



NOTICE OF MEETING

Meeting:	Cabinet
Date and Time:	Thursday 3 June 2021 7.00 pm
Place:	Council Chamber
Enquiries to:	Committee Services Committeeservices@hart.gov.uk
Members:	Bailey, Clarke, Cockarill, Kinnell, Neighbour (Leader), Oliver, Quarterman and Radley

Joint Chief Executive

CIVIC OFFICES, HARLINGTON WAY
FLEET, HAMPSHIRE GU51 4AE

AGENDA

This Agenda and associated appendices are provided in electronic form only and are published on the Hart District Council website.

- **At the start of the meeting, the Lead Officer will confirm the Fire Evacuation Procedure.**
- **The Chairman will announce that this meeting will be recorded and that anyone remaining at the meeting had provided their consent to any such recording.**

1 MINUTES OF THE PREVIOUS MEETING

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The minutes of the meeting held on 1 April 2021 are attached to be confirmed and signed as a correct record.

2 APOLOGIES FOR ABSENCE

To receive any apologies for absence from Members*.

**Note: Members are asked to email Committee services in advance of the meeting as soon as they become aware they will be absent.*

3 DECLARATIONS OF INTEREST

To declare disposable pecuniary, and any other interests*.

**Note: Members are asked to email Committee Services in advance of the meeting as soon as they become aware they may have an interest to declare.*

4 CHAIRMAN'S ANNOUNCEMENTS

5 PUBLIC PARTICIPATION (ITEMS PERTAINING TO THE AGENDA)

6 CORPORATE VEHICLE FOR PROPERTY HOLDING PURPOSES: BUSINESS CASE 10 - 92

The Council has agreed to set up a wholly owned Company limited by shares to hold and maintain residential assets procured by the Council. This report deals with the draft business case and seeks Cabinet's approval.

RECOMMENDATION

That Cabinet:

- A. Agrees the initial Business Plan attached at Appendix 1. The areas specifically highlighted in yellow in the business plan, are particularly recommend for discussion.

- B Invites the Joint Chief Executive and the Commercial Finance Manager to be the Council's two employee appointed Directors to the Board of the Hart Housing Property Management Company Ltd.

- C Authorises the Head of Corporate Services, in consultation with the Portfolio Holder for Finance and the Portfolio Holder for Commercialisation, to appoint a suitable independent lay person who has knowledge and skills in property letting and management to the Board of Directors of the Hart Housing Property Management Company Ltd.

7 CABINET WORK PROGRAMME 93 - 98

To consider and amend the Cabinet Work Programme.

Date of Publication: Wednesday, 26 May 2021

CABINET

Date and Time: Thursday 1 April 2021 at 7.00 pm

Place: Council Chamber

Present:

Ambler, Bailey, Kinnell, Neighbour, Oliver, Quarterman and Radley

In attendance: Axam, Smith, Worlock

Officers: Clayton, Elson, Foy, Glenn, Hughes, Phillips, Vincent

115 MINUTES OF THE PREVIOUS MEETING

The minutes of 4 March 2021 were confirmed and signed as a correct record.

116 APOLOGIES FOR ABSENCE

Apologies had been received from Councillor Cockarill.

117 DECLARATIONS OF INTEREST

No declarations made.

118 CHAIRMAN'S ANNOUNCEMENTS

The Chairman had no announcements.

119 PUBLIC PARTICIPATION (ITEMS PERTAINING TO THE AGENDA)

None.

120 CLIMATE CHANGE WORKING GROUP UPDATE

Overview & Scrutiny discussed the progress of the Climate Change Working Group at its March meeting and raised concerns over the speed of execution. Cllr Oliver expressed to Cabinet Members that good progress was being made in the background and Members were advised that a planning workshop would be used at the next meeting to incorporate the planning department in order to assist the climate change working group.

Minutes of the meeting held on 2 March were noted.

121 EQUALITY OBJECTIVES 2021 - 2023

Cabinet were informed of the Council's Equality Objectives 2021-2023, which were considered by Overview and Scrutiny Committee in March 2021.

Members asked about the publication of workforce equality information and asked why certain groups with lower representation had not been identified. It was explained that this is due to protecting individual Officer's right for confidentiality and ensures the ability to publish a more general overview.

DECISION

That the Equality Objectives 2021-2023 attached at Appendix 1 were approved.

122 DRAFT SERVICE PLANS FOR 2021/2022

Members considered the draft Service Plans for 2021/22 as set out in Appendix 1.

Members discussed different topics from all service areas, including:

- The new ways of working and ensuring better communication and engagement between Members working with Officers.
- Officers will split their time between working from home and the office and the office layout will keep evolving to find the best productive way to engage changing working patterns.
- Community Services have surveyed residents at risk of becoming homeless on how they have found engaging with the Council and accessing our Services during lockdown periods and found that the response has been very positive.
- Key performance targets currently available and how to develop further key indicators to create KPIs for the commercialisation strategy.
- Ground maintenance and street cleaning complaints data will be updated and provided by Mr Elson on the Environmental & Technical Service Plan.

DECISION

Cabinet considered and adopted the draft Service Plans for 2021/22, as set out in Appendix 1, having regard to the agreed Budget for 2021/22.

123 FUTURE ARRANGEMENTS FOR THE JOINT WASTE CLIENT TEAM AND INTER AUTHORITY AGREEMENT

Approval was sought to transfer the Administration Authority function for the Joint Waste Service and employment of the Joint Waste Client Team from Hart District Council to Basingstoke and Deane Borough Council.

Members were reassured that the transfer of the Joint Waste Client Team was not as a result of how the team had performed but how the contractor had executed the contract. It was decided not to split the contract but to transfer instead to ensure no increased costs would be incurred from the contractor. Transfer of the client team would improve resilience and enable us to maintain a high standard of service.

Appendix G of this report is Exempt.

Members asked questions on:

- Additional services for our residents.
- Extra resources to implement initiatives and tasks.
- The possibility of deterioration in the service due to no longer managing the service but Members were assured that greater checks and balances in governance and oversight in the contract management would be put in place to protect our position.
- The reference to performance board will be amended to reference Overview & Scrutiny. Feedback and amendments suggested by Hart had been agreed by Basingstoke and Deane.
- The additional costs to Basingstoke & Deane for the higher level of workload to provide more resources. This figure to be confirmed by Mr Elson.
- Ensuring that Hart residents would not lose sovereignty on how the service would be delivered and the inter-authority agreement will strengthen and maintain clarity.

The Chairman thanked the joint waste client team for their hard work and the decision made by Cabinet was no reflection on their ability to deliver the service.

DECISION

That Cabinet:

1. Agreed to the transfer of the Joint Waste Client team, and to delegate authority to the Joint Chief Executive, in consultation with the Portfolio Holder for Environment, to seek any minor changes to the client team arrangements as necessary.
2. Authorised the Joint Chief Executive in consultation with the Portfolio Holder for Environment, to finalise and enter into an amended contract that transfers the Administrating Authority function for the Joint Waste Service from Hart District Council to Basingstoke and Deane Borough Council.
3. Agreed to enter into an updated Inter Authority Agreement (IAA) and new Service Level Agreement (SLA) with Basingstoke and Deane Borough Council, substantially in the form attached at Appendices A and B, and delegates to the Joint Chief Executive, in consultation with the Portfolio Holder for Environment, authority to finalise the terms and complete both agreements on behalf of the Council.

124 HOUSING ADVICE SOFTWARE RE-PROCUREMENT

Cabinet were updated on the outcome of the procurement process undertaken to implement a new integrated housing advice software solution, and to grant approval to appoint the preferred supplier.

Cabinet agreed to request authority to draw down from housing earmarked reserves to fund the procurement of the new housing IT system.

Appendix 2 of this report is Exempt.

DECISION

1. That Cabinet approved the award of the contract to the highest scoring supplier (Supplier A), following the detailed evaluation process that has taken place between December 2020 and February 2021 by the project evaluation team as set out in paragraph 4.5.
2. That Cabinet endorsed the proposed initial contract term of 24 months for the new system, with the option to extend annually for a further 24 months, as laid out within the Crown Commercial Services G- Cloud 12 framework as set out in paragraph 3.4.
3. That Cabinet approved the use of earmarked reserves for the procurement of new housing IT system as set out in paragraph 5.2 & 5.3.
4. That Cabinet approved the officer recommendation to proceed with implementation as set out in paragraph 5.4.

125 FROGMORE DAY CARE CENTRE

Members were informed of an urgent decision taken to seek surrender of the existing lease for Frogmore Day Care Centre.

Members discussed how valuable the facility is for the district and were saddened to learn that the existing charity could not continue to fund the facility and agreed that the intention of this building will always be kept and retained for community use. Cabinet were happy to be informed that there is another charitable organisation was in a good position to take on the facility in the near future as there is a big demand for day care centres for community use.

Members asked what the next stage is and were advised that if the lease of the building passed exemptions to procurement around provisions for social and health care, then the Council can seek expressions of interest. If such exemptions cannot be established, a full tendering process will be required. Cabinet expressed an urgency for community services to be delivered from the centre but recognised, this should not risk services not being of sufficient safety and quality in doing so.

DECISION

Cabinet noted the urgent decision taken to seek surrender of the existing lease for Frogmore Day Care Centre.

126 COVID 19 PANDEMIC - MOVING FROM EMERGENCY RESPONSE TO RECOVERY

The Monitoring Officer confirmed the decision-making implications under the adopted scheme of delegation arising from the impending move in status from Emergency response to Recovery.

The Monitoring Officer commented on the Joint Chief Executives great work documenting urgent emergency decisions made in the emergency response phase and that further urgent decisions would still need to be made as the Council moves into the recovery stage. Cabinet were informed that the recovery stage would be a longer process and there would still be occasions for rapid decisions to be made for some considerable time. In this regard Members noted that Officers would now rely upon conventional delegated Urgent Powers already in the constitution (Delegated Powers 263 and 264). These would be exercised in consultation with the Leader of the Council (and in consultation with Ward Councillors if the decision raised significant Ward related matters) with a full report on any decisions taken subsequently made.

The Joint Chief Executive, Patricia Hughes added that additional activities were still ongoing under COVID services including the Lateral Flow Testing Centre, a further tranche of business grants and the Hart Hub still supporting Hart residents.

127 CABINET WORK PROGRAMME

The Cabinet Work Programme was considered and amended.

1. Car boot sales postpone to July.
2. Regulatory Services Enforcement Policy postpone to July after the Licensing Committee Meeting in June.
3. Housing Company Business Case in June.
4. An updated on Emergency COVID-19 Decisions taken for noting by Cabinet in July.

128 EXCLUSION OF THE PUBLIC

The following item contained exempt information.

DECISION

Members decided that the public interest in maintaining an exemption outweighed the public interest in disclosing the information.

In accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred to, on the grounds that they involved the likely disclosure of exempt information, as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, and the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

129 HART DISTRICT COUNCIL LEISURE CONTRACT - COVID 19

In January 2021, Cabinet agreed that management fee relief would be to Everyone Active to the 31st of March 2021 and a claim be made to the National Leisure Recovery Fund which would be passed over to Everyone Active to mitigate against further losses. The amount received from the National Leisure Recovery Fund does not fully mitigate the losses anticipated by Everyone Active and they have made a further request for both additional funding to the 31st of March and that the management fee relief is granted until the 30th June 2021 due to the further period of enforced closure.

Members discussed:

- The reduced client base of members using the leisure facility during the pandemic.
- How the capacity of facilities will be limited due to social distancing being introduced when the leisure centre reopens.
- Encouraging residents back to use the facilities.
- Ways to safeguard our management fee.
- Possibility for an extension of the studio facilities.

DECISION

- (A) That Cabinet agreed to extend the grant of management fee relief to Everyone Active to the 30 June 2021 to allow for lost revenue as a result of additional costs, limited activities, and reduced membership subscriptions due to the impact of Covid-19 on the basis that COVID-19 compensation payments remain payable from Central Government.
- (B) Agreed that one further subsidy of no greater than £369K to cover the period from 1st January to 30th June to allow a break-even position.
- (C) With reference to Recommendation B, Cabinet agreed the break-even position should only be calculated before staff bonuses, extraordinary expenditure, and dividend payments.
- (D) That S.151 Officer, in consultation with the Portfolio Holder for Finance be authorised to carry out the open book audit and agree any subsidy payable with Everyone Active.
- (E) That S.151 Officer, in consultation with the Portfolio Holder for Finance be authorised to negotiate with Everyone Active a monetary mechanism to return to a position of full management fee receipts as early as is possible.

The meeting closed at 8.57 pm

CABINET

DATE OF MEETING: 3 JUNE 2021

TITLE OF REPORT: HART HOUSING PROPERTY MANAGEMENT COMPANY LTD: INITIAL DRAFT BUSINESS PLAN

CABINET PORTFOLIOS FINANCE/CORPORATE SERVICES AND COMMERCIALISATION

REPORT OF: MONITORING OFFICER

1 PURPOSE

- 1.1 The Council has agreed to set up a wholly owned Company limited by shares to hold and maintain residential assets procured by the Council. This report deals with the draft business case and seeks Cabinet's approval.

2 RECOMMENDATION

- 2.1 That Cabinet
- A. Agrees the initial Business Plan attached at Appendix 1. The areas specifically highlighted in yellow in the business plan, are particularly recommend for discussion.
 - B Invites the Joint Chief Executive and the Commercial Finance Manager to be the Council's two employee appointed Directors to the Board of the Hart Housing Property Management Company Ltd
 - C Authorises the Head of Corporate Services, in consultation with the Portfolio Holder for Finance and the Portfolio Holder for Commercialisation, to appoint a suitable independent lay person who has knowledge and skills in property letting and management to the Board of Directors of the Hart Housing Property Management Company Ltd

3 BACKGROUND

- 3.1 In 2018 the Council agreed a strategic business case for progressing a Commercialisation project across the Council. Three key themes were agreed one of which was to increase income from asset-based investments.
- 3.2 The Company vehicle is required to protect the Council's housing assets because Local Authorities cannot, except in rare circumstances, otherwise grant residential Assured Shorthold Tenancies.
- 3.3 Council agreed in January 2021 that the Company is to be incorporated on the following basis:

- The Purposes of the Company is solely as a property management/maintenance company holding assets on behalf of the Council. It is to fulfil the following functions: management, letting, legal, finance and external audit only;
- The Council would be the sole shareholder of the Company;
- The Board of Directors would comprise a minimum of three individuals.
- District Councillors would not be entitled to be members of the Board
- Cabinet is delegating the authority from Council to approve membership of the Board of Directors, subject to conflicts of interest checks by the Council's S151 and the Monitoring Officer; and
- The Board of Directors would be in day-to-day operational control of the Company and be answerable to the sole shareholder (i.e. the Council).

3.4 The Council has recently taken possession of 41 apartments for affordable rent at Edenbrook, Fleet.

4 COMMENTARY

4.1 In line with the requirements of Local Government Act 2003 a full business plan must be approved before trading commences. This is the final stage in getting the Company operational. Attached (at Appendix 1) is a draft of the proposed Business Plan. The areas specifically highlighted in yellow in the business Plan are particularly recommend for discussion.

4.2 The overarching objective of the Company is to ensure management of the Council procured assets. Broadly, the Business Plan reflects this and addresses the following:

- The context and background to the Company.
- The longer- term growth strategy of the business.
- The plan for pipeline schemes and scaling of the Company.
- The projected profit and loss, balance sheet and cashflow of the Company for the next five years.

4.3 The Business case is centered on the initial opportunity to procure 41 properties for use as affordable rent (80% of local marker rent) primarily for 'key workers'. The financial assumptions and projections for this initial opportunity is detailed in ANNEX C.

4.4 The Company will have more properties added to its portfolio once suitable properties have been identified and purchased by the Council. The Company will not otherwise seek to procure or develop property or land itself.

4.5 The initial Business Plan was reviewed by Overview and Scrutiny in April 2021 and the following changes have been made as a result of their review and challenge:

- Objectives of the Company clarified to be consistent throughout the business plan
- The capitalisation of salaries has been removed from the financial

projection. Note: Directors who are Council employees will not be remunerated for their role in the Company.

- Risk assessment has been re-considered. The risks are now in a format consistent with the Corporate Risk Register.
- Articles of Association are included
- Share Holders Agreement are included

5 FINANCIAL IMPLICATIONS

5.1 There are no immediate financial implications arising from this report.

6 ACTION

6.1 Approval of the Business Plan will result in the Company proceeding to incorporation.

Background Paper: Exempt report to Council January 2021

Attachment: **Appendix 1** - initial Business Case

Contacts

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Emma Foy, Head of Corporate Services and S151 Officer: emma.foy@hart.gov.uk

**HART HOUSING PROPERTY
MANAGEMENT COMPANY LIMITED**

Draft INITIAL BUSINESS PLAN

MAY 2021

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1. EXECUTIVE SUMMARY

- 1.1 This document sets out the Business Plan for Hart Housing Property Management Company Ltd (HHPMC – the Company) for the immediate future with an emphasis on the next five years. The Company has been set up by Hart District Council (HDC – the Council) and this document provides the Company’s vision and broad strategic objectives, as well as the financial forecasts that sit behind the Business Plan.
- 1.2 Broadly, the Business Plan sets out:
- The context and background to the Company.
 - The longer- term growth strategy of the business.
 - The plan for pipeline schemes and scaling of the Company.
 - The projected profit and loss, balance sheet and cashflow of the Company for the next five years.
- 1.3 The overarching objective of the Company is to ensure effective management of the Council procured assets.
- 1.4 The Company has identified an initial opportunity to create 41 properties for use as affordable accommodation primarily for ‘key workers’ which has formed the basis of this initial Business Plan.
- 1.5 The financial assumptions and projections for this initial opportunity is detailed in ANNEX C and D.
- 1.6 The Company intends to add more property to its portfolio once suitable properties have been identified and purchased by the Council. The Company will not otherwise seek to procure or develop property itself.

2 INTRODUCTION

- 2.1 The Company has been created by the Council as a dedicated and wholly owned housing management company. The aim is to develop a Council acquired housing portfolio that is available primarily to rent within both the affordable and private rental markets, within the geographic boundary of the Hart district.
- 2.2 It is to provide a special purpose vehicle to manage Council acquired residential properties. The Company will hold assets on behalf of the Council, manage the letting and management of the property efficiently to provide a commercial return.
- 2.3 Initially, the provision of properties at affordable rents for ‘key workers’ is a priority. This will provide sustainable long-term income and a solid asset base alongside private rented sector (PRS) units. Consideration will be given to the provision of other types of accommodation as the Company develops e.g., shared ownership.

3 BACKGROUND

- 3.1 Hart District is primarily rural, covering c. 21,500 hectares (83 sq. miles) and is situated in north–east Hampshire, bordering both Surrey and Berkshire. The main centers of population (i.e., Fleet, Yateley and Blackwater/Hawley) are in the north and east of the District and form part of a larger ‘Blackwater Valley’ urban area with other nearby towns including Farnborough, Aldershot, Camberley and Sandhurst.
- 3.2 The District is bisected by the main line railway from Waterloo to Southampton and east to west by the M3. These enable good access to London, Southampton and other key employment areas such as Basingstoke, Camberley and Farnborough.
- 3.3 The District is regularly named as one of the best places to live as it benefits from low unemployment, low crime rates and good schools. It has a healthy, active population with high participation in sports and leisure. Due to its good connectivity and popularity, property values are very high.
- 3.4 As part of its long-term strategic vision, the Council recognises that to build and sustain a vibrant local economy it needs to ensure that the supporting social infrastructure in terms of housing is in place to support it. Increasing property values have made it more difficult to attract and retain those ‘key workers’ such as teachers and social workers that are necessary to support the community.
- 3.5 The Local Plan Review of 2020 identified that there is a significant need for additional affordable housing within the District. Affordable housing includes affordable homes for rent for key workers whose needs are not met by the market, and which meet the Government’s definition in Annex 2 of the National Planning Policy Framework. The cost must be low enough for eligible households to afford based on local incomes and house prices. The homes should be restricted for use by future eligible households. The only way we can ensure that these homes are restricted for use by future eligible households is to offer short term assured tenancy agreements which cannot be done through the Local Authority’s Housing Revenue Account.
- 3.6 As well as helping to meet the housing need in Hart, Council intervention in the market is likely to increase overall economic activity, supporting the delivery of investment in new homes. This has a multiplier effect in the local economy with residents working in local businesses and spending in local shops and on local services. It also provides an opportunity to adopt key worker policies to encourage key workers in health, education, social care and other public services to remain in or move to the area.
- 3.7 As a result of new developments in the District, the Council receives funds from developers (S106) to be used for affordable housing.

4 MISSION

- 4.1 The Council is seeking to support affordable and private rented accommodation for key workers and others seeking housing in the District. At the same time, it must secure a commercial revenue stream for the Council so that it can be re- invested in other services for residents.

5 OBJECTIVES AND TARGETS

- 5.1 The objectives of the Company are:
- 5.1.1 To maintain good quality affordable and private rented housing throughout the District for the use of key workers and others seeking housing.
- 5.1.2 To adopt a commercial approach to generating revenue so that the Company contributes to the Council's general fund through surpluses from housing rents received that can be re-invested in services to residents.
- 5.1.3 To remain financially viable and operate efficiently to ensure it receives sufficient rental income to meet all of its costs including financing, housing management, property maintenance and administration.

6 COMPANY STRUCTURE AND GOVERNANCE ARRANGEMENTS

- 6.1 Legal guidance has been taken in establishing the Company and its associated legal documentation.
- 6.2 The development of an arm's length wholly owned property management company allows for a more flexible and commercial response in the delivery of housing supply. The Council is entitled to rely on section 1 of the Localism Act 2011 in establishing the company for such purposes.
- 6.3 Section 1 of the Localism Act permits local authorities to do anything an individual may do, subject to several limitations. This is referred to as the "general power of competence" which an authority may exercise for its own purpose, for a commercial purpose and/or for the benefit of others. In exercising this power, it is still subject to its general duties (such as the fiduciary duties it owes to its rate and local taxpayers) and to public law requirements to exercise its power for a proper purpose.
- 6.4 The Company is limited by shares (CLS) which is considered the most appropriate form of vehicle.
- 6.5 The Council is the sole shareholder of the Company and has ultimate control of its business activities. Shareholder control of the Company will be exercised through the Council's Cabinet.

- 6.6 The Company has been established in accordance with the Companies Act 2006 including the appointment of a Board for the Company. The Memorandum and Articles of Association is in a standard form.
- 6.7 An appropriate governance structure is required to ensure sound and robust management of the Company alongside protection of the Council's financial and reputational investment in the Company. See Annex A for details.
- 6.8 As sole shareholder the Council will appoint the directors, approve the Business Plan and other key decisions beyond those agreed in the Business Plan.
- 6.9 These decisions will be taken by the Council's in line with a formal shareholders agreement with the Company. The Shareholders' Agreement is attached in ANNEX H.
- 6.10 Annex A gives an overview of the governance arrangements for the Company Annex G is a copy of the Company's Memorandum and Articles of Association.
- 6.11 The Council will control the company at a strategic level with three Directors tasked with managing the property company within a framework and through delegated authority as set out in the shareholder's agreement.
- 6.12 The Directors will have no other executive powers other than those set by the shareholder and will serve for a period of two years unless otherwise determined by the shareholder. Each director has the same voting powers; and a Consultative Committee of Accountancy Bodies (CCAB) qualified accountant will be appointed amongst these directors to act in the role of Finance Director. Two roles will be Hart District Council employees; the third will be a lay individual appointed by the shareholder due to their knowledge and skill in property management. The Chairman shall be nominated annually by the shareholder. No Council Officer will receive any remuneration for their role in the company.
- 6.13 The Company will have no access to any Council resources unless first agreed by the shareholder.
- 6.14 In addition, the Company will be governed via a Business Plan, approved annually by the shareholder.
- 6.14.1 A Business Plan will cover a rolling 5-year period of investment and activity. The Business Plan will be reviewed annually and cover the following:
- a) Company objectives
 - b) Governance arrangements
 - c) Operational plans
 - d) Financial models and assumptions
 - e) Rents

- f) Approved additional housing
- g) Operational expenses
- h) Funding profile
- i) Profit and loss, balance sheet and cash flows Together with operational policies relating to:
 - i. Rent setting
 - ii. Letting policy
 - iii. Rent arrears
 - iv. Other general policies

7 OPERATIONS

- 7.1 The staffing structure, roles and responsibilities is included at Annex B.
- 7.2 As the Company grows the staffing requirements will be kept under review and further staff will be added if appropriate and where first approved by the shareholder.

8 FINANCING THE COMPANY

- 8.1 The business case is predicated on the basis that the property management company is funded in part by S106 monies where the asset is to be used for affordable housing purposes and loans obtained via the Council for all other forms of residential use.
- 8.2 Financial modelling for the Company has been predicated on there being no overall cost to the Council over the life of the Business Plan and for profits and dividends to be generated.
- 8.3 A portion of the principal amount of any loans will be repaid annually and for the loan to be repaid in full. The term of all loans will be set to ensure that this is achievable and allows the Company sufficient 'headroom' in its cash management to make a profit and to pay out dividends.
- 8.4 The loan interest rate charged by the Council must consider the need to ensure it is a commercial rate and therefore avoid any potential state aid provisions being triggered.
- 8.5 To ensure that the Company's business is sustainable, the financial projections in the Business Plan will be closely and regularly monitored. There are a set of core assumptions applied to the model which are based upon prevailing market conditions, judgements based on comparators and industry wide standards or norms.
- 8.6 Details of the assumptions for the initial housing investment is detailed in ANNEX C.

9 REFURBISHMENT COSTS

- 9.1 Assumptions have been made for the maintenance and refurbishment costs based on industry benchmarks.
- 9.2 Allowances for fees including legal, and other specialist services are included in the estimated costs.

10 TAX AND FINANCIAL SUPPORT

- 10.1 The Company will be subject to various different taxation regimes, including Stamp Duty Land Tax (SDLT), Corporation Tax and Value Added Tax (VAT).
- 10.2 SDLT has been built into the model based on current thresholds and chargeable on relevant acquisitions at the appropriate rate. As the Council is a Local Authority, group relief should be available on the purchase of land. This means that no SDLT is charged whether land was sold or gifted.
- 10.3 Corporation Tax has also been included in the model at the current rate and is chargeable on relevant surpluses after deducting allowable costs including loan interest.
- 10.4 No provision has been made for capital gains tax as it is not envisaged that this will apply as the Company does not intend to dispose of assets.
- 10.5 Although it is the intention to register the Company for VAT it is not envisaged that the Company will be able to recover all of the VAT that it incurs on the purchase of goods and services. An allowance has been made for VAT payments and receipts within the cash flow model.
- 10.6 The Company will obtain appropriate external advice with regard to its tax affairs.
- 10.7 The Company will be self-sufficient and supporting with its own distinct bank account and locally appointed auditors and accountants.

11 DIVIDENDS

- 11.1 It is envisaged that any surplus funds/profits will be paid to the shareholder using Dividends.
- 11.2 Any cash sums available for Dividends will be affected by any loan repayments and taxation and the amount of cash to be retained by the Company for ongoing business requirements and re-investment. The Company will annually recommend to the shareholder the dividend to be paid, the Council as shareholder can determine if this is acceptable.

12 CASH RETENTION

- 12.1 To ensure that the Company has sufficient funds in place to meet its day-to-day obligations, a minimum amount of cash equivalent to 10% of post-tax profits, will be retained at all times after the initial two-year period. In addition, the allowance for any repair/refurbishment costs will be held in a separate reserve account and used as required.

13 ASSET VALUATIONS

- 13.1 All the identified Council owned properties as shown in Annex E will be transferred to the Company at market value and revalued annually. Revaluing refurbished assets will consequently reflect their enhanced value and fairly represent investment income potential.
- 13.2 Revaluations of the asset base will be undertaken at market rates on an annual cycle to reflect market conditions or more frequently depending on cost.

14 PROFIT AND LOSS, BALANCE SHEET AND CASHFLOW PROJECTION

- 14.1 Financial projections over the medium term (5 years) have been provided at Annex E reflecting the assumptions made within this Business Plan.
- 14.2 The financial models show that based on the assumptions used, the business is profitable, has a high asset value and that the cash flow can be sustained and provides for payment of all operational costs, taxes and dividends.

15 KEY FINANCIAL PERFORMANCE MEASURES

- 15.1 It is proposed to use a variety of key performance indicators to measure the financial health of the Company, namely:
- Return on Investment (ROI) takes into consideration the amount of profit that is made against the investment in the property.
 - Rental yield of which there are two typical measures, gross and net. The latter takes out expenses (management and maintenance costs, debt charges). Net yield being calculated as $\text{rent} - \text{expenses} / \text{house price}$. Given the fact that the initial estate is being rented primarily on an affordable basis (i.e., below market rents) the yields will be lower than typical industry norms. The anticipated gross yield for the Company will be in the region of 6.5%.
 - Return on capital employed which looks at the profit against the combined equity and debt capital invested in the Company. This is regarded as a good measure of the business as it looks at how effectively debt is being used and is calculated as $\text{earnings before interest and tax (debit)} / \text{Assets}$

- Liabilities (non-current) with a target of 5% by year 5.
- Price to earnings ratio, which is a commonly used measure in commercial finance in relation to share value which in relation to rented housing is calculated as the increase of the yield calculated as: $\text{House price} / \text{rent-expenses}$ which theoretically indicates how much investors should be willing to pay per pound of earnings.
- Profitability (profit on cost – POC) which demonstrates the profit of the business over its cost before interest payments to the Council.
- Investor Dividend per Share – which will provide the shareholder value per share and demonstrate its growth value.

16 RISK MANAGEMENT

- 16.1 Key risks and opportunities are outlined below. Risks are included and kept up to date in the corporate risk register.

Ref Number	Group	Description	Impact	Source of Risk	Prior Assessment			Existing Controls	Effectiveness of Controls	Current Assessment			Further Mitigations	Risk Owner	Notes
					Likelihood	Consequence	Risk Rating			Likelihood	Consequence	Residual Risk			
HHPM01	Asset Value	Value of procured properties falls below the purchase price.	Capital value decreases.	Property market.	2 - Unlikely	3 - Major	6	The business plan recognises that short-term fluctuations in the property market are inevitable, but the outturn is positive over the long term.	Limited	2 - Unlikely	2 - Moderate	4	Maintenance of properties to ensure controllable factors do not impact value.	Joanne Rayne	Engage with property management companies to ensure regular maintenance is carried out.
HHPM02	Asset Value	Insufficient demand for housing in procured properties.	Lack of income. MTFS assumptions missed. Risk of Budget deficit.	Demand for housing	2 - Unlikely	2 - Moderate	4	Each property purchase will be subject to its own business case which will identify a suitable mix of tenure reflecting current demands in the market.	Satisfactory	1 - Rare	2 - Moderate	2	Regular consideration of supply of affordable housing.	Joanne Rayne	Evidence demonstrates that there is a consistent demand for sub-market rented housing.
HHPM03	Time	Management Company not established in time to support specific initiatives	Hart DC will be required to meet costs of any property acquired until the Management Company is established. These costs will be transferred to the Management Company at the earliest opportunity.	Timing of Cabinet meetings to review and agree documents pertaining to set-up of Management Company.	3 - Possible	2 - Moderate	6	Committee meeting timings are established. Documents have been reviewed by O&S. Modifications have been made to documents in consideration of feedback.	Satisfactory	3 - Possible	1 - Minor	3	Peer and legal review of all documentation.	Daryl Phillips	
HHPM04	Time	Asset purchases not available in time to meet budget targets	Lack of income. MTFS assumptions missed. Risk of Budget deficit.	External factors impacting property development	3 - Possible	2 - Moderate	6	Regular assessment and management of development timetable.	Satisfactory	3 - Possible	2 - Moderate	6	Engagement of project management company.	Joanne Rayne	Artelia have been used successfully on past projects.
HHPM05	Financial	The Company is not profitable and is unable to pay dividends to the Council and/or defaults on loan interest and repayments, resulting in the Council's Investment not achieving the projected return.	Lack of income. MTFS assumptions missed. Risk of Budget deficit.	Business Cases. Demand for housing. Tenants who do not fulfill their lease obligations	3 - Possible	3 - Major	9	Cabinet will require detailed financial modelling by the housing company, including sensitivity analysis, to ensure careful selection of investment options that excludes those that fall short of the necessary viability criteria.	Satisfactory	3 - Possible	2 - Moderate	6	Long-term tenants are retained, voids/bad debts are minimized and consequently dividends to the Council are maximised.	Joanne Rayne	Business Cases are scrutinised. Tenants are pre-vetted against strict criteria.
HHPM06	Financial	Tenants unable or unwilling to pay monthly rental payments	Lack of income. MTFS assumptions missed. Risk of Budget deficit.	Tenants who do not fulfill their lease obligations	3 - Possible	2 - Moderate	6	Pre-vetting of tenants against strict criteria	Satisfactory	3 - Possible	2 - Moderate	6	5% bad debt/void allowance built into financial model.	Joanne Rayne	Proper due diligence will ensure tenants maintain their lease requirements.
HHPM07	Legal	Hart DC acting outside of relevant powers.	Reputational risk.	Inherent	2 - Unlikely	3 - Major	6	External specialist legal advice obtained and followed.	Satisfactory	2 - Unlikely	3 - Major	6		Joanne Rayne	Seven Brittan and PS Tax have been utilised to obtain professional advice.
HHPM08	Legal	Directors of Management Company failing to carry out fiduciary duties.	Reputational risk	Inherent	1 - Rare	2 - Moderate	2	Appropriate insurance and training for Directors	Satisfactory	1 - Rare	2 - Moderate	2		Emma Foy	
HHPM09	Reputation	Public perception of Council. Generating income from housing.	Reputational risk	Inherent	3 - Possible	1 - Minor	3	The Company Directors will act in a professional manner at all times to contribute to a positive view of the Council's services.	Satisfactory	3 - Possible	1 - Minor	3	Local Letting and Management company will be engaged to provide an arm's length service.	Joanne Rayne	
HHPM10	Reputation	Reputational damage in the event of the Management Company's failure.	Lack of income. MTFS assumptions missed. Risk of Budget deficit. Reputational risk.	Poor execution. Inappropriate Director appointments	2 - Unlikely	3 - Major	6	Risks reviewed and evaluated on a regular basis as part of corporate risk management process.	Satisfactory	2 - Unlikely	1 - Minor	2		Daryl Phillips	

16.2 Opportunities

- increase of affordable housing within the District, for key workers who may otherwise not be able to access the local housing market
- Income generation for the General Fund.
- Increased resilience for the Medium Term Financial Strategy
- Support for local people to rent or buy a home.
- Increase in the value of the Council's asset base

16.3 Overall, it is considered that the Company is well positioned over the next 5 years and can manage any significant market downturn in that it:

- has a relatively low borrowing requirement.
- has a high value asset base;
- has a low fixed cost management structure.
- has a high projected level of profitability;
- can fix interest rates for longer term loans.

and so will give sufficient protection against marked changes in rental income or occupation

17 CONCLUSION

17.1 The Company provides an additional route to improve the local housing position within the District. This Business Plan sets out the framework that will provide the Council the opportunity to support housing availability within the District, particularly for 'keyworkers' and secure additional income in the medium to longer term from dividends that the Council can use to invest in services to residents.

17.2 It is acknowledged however, that although the base case for the next 5 years is sound there is no certainty that the environment will remain static. The Company will need to monitor all factors and risks including changes in government policy on housing, the local property market and wider economic changes in interest rates and inflation.

GOVERNANCE STRUCTURE

- 1.1 The governance structure of the property management company will comprise two delegations acting to oversee the business plan and overall strategic direction of the company. These two delegations act as the Board of Directors and a specific Company Scrutiny Panel drawn for Members of the Council's Overview and Scrutiny Committee.
- 1.2 The Company Scrutiny Panel is a sub-committee of the Council's Overview and Scrutiny Committee and will comprise three members appointed annually by the Overview and Scrutiny Committee. It will meet once per year to oversee company activity, provide strategic guidance and advise the Council in its capacity as shareholder. The Terms of Reference for the panel will require approval by Cabinet in consultation with Overview and Scrutiny Committee.
- 1.3 In accordance with the Companies Act 2006 there is no necessity for a named company secretary. The responsibilities must still be discharged, but become by default, the directors. They include ensuring compliance with corporate governance and other financial and legal regulations; arranging directors' and shareholder meetings; and the filing of returns with Companies House. This role will be supported by the Council's Legal Services and Finance teams. Any administrative support will be procured at commercial rates from the Council.
- 1.4 It is proposed that the Board of Directors consist of two Council employees plus an independent layperson who has specialist knowledge and experience of local letting and property management experience. The Director's should have a range of skills, qualifications and experience including governance and finance.
- 1.5 Once appointed, a director has several duties and liabilities under general company law:
 - A fiduciary duty to act honestly, in good faith and in the interests of the company
 - A general duty to take reasonable care and skill, and to exercise independent judgement when dealing with the company's affairs
 - A duty to avoid conflict of interest, not make a private profit from the position, and to ensure that the legislation contained in the Companies Acts is complied with
 - Personal liability if the company acts outside its powers with the prior knowledge of the director
 - Liability for breach of trust
 - Liability for losses sustained if a director abuses their position; and/or fails to act in the best interest of the company; and/or fails to exercise the requisite level of skill and care
 - Liability to contribute to the company's assets if a director knows or ought to know that there is no reasonable prospect of the company avoiding liquidation

ANNEX A – GOVERNANCE STRUCTURE

- Liability for fraudulent trading
 - Liability for a fine and/or making good losses where cheques and other documents do not bear the company's name
 - Liability for damages arising from the unauthorised activities of a director.
- 1.6 The Council's own insurance does not provide cover for officers acting as directors. However, the company will be able to obtain insurance for its directors against claims for negligence, breach of trust etc. Directors will also be provided with an appropriate level of training, to be sourced externally.
- 1.7 The Council through the appointment of directors with appropriate skills and experience, is delegating the day-to-day commercial operation of the business and the delivery of the Business Plan to those individuals within a framework agreed by the Council. This will include:
- Rent setting.
 - Letting policy.
 - Marketing strategy and property lets.
 - Management and maintenance arrangements in relation to the properties.
 - Rent arrears and debt recovery.
- 1.8 Management of the property in the Company's portfolio will require on going management, maintenance and a range of landlord services. These services will be procured, in line with Council procurement policies as required. The Company's procurement requirements will include:
- Letting/Management agents.
 - Professional services – including legal and tax
 - Contractors - for example property maintenance.
- 1.9 The Company is subject to the public contract regulations in relation to procurement where applicable.
- 1.10 A summary of the governance structure is provided below:

Function	
Sole Shareholder	Council taking decisions reserved for the shareholder in the company's articles of association and shareholder agreement. This would include approval of the annual company budget and business plan.
Company Scrutiny Panel	Three elected members appointed by the shareholder to oversee company activity and provide strategic guidance. Officers will attend panel meetings as required.
Board of Directors	Two Council employees' officers plus an independent person appointed by the shareholder and legally responsible for the company's performance, accounts and records.
Company Secretary	Duties will be administered by the Council's shared Legal Services team in accordance with the requirements of the

ANNEX A – GOVERNANCE STRUCTURE

	Board of Directors.
Landlord Services	Identified by the Board of Directors and responsible for the discharge of any duties and responsibilities delegated by the Board of Directors.

BOARD SKILLS REVIEW

- 1.11 The Company shall prepare in respect of each financial year a report that analyses the skills of the Directors who comprise the Board against the requirements of the proposed business plan for the following year and considers any skills gaps or duplication and sets out a strategy for filling any gaps.
- 1.12 The Board will contain three Directors; these directors between them must demonstrate the following skills and experiences before appointment:
- A. Property Management and letting
 - B. Strategic Governance
 - C. Property Maintenance
 - D. Qualified CCAB Accountancy
- 1.13 The lay member of the Board must have local property letting and management experience.
- 1.14 The Board will be supported by the Company's solicitor and any appointed property letting and management companies.

APPENDIX B- COMPANY ASSETS (JUNE 2021)

COMPANY ASSETS

Property ID	Availability Date	# of Dwellings	Current Balance Sheet Value	Type	Source of Funds	Comments
Edenbrook Flats	May 2021	41 apartments	£7.46M	Affordable Rent	Initially through Internal borrowing Public Works Loan Board S106 for affordable housing	Completion due May 2021

ANNEX C - EDENBROOK FLATS: FINANCIAL PROJECTIONS

FINANCIAL APPRAISAL

Summary Table

Property	16 x 1 bed; 25 x 2 bed
Purchase Price	£7,000,000
Stamp Duty Land Tax	£247,500
Other Acquisition Fees	£131,600
Property	16 x 1 bed; 25 x 2 bed
Rent (80% Market Rent)	Mean value £908.34 pcm.
Refurbishment provision	£25,000 p.a. (£610 per apartment)
Voids/Bad Debt	5%
Management/Letting fee	£48,000 p.a
Communal Services – cleaning/gardening etc	£15,000 p.a.
Other Costs	£5,000 p.a.

Financial Projections

- 1.1 The financial model forecasts that the business will generate profits before tax in its first year. The first tenants are expected by end of June 2021.
- 1.2 90% of the profit after interest and tax will be returned to the Council from Year 1. The Council will also receive interest payments on the loan provided.
- 1.3 The Company will need to maintain a cash reserve of c.10% of gross income to meet its day-to-day obligations.
- 1.4 Income Statement, Balance Sheet and Cash Flow projections are provided in ANNEX D.

2 Funding

- 2.1 The funding provided by the Council to the Housing Company requires the use of internal borrowing, Public Works Loan Broad and ultimate a contribution from S106 monies allocated for the delivery of affordable homes (the Loans).
- 2.2 The Loans will be spread over a 50-year period. This enables cash flows to be forecast over the long term, but focus will initially be on the first 5-year development period.
- 2.3 The rate of interest is fixed for the term of the Loan at 2.8%. This provides a rate of return for the Council at 0.8% over the PWLB published rate of 2.00%. Capital costs will be repaid on a straight-line basis over a 50-year period.

ANNEX C - EDENBROOK FLATS: FINANCIAL PROJECTIONS

3 Assumptions – further information

- 3.1 Voids / bad debts losses – this has been assumed at 5% which is in line with other affordable housing schemes in the south-east England.
- 3.2 Management and lettings administration costs are c.£48K p.a. Costs obtained during Letting/Management agent tender process.
- 3.3 Refurbishment\maintenance allowances are assumed at £610 per dwelling per annum (inclusive of VAT). This covers day to day and cyclical maintenance costs such as redecoration. Major refurbishments are expected to be required for each property in year 6/7 after construction. In practice, some of these funds may not be needed initially so the equivalent sum will be set aside in an appropriate repairs reserve.
- 3.4 Insurance costs – allowance has been made within the model for building insurance to cover rebuild costs.
- 3.5 Rent assumptions: The Company will principally be focused on provided homes for 'key workers. The dwellings at Edenbrook consist of 16 one bedroom and 25 two-bedroom apartments. Current market rents are set out in the table below:

Type	Market Rent pcm	Affordable Rent pcm
1 bed	£950	£760
2 bed	£1,200	£960

- 3.6 The current assumption is that affordable rents will be set at 80% of the market rent and that the average unit rental will be in the range £760 - £1000 pcm. The Company would grant tenancies under the Assured Tenancy Regime of the Housing Act 1988. These will take the form of either periodic ('rolling') tenancies or assured short hold tenancies (which are for a fixed term i.e., a minimum of six months), or such other longer periods as agreed by the landlord and tenant. Secure tenancies under the Housing Act 1988 cannot be granted by the Company.
- 3.7 Rent increases will be in line with Government Guidelines: they can only be raised when the fixed term ends and must be fair and realistic – i.e., in line with reasonable rents in the open market.

ANNEX C - EDENBROOK FLATS: FINANCIAL PROJECTIONS

PROJECTED INCOME STATEMENT

£	2021_22	2022_23	2023_24	2024_25	2025_26
Rent	305,660	449,187	462,663	476,542	490,839
Service Charge	0	0	0	0	0
Voids	-15,283	-22,459	-23,133	-23,827	-24,542
Total Income	290,377	426,728	439,529	452,715	466,297
Salaries	-10,000	-15,000	-15,000	-15,000	-15,000
Refurbishment	-20,833	-25,521	-26,287	-27,076	-27,888
Management/Letting Fee	-35,827	-48,180	-49,625	-51,114	-52,647
VAT Reclaim	12,266	15,088	15,541	16,007	16,487
Other costs	-20,000	-20,600	-21,218	-21,855	-22,510
Profit before Interest & Tax	215,982	332,515	342,940	353,678	364,739
Interest	-69,027	-129,823	-130,807	-131,803	-132,811
Taxation	0	-34,969	-57,195	-59,090	-61,040
Profit after Interest & Tax	146,955	167,723	154,938	162,786	170,888
Dividend	-132,260	-150,951	-139,444	-146,507	-153,800
Retained Income	14,696	16,772	15,494	16,279	17,089

Assumes:

- § Voids at 5%
- § Refurbishment costs will be accrued until required.
- § Inflation inbuilt at 3% pa on cost and income from April 2022
- § Other costs includes buildings insurance and accounting fees
- § Dividend @ 90% apart from year 1
- § Corporation Tax 19%

ANNEX C - EDENBROOK FLATS: FINANCIAL PROJECTIONS

PROJECTED BALANCE SHEET

£	Opening	2021_22	2022_23	2023_24	2024_25	2025_26
Fixed Assets	7,379,100	7,379,100	7,379,100	7,379,100	7,379,100	7,379,100
Current Assets:						
Cash	1,000	34,529	66,572	98,103	131,207	116,184
Total Assets	7,380,100	7,413,629	7,445,672	7,477,203	7,510,307	7,495,284
Long-term Debt	7,379,100	7,310,073	7,249,277	7,248,293	7,247,297	7,246,289
Refurbishment Liability		18,833	34,105	50,142	66,967	34,855
Current Liabilities		69,027	129,823	130,807	131,803	132,811
Share Capital	1,000	1,000	1,000	1,000	1,000	1,000
Retained Earnings		14,696	31,468	46,962	63,240	80,329
	7,380,100	7,413,629	7,445,672	7,477,203	7,510,307	7,495,284

Assumes:

- § Loan £7.46M - Edenbrook Flats
- § Loan Term: 50 years
- § Interest Rate 2.8% reducing balance
- § Refurbishment allowance £25K p.a. - major repairs expected year 7/8.

ANNEX C - EDENBROOK FLATS: FINANCIAL PROJECTIONS

PROJECTED CASH FLOW

£	2021_22	2022_23	2023_24	2024_25	2025_26
Balance b/fwd	1,000	34,529	66,572	98,103	131,207
Lettings Income	290,377	426,728	439,529	452,715	466,297
Cash In Flow	291,377	461,256	506,102	550,819	597,504
Capital					
Interest	-69,027	-129,823	-130,807	-131,803	-132,811
Operating Costs	-53,561	-68,692	-70,302	-71,961	-73,670
Refurbishment	-2,000	-10,250	-10,250	-10,250	-60,000
Tax	0	-34,969	-57,195	-59,090	-61,040
Dividends	-132,260	-150,951	-139,444	-146,507	-153,800
Cash Out flow	-256,848	-394,684	-407,999	-419,611	-481,320
Bal c/fwd	34,529	66,572	98,103	131,207	116,184

ANNEX D - POTENTIAL FUTURE OPPORTUNITY

Property ID	Availability Date	# of Dwellings	Current Balance Sheet Value	Development Cost	Value after Development	Type	Source of Funds	Comments
The Swan	unknown	unknown	£1	unknown	unknown			Grade 2 listed derelict pub – potential for redevelopment.

ANNEX E - PROPOSED COMPANY SCRUTINY PANEL – TERMS OF REFERENCE

COMPANY SCRUTINY PANEL – DRAFT TERMS OF REFERENCE

1. Purpose of the Housing Property Management Company Scrutiny Panel

- 1.1. The purpose of the Housing Property Management Company Scrutiny Panel (the Panel) is to provide strategic guidance to the directors of the Company, including informing the Company of priorities of the Shareholder (the Council) that are pertinent to the operation and future development of the company.
- 1.2. The Panel will review the Company's business plan at least annually and advise Cabinet of its views
- 1.3. The meetings of the Panel will provide an opportunity for the Company to bring to the Shareholder's attention emerging issues or perhaps opportunities for new business ventures.

2. Membership and meetings of the Company Scrutiny Panel

- 2.1. The Panel is an integral part of the governance arrangements for the Company.
- 2.2. The Panel will comprise three members of Hart District Council's Overview and Scrutiny Committee.
- 2.3. Members of the Panel may invite officers of the Council to attend meetings to provide performance updates.
- 2.4. The Panel is not a constituted committee of Hart District Council. There is no requirement to meet in public or publish any notes or minutes.
- 2.5. Members of the Panel will treat information shared by the Company as being commercially sensitive and therefore it will not be shared beyond the Panel without the permission of the Company's directors.
- 2.6. A Panel meeting will be held no less than twice a year. The Board of Directors will report to the Panel at each Panel meeting on the following items:
 - Financial performance in the previous quarter and year-to-date against the annual budget and latest business plan
 - Performance against agreed key performance indicators
 - Any matters previously agreed between the Company and the Shareholder
 - Other matters that arise from time-to-time.
- 2.1. A meeting of the Panel will only be quorate if at least two Panel members are present.
- 2.2. Unless otherwise agreed by a majority of members, not less than five clear working days' notice shall be given to each of the members of the Panel, and to

ANNEX E - PROPOSED COMPANY SCRUTINY PANEL – TERMS OF REFERENCE

- the Directors of the Company, for a meeting to be held. An agenda will be issued in advance of any meeting indicating the matters to be discussed, together with any relevant papers for discussion.
- 2.3. In addition, the Company will supply the members of the Panel with all information and data reasonably requested by the Panel to enable it to reach an informed judgment on any matter put before it.
 - 2.4. The Company will ensure that at least one director attend each meeting of the Panel who is qualified to address the issues included on the agenda.
 - 2.5. The Panel will hold an advisory role to the Shareholder, that is full Cabinet, when it is making decisions on matters reserved for the Shareholder (or the Shareholder Representative if and when deemed appropriate by the Shareholder).
 - 2.6. Chairing of each meeting of the Panel will be determined by the members of the Panel present at that meeting.
 - 2.7. If a Panel member works for, is commissioned by or has any interest in the Company, the member shall declare this to the Panel immediately.
- 3. Review of these Terms of Reference**
- 3.1. The Terms of Reference will be reviewed by the Panel and the Company's representatives on an annual basis.
 - 3.2. Amendments may be agreed by the Panel (in consultation with Overview and Scrutiny Committee) and the Company representatives, so long as no amendment contradicts the Shareholder Agreement.
 - 3.3. Amendments to the Shareholder Agreement may be determined by the Shareholder, that is, through a meeting of Cabinet

COMPANY NUMBER [REDACTED]

THE COMPANIES ACT 2006
PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

OF

[REDACTED]

ANNEX E - PROPOSED COMPANY SCRUTINY PANEL – TERMS OF REFERENCE

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ANNEX E - PROPOSED COMPANY SCRUTINY PANEL – TERMS OF REFERENCE

THE COMPANIES ACT 2006
PRIVATE COMPANY LIMITED BY SHARES
ARTICLES OF ASSOCIATION
OF
[SUBSIDIARY]

PART 1 – INTERPRETATION

1 DEFINED TERMS

1.2 In the Articles, unless the context requires otherwise:

Articles means the Company's articles of association as amended from time to time

bankruptcy includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy

capitalised sum has the meaning given to it in Article 37.2.2

Chair has the meaning given in Article 11

Chair of the Meeting has the meaning given in Article 42

Companies Acts means the Companies Acts (as defined in section 2 of the Companies Act 2006), in so far as they apply to the Company

Company means the company governed by the Articles

Conflict has the meaning given in Article 13

Council means Hart District Council of Civic Offices, Harlington Way, Fleet GU51 4AE and any statutory successor

Council Director means a Director of the Company appointed pursuant to Article 17.2.1 who is an officer, elected member or employee of the Council

Director means a director of the Company, and includes any person occupying the position of director, by whatever name called

Distribution Recipient has the meaning given in Article 32.3

Document means any document, and includes, unless otherwise specified, any document sent or supplied in Electronic Form

Electronic Form has the meaning given in section 1168 of the Companies Act 2006

Eligible Director means a Director who would have been entitled to vote on the matter had it been proposed as a resolution at a meeting of the Directors

fully paid in relation to a Share, means that the nominal value and any premium to be paid to the Company in respect of that Share have been paid to the Company

Group Company means, in relation to a company:

- (a) any subsidiary of the Company;
- (b) any parent undertaking or undertakings of the Company; and
- (c) any subsidiary of any such parent undertakings

Hard Copy Form has the meaning given in section 1168 of the Companies Act 2006

Holder in relation to Shares means the person whose name is entered in the register of members as the holder of the Shares

Independent Director means a Director of the Company appointed pursuant to Article 17.2.2 who is not an elected member, officer or employee of the Council or appointed pursuant to Article 17.2.1

Instrument means a Document in Hard Copy Form

ordinary resolution has the meaning given in section 282 of the Companies Act 2006

paid means paid or credited as paid

participate, in relation to a Directors' meeting, has the meaning given in Article 9

Permitted Situation has the meaning given in Article 13.6

persons entitled has the meaning given in Article 38.1.2

Proxy Notice has the meaning given in Article 48

Relevant Director has the meaning given in Article 13.1

Shareholder means a person who is the Holder of a Share.

Shares means shares in the Company

special resolution has the meaning given in section 283 of the Companies Act 2006

Transmittee means a person entitled to a Share by reason of the death or bankruptcy of a Shareholder or otherwise by operation of law

writing means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in Electronic Form or otherwise

- 1.3 Unless the context otherwise requires, other words or expressions contained in the Articles bear the same meaning as in the Companies Act 2006 as in force on the date when the Articles become binding on the Company.
- 1.4 A reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality) and that person's personal representatives, successors, permitted assigns and permitted transferees.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.8 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.9 A reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.
- 1.10 A reference to **writing** or **written** includes email but not fax.
- 1.11 A reference to any agreement or document (or any provision of it) referred to in the Articles is a reference to that agreement or document (or the relevant provision of it) as varied, amended or supplemented (in each case, other than in breach of the provisions of that agreement or document) from time to time.
- 1.12 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.13 A reference to an **amendment** includes a novation, re-enactment, supplement or variation (and amended shall be construed accordingly).
- 1.14 A reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it.
- 1.15 references to a **month** shall be construed as a reference to a period starting on one day in a calendar month and ending on the day immediately preceding the numerically corresponding day in the next calendar month or, if there is no numerically corresponding day in the next calendar month, the last day in the next calendar month; and
- 1.16 The expressions **body corporate**, **holding company**, **subsidiary**, **parent undertaking**, **subsidiary undertaking** and **parent company** shall have the respective meanings given in the Companies Act 2006, and, for the purposes of sections 1159(1) and 1162(2)(b) and (d) of that Act, a company or undertaking (the **first person**) shall be treated as a member of another company or undertaking if:
- 1.16.1 any of the first person's subsidiaries or subsidiary undertakings is a member of that other company or undertaking; or
- 1.16.2 any shares or capital interests in that other company or undertaking are held by a person acting on behalf of the first person or any of its subsidiaries or subsidiary undertakings; or
- 1.16.3 any shares or capital interests in that other company or undertaking are registered in the name of a person (or its nominee) by way of security or in connection with the granting of security over those shares or capital interests by the first person.
- In the case of a limited liability partnership which is (or might constitute) a subsidiary or subsidiary undertaking of a company or another limited liability partnership, sections 1159 and 1162 of the Companies Act 2006 shall be amended so that:
- (a) references in sections 1159(1)(a) and (c) and 1162(2)(a) and (d) to "voting rights" are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and

- (b) references in sections 1159(1)(b) and 1162(2)(b) to the "right to appoint or remove a majority of its board of directors" is to the right: (i) to appoint or remove a majority of the directors (or equivalent) of that limited liability partnership; or (ii) if no such directors (or equivalent) exist by virtue of the constitution of that limited liability partnership, members holding a majority of the voting rights,

and unless the context otherwise requires, the application of the definitions of body corporate, holding company, subsidiary, parent undertaking, subsidiary undertaking and parent company shall apply as to the relevant company or undertaking as it is at that time.

PART 2 - DIRECTORS

DIRECTORS' POWERS AND RESPONSIBILITIES

2 DIRECTORS' GENERAL AUTHORITY

Subject to the Articles, the Directors are responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company.

3 SHAREHOLDERS' RESERVE POWER

3.2 The Shareholders may, by special resolution, direct the Directors to take, or refrain from taking, specified action.

3.3 No such special resolution invalidates anything which the Directors have done before the passing of the resolution.

4 DIRECTORS MAY DELEGATE

4.2 Subject to the Articles, the Directors may delegate any of the powers which are conferred on them under the Articles as follows:

4.2.1 to such person or committee;

4.2.2 by such means (including by power of attorney);

4.2.3 to such an extent;

4.2.4 in relation to such matters or territories; and

4.2.5 on such terms and conditions,

as they think fit.

4.3 If the Directors so specify, any such delegation may authorise further delegation of the Directors' powers by any person to whom they are delegated.

4.4 The Directors may revoke any delegation in whole or part, or alter its terms and conditions.

5 COMMITTEES

5.2 Committees to which the Directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the Articles which govern the taking of decisions by Directors.

5.3 The Directors may make rules of procedure for all or any committees, which prevail over rules derived from the Articles if they are not consistent with them.

DECISION-MAKING BY DIRECTORS**6 DIRECTORS TO TAKE DECISIONS COLLECTIVELY**

6.2 The general rule about decision-making by Directors is that any decision of the Directors must be either a majority decision at a meeting or a decision taken in accordance with Article 7.

6.3 If at any time the Company only has one Director or only one Director who is eligible to vote on any authorisation required under Article 13, the general rule does not apply, the quorum shall be one Director, and the sole Director or Eligible Director (as applicable) may take decisions in relation to the relevant matter without regard to any of the provisions in the Articles relating to Directors' decision-making.

6.4 Each Director shall be entitled to cast one vote on any resolution put to the Directors.

6.5 If the numbers of votes for and against a proposal are equal, the Chair shall not have a casting vote.

7 UNANIMOUS DECISIONS

7.2 A decision of the Directors is taken in accordance with this Article when all Eligible Directors indicate to each other by any means that they share a common view on a matter.

7.3 Such a decision may take the form of a resolution in writing, copies of which have been signed by each Eligible Director or to which each Eligible Director has otherwise indicated agreement in writing.

7.4 A decision may not be taken in accordance with this Article if the Eligible Directors would not have formed a quorum at a Directors' meeting.

8 CALLING A DIRECTORS' MEETING

8.2 Any Director may call a Directors' meeting by giving notice of the meeting to the Directors and the Council in accordance with Article 8.3 or by authorising the company secretary (if any) to give such notice.

8.3 A meeting of the Directors must be called by at least 7 days' notice unless either:

8.3.1 the Directors and the Council unanimously agree otherwise; or

8.3.2 urgent circumstances require shorter notice.

8.4 Notice of any Directors' meeting must include:

8.4.1 its proposed date and time;

8.4.2 where it is to take place;

8.4.3 if it is anticipated that persons participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting;

8.4.4 an agenda specifying in reasonable detail the matters to be raised at the meeting or the committee meeting; and

8.4.5 copies of any papers to be discussed at the meeting or the committee meeting.

8.5 Notice of a Directors' meeting need not be given to Directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the Company not more than 7 days after the date

on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

9 PARTICIPATION IN DIRECTORS' MEETINGS

9.2 Subject to the Articles, Directors **participate** in a Directors' meeting, or part of a Directors' meeting, when:

9.2.1 the meeting has been called and takes place in accordance with the Articles; and

9.2.2 they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.

9.3 In determining whether Directors are participating in a Directors' meeting, it is irrelevant where any Director is or how they communicate with each other.

9.4 If all the Directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

9.5 The Council shall have the right to attend and receive notice of (but not vote at) any Directors' meetings and receive papers in relation to such meetings at the same time as those papers are given to the Directors.

10 QUORUM FOR DIRECTORS' MEETINGS

10.2 At a Directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.

10.3 Subject to Article 6.3 the quorum for a Directors' meeting shall be two Directors including a Council Director.

10.4 If the total number of Directors for the time being is less than the quorum required, the Directors must not take any decision other than a decision:

10.4.1 to appoint further Directors; or

10.4.2 to call a general meeting so as to enable the Shareholders to appoint further Directors.

10.5 If a quorum is not present with half an hour from the time appointed for the meeting, or during a meeting a quorum ceases to be present, the meeting shall be adjourned to such time and place as the Directors may determine in accordance with the Articles.

11 CHAIRING OF DIRECTORS' MEETINGS

11.2 The Council shall appoint a person to chair meetings of Directors who shall be known as the Chair and appointed in accordance with Article 17.3.

11.3 If at the date and time of a meeting of the Directors no person has been appointed as Chair then the participating Directors at that meeting may appoint a Director present to chair the meeting. The participating Directors may also terminate the appointment of a person as Chair made under this Article 11.3 at any time during the meeting at which he is appointed.

12 CONFLICTS OF INTEREST – TRANSACTIONS OR ARRANGEMENTS WITH THE COMPANY

12.2 The relevant provisions of the Companies Act 2006 (including, without limitation, sections 177 and 182) shall apply in relation to declarations of interest in proposed and existing transactions or arrangements with the Company.

- 12.3 Provided that he has disclosed to the Directors the nature and extent of any interest of his in accordance with and to the extent required by the Companies Act 2006, a Director notwithstanding his office:
- 12.3.1 may be a party to, or otherwise interested in, any contract with the Company or a Group Company of the Company or in which either or both of them is/are otherwise interested;
 - 12.3.2 may be an elected member, director or other officer of, employed by, a party to any contract with, or otherwise interested in, the Council, any Group Company of the Company or in any body corporate promoted by the Company, the Council, or a Group Company of the Company, or in which any of them is/are interested; and
 - 12.3.3 may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor).
- 12.4 For the purposes of this Article 12.4:
- 12.4.1 a Director shall be deemed to have disclosed the nature and extent of an interest which consists of him being an elected member, director, officer or employee of the Council or any Group Company of the Company; and
 - 12.4.2 a general notice given to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any contract in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such contract of the nature and extent so specified.
- 12.5 Where a Director is an elected member, director, officer, or employee of the Council or a Group Company of the Company, he:
- 12.5.1 may in exercising his independent judgment take into account the success of the Council or Group Company as well as the success of the Company; and
 - 12.5.2 shall in the exercise of his duties have a duty of confidentiality to the Council or Group Company in relation to confidential information of the Council or Group Company, but he shall not be restricted by any duty of confidentiality to the Company from providing information to the Council or Group Company except as may be imposed under Article 13.6.
- 13 **CONFLICTS OF INTEREST REQUIRING BOARD AUTHORISATION**
- 13.2 The Directors may authorise any matter which would otherwise involve a Director (a **Relevant Director**) breaching his duty under section 175 of the Companies Act 2006 to avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company (a **Conflict**).
- 13.3 Any Director (including the Relevant Director) may propose that the Relevant Director be authorised in relation to any matter the subject of a Conflict. Such proposal and any authority given by the Directors shall be effected in the same way that any other matter may be proposed to and decided upon by the Directors under the Articles save that the Relevant Director shall not count towards the quorum nor vote on any resolution giving such authority.
- 13.4 Where the Directors give authority in relation to a Conflict:
- 13.4.1 the terms of the authority shall be recorded in writing (but the authority shall be effective whether or not the terms are so recorded); and

- 13.4.2 the Directors may revoke or vary such authority at any time but this will not affect anything done by the Relevant Director prior to such revocation in accordance with the terms of such authority.
- 13.5 A Conflict in relation to a Director arising solely as a result of him being an elected member, director, officer or employee of the Council or any Group Company shall be deemed to have been authorised for the purposes of this Article 13 and section 175 of the Companies Act 2006.
- 13.6 Where Article 13.5 above applies or the Directors otherwise give authority in relation to a Conflict, or where any of the situations referred to in Article 12 (a **Permitted Situation**) applies:
- 13.6.1 the Directors may (whether at the relevant time or subsequently) (i) require that the Relevant Director is excluded from the receipt of information, the participation in discussion and/or the making of decisions (whether at Directors meetings or otherwise) related to the Conflict or Permitted Situation; and (ii) impose upon the Relevant Director such other terms for the purpose of dealing with the Conflict as they may determine;
- 13.6.2 the Relevant Director will be obliged to conduct himself in accordance with any terms imposed by the Directors in relation to the Conflict or Permitted Situation; and
- 13.6.3 the Directors may provide that where the Relevant Director obtains (otherwise than through his position as a Director of the Company) information that is confidential to a third party, the Director will not be obliged to disclose that information to the Company, or to use or apply the information in relation to the Company's affairs, where to do so would amount to a breach of that confidence.
- 13.7 A Director shall not, by reason of his office or of the fiduciary relationship thereby established, be liable to account to the Company or the Shareholders for any remuneration, profit or other benefit realised by reason of his having any type of interest in a Conflict authorised under this Article or in any Permitted Situation and no contract shall be liable to be avoided on the grounds of a Director having any such interest.

14 **EFFECT OF DIRECTORS' INTERESTS ON QUORUM AND VOTING**

- 14.2 Subject where applicable to disclosure in accordance with the Articles and subject to any terms imposed by the Directors in relation to any Conflict or Permitted Situation, a Director shall be entitled to vote in respect of any matter in which he is interested directly or indirectly (where that interest arises by virtue of a Conflict which has been authorised or a Permitted Situation) and if he shall do so his vote shall be counted and, whether or not he does, his presence at the meeting shall be taken into account in ascertaining whether a quorum is present.
- 14.3 However, a Director shall not be entitled to vote in respect of any other matter in which he is interested directly or indirectly and his presence at the meeting shall not be taken into account in ascertaining whether a quorum is present.
- 14.4 Subject to Article 14.5 below, if a question arises at a meeting of Directors or of a committee of Directors as to the right of a Director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the Chair whose ruling in relation to any Director other than the Chair is to be final and conclusive.
- 14.5 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the Chair, the question is to be decided by a decision of the Directors at that meeting, for which purpose the Chair is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

15 **RECORDS OF DECISIONS TO BE KEPT**

The Directors must ensure that the Company keeps a record, in writing, for at least ten years from the date of the decision recorded, of every unanimous or majority decision taken by the Directors.

16 DIRECTORS' DISCRETION TO MAKE FURTHER RULES

Subject to the Articles, the Directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to Directors.

APPOINTMENT OF DIRECTORS**17 METHODS OF APPOINTING DIRECTORS**

17.2 The board of Directors shall be appointed by the Council in accordance with Article 17.5 and subject to Article 17.3 comprise of a minimum of 3 Directors and shall include:

17.2.1 at least two Council Directors; and

17.2.2 at least one Independent Director.

17.3 The Council shall appoint the Chair who shall be the Independent Director.

17.4 Any person who is willing to act as a Director, and is permitted by law to do so, may be appointed as a Director in accordance with these Articles.

17.5 The Council may at any time appoint any person to be a Director, whether as an additional Director or to fill a vacancy, and may remove from office any Director howsoever appointed and any alternate Director. Any such appointment or removal shall be effected by an ordinary resolution or otherwise by notice in writing to the Company by the Council. Any such appointment or removal shall take effect:

17.5.1 if it is effected by ordinary resolution, at the point the resolution is passed; and

17.5.2 if it is effected by notice in writing to the Company, when it is delivered to the registered office of the Company or, if it is produced at a meeting of the Directors, when it is so produced or, if sent by electronic means to an address generally used by the Company, when it is sent or on any such later date specified in the notice.

17.6 Any removal pursuant to this Article 17 shall be without prejudice to any claim that a Director may have under any contract between him and the Company.

18 TERMINATION OF A DIRECTOR'S APPOINTMENT

18.2 A person ceases to be a Director as soon as:

18.2.1 the Council notifies the Company that the individual is to be removed as a Director;

18.2.2 the Council serves notice to remove the Director in accordance with Article 17.5, and such notice has taken effect in accordance with its terms;

18.2.3 that person ceases to be a Director by virtue of any provision of the Companies Act 2006 or is prohibited from being a Director by law;

18.2.4 a bankruptcy order is made against that person;

18.2.5 a composition is made with that person's creditors generally in satisfaction of that person's debts;

18.2.6 a registered medical practitioner who is treating that person gives a written opinion to the Company stating that that person has become physically or mentally incapable of acting as a Director and may remain so for more than three months;

18.2.7 notification is received by the Company from the Director that the Director is resigning from office, and such resignation has taken effect in accordance with its terms;

18.2.8 in the case of a Council Director, they cease to be an elected member, officer or employee of the Council;

18.2.9 in the case of an Independent Director, their service contract expires or is terminated.

19 DIRECTORS' REMUNERATION AND EXPENSES

19.2 Any remuneration of the Directors shall require the prior approval of the Council.

19.3 The Council's expenses policies from time to time shall apply to any expenses of Directors (and alternate Directors).

PART 3 - SHARES AND DISTRIBUTIONS

SHARES

20 APPOINTMENT OF SHAREHOLDERS

20.2 The subscribers to the Memorandum are the first Shareholders.

20.3 No person shall be admitted as a Shareholder unless they are approved unanimously by the Shareholders.

20.4 The Directors or company secretary (if appointed) must keep a register of names and addresses of the Shareholders.

21 LIABILITY OF SHAREHOLDERS

The liability of the Shareholders is limited to the amount, if any, unpaid on the Shares held by them.

22 ALL SHARES TO BE FULLY PAID UP

22.2 No Share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the Company in consideration for its issue.

22.3 This does not apply to Shares taken on the formation of the Company by the subscribers to the Company's Memorandum.

23 POWERS TO ISSUE DIFFERENT CLASSES OF SHARE

23.2 Subject to the Articles, but without prejudice to the rights attached to any existing Share, the Company may issue Shares with such rights or restrictions as may be determined by ordinary resolution.

23.3 The Company may issue Shares which are to be redeemed, or are liable to be redeemed at the option of the Company or the Holder, and the Directors may determine the terms, conditions and manner of redemption of any such Shares.

24 COMPANY NOT BOUND BY LESS THAN ABSOLUTE INTERESTS

Except as required by law, no person is to be recognised by the Company as holding any Share upon any trust, and except as otherwise required by law or the Articles, the Company is not in any way to be bound by or recognise any interest in a Share other than the Holder's absolute ownership of it and all the rights attaching to it.

25 SHARE CERTIFICATES

- 25.2 The Company must issue each Shareholder, free of charge, with one or more certificates in respect of the Shares which that Shareholder holds.
- 25.3 Every certificate must specify:
- 25.3.1 in respect of how many Shares, of what class, it is issued;
 - 25.3.2 the nominal value of those Shares;
 - 25.3.3 that the Shares are fully paid; and
 - 25.3.4 any distinguishing numbers assigned to them.
- 25.4 No certificate may be issued in respect of Shares of more than one class.
- 25.5 If more than one person holds a Share, only one certificate may be issued in respect of it.
- 25.6 Certificates must be executed in accordance with the Companies Act 2006.

26 REPLACEMENT SHARE CERTIFICATES

- 26.2 If a certificate issued in respect of a Shareholder's Shares is:
- 26.2.1 damaged or defaced; or
 - 26.2.2 said to be lost, stolen or destroyed,
- that Shareholder is entitled to be issued with a replacement certificate in respect of the same Shares.
- 26.3 A Shareholder exercising the right to be issued with such a replacement certificate:
- 26.3.1 may at the same time exercise the right to be issued with a single certificate or separate certificates;
 - 26.3.2 must return the certificate which is to be replaced to the Company if it is damaged or defaced; and
 - 26.3.3 must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the Directors decide.

27 SHARE TRANSFERS

- 27.2 Shares may be transferred by means of an Instrument of transfer in any usual form or any other form approved by the Directors, which is executed by or on behalf of the transferor.
- 27.3 No fee may be charged for registering any Instrument of transfer or other Document relating to or affecting the title to any Share.
- 27.4 The Company may retain any Instrument of transfer which is registered.
- 27.5 The transferor remains the Holder of a Share until the transferee's name is entered in the register of members as Holder of it.
- 27.6 The Directors may refuse to register the transfer of a Share, and if they do so, the Instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.

28 TRANSMISSION OF SHARES

- 28.2 If title to a Share passes to a Transmittree, the Company may only recognise the Transmittree as having any title to that Share.
- 28.3 A Transmittree who produces such evidence of entitlement to Shares as the Directors may properly require:
- 28.3.1 may, subject to the Articles, choose either to become the Holder of those Shares or to have them transferred to another person; and
- 28.3.2 subject to the Articles, and pending any transfer of the Shares to another person, has the same rights as the Holder had.
- 28.4 However, Transmittrees do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of Shares to which they are entitled, by reason of the Holder's death or bankruptcy or otherwise, unless they become the holders of those Shares.

29 EXERCISE OF TRANSMITTEES' RIGHTS

- 29.2 Transmittrees who wish to become the holders of Shares to which they have become entitled must notify the Company in writing of that wish.
- 29.3 If the Transmittree wishes to have a Share transferred to another person, the Transmittree must execute an Instrument of transfer in respect of it.
- 29.4 Any transfer made or executed under this Article is to be treated as if it were made or executed by the person from whom the Transmittree has derived rights in respect of the Share, and as if the event which gave rise to the transmission had not occurred.

30 TRANSMITTEES BOUND BY PRIOR NOTICES

If a notice is given to a Shareholder in respect of Shares and a Transmittree is entitled to those Shares, the Transmittree is bound by the notice if it was given to the Shareholder before the Transmittree's name has been entered in the register of members.

DIVIDENDS AND OTHER DISTRIBUTIONS**31 PROCEDURE FOR DECLARING DIVIDENDS**

- 31.2 The Company may by ordinary resolution declare dividends, and the Directors may decide to pay interim dividends.
- 31.3 A dividend must not be declared unless the Directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the Directors.
- 31.4 No dividend may be declared or paid unless it is in accordance with Shareholders' respective rights.
- 31.5 Unless the Shareholders' resolution to declare or Directors' decision to pay a dividend, or the terms on which Shares are issued, specify otherwise, it must be paid by reference to each Shareholder's holding of Shares on the date of the resolution or decision to declare or pay it.
- 31.6 If the Company's share capital is divided into different classes, no interim dividend may be paid on Shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear.
- 31.7 The Directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.

31.8 If the Directors act in good faith, they do not incur any liability to the holders of Shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on Shares with deferred or non-preferred rights.

32 PAYMENT OF DIVIDENDS AND OTHER DISTRIBUTIONS

32.2 Where a dividend or other sum which is a distribution is payable in respect of a Share, it must be paid by one or more of the following means:

32.2.1 transfer to a bank or building society account specified by the Distribution Recipient either in writing or as the Directors may otherwise decide; or

32.2.2 any other means of payment as the Directors agree with the Distribution Recipient either in writing or by such other means as the Directors decide.

32.3 In the Articles, the **Distribution Recipient** means, in respect of a Share in respect of which a dividend or other sum is payable:

32.3.1 the Holder of the Share; or

32.3.2 if the Share has two or more joint holders, whichever of them is named first in the register of members; or

32.3.3 if the Holder is no longer entitled to the Share by reason of death or bankruptcy; or

32.3.4 otherwise by operation of law, the Transmittree.

33 NO INTEREST ON DISTRIBUTIONS

33.2 The Company may not pay interest on any dividend or other sum payable in respect of a Share unless otherwise provided by:

33.2.1 the terms on which the Share was issued; or

33.2.2 the provisions of another agreement between the Holder of that Share and the Company.

34 UNCLAIMED DISTRIBUTIONS

34.2 All dividends or other sums which are:

34.2.1 payable in respect of Shares; and

34.2.2 unclaimed after having been declared or become payable,

may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed.

34.3 The payment of any such dividend or other sum into a separate account does not make the Company a trustee in respect of it.

34.4 If:

34.4.1 twelve years have passed from the date on which a dividend or other sum became due for payment; and

34.4.2 the Distribution Recipient has not claimed it,

the Distribution Recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the Company.

35 NON-CASH DISTRIBUTIONS

35.2 Subject to the terms of issue of the Share in question, the Company may, by ordinary resolution on the recommendation of the Directors, decide to pay all or part of a dividend or other distribution payable in respect of a Share by transferring non-cash assets of equivalent value (including, without limitation, Shares or other securities in any Company).

35.3 For the purposes of paying a non-cash distribution, the Directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution:

35.3.1 fixing the value of any assets;

35.3.2 paying cash to any Distribution Recipient on the basis of that value in order to adjust the rights of recipients; and

35.3.3 vesting any assets in trustees.

36 WAIVER OF DISTRIBUTIONS

36.2 Distribution Recipients may waive their entitlement to a dividend or other distribution payable in respect of a Share by giving the Company notice in writing to that effect, but if:

36.2.1 the Share has more than one Holder; or

36.2.2 more than one person is entitled to the Share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise,

the notice is not effective unless it is expressed to be given, and signed, by all the holders or persons otherwise entitled to the Share.

CAPITALISATION OF PROFITS

37 AUTHORITY TO CAPITALISE AND APPROPRIATION OF CAPITALISED SUMS

37.2 Subject to the Articles, the Directors may, if they are so authorised by an ordinary resolution:

37.2.1 decide to capitalise any profits of the Company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the Company's share premium account or capital redemption reserve; and

37.2.2 appropriate any sum which they so decide to capitalise (a **capitalised sum**) to the persons who would have been entitled to it if it were distributed by way of dividend (the **persons entitled**) and in the same proportions.

37.3 Capitalised sums must be applied:

37.3.1 on behalf of the persons entitled; and

37.3.2 in the same proportions as a dividend would have been distributed to them.

37.4 Any capitalised sum may be applied in paying up new Shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct.

- 37.5 A capitalised sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the Company which are then allotted credited as fully paid to the persons entitled or as they may direct.
- 37.6 Subject to the Articles, the Directors may:
- 37.6.1 apply capitalised sums in accordance with Articles 37.4 and 37.5 partly in one way and partly in another;
 - 37.6.2 make such arrangements as they think fit to deal with Shares or debentures becoming distributable in fractions under this Article (including the issuing of fractional certificates or the making of cash payments); and
 - 37.6.3 authorise any person to enter into an agreement with the Company on behalf of all the persons entitled which is binding on them in respect of the allotment of Shares and debentures to them under this Article.

PART 4 - DECISION-MAKING BY SHAREHOLDERS

38 WRITTEN RESOLUTIONS

A resolution of the Shareholder (or class thereof) may be passed as a written resolution in accordance with Chapter 2 of Part 13 of the Companies Act 2006.

ORGANISATION OF GENERAL MEETINGS

39 GENERAL MEETINGS

- 39.2 The Council shall appoint and may remove or replace a person by notice in writing to the Company, in accordance with section 323 of the Companies Act 2006, to act as the representative of the Council in accordance with the Articles.
- 39.3 Notice of a general meeting shall be given in Hard Copy Form, in Electronic Form or by means of a website, provided that the meeting is called by notice of at least 28 days and that the Company otherwise complies with any requirements relating to the giving of notice under the Companies Act 2006.
- 39.4 Any Director or the company secretary (if any) shall send notice of a general meeting to the Council every Director and any other person required by law to be sent such notice.
- 39.5 Notice of a general meeting shall:
- 39.5.1 state the time, date and place of the meeting;
 - 39.5.2 specify the general nature of the business to be dealt with at the meeting and set out the text of any special resolution to be voted upon at the meeting; and
 - 39.5.3 be accompanied by a proxy form; and
- notice of a general meeting need not be in writing.
- 39.6 The accidental omission to give notice of a general meeting to, or the non-receipt of notice by, any person entitled to receive the notice; or a technical defect in the timing or manner of giving such notice of which the Directors are unaware shall not invalidate the proceedings of that meeting.

40 ATTENDANCE AND SPEAKING AT GENERAL MEETINGS

- 40.2 A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.
- 40.3 A person is able to exercise the right to vote at a general meeting when:
- 40.3.1 that person is able to vote, during the meeting, on resolutions put to the vote at the meeting; and
 - 40.3.2 that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.
- 40.4 The Directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- 40.5 In determining attendance at a general meeting, it is immaterial whether any two or more members attending it are in the same place as each other.
- 40.6 Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

41 QUORUM FOR GENERAL MEETINGS

No business other than the appointment of the Chair of the Meeting is to be transacted at a general meeting unless an authorised representative of each Shareholder is present.

42 CHAIRING GENERAL MEETINGS

- 42.2 The person chairing a meeting in accordance with this Article is referred to as the **Chair of the Meeting**.
- 42.3 The Chair (if one is appointed under Article 11.3) shall chair general meetings if present and willing to do so.
- 42.4 If no Chair has been appointed under Article 11.3 or (if appointed) the Chair is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start:
- 42.4.1 the Directors present; or
 - 42.4.2 (if no Directors are present) the meeting,
- must appoint a Director or Shareholder to chair the meeting, and the appointment of the Chair of the meeting must be the first business of the meeting.

43 ATTENDANCE AND SPEAKING BY DIRECTORS AND NON-SHAREHOLDERS

- 43.2 Directors may attend and speak at general meetings, whether or not they are Shareholders.
- 43.3 The Chair of the Meeting may permit other persons who are not:
- 43.3.1 Shareholders; or
 - 43.3.2 otherwise entitled to exercise the rights of Shareholders in relation to general meetings, to attend and speak at a general meeting.

44 ADJOURNMENT

- 44.2 If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the Chair of the meeting must adjourn it.
- 44.3 The Chair of the Meeting may adjourn a general meeting at which a quorum is present if:
- 44.3.1 the meeting consents to an adjournment; or
 - 44.3.2 it appears to the Chair of the Meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- 44.4 The Chair of the meeting must adjourn a general meeting if directed to do so by the meeting.
- 44.5 When adjourning a general meeting, the Chair of the meeting must:
- 44.5.1 either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the Directors; and
 - 44.5.2 have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- 44.6 If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the Company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given):
- 44.6.1 to the same persons to whom notice of the Company's general meetings is required to be given; and
 - 44.6.2 containing the same information which such notice is required to contain.
- 44.7 No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

VOTING AT GENERAL MEETINGS**45 VOTING: GENERAL**

A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the Articles.

46 ERRORS AND DISPUTES

- 46.2 No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.
- 46.3 Any such objection must be referred to the Chair of the Meeting, whose decision is final.

47 POLL VOTES

- 47.2 A poll on a resolution may be demanded:
- 47.2.1 in advance of the general meeting where it is to be put to the vote, or
 - 47.2.2 at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.

- 47.3 A poll may be demanded by:
- 47.3.1 the Chair of the Meeting;
 - 47.3.2 the Directors;
 - 47.3.3 two or more persons having the right to vote on the resolution; or
 - 47.3.4 a person or persons representing not less than one tenth of the total voting rights of all the Shareholders having the right to vote on the resolution.
- 47.4 A demand for a poll may be withdrawn if:
- 47.4.1 the poll has not yet been taken; and
 - 47.4.2 the Chair of the Meeting consents to the withdrawal.
- 47.5 Polls must be taken immediately and in such manner as the Chair of the Meeting directs.

48 **CONTENT OF PROXY NOTICES**

- 48.2 Proxies may only validly be appointed by a notice in writing (a **Proxy Notice**) which:
- 48.2.1 states the name and address of the Shareholder appointing the proxy;
 - 48.2.2 identifies the person appointed to be that Shareholder's proxy and the general meeting in relation to which that person is appointed;
 - 48.2.3 is signed by or on behalf of the Shareholder appointing the proxy, or is authenticated in such manner as the Directors may determine; and
 - 48.2.4 is delivered to the Company in accordance with the Articles and any instructions contained in the notice of the general meeting to which they relate.
- 48.3 The Company may require Proxy Notices to be delivered in a particular form, and may specify different forms for different purposes.
- 48.4 Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- 48.5 Unless a Proxy Notice indicates otherwise, it must be treated as:
- 48.5.1 allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
 - 48.5.2 appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

49 **DELIVERY OF PROXY NOTICES**

- 49.2 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid Proxy Notice has been delivered to the Company by or on behalf of that person.
- 49.3 An appointment under a Proxy Notice:
- 49.3.1 may be revoked by delivering to the Company a notice in writing given by or on behalf of the person by whom or on whose behalf the Proxy Notice was given; and

- 49.3.2 shall be revoked if the person by whom or on whose behalf the Proxy Notice was given is present at the meeting or adjourned meeting to which it relates.
- 49.4 A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
- 49.5 If a Proxy Notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.
- 50 AMENDMENTS TO RESOLUTIONS**
- 50.2 An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if:
- 50.2.1 notice of the proposed amendment is given to the Company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the Chair of the Meeting may determine); and
- 50.2.2 the proposed amendment does not, in the reasonable opinion of the Chair of the Meeting, materially alter the scope of the resolution.
- 50.3 A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if:
- 50.3.1 the Chair of the Meeting proposes the amendment at the general meeting at which the resolution is to be proposed; and
- 50.3.2 the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.
- 50.4 If the Chair of the Meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the Chair of the Meeting's error does not invalidate the vote on that resolution.

PART 5 - ADMINISTRATIVE ARRANGEMENTS

51 MEANS OF COMMUNICATION TO BE USED

- 51.2 Subject to the Articles, anything sent or supplied by or to the Company under the Articles may be sent or supplied in any way in which the Companies Act 2006 provides for Documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the Company.
- 51.3 Subject to the Articles, any notice or Document to be sent or supplied to a Director in connection with the taking of decisions by Directors may also be sent or supplied by the means by which that Director has asked to be sent or supplied with such notices or Documents for the time being.
- 51.4 A Director may agree with the Company that notices or Documents sent to that Director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

52 COMPANY SEALS

- 52.2 Any common seal may only be used by the authority of the Directors.
- 52.3 The Directors may decide by what means and in what form any common seal is to be used.

52.4 Unless otherwise decided by the Directors, if the Company has a common seal and it is affixed to a Document, the Document must also be signed by at least one authorised person in the presence of a witness who attests the signature.

52.5 For the purposes of this Article, an authorised person is:

52.5.1 any Director;

52.5.2 the company secretary (if any); or

52.5.3 any person authorised by the Directors for the purpose of signing Documents to which the common seal is applied.

53 RIGHT TO INSPECT ACCOUNTS AND OTHER RECORDS

The Shareholders and their authorised representatives shall have the right on giving to the Company reasonable advance notice, during normal business hours to inspect the books and records of the Company.

54 APPOINTMENT OF COMPANY SECRETARY

The Council may appoint (and remove) the company secretary by notice in writing to the Company.

55 PROVISION FOR EMPLOYEES ON CESSATION OF BUSINESS

The Directors may decide to make provision for the benefit of persons employed or formerly employed by the Company or any of its subsidiaries (other than a Director or former Director or shadow Director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the Company or that Subsidiary.

DIRECTORS' INDEMNITY AND INSURANCE

56 INDEMNITY

56.2 Subject to Article 56.3, a relevant Director of the Company or an associated Company may be indemnified out of the Company's assets against:

56.2.1 any liability incurred by that Director in connection with any negligence, default, breach of duty or breach of trust in relation to the Company or an associated Company;

56.2.2 any liability incurred by that Director in connection with the activities of the Company or an associated Company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006); and

56.2.3 any other liability incurred by that Director as an officer of the Company or an associated Company.

56.3 This Article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

56.4 In this Article:

56.4.1 companies are **associated** if one is a Subsidiary of the other or both are subsidiaries of the same body corporate; and

56.4.2 a **relevant Director** means any Director or former Director of the Company or an associated Company.

57 **INSURANCE**

57.2 The Directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant Director in respect of any relevant loss.

57.3 In this Article:

57.3.1 a **relevant Director** means any Director or former Director of the Company or an associated Company;

57.3.2 a **relevant loss** means any loss or liability which has been or may be incurred by a relevant Director in connection with that Director's duties or powers in relation to the Company, any associated Company or any pension fund or employees' share scheme of the Company or associated Company; and

57.3.3 companies are **associated** if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

Dated _____ **2021**

HART DISTRICT COUNCIL

**HART HOUSING PROPERTY MANAGEMENT COMPANY
LIMITED**

SHAREHOLDER AGREEMENT

Version control

Draft 1	23.02.2021
Draft 2	15.04.2021
Draft 3	16.04.2021
Draft 4	04.05.2021

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DRAFT

THIS AGREEMENT is made on

2021

PARTIES

- (1) **HART DISTRICT COUNCIL**, of Civic Offices, Harlington Way, Fleet GU51 4AE (**Council**)
- (2) **HART HOUSING PROPERTY MANAGEMENT COMPANY LIMITED** (company number XXXXXX) a company limited by shares whose registered office is at [Civic Offices, Harlington Way, Fleet GU51 4AE] (**Company**)

BACKGROUND

- (A) As at the date of this Agreement, **the Council is the sole member of the Company.**
- (B) The parties have entered into this Agreement (i) to regulate the manner in which the Company carries out its Business; and (ii) to ensure that the Council retains decisive influence over both the strategic objectives and significant decisions of the Company

AGREED TERMS

1 DEFINITIONS AND INTERPRETATION

In this Agreement:

Accounting Reference Date means 31st March

Appointer means the holder of the right (through the Company's Articles) to appoint a Director to the Board

Approval Date has the meaning given to it in clause 13.5

Approved Distribution has the meaning given to it in clause 13.5

Articles means the articles of association of the Company

Board means the Directors or such of them as are present at a duly convened and quorate meeting of the Directors

Board Review has the meaning given in clause 7.4

Business Day means a day (other than a Saturday, a Sunday or a public holiday in the United Kingdom) on which banks in the United Kingdom are ordinarily open to effect transactions of the kind contemplated in this Agreement and, if a payment is to be made in euros, on which such payment system as the Council chooses is operating for the transfer of funds for the same day value

Business Plan means the operational business plan and budget of the Company and Subsidiary Companies as adopted and amended in accordance with clause 3

Cabinet means the cabinet of the Council as constituted from time to time

Chair means the person appointed as the chair of the Board who is not an employee or an elected member of the Council

Companies Act means the Companies Act 2006

Confidential Information means, in relation to a person, all technical, commercial, financial or other information of whatever nature relating to that person's business, products, developments, services, trade secrets, know-how, personnel, supplies or historic current or potential customers, whether or not designated as confidential and whether disclosed orally, pictorially, in writing, by demonstration, by viewing, in machine readable form or by any other means

Council Director means a Director of the Company who is an officer of the Council

Deed of Adherence means a deed in the form or substantially in the form set out in Schedule 4

Directors means the directors of the Company and **Director** means any one of them

Dispute has the meaning given to it in clause 16.2

EIR means the Environmental Information Regulations 2004 and any subordinate legislation made under the Regulations from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation

Encumbrance means:

- (i) a mortgage, charge, pledge, lien or other encumbrance securing any obligation of any person; or
- (ii) any arrangement under which money or claims to, or the benefit of, a bank or other account may be applied, set-off or made subject to a combination of accounts so as to effect payment of sums owed or payable to any person; or
- (iii) any other type of preferential arrangement (including title transfer and retention arrangements) having a similar effect

Financial Year means each accounting reference period of twelve (12) months ending on the Accounting Reference Date other than the First Accounting Reference Period or such longer or shorter period as the Council shall from time to time determine.

First Accounting Reference Period means the period which shall run on and from the date of incorporation of the Company to and including the Accounting Reference Date in the calendar year following the date of this Agreement

FOIA means the Freedom of Information Act 2000 and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation

Independent Director means a Director of the Company appointed pursuant to Article 7.2.2(b) who is not an employee or an elected member of the Council

Intellectual Property Rights means present and future patents, trade marks, service marks, trade names, designs, copyrights, inventions, topographical or similar rights, confidential information and know-how and any interest in any of these rights, whether or not registered, including all applications and rights to apply for registration and all fees, royalties and other rights derived from, or incidental to, these rights

Law means:

- (i) any Act of Parliament;
- (ii) any subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978;

- (iii) any exercise of the Royal Prerogative; and
- (iv) any enforceable community right within the meaning of section 2 of the European Communities Act 1972,

in each case in force in the United Kingdom from time-to-time

Member has the meaning given in section 112 of the Companies Act

Objectives has the meaning given in clause 2.3

Prohibited Act means any of the following acts:

- (i) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to:
 - (i) induce that person to perform improperly a relevant function or activity; or
 - (ii) reward that person for improper performance of a relevant function or activity;
- (ii) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;
- (iii) committing any offence:
 - (i) under the Bribery Act 2010;
 - (ii) under legislation creating offences concerning fraudulent acts;
 - (iii) at common law concerning fraudulent acts relating to this Agreement or any other contract with the Council; or
 - (iv) defrauding, attempting to defraud or conspiring to defraud the Council

Reserved Matters means the matters specified in Schedule 1

RICS means the Royal Institution of Chartered Surveyors

Shareholder Reserved Power means power that the Shareholders have in accordance with the Articles to direct (by special resolution) the Directors to take, or refrain from taking, specified action.

Site means a site owned by the Council and put forward to the Company for development

Subsidiary Companies means the corporate entities that are subsidiaries of the Company in accordance with s.1159 Companies Act 2006, and which shall be established and governed in accordance with Schedule

Teckal means the codified rule of EU procurement law as set out within Directive 2014/24/EU and Regulation 12 of the Public Contracts Regulations 2015, deriving from the Teckal case (*Teckal Srl v Comune de Viano and Azienda Gas-Acqua Consorziale (AGAC) di Reggio Emilia (C-107/98)* [1999] ECR I-8121) pursuant to which the requirement for open advertisement and tendering for public contracts in accordance with the Public Contracts Regulations 2015 does not apply

1.3 In this Agreement:

- 1.3.1 clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement;
- 1.3.2 unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this Agreement and a reference to a paragraph is to a paragraph of the relevant Schedule;
- 1.3.3 a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality) and that person's personal representatives, successors, permitted assigns and permitted transferees;
- 1.3.4 unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- 1.3.5 unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- 1.3.6 a reference to a **party** or the **parties** are to a party or the parties to this Agreement from time to time and any person who agrees to be bound by the provisions of this Agreement from time to time by executing a Deed of Adherence but, for the avoidance of doubt, shall not refer to any person who has ceased to have any obligations under this Agreement from time to time. A reference to a party shall include that party's successors, permitted assigns and permitted transferees;
- 1.3.7 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision;
- 1.3.8 a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- 1.3.9 a reference to **writing** or **written** includes email but not fax;
- 1.3.10 an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- 1.3.11 a reference to **this Agreement** (or any provision of it) or to any other agreement or document referred to in this Agreement is a reference to this Agreement, that provision or such other agreement or document as varied, amended or supplemented (in each case, other than in breach of the provisions of this Agreement) from time to time;
- 1.3.12 any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- 1.3.13 a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and amended shall be construed accordingly);
- 1.3.14 a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it;

- 1.3.15 references to a **month** shall be construed as a reference to a period starting on one day in a calendar month and ending on the day immediately preceding the numerically corresponding day in the next calendar month or, if there is no numerically corresponding day in the next calendar month, the last day in the next calendar month; and
- 1.3.16 the expressions **body corporate, holding company, subsidiary, parent undertaking, subsidiary undertaking** and **parent company** shall have the respective meanings given in the Companies Act 2006, and, for the purposes of sections 1159(1) and 1162(2)(b) and (d) of that Act, a company or undertaking (the **first person**) shall be treated as a member of another company or undertaking if:
- (a) any of the first person's subsidiaries or subsidiary undertakings is a member of that other company or undertaking; or
 - (b) any shares or capital interests in that other company or undertaking are held by a person acting on behalf of the first person or any of its subsidiaries or subsidiary undertakings; or
 - (c) any shares or capital interests in that other company or undertaking are registered in the name of a person (or its nominee) by way of security or in connection with the granting of security over those shares or capital interests by the first person.

In the case of a limited liability partnership which is (or might constitute) a subsidiary or subsidiary undertaking of a company or another limited liability partnership, sections 1159 and 1162 of the Companies Act 2006 shall be amended so that:

- (i) references in sections 1159(1)(a) and (c) and 1162(2)(a) and (d) to "voting rights" are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and
- (ii) references in sections 1159(1)(b) and 1162(2)(b) to the "right to appoint or remove a majority of its board of directors" is to the right: (i) to appoint or remove a majority of the directors (or equivalent) of that limited liability partnership; or (ii) if no such directors (or equivalent) exist by virtue of the constitution of that limited liability partnership, members holding a majority of the voting rights,

and unless the context otherwise requires, the application of the definitions of body corporate, holding company, subsidiary, parent undertaking, subsidiary undertaking and parent company shall apply as to the Company or undertaking as it is at that time.

- 1.4 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.

2 THE BUSINESS AND OBJECTIVES OF THE COMPANY

2.2 The business of the Company (**Business**) shall be to:

2.2.1 undertake the business(es) set out in the Business Plan; and/or

2.2.2 to undertake such other business(es) as the Council may from time to time determine;

provided in all circumstances that such business(es) promote the achievement of the Objectives.

2.3 The following shall be the **Objectives**:

- 2.3.1 to optimise opportunities from the Council's property assets to generate new short and long term financial returns as appropriate;
- 2.3.2 to undertake regeneration activities including delivering major schemes, prioritising regeneration activities and delivering specific regeneration plans across the Hart District;
- 2.3.3 to undertake activities to promote green infrastructure;
- 2.3.4 to undertake activities with the aim of promoting sustainable and inclusive economic growth;
- 2.3.5 to undertake activities with a view to establishing and maintaining pace;
- 2.3.6 to undertake activities with a view to creating a healthy environment promoting social and cultural wellbeing reflecting the needs of those in the local community;
- 2.3.7 to provide good quality affordable and private rented housing throughout the Hart District for rental purposes for the use of key workers and others requiring housing;
- 2.3.8 to contribute to the general fund through surpluses generated from housing developed and rents received that can be re-invested in services to residents;
- 2.3.9 to contribute towards existing and forecast demand for housing both through the development of existing Council owned sites already identified and through development of new Council owned facilities as yet unidentified; and
- 2.3.10 to remain financially viable and operate efficiently to ensure it receives sufficient rental income to meet all of its costs including financing, housing management, property maintenance and administration.

3 BUSINESS PLAN

3.2 The Company shall prepare in respect of each Financial Year a Business Plan to include:

- 3.2.1 an overview of the activity planned for:
 - (a) the following year
 - (b) at a higher level the following five yearsand how all planned activity furthers the Company's Objectives;
- 3.2.2 an annual operating revenue plan and capital expenditure requirements (including details of funding sources);
- 3.2.3 a balance sheet forecast;
- 3.2.4 a minimum five year term financial strategy plan to include (amongst other items) all proposed investments, borrowings and new business of the Company and a list of key risks of its business;
- 3.2.5 a plan for the use of any surpluses made in a Financial Year and the making of any distribution of profit subject to the provisions of the Companies Act 2006;

- 3.2.6 an annual profit and loss account;
- 3.2.7 a Board skills review – a report that analyses the skills of the Directors who comprise the Board against the requirements of the proposed business plan for the following year and considers any skills gaps or duplication and sets out a strategy for filling any gaps; and
- 3.2.8 such other content the Council may require from time to time and notify to the Company in writing.
- 3.3 The Company shall adopt the first Business Plan within twenty (20) Business Days of the date of this Agreement. Thereafter, the Business Plan for the Company for a given Financial Year shall be:
- 3.3.1 prepared by the Board and circulated by the Board to the Council in draft form not less than five (5) months prior to the end of the Financial Year preceding the Financial Year to which the draft Business Plan relates, save that in the event that there is no Cabinet meeting in January of such preceding Financial Year the Business Plan shall be circulated by the Board to the Council in advance of the preceding Cabinet meeting; and
- 3.3.2 considered and, if thought fit, approved as soon as possible by the Council and in any event within one (1) month of the date of receipt of the draft Business Plan from the Board.

4 SUBSIDIARY COMPANIES

- 4.2 It is intended that the development activities of the Company in relation to a Site shall, in each case, be carried out through a Company Subsidiary.
- 4.3 Each Subsidiary Company shall, unless otherwise agreed by the Council be established, owned and operated in accordance with Schedule 2.
- 4.4 The Company and Council shall procure that each Company Subsidiary shall enter into a Deed of Adherence promptly upon incorporation.

5 COUNCIL'S ROLE AS SHAREHOLDER

- 5.2 The Council will monitor and control the Business and operations of the Company through the:

5.2.1 the right to make decisions on the Reserved Matters;

5.2.2 receiving reports in accordance with clause 9; and

5.2.3 exercising the other rights provided to it through this Agreement (including but not limited to those in Schedule 2 and through its role as the sole shareholder of the Company).

- 5.3 The Council:

5.3.1 shall, upon request, have unlimited, unrestricted and prompt access to the Company information and documents (which for the avoidance of doubt shall be in addition to the requirements set out in clause 9);

5.3.2 will monitor the activities of the Company to ensure that they are acceptable and accountable to the Council as owner of the Company; and

- 5.3.3 may, in addition to those matters requiring Council consent pursuant to clause 6:
- (a) make recommendations from time to time to the Board; and/or
 - (b) exercise the Shareholder Reserved Power by notice in writing from time to time to the Board.
- 5.4 Where a consent or approval of the Council is required under this Agreement, it shall be given in writing in advance and the Council shall use its reasonable endeavours to communicate any such decision, consent or approval to the Company within a period of thirty (30) days from receipt of the request.
- 5.5 The Council shall not be deemed to have made a decision or given its consent or approval if it does not respond within the time limit specified in clause 5.4.
- 5.6 Where the Company requires the Council to make any decision or provide any consent or approval, it shall provide such material information as the Council may require enabling it to consider the decision, consent or approval in question.
- 5.7 The Company shall ensure that the Chair and and/or any Directors and/or employees of the Company as requested by the Council shall attend such meetings or parts of meeting(s) of the Council as the Council may require and shall answer questions put by the Council and provide information regarding the activities of the Company as reasonably requested.

6 DECISION-MAKING

- 6.2 Subject to the Articles and with the exception of the Reserved Matters, the Board shall have full and complete authority, power and discretion to direct, manage and control the Business and the affairs and assets of the Company, to make all decisions regarding those matters and to perform any and all other acts or activities customary or incidental to the management of the Business.
- 6.3 The Company agrees that it shall (subject to this clause 6) and in so far as it is legally able to:
- 6.3.1 carry on and conduct its Business and affairs in accordance with:
- (a) its Business Plan then in force;
 - (b) this Agreement;
 - (c) the Articles;
 - (d) all laws relating to companies as amended from time to time;
 - (e) sound governance and good business practice;
 - (f) in a proper and efficient manner, for its own benefit; and
 - (g) use all reasonable endeavours to obtain and, if necessary, maintain in full force and effect all licences (including statutory licences), consents and authorities necessary to own and operate its assets and to carry on its business properly.
- 6.4 Except as set out in clause 6.5, insofar as a matter is a Reserved Matter relating to the Company, the Company shall not make any decision in relation to, or undertake, that Reserved Matter except with the prior written consent of the Council and such consent shall be sought with the intention to facilitate decisions being given by the Council as quickly as reasonably practicable.

6.5 Clause 6.4 shall not apply in connection with any decision or action relating to a Reserved Matter:

6.5.1 approved in the Business Plan then in force; or

6.5.2 which has been properly delegated in accordance with this Agreement to the Board or to a particular person or committee; or

6.5.3 to the extent the same decision has been taken by the Council in accordance with this Agreement,

and in those circumstances only, any reference in this Agreement to the approval of the Council (or similar wording) shall be amended so that it is a reference to the approval of the Board or the approval of that other person, as the case may be.

6.6 Any variation to the list of Reserved Matters must be approved by the Council in writing. Notwithstanding clause 31, the Reserved Matters may be varied and/or replaced in part or entirely, by the Council at its absolute discretion. Upon the Council giving notice in writing to a Board that such a variation or replacement has occurred, this Agreement and Schedule 1 shall be deemed modified from the date specified in the varied or replacement schedule.

7 BOARD

7.2 Subject to the Articles, there shall be a minimum of 3 Directors, which:

7.2.1 shall be appointed by the Council; and

7.2.2 shall include:

(a) at least two Council Directors who are Council employees; and

(b) at least one Independent Director.

7.2.3 The Council shall appoint the Chair who shall be the Independent Director.

7.3 Subject to the Articles, any appointment(s) or termination(s) of a Director made under this clause 7 shall be effected by the Council by giving notice in writing to the Company, on the date on which the notice from the Council is received by the Company or, if a later date is specified in the notice, on that date.

7.4 The Company shall review the composition and membership of the Board in light of the Business Plan, with a view to whether it has the right mix of skills and experience to make sufficiently robust decisions in relation to those plans (**Board Review**), and shall include a copy of this Board Review to the Council pursuant to clause 9.2.1.

7.5 On the appointment of a Director to the Board of the Company, the Board shall issue to that person a letter of appointment in the form or substantially in the form contained in Schedule 3, a summary of a Director's duties in relation to the Company and shall provide a relevant induction and training (as required).

8 POLICIES AND PROCEDURES

8.2 In respect of policies and procedures of the Company (**Policies and Procedures**):

8.2.1 the Company shall adopt the Policies and Procedures that are relevant and required for its operational circumstances and that enable it to act legally, efficiently and appropriately as a subsidiary of a local authority, such adopted Policies and Procedures

to at all times include the Council's policy on procurement, and in the absence of any such Policies and Procedures, the Company shall adopt the relevant Policies and Procedures of the Council from time to time;

8.2.2 Policies and Procedures shall be approved by the Board; and

8.2.3 the Policies and Procedures shall be subject to an internal audit and audit by the Council when requested by the Council.

The Company specifically confirms that no arrangement or contract has already been entered into which would require the approval of the Council under this Agreement if it were entered into after the date on which it becomes a party to this Agreement.

9 MONITORING AND PROVISION OF INFORMATION

9.2 The Company shall provide the following information to the Council:

9.2.1 a quarterly report on performance against agreed key performance indicators as set out in the Business Plan;

9.2.2 the Board Review;

9.2.3 all reports, accounts and information submitted to the Company by the Company's Subsidiary Companies as soon as practicable.

9.2.4 the annual accounts of the Company, audited if that is a requirement, as soon as practicable and at the latest by the end of six months after the end of the relevant Financial Year;

9.2.5 minutes of all Board meetings within twenty (20) Business Days after the relevant Board meeting to which they relate; and

9.2.6 any other information reasonably required by the Council from time to time, as notified to the Company in writing by the Council.

9.3 The accounts of the Company and any Subsidiary Company shall be prepared in accordance with the accounting policies of the Council.

9.4 Each Company shall respond promptly to all reasonable requests from the Council for clarification of any parts of the information and shall forthwith upon such request supply any additional information and/or evidence that the Council may require.

9.5 The Council and its authorised representatives shall have the right during the standard working hours of the Council (as prescribed by the Council's policies from time to time), on giving to the Company reasonable advance notice, and at the Council's own cost, to inspect the books and records of the Company from time to time and to be supplied with all information in such form as it or they may reasonably require to keep the Council properly informed about the business and affairs of the Company and shall have the right to take copies of any such books and records or parts thereof.

9.6 The Company agrees that it shall give notice of any Directors' meeting to the Council at the same time as it gives notice to the Directors.

9.7 The Company shall immediately notify the Council of any legal action (potential, threatened or actual) of which it becomes aware which has been commenced by or against the Company.

10 AUDIT AND FRAUD

The Company shall operate in accordance with, and comply with, all of the Council's guidance, policies, codes, standards and practices in respect of audit and fraud in place from time to time.

11 PREVENTION OF BRIBERY

11.2 The Company:

11.2.1 shall not, and shall procure that any Director, officer, employee, adviser or representative of any of them shall not, in connection with this Agreement commit a Prohibited Act;

11.2.2 warrants, represents and undertakes that it is not aware of any financial or other advantage being given to (i) any person working for or engaged by the Council or (ii) any elected member of the Council, or that an agreement has been reached to that effect, in connection with the execution of this Agreement, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Agreement;

11.2.3 shall, if requested, provide the Council with any reasonable assistance, at the Council's reasonable cost, to enable the Council to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act 2010; and

11.2.4 within five (5) Business Days of the date of this Agreement, and annually thereafter, certify to the Council in writing (such certification to be signed by an officer of such company) compliance with this clause 11 by such company and all persons associated with it or other persons who are supplying goods or services in connection with this Agreement. Such company shall provide such supporting evidence of compliance as the Council may reasonably request.

11.3 The Company shall adopt the Council's anti-bribery policy as may from time to time be amended and shall enforce it where appropriate.

11.4 If any breach of clause 11.2 is suspected or known, the Company must notify the Council immediately.

11.5 If the Company notifies the Council that it suspects or knows that there may be a breach of clause 11.2, the Company must respond promptly to the Council's enquiries, co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation.

11.6 The Council may terminate this Agreement in respect of the Company or any other agreement with the Company by written notice with immediate effect if the Company or any Director, officer, employee, adviser or representative of the Company (in all cases whether or not acting with such Company's knowledge) breaches clause 11.2.

11.7 Any notice of termination under clause 11.6 must specify:

11.7.1 the nature of the Prohibited Act;

11.7.2 the identity of the party whom the Council believes has committed the Prohibited Act; and

11.7.3 the date on which this Agreement shall terminate in respect of the Company.

11.8 Any dispute relating to:

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11.8.1 the interpretation of this clause 11; or

11.8.2 the amount or value of any gift, consideration or commission;

shall be determined by the Council and its decision shall be final and conclusive.

11.9 Any termination under clause 11.6 shall be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

12 FUNDING

12.2 The Business Plan shall contain details of funding requirements and the Company shall enter relevant funding arrangements to secure the same.

13 FINANCE AND RETURNS

13.2 Subject to clause 13.3, the Board may recommend a distribution to the Council of the Company's profits, such recommendation may take the form of year end and/ or interim distribution(s). The Board shall not approve any distribution of profits if and to the extent that:

13.2.1 there is insufficient cash available;

13.2.2 it would render the Company insolvent; and/or

13.2.3 the Board resolves that the Company would be left with insufficient funds to meet any current or future contemplated obligations or contingencies.

13.3 The Company's profits may be distributed to the Council only after:

13.3.1 any loan repayments owed by the Company have been paid;

13.3.2 any taxation owed by the Company has been paid;

13.3.3 an amount of cash has been retained by the Company for ongoing business requirements, day-to-day obligations and re-investment, equivalent to 10% of the Company's profits post-tax; and

13.3.4 an allowance for repair and refurbishments costs (such amount as agreed with the Council) has been deposited in a separate reserve account to be used as required.

13.4 A distribution of profits to the Council shall require the approval of the Council which shall be given within ten (10) Business Days of the Board recommending the same to the Council.

13.5 Upon approval from the Council with ten (10) Business Days the proposed distribution would become an **Approved Distribution** and the date on which that approval is given shall be the **Approval Date**.

13.6 The Company shall credit an Approved Distribution to the Council within ten (10) Business Days of the Approval Date. Payments will be in cash, unless a distribution was expressly approved by the Council in specie.

14 CONTRACTS

14.2 The Company shall retain a contracts register into which every contract entered into with an aggregate annual value which is greater than any threshold set in respect of the Council's own contracts from time to time shall be recorded.

15 DEALINGS IN SHARES AND NEW SHAREHOLDERS

15.2 The Company shall not create any Encumbrance over, transfer, or otherwise dispose of or give any person any rights in or over any share in its capital unless it is:

15.2.1 permitted under this Agreement and the Articles; and/or

15.2.2 carried out in accordance with the terms of this Agreement and the Articles.

15.3 Admitting a person as a new shareholder or member of the Company is a Reserved Matter and shall also be subject to such person executing a Deed of Adherence. Should the Company wish to admit a new shareholder or new member, the Board must procure that Deed of Adherence is signed and the prior written consent of the Council is obtained, prior to such new shareholder or member being admitted.

16 DISPUTE RESOLUTION

16.2 In the event of any disagreement or dispute arising between the parties in connection with this Agreement (a **Dispute**), the parties shall use all reasonable endeavours to resolve the matter on an amicable basis. If one party serves formal written notice on one or more of the others that a Dispute has arisen and the parties are unable to resolve the Dispute within a period of twenty (20) Business Days from the service of such notice, then the Dispute shall be referred for resolution to the Council and an Independent Director of each of the Company or such other director nominated by each party for the purpose of this clause 16.

16.3 The Council shall:

16.3.1 attempt to resolve the Dispute with the co-operation of the parties within the next following twenty (20) Business Days;

16.3.2 if the Dispute cannot be resolved in line with the wishes of the parties within twenty (20) Business Days, then the Council shall unilaterally determine the Dispute; and

16.3.3 any decision of the Council in accordance with this clause 16.3 shall be final.

17 TERMINATION

17.2 Subject to clause 17.3, this Agreement may be terminated by the Council serving no less than six months' written notice on the Company.

17.3 The Council may terminate this Agreement immediately where required in accordance with any Law.

17.4 Termination of this Agreement shall not affect any accrued rights or liabilities of any person or any liability or obligation arising under or pursuant to this Agreement or any other agreement or arrangement between any of the parties hereto or, except where this Agreement expressly provides to the contrary, affect the provisions of:

17.4.1 clause 1 (*Definitions and Interpretation*);

17.4.2 this clause 17 (*Termination*);

17.4.3 clause 18 (*Confidentiality*);

17.4.4 clause 19 (*Freedom of Information*);

- 17.4.5 clause 23 (*Assignment and Subcontracting*);
- 17.4.6 clause 24 (*Waivers and Consents*);
- 17.4.7 clause 25 (*Rights and Remedies*);
- 17.4.8 clause 29 (*Notices*);
- 17.4.9 clause 30 (*Entire Agreement*);
- 17.4.10 clause 31 (*Variation*);
- 17.4.11 clause 32 (*Conflict with the Articles*);
- 17.4.12 clause 33 (*Costs and Expenses*);
- 17.4.13 clause 34 (*Set-off*);
- 17.4.14 clause 35 (*No Partnership or Agency*); and
- 17.4.15 clause 36 (*Governing Law and Jurisdiction*);

which shall continue in full force and effect after termination.

- 17.5 Where the Company is to be wound up and its assets distributed, the parties shall endeavour to ensure that:
- 17.5.1 all existing contracts of the Company are performed by the Company to the extent that there are sufficient resources within the Company;
 - 17.5.2 the Company shall not enter into any new contractual obligations;
 - 17.5.3 the Company is dissolved and its assets are distributed as soon as practical in accordance with clause 17.5.5 as applicable;
 - 17.5.4 any other proprietary information or Intellectual Property Rights belonging to or originating from a party shall be returned to it by the other party or the Company and all such proprietary information or Intellectual Property Rights shall be erased from the computer systems (to the extent possible) of the person who is/are returning it; and
 - 17.5.5 the assets of the Company remaining after payment of all debts and liabilities of such company and of all costs, charges and expenses of winding up the same, shall be distributed amongst the current shareholders or members of the Company.

18 CONFIDENTIALITY

- 18.2 Each party undertakes that they shall not at any time hereafter use or disclose (in each case except for the purpose of exercising its rights and fulfilling its obligations under this Agreement) to any person any Confidential Information of any other party which may have or may in future come to its knowledge or possession, provided that any party may share such information:
- 18.2.1 with its professional advisers or to those of its directors, members, officers, employees, advisers and representatives who are directly concerned with the relevant party or its business;

- 18.2.2 as may be required by any applicable law or by any supervisory or regulatory body with whose rules it is necessary for that party to comply;
 - 18.2.3 in connection with any proceedings arising out of or in connection with this Agreement; or
 - 18.2.4 once it enters the public domain otherwise than by reason of a breach of this clause 18.2.
- 18.3 All parties shall use its reasonable endeavours to prevent the use or disclosure of any such Confidential Information otherwise than in accordance with this clause 18.
- 18.4 Notwithstanding the restrictions in clause 18, any party may use such Confidential Information for the purpose of the promotion of the Business.
- 18.5 Notwithstanding the restrictions in clause 18, each Director shall be entitled to disclose to the Council, all information to which the Council is entitled pursuant to clause 9 from time to time.
- 18.6 The parties shall use their reasonable endeavours to procure that any of their officers, employees, advisers and representatives coming into receipt of such Confidential Information shall be informed upon receipt that such information is confidential and (so far as such party is able to procure the same) shall comply with the provisions of this clause 18.6 in respect of such Confidential Information as if they were parties.
- 18.7 Where any party is required by any law, regulation or governmental or regulatory authority to retain any information (or copies of such information) of any other party, it shall notify the other party in writing of such retention giving details of the information that it is required to retain.

19 FREEDOM OF INFORMATION

- 19.2 The parties acknowledge that they are both subject to the requirements of the FOIA and the EIR and the parties shall, where reasonable, assist and co-operate (at their own expense) with the other to enable the other (where required) to comply with their information disclosure obligations.
- 19.3 Subject to clause 19.2, where the Company receives a request for information under either the FOIA or the EIR for information which it is holding on behalf of the Council, it shall:
- 19.3.1 transfer the request for information to the relevant party (or such other party as it is otherwise agreed between the parties is the best person to deal with such request) as soon as practicable after receipt and in any event within two (2) Business Days of receiving the request for information;
 - 19.3.2 provide the relevant or other party with a copy of all information in its possession or power in the form that the relevant or other party requires within ten (10) Business Days (or such longer period as the relevant or other party may specify) of the relevant or other party requesting that information; and
 - 19.3.3 provide all necessary assistance as reasonably requested by the relevant or other party to enable the relevant or other party to respond to a request for information within the time for compliance set out in the FOIA or the EIR.
- 19.4 Where the Council receives a request under FOIA or EIR which relates to the operations of the Company, it shall notify the Company and afford them an opportunity to make any comments or representations in respect of the disclosure of the information sought. The Company shall respond within five (5) Business Days of receipt of this notification. Where possible, the Council shall take into account any such comments or representations in so doing and shall not respond to the request until the five (5) Business Days response period referred to above has passed.

19.5 Each party shall be responsible for determining in its absolute discretion whether any information requested under the FOIA and EIR:

19.5.1 is exempt from disclosure; or

19.5.2 is to be disclosed in response to a request for information.

19.6 Each party acknowledges that the other party may be obliged under the FOIA and EIR to disclose information:

19.6.1 without consulting with the other parties where it has not been practicable to achieve such consultation; or

19.6.2 following consultation with the other parties and having taken their views into account.

20 DATA PROTECTION

The parties shall comply with Law relating to data protection at all times when carrying out their respective obligations pursuant to this Agreement and any other agreement to which it is a party.

21 UNLAWFUL FETTER ON THE COMPANY'S POWERS

Notwithstanding any other provision contained in this Agreement, the Company shall not be bound by any provision of this Agreement to the extent that it would constitute an unlawful fetter on any of its statutory powers, but any such provision shall remain valid and binding as regards all other parties to which it is expressed to apply.

22 FURTHER ASSURANCE

Each party shall at its own cost and expense, on being required to do so by another party now or at any time in the future, do or procure the doing of all such acts and things and/or execute or procure the execution of all such deeds and documents in a form satisfactory to such other party which such other party may reasonably consider necessary for giving effect to this Agreement.

23 ASSIGNMENT AND SUB-CONTRACTING

23.2 This Agreement is personal to the parties and no party shall assign, transfer, subcontract or deal in any other manner with any of its rights and obligations under this Agreement without the prior written consent of the Council. Each party hereby undertakes and represents to the other parties that it is entering into this Agreement only for its own benefit.

23.3 This Agreement shall be binding on and shall endure for the benefit of each party's successors.

24 WAIVERS AND CONSENTS

24.2 A waiver of any right or remedy under this Agreement or by Law, or any consent given under this Agreement, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.

24.3 A failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this Agreement. No single or partial exercise of any right or remedy provided under this Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this Agreement by the Council shall be effective unless it is in writing.

25 RIGHTS AND REMEDIES

The rights and remedies provided under this Agreement are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

26 SEVERANCE

If any provision (or part of a provision) of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this Agreement.

27 COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one Agreement.

28 THIRD PARTY RIGHTS

Except as expressly provided elsewhere in this Agreement, 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, or enjoy the benefit of, any term of this Agreement. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

29 NOTICES

29.2 Delivery

Any notice or other communication required to be given to a party under or in connection with this Agreement shall be:

29.2.1 in writing;

29.2.2 delivered by hand or by pre-paid first-class post or other next working day delivery service and sent by electronic mail; and

29.2.3 sent to:

(a) the Council at:

Address: Hart District Council
 Council Offices
 Harlington Way
 Fleet
 GU51 4AE
 Email: emma.foy@hart.gov.uk
 Attention: S151 Officer

(b) the Company at:

Address: Council Offices
 Harlington Way
 Fleet
 GU51 4AE
 Email: joanne.rayne@hart.gov.uk

Attention: Commercial Finance Manager

or to any other address or email address as is notified in writing by one party to the other from time to time.

29.3 Receipt

Any notice or other communication shall be deemed to have been received:

- 29.3.1 if delivered by hand, at the time it is left at the relevant address;
- 29.3.2 if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting; and
- 29.3.3 if sent by electronic mail, upon receipt by the party to which it is given.

A notice or other communication given as described in clause 29.3.1 or clause 29.3.3 on a day that is not a Business Day, or after normal business hours (being 9am to 4.30pm), in the place it is received, shall be deemed to have been received on the next Business Day.

29.4 Receipt by Council

Any notice or other communication given to the Council shall be deemed to have been received only on actual receipt, save that where actual receipt takes place on a day that is not a Business Day or after normal business hours (being 9am to 4.30pm), receipt shall be deemed to have been occurred at the start of the next Business Day.

30 ENTIRE AGREEMENT

30.2 This Agreement and the documents referred to in it (including the Articles and any Deed of Adherence) constitute the entire agreement between the parties relating to its/their subject matter and supersede all previous agreements between the parties relating to such matters.

30.3 Each of the parties acknowledges that in agreeing to enter into this Agreement it has not relied on any representation, warranty, collateral contract or other assurance (except those set out in this Agreement and/or the documents referred to in it) made by or on behalf of any other party before the signature of this Agreement. Each of the parties waives:

- 30.3.1 all rights and remedies which, but for this clause 30.3, might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance; and
- 30.3.2 all rights and remedies, other than remedies for breach of contract available in respect of a breach of this Agreement and/or the documents referred to in it, which, but for this clause 30.3, might otherwise be available to it in respect of the falsity of any representation or warranty set out in this Agreement and/or the documents referred to in it,

provided that nothing in this clause 30.3 shall limit or exclude any liability for fraud or dishonesty on the part of any party.

31 VARIATION

No variation to the terms of this Agreement shall be effective unless made in writing and signed by each of the parties and any person who agrees to be bound by this Agreement.

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32 CONFLICT WITH THE ARTICLES

If any provision of this Agreement is inconsistent with a provision of the Articles, then the terms of this Agreement shall prevail and the member(s) of such the Company agree to procure the making of any amendment to the Company's Articles as soon as reasonably practicable which is required in order to make the Articles consistent with the provisions of this Agreement and the Council hereby consents to any such changes to the Company's Articles.

33 COSTS AND EXPENSES

All costs and expenses in relation to the negotiation, preparation, execution and carrying into effect of this Agreement and all other documents referred to in it shall be borne by the Council, save for any private advice sought by any party which shall be for the cost of that party.

34 SET-OFF

All amounts falling due under this Agreement shall be paid in full without any set-off or counterclaim.

35 NO PARTNERSHIP OR AGENCY

Nothing in this Agreement is intended to or shall operate to create a partnership between the parties or any of them, or to authorise any party to act as agent for any other party, and no party shall have authority to act in the name or on behalf of or otherwise to bind any other party in any way.

36 GOVERNING LAW AND JURISDICTION

- 36.2 This Agreement is governed by and shall be construed in accordance with the laws of England and each party submits to the exclusive jurisdiction of the courts of England for all purposes relating to this Agreement.
- 36.3 Each party irrevocably consents to any process in any legal action or proceedings arising out of or in connection with this Agreement being served on it in accordance with the provisions of clause 16. Nothing contained in this Agreement shall affect the right to serve process in any other manner permitted by law.

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

AS WITNESS the hands of the parties or their duly authorised representatives the day and year first before written

Executed as a deed by affixing)
the common seal of)
HART DISTRICT COUNCIL)
))
))
in the presence of)
))
.....)
Authorised signatory)

Executed as a deed by)
HART HOUSING PROPERTY)
MANAGEMENT COMPANY LIMITED)
acting by,)
a director and a director/secretary) **Director**

.....
Director/Secretary

SCHEDULE 1 - RESERVED MATTERS

The table below sets out the Reserved Matters that are reserved to the Council or the Company (as detailed)

Num b	Reserved Matter	Shareholder Approval
	Constitution of the company	
1	Varying in any respect the articles or the rights attaching to any of the shares or memberships (as applicable) in the company.	Council approval for all Companies
	Officers and Shareholders of the company	
2	The appointment and the appointment terms (including any remuneration terms) of any Directors.	Council approval required for all Directors
3	The appointment and the appointment terms (including any remuneration terms) of any employees.	Council
4	The removal of any Directors (including any terms on which such Directors are removed from their office as Directors)	Council
5	The admission of further shareholders or members to the Company or agreeing any rights or restrictions attaching to any shares or memberships allocated to such new shareholders or members as applicable)	Council
	Future direction and development of the company	
6	Forming any subsidiary or acquiring shares in any other company or participating in any partnership or incorporated joint venture vehicle.	Council
7	Amalgamating or merging with any other company or business undertaking.	Council
8	Selling or disposing of any part of the business of the Company.	Council
9	Approving the Business Plan and any in-year material changes	Council
10	Undertaking any business or action which is inconsistent with the Business Plan then in force or omitting to undertake any action which is required by that Business Plan except with the prior written consent of the Council.	Council
11	Passing any resolution for its winding up or presenting any petition for its administration (unless it has become insolvent).	Council
12	Agreeing or approving any other material services the total value of which exceeds £10,000 per annum to be provided by the Company to a third party	Council Company for Subsidiary Companies

13	Appointing any agent (not being a subcontractor) to conduct the whole or any part of the business of the Company, other than the appointment of an agent to conduct an area of the business of the Company.	Council Company for Subsidiary Companies
14	Applying for the listing or trading of any shares in its issued capital or debt securities on any stock exchange or market (where applicable).	Council
	Management of the business of the company	
15	Changing the Company's registered office.	Council
16	Changing the Company's name.	Council
17	Creating or agreeing to create a charge, security or encumbrance over the Company's assets, shares or income	Council
18	Approving any matter that will have an adverse effect on the reputation of the Council.	Council
19	Changing the nature of the business or commencing any new business which is not ancillary or incidental to the business of the Company.	Council
20	Agreeing to enter into or entering into any acquisition or disposal of any material assets by the Company the total value of which exceeds £10,000 per annum.	Council
21	Giving notice of termination of any arrangements, contracts or transactions the total value of which exceeds £10,000 per annum or materially varying any such arrangements, contracts or transactions and such termination or variation is likely to have an adverse	Council
22	Granting rights (by licence or otherwise) in or over any intellectual property owned or used by the Company.	Council
23	Appointing and changing the Company's auditors.	Council
24	Changing the Financial Year of the Company.	Council
25	Agreeing to make or making any loan (otherwise than by way of a 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 or giving any guarantee or indemnity (other than in the normal course of trading).	Council
26	Increasing or reducing the amount of its issued share capital, granting any option over or in its share capital, redeeming or purchasing any of its own shares or otherwise altering, or effecting any reorganisation of, its share capital (where applicable).	Council
27	Declaring or paying any end of year dividend of the Company.	Council

28	Adopting or amending a Conflict of Interest Policy	Council
	Subsidiary Companies	
29	Approving any reserved matter or business plan for a Subsidiary Company.	Company

SCHEDULE 2 – SUBSIDIARY COMPANIES

This Schedule shall apply to Subsidiary Companies.

1 ESTABLISHMENT AND INCORPORATION

- 1.1 It is intended that separate Subsidiary Companies shall (among other things) be formed for the purpose of delivering the goals contain in the Business Plan. Where this Agreement contains a provision which requires a Subsidiary Company to do or refrain from doing any particular act or relates to a Subsidiary Company doing or refraining from doing any particular act, the Company shall exercise all voting rights and other powers of control as are available to it to seek to ensure that the particular act occurs or does not occur, as the case may be.
- 1.2 The Company shall hold 100% of the capital interests of each Subsidiary Company.
- 1.3 Each Subsidiary Company shall have the same registered office, Financial Year End, Auditors and Bank as the Company.

2 MANAGEMENT AND OPERATIONS

- 2.1 The provisions of this Agreement shall also apply to the Subsidiary Companies mutatis mutandis as if the Subsidiary Companies were the Company save where varied in accordance with paragraph 2.2 below (and save to the extent otherwise agreed in writing by the Company or where the context otherwise requires).
- 2.2 In relation to the following matters and those set out in paragraphs 3 and 4 below, the terms of this Agreement shall be deemed to have been varied in respect of the application of the Agreement to a Subsidiary Company:
- 2.2.1 subject to the Company's written agreement to the contrary in respect of a particular Subsidiary Company, the Directors of the Company shall be the Directors of the Subsidiary Board; and
- 2.2.2 matters relating to a Subsidiary Company which (but for this paragraph 2.2.2) would otherwise (by virtue of paragraph 2.1) be deemed to be rights or obligations of, or references to, the Council (including in respect of decisions that would be so reserved to the Council in accordance with the Reserved Matters or any other provision of this Agreement) shall remain rights or obligations of, or references to, the Council (save insofar as the context otherwise requires).
- 2.3 On incorporation, the Subsidiary Company shall adopt the relevant Business Plans and shall adopt any variations, updates and amendments to such Business Plans that are effected in accordance with this Agreement.

3 TERMINATION AND WIND UP OF SUBSIDIARIES

- 3.1 The termination of this Agreement, shall result in a deemed termination in relation to each and every Subsidiary Company. The Company shall use all reasonable endeavours to exercise its powers to ensure that each Subsidiary Company shall be wound up prior to the winding up of the Company.
- 3.2 Where this Agreement is terminated in respect of a Subsidiary Company, this shall not of itself trigger a termination of this Agreement in relation to any other Subsidiary Company, or the Company.

SCHEDULE 3– LETTER OF APPOINTMENT OF A COUNCIL DIRECTOR

[on the headed notepaper of the Company]

To: [Name and address of Director]

[Date]

Dear ■

■ Limited (the **Company**)

This letter contains the terms which we have discussed and agreed for your appointment as a director of the Company, as [a][the] Director of Hart District Council (the **Council**). Your appointment is made pursuant to and is subject to the terms and conditions set in the Shareholder Agreement dated ■ 2020 (**Agreement**).

You shall not be entitled to any fees or remuneration save as paid to you by your appointer or as otherwise expressly agreed in writing.

You shall be expected to attend Board meetings and general meetings (where requested) of the Company. You shall receive details of all such meetings in advance.

You shall not, whether during the appointment or after its termination, except in the proper course of your duties or as required by law, use or divulge, and shall use all reasonable endeavours to prevent the use or disclosure of, any trade or business secrets or any information concerning the business or finances of the Company or of any dealings, transactions, or affairs of the Company or any client, customer or supplier of the Company which comes to your knowledge during the course of this appointment and shall comply with the provisions of clause 18 (*Confidentiality*) of the Agreement as if it applied to you. You shall, however, be entitled to disclose information to the shareholder appointing you as permitted under the Agreement.

The appointment shall automatically cease in relation to the Company in the event that: (a) you resign as a director; or (b) upon the delivery of a notice from the Council in accordance with the Company's Articles of Association removing you from office in relation to the Company. Without limitation to (a) and (b) above, in signing this letter, you acknowledge that your office is subject to the terms of the Agreement and the Company's Articles of Association and may be determined as permitted under the terms of the Agreement and the Articles and that upon such termination you shall vacate office in relation to the Company forthwith without raising any claim whatsoever against the Company.

On termination of your appointment, you agree that you shall promptly return to the Company all papers and property of the Company which are in your possession or under your control.

Please indicate your acceptance and acknowledgement of these terms by signing the attached copy and returning it to me. I look forward to seeing you at our next Board meeting.

Yours sincerely

.....
Signatory, duly authorised
for and on behalf of the Company

I agree to and acknowledge the terms and conditions set out above relating to my appointment as director of the Company.

Signed

Dated

SCHEDULE 4 – DEED OF ADHERENCE

THIS DEED is made on

BY ■ (company number ■) whose registered office is at ■ (the **Covenantor**) in favour of the persons whose names are set out in the schedule to this deed and is supplemental to the Shareholder Agreement dated ■ (the **Agreement**)

THIS DEED WITNESSES as follows:

- 1 The Covenantor confirms that it has been given and read a copy of the Agreement and covenants with each person named in the schedule to this deed to perform and be bound by all the terms of the Agreement which are applicable to it and to perform the obligations contained in the Agreement which are expressed to be performed by the Company (as defined in the Agreement), as if the Covenantor were a party to the Agreement.
- 2 This deed is governed by the laws of England and Wales.

IN WITNESS WHEREOF this deed has been executed by the Covenantor and is intended to be and is hereby delivered on the date first above written.

[Insert correct execution block]

Executed as a deed by)	
■)	
acting by a director and a director/ Secretary)
)	Director
)	
)
)	Director/Secretary

SCHEDULE – List of parties to Shareholder Agreement including those who have executed earlier deeds of adherence

CABINET

KEY DECISIONS/ WORK PROGRAMME, AND EXECUTIVE DECISIONS MADE

June 2021

Cabinet is required to publish its Key Decisions and forward work programme to inform the public of issues on which it intends to make policy or decisions. The Overview and Scrutiny Committee also notes the Programme, which is subject to regular revision.

Report Title	Date item agreed for report	Outline/Reason for Report/Comments	Original Due Date	Revised Due Date	Key Decision Y? Note 1	Cabinet Member (Note 2)	Service (Note 3)	* This item may contain Exempt Information
Corporate Vehicle for Property Holding Purposes: Business Case	Mar 21	Post consideration by Overview & Scrutiny Committee, to consider the business case for the Corporate Property Holding Company	Jun 21			JR	MO	
Outside Bodies	Annual	To consider the effectiveness of the Council's involvement with outside bodies	Jun 21	Jul 21		DN	JCX	
Fit & Proper Person Test Preparations (F&PPT)	Jul 21	Post consideration by Overview & Scrutiny Committee, approval required for setting fees and creating a new statutory function	Jul 21			SB	CSF	

Report Title	Date item agreed for report	Outline/Reason for Report/Comments	Original Due Date	Revised Due Date	Key Decision Y? Note 1	Cabinet Member (Note 2)	Service (Note 3)	* This item may contain Exempt Information
Quarterly Budget Monitoring - Outturn	Quarterly	Post consideration by Overview & Scrutiny Committee, to consider a report on Quarterly Budget Monitoring	Jul 21 Nov 21 Mar 22			JR	F	
Commercialisation Strategy	Jun 21	Post consideration by Overview & Scrutiny to review the refreshed strategy to commercial property investment.	Jul 21			RQ	CS	
Frogmore Day Care Centre	Jan 21	Verbal update to Cabinet on the current position	Jul 21			JR	JCX	
Debt Recovery Policy	Nov 20	Post consideration by Overview & Scrutiny to update Cabinet on the Debt Recovery policy	Jul 21			JR	F	
Emergency COVID Decisions Update	Jul 21	To note updated emergency COVID decisions made since April	Jul 21			JR	JCX	

Report Title	Date item agreed for report	Outline/Reason for Report/Comments	Original Due Date	Revised Due Date	Key Decision Y? Note 1	Cabinet Member (Note 2)	Service (Note 3)	* This item may contain Exempt Information
Regulatory Services Enforcement Policy	Apr 21	Post consideration by Overview & Scrutiny Committee, to consider the adoption of an enforcement policy as recommended by the Government	Jul 21			SK	P	
Waste and Resources Strategy (Progress update)	Jul 21	Post consideration by Overview & Scrutiny Committee, to update Members on the proposed implementation of the Government's Waste and Resources Strategy and its anticipated implications on Hart's waste services	Jul 21			AO	TS	
Shared Licensing Service	Mar 21	Approval required for new deed for the shared Licensing Service with Basingstoke and Deane which expires July 2021	Jul 21			SK	P	
Food and Health and Safety Service Plan	Annual	Recommend to Council that the annual Food Safety Plan be adopted	Jul 21			SK	P	

Report Title	Date item agreed for report	Outline/Reason for Report/Comments	Original Due Date	Revised Due Date	Key Decision Y? Note 1	Cabinet Member (Note 2)	Service (Note 3)	* This item may contain Exempt Information
Revenue and Capital Outturn 2020/2021	Annual	Post consideration by Overview & Scrutiny Committee, to consider the Annual report on outturn	Aug 21			JR	F	
Treasury Management 2020/2021 (Annual Report)	Annual	Post consideration by Overview & Scrutiny Committee, to consider the Annual report on Treasury Management Activities 2020/21	Aug 21			JR	F	
Revised Safeguarding Policy & Procedure	Apr 21	Post consideration by Overview & Scrutiny to update Cabinet on the Safeguarding Policy & Procedure be adopted	Aug 21			JR	CSF	
Treasury Management 2021/22 (Half Year Report)	Annual	Post consideration by Overview & Scrutiny Committee, to consider a Half Year review report on Treasury Management Strategy 2020/21	Dec 21			JR	F	
Budget and Medium Term Financial Strategy	Annual	To give an early consideration of the emerging budget for 2021/22 and the MTFS	Dec 21			JR	F	

Report Title	Date item agreed for report	Outline/Reason for Report/Comments	Original Due Date	Revised Due Date	Key Decision Y? Note 1	Cabinet Member (Note 2)	Service (Note 3)	* This item may contain Exempt Information
Draft 2021/22 Revenue Budget, Capital Programme and Council Tax Proposals	Annual	Post consideration by Overview & Scrutiny Committee, to agree to recommend to Council the 2021/22 Revenue Budget, Capital Programme and Council Tax Proposals	Feb 22			JR	F	
Draft 2021/22 Capital Strategy, Treasury Management Strategy Statement and Asset Management Plan	Annual	Post consideration by Overview & Scrutiny Committee, to agree to recommend to Council the 2021/22 draft Capital Strategy, the 2021/22 Treasury Management Strategy Statement and Asset Management Plan	Feb 22			JR	F	
Service Plans	Annual	Post consideration by Overview & Scrutiny Committee, agree the 2021/22 Service Plans	Apr 22			DN	ALL	

Note 1

A “key decision” means an executive decision which, is likely to -

- a) result in Council incurring expenditure or the making of savings which amount to £30,000 or 25% (whichever is the larger) of the budget for the service or function to which the decision relates; or
- b) be significant in terms of its effects on communities living or working in an area comprising two or more wards within the area of the district of Hart.

Note 2

Cabinet Members

DN	Leader	SA	Digital	RQ	Commercialisation (Cn)	SB	Community (Cy)
SK	Regulatory	AO	Environment	JR	Finance and Corporate Services	GC	Place

Note 3

Service:

JCX	Joint Chief Executive	CS	Corporate Services	P	Place Services
CSF	Community Safety	PP	Planning Policy	TS	Environmental & Technical Services
F	Finance	H	Community Services		
SLS	Shared Legal Services	MO	Monitoring Officer		

Note 4

* **This item may contain Exempt Information** - Regulation 5 of the Local Authority (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

EXECUTIVE DECISIONS
