

Appendix 1 – Draft Shareholder Committee Terms of Reference

Dorset Centre of Excellence Shareholder Committee

1. Role/Terms of Reference and Membership

- a. The Dorset Centre of Excellence Shareholder Committee shall be primarily responsible for the following delegated functions except where specific functions have been delegated to an Officer:
 - monitoring the performance of the DCOE (including in relation to Business Plans and associated budgets);
 - monitor the business affairs, finances, and accounts of the DCOE;
 - overseeing the strategic direction of the DCOE or proposed and adopted business plans and budgets for future years to be presented in draft as they are developed or the review of future service developments and opportunities;
 - considering the risks and opportunities faced by the DCOE and impact on the Council (including, for example, in relation to commercial factors, governance issues, and health and safety records);
 - monitoring DCOE compliance with relevant legislation;
 - assuring that DCOE status as a 'Teckal' company is maintained;
 - taking decisions that relate to any matter identified as being reserved to be taken by the Shareholder ("Council Consent" matters) listed within Appendix 1, within the Articles of Associations and/or the Shareholder Agreement for the DCOE. Provided that where a decision affects the Council budgetary framework the Shareholder Committee will consider the decision and provide a recommendation to Full Council.
 - exercising the Shareholders reserve power by Special Resolution (in accordance with item 5 of the Articles of Association).
 - reporting and making recommendations to the Cabinet on areas outside of the Shareholder Committee's delegated authority.
 - reporting to Full Council annually on the performance of the trading activities of the DCOE.
 - reviewing these Terms of Reference annually and make any necessary recommendations to Cabinet.
- b. The Shareholder Committee will not have operational control over the DCOE. All decisions regarding the day to day operation and management of DCOE rests the DCOE board of directors, which must ensure that DCOE business is conducted in accordance with the terms of the Shareholders' Agreement entered into between the Council and DCOE (Shareholders' Agreement) and in accordance with DCOE articles of association.
- c. The Shareholder Committee shall comprise of 5 Members drawn from the Cabinet to be appointed by the Leader of the Council/Cabinet.
- d. The quorum of the Shareholder Committee shall be 3 Members.
- e. There shall be no power to appoint substitutes to the Shareholder Committee.
- f. The Chief Executive, Section 151 Officer, Monitoring officer and Executive Director People – Children (or their nominees) will be advisors to the Shareholder Committee. Additional advisors and DCOE officers and directors may be invited to attend the Shareholder Committee as required.

2. Appointment of Chairman and Vice-Chairman

The Leader of the Council/Cabinet will appoint the Chairman and Vice-Chairman of the Shareholder Committee.

3. Meetings

- a. The number of ordinary meetings of the Shareholder Committee each year will normally be quarterly unless otherwise determined by the Leader of the Council.
- b. The Chairman of the Shareholder Committee shall have the power to call one or more special meeting(s) of the Shareholder Committee.
- c. The Chairman of the Shareholder Committee may determine that a meeting should be cancelled for insufficient business.

4. Delegated powers and powers of recommendation of the Shareholder Committee

- a. The Shareholder Committee shall have the powers as set out in Functions of the Council - Part 3(1) of the Constitution.
- b. For the avoidance of doubt the Shareholder Committee can delegate any of their powers to any Officer.

Appendix 1

Council Consent Matters (Shareholder Agreement Schedule 1)

- 1 No Company shall, unless it has Council Consent:
 - 1.1 vary in any respect its articles of association or the rights attaching to any of its shares/ members; or
 - 1.2 appoint any person as a director of the Company; or
 - 1.3 permit the registration of any person as a member/ shareholder of the Company; or
 - 1.4 issue any loan capital or enter into any commitment with any person with respect to the issue of any loan capital; or
 - 1.5 make any borrowing; or
 - 1.6 propose that its members pass any resolution for its winding up or present any petition for its administration (unless the Company has become insolvent); or
 - 1.7 engage in any business other than as set out in the Company's Business Plan or defraying any monies other than in good faith for the purposes of or in connection with the carrying on of such business; or
 - 1.8 form any Subsidiary or acquire shares in any other company or participate in any partnership or joint venture (incorporated or not); or
 - 1.9 amalgamate or merge with any other company or business undertaking; or
 - 1.10 alter its name or registered office; or
 - 1.11 enter into any transaction or arrangement of any nature whatsoever with any of the Company's members or directors or any person who is connected (within the meaning of sections 1122 and 1123 of the Corporation Tax Act 2010) to any of its members or directors whether or not any other person shall be party to such transaction or arrangement; or
 - 1.12 enter into any arrangement, contract, or transaction outside the normal course of the Company's Business or otherwise than on arm's length terms; or
 - 1.13 create or permit to be created any mortgage, charge, encumbrance, or other security interest whatsoever on any asset or its business in whole or in part; or
 - 1.14 adopt or amend its annual Business Plan save in accordance with clause 2.4 of the Shareholder Agreement, or enter into any contract or commitment not provided for in the Business Plan under which it may incur costs in excess of £100,000; or
 - 1.15 change its financial year end; or
 - 1.16 make any loan (otherwise than by way of deposit with a bank or other institution the normal business of which includes the acceptance of deposits) or grant any credit (other than in the normal course of trading); or
 - 1.17 give any guarantee, suretyship, or indemnity to secure the liability of any person or assume the obligations of any person; or
 - 1.18 factor or assign any of the book debts of the Company; or

- 1.19 establish or amend any profit-sharing, share option, bonus, or other incentive scheme of any nature for directors, officers, or employees; or
- 1.20 establish or amend any pension scheme or grant any pension rights to any director, officer, employee, former director, officer or employee, or any member of any such person's family other than in accordance with the Remuneration Policy; or
- 1.21 dismiss any director, officer, or employee in circumstances in which it incurs or agrees to bear redundancy or other costs in excess of £10,000; or
- 1.22 agree to remunerate (by payment of fees, the provision of benefits-in-kind or otherwise) any director, employee or consultant to the Company save in accordance with the Remuneration Policy; or
- 1.23 make any agreement with any revenue or tax authorities or make any claim, disclaimer, election, or consent exceeding £25,000 for tax purposes in relation to the Company or its business; or
- 1.24 breach the terms of the Company's Code of Conduct; or
- 1.25 issue or allot any share capital; or
- 1.26 amend, in any material respect, the terms and conditions on which any employee of the Company is employed, save in accordance with the Remuneration Policy; or
- 1.27 change the nature of the Business or commence any new business by any Group Member which is not ancillary or incidental to the Business; or
- 1.28 make or permit to be made any change in the accounting policies and principles adopted in the preparation of its audited or management accounts except as may be required to ensure compliance with relevant accounting standards under the Companies Act 2006 or any other generally accepted accounting principles in the United Kingdom; or
- 1.29 appoint or remove the Chair; or
- 1.30 institute, settle or compromise any material legal proceedings instituted or threatened against it or submitting any dispute to arbitration or alternative dispute resolution, save in relation to any legal proceedings, arbitration or alternative dispute resolution between the Company and the Council; or
- 1.31 make any acquisition, disposal, or structural modifications of any material asset(s), leases, or land interests; or
- 1.32 allow any of its employees, agents, or officers to reside within the premises unless specified within the service contract between the Council and the Parent Company; or
- 1.33 give notice of termination of any arrangements, contracts, or transactions in excess of £50,000 in value, or materially vary any such arrangements, contracts, or transactions; or
- 1.34 consent to proceed with capital development of any material asset(s) such as on the land it operates; or
- 1.35 enter into an agreement to do any of the above.