned by the Club with a market value in excess of £25,000;
- (v) the taking of, granting, assignment or sale of any lease or interest therein with a duration in excess of 5 years;
- (vi) a) any borrowing against the security of any asset owned by the Club or any lease held by the Club in excess of £50,000 in any 12-month period; b) any unsecured borrowings;
- (vii) contracts at a cost to the Club of €50,000 or over per annum or in total, including management staff but excluding players' contracts;
- (viii) approval of all dividends, dividend policy and decisions on withholding dividends (deciding not to pay a previously approved dividend payment);
- (ix) approval of the recommendations for the appointment or removal of Club Board members (Directors);
- (x) responsibilities / Job Description of the Chairman, Chief Executive (or equivalent) and other Directors;
- (xi) approval of terms of reference of Club Board committees;
- (xii) changes to the Club's or any associated company's Memorandum and Articles of Association;
- (xiii) approval of the Club's and any subsidiary or associated company's Ticket pricing, Budgets, Strategic Plans and Business Plans;
- (xiv) approval of changes to the capital structure of the Club or associated company or its / their legal status;
- (xv) the incorporation of any new subsidiary or associated company;
- (xvi) extension of the Club's activities into significant new business areas and any decision to cease to operate all or any significant part of the Club's business;



- (xvii) the passing of a resolution for the winding up of the Club;
- (xviii) the appointment of a receiver, administrator or administrative receiver over the whole or any part of the assets of the Club or the making of any arrangement with the creditors of the Club for the affairs, business and property of the Club to be managed by a supervisor;
- (xix) approval of borrowings save for those agreed in the ordinary course of trade;
- (xx) an association created through sponsorship of any amount which may result in or create the risk of reputational and/or operational damage to the Club and/or the Trust.

### **3. DIRECTORS AND MANAGEMENT**

#### **Appointment and Reappointment of Directors**

- 3.1 The appointment or reappointment of any person who is willing to act as a Director (and is permitted by law, and by any specific regulatory body applicable, to do so) shall first be recommended by the Club Board.
- 3.2 Three months before the date set for the Club's AGM the Trust Board shall receive notification of those Directors to be presented for appointment or reappointment at that meeting. Those Directors shall at least six weeks prior to the date of the meeting provide to the Trust Board a resume of their activities and achievements during their term of office or, if the Director is being presented for appointment, their CV. This submission shall be confirmed as true and fair by the Club Board Chairman in office at that date.
- 3.3 The named Directors shall, if required to do so, attend in person a Trust Board meeting in advance of the Annual General Meeting.

#### **Trust nominated Directors**

- 3.4 The Trust shall be entitled to appoint at least half of the Directors to the Club Board, and can remove and reappoint any Director so appointed at any time.  
  
A Director shall be appointed for a maximum period of three years. They shall be entitled to immediately be reappointed should the Trust Board so resolve.
- 3.5 The appointment or reappointment of the Trust nominated Directors will be confirmed annually at the first meeting of the Trust Board following the Trust AGM. To facilitate continuity of membership on the Club Board the Trust nominated Directors will not ordinarily be changed from year to year within their three-year term unless the nominated Director's term of office on the Trust Board comes to an end or, having been eligible to do so, he fails to be re-elected to the Trust Board at the Trust AGM.

#### **Associate Directors**



- 3.6 The Club Board may appoint two non-voting Associate Directors who shall be appointed for a fixed term (subject to review if appropriate) of no more than one year. For clarity the number of Associate Directors shall not exceed two at any one time and they shall not count towards the calculation of whether or not the Board is quorate.

#### **Attendees**

- 3.7 The Club Board may invite whoever it shall deem fit to enable it best to proceed to attend the part/s of any Board Meeting appropriate to the skills/knowledge of that individual.

#### **Quorum for Board Meetings**

- 3.8 The quorum for Board meetings shall be four at least half of whom must be Directors nominated by the Trust

### **4. CORPORATE GOVERNANCE MANUAL**

- 4.1. The Club shall prepare, maintain and adhere to a Corporate Governance Manual ("the Governance Manual") the contents of which shall be approved in advance by the Trust.
- 4.2. The operation of the Governance Manual and the Club's performance against it shall be reviewed annually by the Trust Board.
- 4.3. The Club shall not amend or set aside any part of the Governance Manual without prior approval of the Trust.

### **5. COMMUNICATION BETWEEN THE CLUB AND TRUST**

- 5.1. It is the responsibility of both the Club Board and the Trust Board to ensure that there is effective communication at all times between them.
- 5.2. The two Boards shall meet at least twice a year to review the operation of communication between the two parties.
- 5.3. This agreement terminates immediately upon the occurrence of any of the following events:
- a) The agreement of both parties; or
  - b) the passing of a resolution for the winding up of the Club; or
  - c) the appointment of a receiver, administrator or administrative receiver over the whole or any part of the assets of the Club or the making of any arrangement with the creditors of the Club for the affairs, business and property of the Club to be managed by a supervisor.
- 5.4. Termination of this agreement shall be without prejudice to the rights or obligations of either party accrued prior to such termination, or under any provision which is expressly stated not to be affected by such termination including in respect of any prior breach of this agreement.



5.5. Following the passing of a resolution for the winding-up of the Club, the Trust shall endeavour to agree a suitable basis for dealing with the interests and assets of the Club and shall endeavour to ensure that:

- a) all existing contracts of the Club are performed so far as resources permit;
- b) no new contractual obligations are entered into by the Club; and
- c) the Club is wound up as soon as practicable.

## **6. STATUS OF THIS AGREEMENT AND THE PARTIES' OBLIGATIONS**

The Trust shall exercise all voting rights and other powers of control lawfully available to it as a shareholder of the Club so as to procure that, at all times during the term of this agreement, the provisions of this agreement are duly and promptly observed and given full force and effect according to its spirit and intention.

If any provisions of the Articles of Association of the Club at any time conflict with any provisions of this agreement, this agreement shall prevail as between the parties to it and the Trust shall, whenever necessary, exercise all voting and other rights and powers lawfully available to it as a shareholder of the Club so as to procure the amendment, waiver or suspension of the relevant provision of the Articles of Association to the extent necessary to permit the Club and its affairs to be administered so long as any such departure is permitted by law.

## **7. CONFIDENTIALITY**

Each party to this agreement undertakes that he shall not at any time after the date of this agreement (or, if later, the date he became a party to it) use, divulge or communicate to any person (except to his professional representatives or advisers or as may be required by law or any legal or regulatory authority) any confidential information concerning the terms of this agreement, the business or affairs of either the Club or the Trust which may have (or may in future) come to his knowledge, and each of the parties shall use reasonable endeavours to prevent the publication or disclosure of any confidential information concerning such matters.

## **8. NOTICES**

Any notice given under this agreement shall be in writing and shall be delivered by hand, transmitted by fax, or sent by pre-paid first-class post or recorded delivery post to the address of the party as set out in this Agreement, or to such other address notified to the other parties. A notice delivered by hand is deemed to have been received when delivered (or if delivery is not in business hours, 9.00 am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post.

### **SEVERANCE**

If any provision (or part of a provision) of this agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.



If any invalid, unenforceable or illegal provision would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

**VARIATION AND WAIVER**

Any variation of this agreement shall be in writing and signed by or on behalf of all the parties for the time being.

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

Unless specifically provided otherwise, rights and remedies arising under this agreement are cumulative and do not exclude rights and remedies provided by law.

**9. ASSIGNMENT**

No person may assign, or grant any encumbrance over, or deal in any way with, any of his rights under this agreement or any document referred to in it, or purport to do any of the same, without, in each case, the prior written consent of all the parties for the time being.

Each entity that has rights under this agreement is acting on his own behalf.

**10. ENTIRE AGREEMENT**

This agreement constitutes the whole agreement between the parties and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

Each party acknowledges that, in entering into this agreement, he does not rely on, and shall have no remedy in respect of, any statement, representation, assurance or warranty of any person other than as expressly set out in this agreement or those documents.

**11. THIRD PARTY RIGHTS**

A person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

**12. COUNTERPARTS**

This agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of that agreement, but all the counterparts shall together constitute the same agreement. No counterpart shall be effective until each party has executed at least one counterpart.



**13. GOVERNING LAW AND JURISDICTION**

This agreement and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the laws of England.

The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including noncontractual disputes or claims).

**14. EFFECT**

This agreement has been entered into on the date stated at the beginning of it and takes effect immediately.

Signed by

FOR AND ON BEHALF OF EXETER CITY A.F.C. LIMITED

A handwritten signature in black ink, appearing to read 'Julie Payne', written over a faint blue grid background.

And by

FOR AND ON BEHALF OF EXETER CITY AFC SUPPORTERS' SOCIETY LIMITED

A handwritten signature in black ink, appearing to read 'N. Hawker', written over a faint blue grid background.