Dated 2017

GOVERNANCE AGREEMENT

between

[]

and

three rivers district council

Anthony Collins Solicitors LLP

134 Edmund Street

Birmingham B3 2ES

(MC1.40608.0004)

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**THIS AGREEMENT** is dated 2017

Parties

1. **[]** (Company Registration Number: [ ] whose registered office is at [] (“the Company”); and
2. **Three Rivers District Council** of Three Rivers House, Northway, Rickmansworth, Hertfordshire WD3 1RL (“the **Council**”).

Background

1. The Company is a private company limited by shares incorporated in England and Wales under the Companies Act 2006 and at the date of this Agreement is wholly owned by the Council.
2. The Council has established the Company under sections 1 and 4, Localism Act 2011 to allow the Council to trade and act for commercial purposes. The decision to establish the Company was taken by the full Council of the Council on [20 March] 2017.
3. The Company is a controlled company within the meaning of the Local Government and Housing Act 1989 and a regulated company within the meaning of the Local Authority (Companies) Order 1995.
4. The Parties have agreed to execute this Agreement to regulate their respective responsibilities, the governance arrangements and the operation and management of the Company and the relationship between the Company and the Council.

Agreed terms

# Interpretation

## The definitions and rules of interpretation in this clause apply in this Agreement.

Act**:** the Companies Act 2006.

Adequate Procedures**:** adequate procedures, as referred to in section 7(2) of the Bribery Act 2010 and any guidance issued by the Secretary of State under section 9 of the Bribery Act 2010.

Articles**:** the articles of association of the Company as amended or superseded from time to time.

**Auditors**: means the auditors of the Company at the relevant time.

Board**:** the board of Directors of the Company as constituted from time to time.

Business**:** has the meaning given in clause 2.1 and as set out in the Business Plan.

Business Day**:** any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks in the City of London are generally open for business.

Business Plan**:** means the document attached to Schedule 2 and the document agreed each year thereafter referred to in clause 6.

Confidential Information**:** has the meaning given in clause 11.

Director**:** a director of the Company.

### **EBITDA:** means earnings before interest, tax depreciation and amortisation based on an average of the the Company’s 12 months historic EBITDA and 12 months forecast EBITDA.

Electronic form**:** has the meaning given in section 1168 of the Act.

Encumbrance**:** includes any mortgage, charge (fixed or floating), pledge, lien, hypothecation, guarantee, trust, right of set-off or other third party right or interest (legal or equitable) including any assignment by way of security, reservation of title or other security interest of any kind, howsoever created or arising, or any other agreement or arrangement (including a sale and repurchase agreement) having similar effect.

Financial Year**:** in relation to the Company, means the period of 12 months commencing on 1 April and ending on 31 March each year.

Group**:** in relation to a company, that company, any Subsidiary or Holding Company from time to time of that company and any Subsidiary from time to time of a Holding Company of that company; and each company in a Group is a member of the Group.

Holding Company and **S**ubsidiary and Wholly-Owned Subsidiary**:** mean a "holding company", "subsidiary" and “wholly-owned subsidiary” as defined in section 1159 of the Act and a company shall be treated, for the purposes only of the membership requirement contained in subsections 1159(1)(b) and (c) of the Act, as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), whether by way of security or in connection with the taking of security, or (b) its nominee.

Objectives: the objectives of the Company listed in clause 2.3 of this Agreement.

Party/Parties: the Council and/or the Company as appropriate.

Reserved Matters**:** the matters listed in Schedule 1.

Share(s): means the 100 £1 shares in the Company.

Shareholders**:** the holders of Shares in the Company.

Support Services: has the meaning set out in Schedule 3.

Support Services Agreement: the agreement(s) made between the Council and the Company relating to the provision of support services by the Council to the Company.

## Clause, schedule and paragraph headings do not affect the interpretation of this Agreement.

## A reference to a clause or a schedule is a reference to a clause of, or a schedule to, this Agreement. A reference to a paragraph is to a paragraph of the relevant schedule.

## A **person** includes a natural person, a corporate or unincorporated body (whether or not having a separate legal personality).

## Unless the context otherwise requires, words in the singular include the plural and in the plural include the singular.

## Unless the context otherwise requires, a reference to one gender includes a reference to the other genders.

## All warranties, representations, agreements and obligations expressed to be given or entered into by more than one person are given or entered into jointly and severally by the persons concerned.

## A reference to a particular statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time taking account of any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts and subordinate legislation for the time being in force made under it provided that, as between the Parties, no such amendment or re-enactment shall apply for the purposes of this Agreement to the extent that it would impose any new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of, any Party.

## A reference to **writing** or **written** includes faxes but no other electronic form.

## Documents in agreed form are documents in the form agreed by the Parties to this Agreement and initialled by them or on their behalf for identification.

## A reference in this Agreement to a document is a reference to the document whether in paper or electronic form.

## A reference in this Agreement to **other documents referred to in this Agreement** is a reference to the following documents the Articles and the Support Services Agreement.

## Where the words **include(s)**, **including** or **in particular** are used in this Agreement, they are deemed to have the words "without limitation" following them.

## Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.

## Where the context permits, **other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.

## References to times of day are, unless the context requires otherwise, to London time and references to a day are to a period of 24 hours running from midnight on the previous day.

# The Objectives and Business of the Company

## The business of the Company is to undertake activities for commercial purposes and trading within the administrative area of Three Rivers and beyond (the “**Business**”).

## The Business may be modified to include such further activities as the Council may designate.

## The Objectives of the Company are to achieve a commercial return for the Council through capital and/or revenue receipts from:

### the acquisition and/or development and/or disposal of land holdings;

### the provision of goods and services to third parties;

## The Business shall be carried out by the Company in accordance with the Business Plan.

## the Company shall at all times:

### comply with the Business Plan;



### pursue and achieve the Objectives; and

### comply with the provisions of this Agreement, the Articles and the Reserved Matters.

# Directors and management

## The Directors are appointed and dismissed by the Council as Shareholder pursuant to the Articles.

## The Board has responsibility for the supervision and management of the Company and its business. The Company shall ensure that the Board shall not transact any of the business described in Schedule 1 (Reserved Matters) without first referring the matter for approval to the Council as Shareholder in the Company.

## Where the Directors are employees of the Council they shall not be entitled to any remuneration from the Company in their capacity as Directors and their expenses shall be met by the Council and not the Company.



## Where the Board proposes to appoint or dismiss a Company Secretary in accordance with Article 27 of the Articles of Association, then Board shall first seek the written approval of the Council.



## Any Company Secretary who is an employee of the Council shall not be entitled to any remuneration from the Company in their capacity as Company Secretary and their expenses shall be met by the Council and not the Company.

# Land And Finance for the Company

## There is no obligation on the Council to provide any land, capital or other finance to the Company unless both Parties agree otherwise in writing.

## If the Council provides land, capital or other finance pursuant to this clause 4 the Parties shall negotiate in good faith on any terms to apply to such capital or other finance.

# Anti-corruption

## The Company undertakes to the Council that:

### it will not in the course of the operation of the Business, engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010;

### it will maintain in place, anti-corruption procedures in substantially the same form as the Council’s anti-corruption procedures which the Parties agree constitute Adequate Procedures; and

### from time to time, at the request of the Council it will confirm in writing that it has complied with its undertakings under clause 5.1(a) and clause 5.1(b) and will provide any information reasonably requested by the other Party in support of such compliance.

# The Business Plan

## The Company must adopt a Business Plan for each Financial Year.

## The Board is responsible for preparing, reviewing and updating the Business Plan.

## The Council as sole shareholder must approve the Business Plan and any revision or update thereof ahead of adoption by the Board.

## The Company shall consult the [] of the Council ahead of presenting a Business Plan or revision or update thereof to the Council as shareholder for approval under clause 6.3.

## The Business Plan must cover the following areas as a minimum:

### overview of the Business;

### primary objectives for the coming year;

### management and staffing – both current and future need;

### products, services and activities for the coming year;

### market analysis;

### marketing strategy;

### action programme for the development of the Business;

### qualitative and quantitative evaluation of the resources (other than staffing and finance) of the Business needed to achieve the objectives for the coming year;

### financial performance, requirements, procedures and forecasts and budgets;

### proposals for performance review and revision in the coming year;



### risk assessment and sensitivity analysis; and

### any matters that the Council may request.

# Accounting

## The Company shall at all times maintain accurate and complete accounting and other financial records including all corporation tax computations and related documents and correspondence with HM Revenue & Customs in accordance with the requirements of all applicable laws and generally accepted accounting principles applicable in the United Kingdom.

## The Council and its authorised representatives shall be allowed access at all reasonable times to examine the books and records of the Company and to discuss the Company’s affairs with the Directors and any employees (if any) of the Company.

## The Company shall supply the [] of the Council with the financial and other information necessary to keep the Council informed about how effectively the Business is performing and in particular shall supply the Council with:

### a copy of each year's Business Plan for approval in accordance with clause 6;

### a copy of the audited accounts of the Company prepared in accordance with the laws applicable in and the accounting standards, principles and practices generally accepted in the United Kingdom, within three months of the end of the year to which the audited accounts relate; and

### monthly management accounts of the Company to be supplied as soon as reasonably practicable following the end of the month to which they relate and in any event by the final day of the month following the month to which the accounts relate and the accounts shall include a profit and loss account, a balance sheet and a cashflow statement and such other information as the Council may reasonably require.

### a copy of a report prepared by the Company in respect of each Financial Year, demonstrating the implementation by the Company of Adequate Procedures such report to be provided within 20 Business Days of the end of the Financial Year to which it relates.

## The Council may require the Company, and the Company shall as soon as possible comply with such a request, to provide any documents, information and correspondence necessary to enable the Council to comply with filing, elections, returns or any other requirements of HM Revenue & Customs or of any other revenue or tax authority.

# Dividends

## The Parties agree that the Company shall consult and have regard to the views of the [] of the Council prior to:

### the Board recommending any dividend payment/distribution for approval by the Shareholders; and/or

### the Board making any interim dividend payments.

# Termination

## This Agreement may be terminated at any time by the Council serving notice to terminate on the Company.

## The following provisions of this Agreement remain in full force after termination:

### Clause 1 (Interpretation);

### this clause 9;

### Clause 11 (Confidentiality);

### Clause 13 (Whole Agreement);

### Clause 16 (Variation and Waiver);

### Clause 17 (Costs);

### Clause 21 (Notice);

### Clause 23 (Language);

### Clause 24 (Severance);

### Clause 27 (Governing Law and Jurisdiction); and

### Clause 28 (Dispute Resolution).

## Termination of this Agreement shall not affect any rights or liabilities that the Parties have accrued under it.

# Status of the agreement

## If there is at any time any conflict, ambiguity or discrepancy between the provisions of this Agreement and the Articles, then the provisions of this Agreement shall prevail over the Articles unless the Council directs otherwise. The Parties shall procure that the Articles are amended to accord with the provisions of this Agreement in the event of any conflict.

# Confidentiality

## In this clause Confidential Information means any information which:

### either Party may have or acquire (whether before or after the date of this Agreement) in relation to the customers, suppliers, business, assets or affairs of the Company (including, without limitation, any information provided pursuant to clause 7);

### either Party or any member of its Group may have or acquire (whether before or after the date of this Agreement) in relation to the customers, suppliers, business, assets or affairs of the other Party or any member of the other Party's Group, as a consequence of the negotiations relating to this Agreement or any other agreement or document referred to in this Agreement or the performance of the Agreement or any other agreement or document referred to in this Agreement; or

### relates to the contents of the Business Plan.

but excludes the information in clause 11.2.

## Information is not Confidential Information if:

### it is or becomes public knowledge other than as a direct or indirect result of the information being disclosed in breach of this Agreement;

### either Party can establish to the reasonable satisfaction of the other Party that it found out the information from a source not connected with the other Party or its Group and that the source is not under any obligation of confidence in respect of the information;

### either Party can establish to the reasonable satisfaction of the other Party that the information was known to the first Party before the date of this Agreement and that it was not under any obligation of confidence in respect of the information; or

### the Parties agree in writing that it is not confidential.

## Each Party shall at all times use all reasonable endeavours to keep confidential (and to ensure that its employees, agents, Subsidiaries and the employees and agents of such Subsidiaries, any Confidential Information and shall not use or disclose any such Confidential Information except:

### to a Party's professional advisers where such disclosure is for a purpose related to the operation of this Agreement;

### with the written consent of the Party or any member of its Group that the information relates to;

### as may be required by law (to include without limitation the Local Authorities (Companies) Order 1995) or by the rules of any recognised stock exchange, or governmental or other regulatory body, when the Party concerned shall, if practicable, supply a copy of the required disclosure to the other before it is disclosed and incorporate any amendments or additions reasonably required by the other Party and which would not thereby prevent the disclosing Party from complying with its legal obligations;

### to any tax authority to the extent reasonably required for the purposes of the tax affairs of the Party concerned or any member of its Group;

### if the information comes within the public domain (otherwise than as a result of the breach of this clause 11.3)

## Each Party shall inform (and shall use all reasonable endeavours to procure that any Subsidiary) any officer, employee or agent or any professional adviser advising it in relation to the matters referred to in this Agreement, or to whom it provides Confidential Information, that such information is confidential and shall require them:

### to keep it confidential; and

### not to disclose it to any third Party (other than those persons to whom it has already been disclosed in accordance with the terms of this Agreement).

## Upon termination of this Agreement, either Party may demand from the other the return of any documents containing Confidential Information in relation to the first Party by notice in writing whereupon the other Party shall (and shall use all reasonable endeavours to ensure that its Subsidiaries, and its officers and employees and those of its Subsidiaries shall):

### return such documents; and

### destroy any copies of such documents and any other document or other record reproducing, containing or made from or with reference to the Confidential Information,

save, in each case, for any submission to or filings with governmental, tax or regulatory authorities. Such return or destruction shall take place as soon as practicable after the receipt of any such notice.

## The obligations of each of the Parties in this clause 11 shall continue without limit in time and notwithstanding termination of this Agreement for any cause.

# Information, scrutiny AND ACCOUNTABILITY

## The Parties acknowledge that the Council is subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. The Company shall use best endeavours to assist, within the timescale specified by the Council, the Council in responding to any requests for information under that legislation to include the provision of any and all documents that the Council considers reasonably necessary to enable it to respond to the information request. The Company shall, and shall procure that its employees and agents shall, comply at all times with the Council’s policies and procedures on Freedom of Information.

## Notwithstanding clause 12.1, the Company shall comply at all times with the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 as that legislation applies directly to the Company.

## Where the Company is in receipt of any request for information under the legislation referred to in clause 12.1, then it shall as soon as reasonably practicable pass the request to the Council and have regard to the views of the Council before responding to any such request.

## The Company shall use best endeavours to assist the Council in complying with any and all transparency obligations including without limitation compliance with the Local Government Transparency Code 2015 and any successor codes, policies or guidance.

## The Company shall use best endeavours to assist the Council in responding to any requests for information about the Company and/or the Business submitted by elected members of the Council.

## The Company shall on reasonable notice from the Council make available officers and/or employees of the Company to attend before and answer questions at any meeting of:

### a committee or sub-committee of the Council; and/or

### any meeting of elected members (to include a directly elected mayor) within the Council’s executive arrangements; and/or

### a committee or sub-committee of the Council’s executive arrangements; and/or

### a meeting of officers and/or elected members of the Council;

## The Company shall supply any information to such committees, sub-committees or other meeting as the Council may reasonably request.

## The Company shall use best endeavours to assist the Council in responding to any inquiry or investigation of/by the Local Government Ombudsman (or any successor).

# Local authorities (companies) order 1995

## The Company shall at all times comply with the Local Authorities (Companies) Order 1995, any successor legislation or statutory instrument and any other laws in force from time to time relation to the operation, management and activities of a local authority owned company.

# Whole agreement

## This Agreement, and any documents referred to in it, constitute the whole agreement between the Parties and supersede all previous arrangements, understandings and agreements between them, whether oral or written, relating to their subject matter.

## Each Party acknowledges that in entering into this Agreement, and any documents referred to in it, it does not rely on, and shall have no remedy in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in this Agreement or those documents.

## Nothing in this clause 14 shall limit or exclude any liability for fraud.

# Assignments

## The Company may not assign, or grant any Encumbrance over or sub-contract, or deal in any way with, any of its rights or obligations under this Agreement or any document referred to in it without the prior written consent of the Council.

## Each person that has rights under this Agreement is acting on its own behalf.

# Variation and waiver

## A variation of this Agreement shall be in writing and signed by or on behalf of all Parties.

## A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the person to which the waiver is addressed and the circumstances for which it is given.

## A person that waives a right in relation to one person, or takes or fails to take any action against that person, does not affect its rights against any other person.

## No failure to exercise or delay in exercising any right or remedy provided under this Agreement or by law constitutes a waiver of such right or remedy or shall prevent any future exercise in whole or in part thereof.

## No single or partial exercise of any right or remedy under this Agreement shall preclude or restrict the further exercise of any such 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.

# Costs

Unless otherwise provided, all costs in connection with the negotiation, preparation, execution and performance of this Agreement, shall be borne by the Party that incurred the costs.

# No partnership

The Parties to this Agreement are not in partnership with each other and there is no relationship of principal and agent between them.

# Good faith

## Each Party shall at all times act in good faith towards the other and shall use all reasonable endeavours to ensure that this Agreement is observed.

## Each Party shall do all things necessary and desirable to give effect to the spirit and intention of this Agreement.

# Third Party rights

## A person who is not a Party to this Agreement shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999 except where such rights are expressly granted in this Agreement.

## The right of the Parties to terminate, rescind or agree any amendment, variation, waiver or settlement under this Agreement is not subject to the consent of any person that is not a Party to the Agreement.

# Notice

## A notice given under this Agreement:

### shall be in writing in the English language (or be accompanied by a properly prepared translation into English);

### shall be sent for the attention of the person, and to the address, or fax number, given in this clause 21 (or such other address, fax number or person as the relevant Party may notify to the other Party); and

### shall be:

#### delivered personally; or

#### delivered by commercial courier; or

#### sent by fax; or

#### sent by pre-paid United Kingdom first-class post or recorded delivery.

## The addresses for service of notice are:

### The Council

Address: Three Rivers District Council, Three Rivers House, Northway, Rickmansworth, Hertfordshire WD3 1RL

For the attention of: []

Fax number: []

### [],

Address: []

For the attention of: []

Fax number: []

## If a notice has been properly sent or delivered in accordance with this clause, it will be deemed to have been received as follows:

### if delivered personally, at the time of delivery; or

### if delivered by commercial courier, at the time of signature of the courier's delivery receipt; or

### if sent or supplied by electronic means, one hour after the notice was sent or supplied; or

### if sent by pre-paid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted or 5 Business Days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom, if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least 5 Business Days was guaranteed at the time of sending and the sending Party receives a confirmation of delivery from the courier service provider; or

### if deemed receipt under the previous paragraphs of this sub-clause is not within business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of receipt), when business next starts in the place of deemed receipt and all references to time are to local time in the place of deemed receipt.

## To prove delivery, it is sufficient to prove that notice was transmitted by fax to the fax number of the Party or, in the case of post, that the envelope containing the notice was properly addressed and posted.

# Interest on late payment

## Where a sum is required to be paid under this Agreement but is not paid before or on the date the Parties agreed, the person due to pay the sum shall also pay an amount equal to interest on that sum at the rate set out in clause 22.2 for the period beginning with the date on which the payment was due and ending with the date the sum is paid (and the period shall continue after as well as before judgment).

## The rate of interest shall be 2% per annum above the base lending rate from time to time of the Bank of England. Interest shall accrue on a daily basis and be compounded quarterly.

# Language

If this Agreement is translated into any language other than English, the English language text shall prevail.

# Severance

## If any provision of this Agreement (or part of a provision) 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 or legal if some part of it were deleted or modified, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the Parties.

# Further assurance

Each Party shall promptly execute and deliver all such documents, and do all such things, as the other Party may from time to time reasonably require for the purpose of giving full effect to the provisions of this Agreement.

# Counterparts

This Agreement may be executed in any number of counterparts, each of which is an original and which together have the same effect as if each Party had signed the same document.

# 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 law 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 non-contractual disputes or claims).

# Dispute Resolution

## In the event that any dispute arises between the Council and the Company then in the first instance the dispute shall be referred for resolution to the [] of the Council and the chair of the Board for the time being (“the Chair”).

## Where the [] and the chair of the Board are unable to resolve a dispute then the Council may at any time serve a notice in writing on the Company directing the Company and the Board to take and/or refrain from taking actions specified in the notice.

## The Company must comply with any notice served pursuant to clause 28.2 within the timescales specified in the notice.

# the council as shareholder

## The Company acknowledges that the Council as Shareholder will make decisions through the [Policy and Resources Committee of the Council and will be represented at general meetings of the Company by its appointed nominee. In accordance with the Council’s Constitution, the [Policy and Resources Committee] may delegate to officers of the Council the power to take decisions on behalf of the Council as Shareholder.

## The Council shall provide to the Company from time to time details of the Council officers authorised to take decisions on behalf of the Council as Shareholder and the extent of any such authorisation.

This Agreement has been executed and delivered as a deed on the date stated at the beginning of it.

1. Matters reserved for Shareholder approval

|  |  |  |
| --- | --- | --- |
| **Activity** | | **Reserved to Shareholder save where expressed otherwise** |
| 1. | Varying in any respect the Articles or the rights attaching to any of the Shares in the Company. |  |
| 2. | Varying the quorum provisions for Director or Shareholder meetings. |  |
| 3. | Permitting the registration (upon subscription or transfer) of any person as a member of the Company other than the Council. |  |
| 4. | The creation, allotment or issue of any shares or the variation of any rights attaching to any Share |  |
| 5. | Granting any option or other interest (in the form of convertible securities or in any other form) over or in its Shares capital, redeeming or purchasing any of its own Shares or effecting any other reorganisation of its Shares capital. |  |
| 6. | Issuing any loan capital in the Company or entering into any commitment with any person with respect to the issue of any loan capital. |  |
| 7. | Making any borrowing arrangement. |  |
| 8. | Passing any resolution for its winding up or presenting any petition for its administration (unless it has become insolvent). |  |
| 9. | Altering the Head Office and/or registered office location of the Company unless authorised through the Business Plan; |  |
| 10. | Altering the name of the Company. |  |
| 11. | Changing the nature/scope of the Company’s Business or commencing any new business by the Company which is not ancillary or incidental to the Business. |  |
| 12. | Taking any action or decision which would not be consistent with the Business Plan. |  |
| 13. | Forming any subsidiary or acquiring shares in any other company or participating in any partnership or joint venture (incorporated or not). |  |
| 14. | Selling any part of the Business unless authorised through the Business Plan. |  |
| 15. | Amalgamating or merging with any other company or business undertaking. |  |
| 16. | Creating or granting any Encumbrance over the whole or any part of the Business, undertaking or assets of the Company or over any Shares in the Company or agreeing to do so other than liens arising in the ordinary course of business or any charge arising by the operation or purported operation of title retention clauses and in the ordinary course of business. |  |
| 17. | Making any loan (otherwise than by way of deposit with a bank or other institution the normal business of which includes the acceptance of deposits or in the ordinary course of business) or granting any credit (other than in the normal course of trading) or giving any guarantee (other than in the normal course of trading) or indemnity (other than in the normal course of trading). |  |
| 18. | Altering any mandate given to the Company’s bankers relating to any matter concerning the operation of the Company’s bank accounts other than by the substitution of any person nominated as a signatory by the party entitled to make such nomination. |  |
| 19. | Entering into any arrangement, contract or transaction (including the appointment of any agent or intermediary to conduct any of the Company’s Business) outside the normal course of its business. |  |
| 20. | Granting any rights (by licence or otherwise) in or over any intellectual property owned or used by the Company. |  |
| 21. | Making or permitting to be made any change in the accounting policies and principles adopted by the Company in the preparation of its audited and management accounts where such change would have an impact on the EBITDA. | Ratify following Board recommendation and approval |
| 22. | Declaring or paying any dividend or making any other distribution (by way of capitalisation, repayment or in any other manner) out of the Company's distributable profits or any of its reserves other than an interim dividend in accordance with the Articles. |  |
| 23. | (a) Commencing any recruitment process for employees;  (b) Granting any pension rights to any director, officer, employee, former director, former officer or former employee, or any member of any such person's family. |  |
| 24. | Dismissing any officer or employee in circumstances in which the Company incurs or agrees to bear redundancy or other costs in excess of £15,000 in total and dismissing any Director. |  |
| 25. | Instituting, settling or compromising any material legal proceedings (other than debt recovery proceedings in the ordinary course of business) instituted or threatened against the Company or submitting to arbitration or alternative dispute resolution any dispute involving the Company. | Reserved where specific to the reputation and/or business interests of the Shareholder |
| 26. | Factoring or assigning any of the book debts of the Company. |  |
| 27. | Establishing or amending any profit-sharing, Shares option or other incentive scheme (other than bonus schemes) of any nature for directors or employees of the Company. |  |
| 28. | Agreeing to remunerate (by payment of fees, the provision of benefits-in-kind or otherwise) any officer of or consultant to the Company at a rate in excess of £50,000 per annum or increasing the remuneration of any such person to a rate in excess of £50,000 per annum or otherwise in accordance with the Business Plan. |  |
| 29. | Entering into or varying any contract of employment providing for the payment of remuneration (including pension and other benefits) in excess of a rate of £50,000 per annum or increasing the remuneration of any staff (including pension and other benefits) to a rate in excess £50,000 per annum. | The Board is permitted to increase remuneration of existing staff each year by up to 10% but where any such increase would take the remuneration over £50,000 then approval of the Council is required. |
| 30. | Adopting or amending any standard terms of business (including prices) on which the Company or any subsidiary is prepared to provide goods or services to third parties. | Delegated to the Board save where the impact is contrary to the Business Plan.  The Board must consult the Council’s Monitoring Officer before exercising the delegation above to adopt standard terms of business. |
| 31. | Making any agreement with any revenue or tax authorities or making any claim, disclaimer, election or consent exceeding £100,000 for tax purposes in relation to the Company or its Business. |  |
| 32. | The acquisition or disposal of any land, buildings and/or other assets where such acquisition or disposal is not within the approved Business Plan of the Company or any business plan approved by the Board and the Shareholders for any joint venture that the Company is a party to. |  |

1. Business Plan
2. Support Services

The following support services will be provided by the Council to the Company:

[DETAILS TO BE INCLUDED]

The Council and the Company will enter into a separate service level agreement.

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| --- | --- |
| The **COMMON SEAL** of  **THREE RIVERS DISTRICT COUNCIL**  was affixed to this Deed in the presence of: |  |
| ………………………………..  [] |  |

|  |  |
| --- | --- |
| Executed as a **DEED** by **[]** acting by [……………………………..], a director, in the presence of: | .......................................  Director |
| ....................................  SIGNATURE OF WITNESS  ………………………………………….  NAME OF WITNESS (IN BLOCK CAPITALS)  …………………………………………  …………………………………………  …………………………………………  ADDRESS OF WITNESS  ………………………………………….  OCCUPATION OF WITNESS |  |