

dated

2017

Oxford City Council

and

Oxford Direct Services Trading Limited

Shareholder Agreement

Oxford Direct Services Trading Limited

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Shareholder Agreement

dated 2017

Parties

- (1) **Oxford City Council** of Town Hall, St Aldate's, Oxford, OX1 1BX (the **Council**); and
- (2) **Oxford Direct Services Trading Limited** a company incorporated and registered in England and Wales with registered number 107192144 whose registered office is at St Aldates Chambers, 109 St Aldates, Oxford, United Kingdom, OX1 1DS (the **Company**).

Introduction

- (A) The Company was incorporated on 10 April 2017 as a private company limited by shares. At the date of this Agreement the Company has issued share capital of £1 with one share of £1 owned by the Council.
- (B) This Agreement sets out the terms upon which the Council will participate in the Company as its Shareholder and is made pursuant to the Council's powers under section 1 of the Localism Act 2011 and all other relevant enabling legislation.

Agreed terms

1 Interpretation and definitions

1.1 In this Agreement:

Board of Directors means the board of directors of the Company;

Board Meeting means a meeting of the Board of Directors;

Business means the business of the Company described in clause 3, as set out in the Business Plan and such other business as the Council may agree from time to time in writing should be carried on by the Company;

Business Day means any day (other than a Saturday or Sunday) or a bank or public holiday in England and Wales;

Business Plan means a business plan in a form to be approved by the Directors setting out the implementation, over a particular financial year or years, of the strategic objectives of the Company in relation to the Business, to include budgets, expenses (including any administrative expenses) and projected financial results for the financial year(s) in question and the first Business Plan is set out in Schedule 3. For the avoidance of doubt, the parties acknowledge that the first and subsequent Business Plans may be a joint Business Plan made between the Company and Oxford Direct Services Limited.

Completion means completion of the various matters provided for in clause 2;

Deed of Adherence means a deed of adherence in substantially the same form as set out in Schedule 1;

Director means any director for the time being of the Company, including where applicable any alternate director;

Dividend Policy means a dividend policy that the Shareholder will agree from time to time and the first Dividend Policy is set out in Schedule 4;

Environmental Information Regulations means the Environmental Information Regulations 2004;

Financial Year means the 12 month period reported in the annual accounts to be filed at Companies House.

FOIA means the Freedom of Information Act 2000;

Information has the meaning given to it under section 84 of the FOIA;

Management Accounts Date means 31 March, 30 June, 30 September and 31 December in each year;

New Articles means the new articles of association of the Company to be adopted at Completion, which are substantially in the form set out in Schedule 2 (with such changes as the parties may agree) as amended or superseded from time to time;

Request for Information has the meaning set out in the FOIA or any apparent request for information made under the FOIA or the Environment Information Regulations;

Security Interest means any mortgage, charge, pledge, lien, hypothecation, assignment by way of security, guarantee, indemnity, debenture, declaration of trust, right of set off or combination of accounts or any other type of preferential arrangement (including without limitation, a title transfer and retention of title) or any encumbrance or security interest whatsoever, howsoever arising and whether monetary or not;

Service Contract means a contract to be let by the Council to the Company under which the Company will provide certain services to and on behalf of the Council.

Shareholder means the Council and/or any person to whom it may properly transfer any Shares in accordance with this Agreement and who enters into a Deed of Adherence agreeing to be bound by the terms of this Agreement;

Shares means the ordinary shares of £1 each in the capital of the Company; and

Subsidiary Undertaking means a subsidiary undertaking as defined in section 1162 of the Companies Act 2006.

- 1.2 Any reference to a statute or statutory provision is a reference to it as it is in force from time to time, taking account of any change, extension, consolidation or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.3 Clause headings in this Agreement are for convenience only and do not affect the construction of any provision.
- 1.4 References to any gender shall include the other genders and references to the singular shall include the plural and vice versa.

1.5 Any reference to a person (which for the purposes of this Agreement shall include a firm, unincorporated association, body corporate, government, state or agency of state, any association or partnership or joint venture (whether or not having a separate legal personality)) shall include its successors in title.

1.6 In this Agreement all obligations and liabilities on the part of the Shareholder are (unless expressly stated otherwise) several and shall be construed accordingly.

1.7 Any reference to a document **in the agreed form** shall be a reference to that document in the form agreed and initialled by or on behalf of the Shareholder for the purpose of identification and attached to this Agreement.

2 **Completion**

2.1 Completion shall take place immediately following execution of this Agreement, when the parties shall procure that meetings of the Company and the Board of Directors are held as may be necessary to adopt the New Articles.

3 **The Business of the Company**

3.1 The Shareholder acknowledges and agrees that unless and until it indicates otherwise, the Business of the Company shall be to provide services to external customers.

3.2 The first Business Plan of the Company is attached as Schedule 3 to this Agreement, and by such attachment the Shareholder indicates its agreement to the first Business Plan. The first and each subsequent Business Plan shall cover a 4 year rolling period, and shall be refreshed on an annual basis. On each such annual refresh the Company shall circulate its new 4 year Business Plan to the Shareholder for approval. The Shareholder shall use its reasonable endeavours to either approve the new Business Plan, or to provide comments indicating any areas of disapproval, as quickly as possible and in any event within 2 months of receipt. In the event that the new Business Plan is agreed by the Shareholder the Directors shall adopt the Business Plan at its next convenient Board meeting. In the event that the Shareholder does not agree the new Business Plan, the Directors shall meet the Shareholder to discuss any points of disagreement with a view to producing an agreed draft, but in the event that there is no such agreement, the Shareholder may direct the Directors either to adopt a new Business Plan with which the Shareholder agrees, or to revert to the then current Business Plan. No new Business Plan or any annual refresh or any material variation, updating or replacement of any existing Business Plan shall be valid unless such new, refreshed, materially varied or updated version has been adopted by the Company in accordance with the provisions of this clause.

3.3 Each new Business Plan shall be substantially in the format of the preceding Business Plan and shall be for a 4 year rolling period and refreshed on an annual basis in accordance with the provisions of Clause 3.2 above. For the avoidance of doubt, the Company and the Shareholder acknowledge that unless they agree otherwise, the Business Plan (and any refresh of it) may relate to both the Company and to any other trading company owned by the Shareholder.

3.4 For the further avoidance of doubt, throughout any period when any new or refreshed Business Plan which has been presented for comment to the Shareholder under clause 3.2 above has not been properly adopted by the Company fully in accordance with the

provisions of Clause 3.2 above, the relevant existing Business Plan shall continue to be the Business Plan of the Company.

3.5 Subject to the provisions of this Agreement, the Shareholder understands and agrees that the Company shall use all reasonable and proper means to maintain and improve the Business.

4 **Conduct of the Company's affairs**

4.1 With the exception of those matters requiring the Shareholder's consent pursuant to clause 7, the day-to-day management of the Company shall be vested in the Directors. Without prejudice to the generality of the foregoing, the Directors will determine the general policies of the Company and the manner in which the Business is to be carried out. In particular, but without limitation to the generality of the foregoing, the Directors shall exercise all voting rights and other powers of control available to them in relation to the Company so as to procure (in so far as they are able in the exercise of such rights and power) that, at all times during the term of this Agreement, the Company shall carry on and conduct its Business and affairs in a proper and efficient manner, for its own benefit, for the benefit of the Shareholder, in accordance with the Business Plan, the Service Contract and following good business practices.

4.2 The Company shall not carry out any activity which would render the holding of Shares by any Shareholder unlawful provided that where a proposed change of law would render such Shareholding unlawful such Shareholder will use all reasonable endeavours to take such steps as are necessary to allow it to continue lawfully to hold its Shares.

4.3 The Company will if it requires any approval, consent or licence for the carrying on of its Business in the manner in which it is from time to time carried on or proposed to be carried on, use all reasonable endeavours to obtain and maintain the same in full force and effect.

4.4 All books, records, accounts and documents relating to the Business and the affairs of the Company and its subsidiaries shall be open, on receipt of reasonable notice, to the inspection of the Shareholder (or its agents) to keep the Shareholder properly informed about the Business and affairs of the Company or to protect its interests as a Shareholder. Any confidential information secured as a consequence of such examinations shall be kept confidential by the requesting Shareholder in accordance with the terms of clause 14.

4.5 The Company agrees with the Shareholder that it will ensure the maintenance of effective and appropriate control systems in relation to the financial, accounting and record-keeping functions of the Company and will generally keep the Shareholder informed of the progress of the Company's Business and affairs and in particular will procure that the Shareholder is given such information and such access to the officers, employees and premises of the Company as it may reasonably require for the purposes of enabling it to monitor its investment in the Company.

4.6 The Company shall:

4.6.1 identify the Council's ownership of the Company on its official business stationery and in other promotional material (as agreed); and

4.6.2 not engage in any party political publicity.

4.7 The Shareholder shall take all such steps and do all such acts and things as may be necessary or desirable, including, without limitation, exercising all voting and other rights and powers of control available to it, in relation to the Company so as to procure (insofar as it is able to do so by the exercise of those rights and powers) that at all times during the term of this Agreement:

4.7.1 the Company is managed in accordance with the objectives and provisions of this Agreement; and

4.7.2 the Company performs and complies with all obligations on its part under this Agreement and the New Articles.

4.8 The Company's Financial Year shall run from 1st April to 31st March.

5 **The Board of Directors**

5.1 A Board Meeting shall be held no less than once in every quarter.

5.2 Unless otherwise agreed by all the Directors, 5 Business Days' notice shall be given to each of the Directors of all Board Meetings. The notice convening a Board Meeting shall include an agenda specifying in reasonable detail the matters to be discussed, together with any relevant papers for discussion at such meeting.

6 **Finance for the Company**

If the Company requires capital, the Company may request such capital from the Shareholder **provided that** the Shareholder shall not be obliged to provide any such capital or any guarantee or security in respect of any indebtedness of the Company or to put up the finance concerned.

7 **Matters requiring the consent of the Shareholder**

7.1 The Company shall procure (insofar as it is able to do so) that at all times during the term of this Agreement no action shall be taken or resolution passed by the Company or any Subsidiary Undertaking of the Company in respect of any of the following matters except with the prior written consent of the Shareholder:

7.1.1 altering in any respect the New Articles or the rights attaching to any of the Shares in the Company;

7.1.2 permitting the registration of any person as a member of the Company other than the Council;

7.1.3 issuing or allotting any Shares;

7.1.4 borrowing any monies (other than from the Council);

7.1.5 changing the name of the Company or its registered office;

7.1.6 adopting a new Business Plan or materially amending the then current Business Plan, other than in accordance with the provisions of Clause 3.2 above;

- 7.1.7 changing the nature of the Company's Business or commencing any new business by the Company or undertaking business which is materially inconsistent with the Business Plan and the Service Contract;
- 7.1.8 forming any subsidiary or acquiring shares in any other company or participating in any partnership or joint venture (incorporated or not) outside of the Business Plan;
- 7.1.9 amalgamating or merging with any other company or business undertaking;
- 7.1.10 creating or granting any Security Interest over the whole or any part of the Business, undertaking or assets of the Company or over any Shares in the Company or agreeing to do so;
- 7.1.11 making any loan (otherwise than by way of deposit with a bank or other institution the normal business of which includes the acceptance of deposits) or granting any credit (other than in the normal course of trading) or giving any guarantee or indemnity;
- 7.1.12 entering into or tendering for any work which would fall outside of the normal course of business as set out in the then current Business Plan or permitted under the Company's Scheme of Delegation;
- 7.1.13 appointing or changing the auditors of the Company or its financial year end;
- 7.1.14 making or permitting to be made any change in the accounting policies and principles adopted by the Company 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;
- 7.1.15 declaring or paying any dividend outside the terms of the Dividend Policy;
- 7.1.16 appointing or dismissing any Director;
- 7.1.17 establishing or amending any profit-sharing, share option, bonus or other incentive scheme of any nature for Directors;
- 7.1.18 making any remuneration decision outside the terms of the Remuneration Policy
- 7.1.19 making any amendment to the collective terms and conditions of employment of any members of staff
- 7.1.20
 - a) purchasing, leasing or otherwise acquiring assets, or any interests in assets, or
 - b) disposing of any assets, or
 - c) entering into any contracts or transactions

which would involve the Company in the payment of consideration having an aggregate value in excess of £250,000, where dealing with any such assets or

entering into any such contracts or transactions would fall outside the normal course of business as set out in the then current Business Plan or the Service Contract;

7.2 The agreement of the Shareholder to any of the matters referred to in clause 7.1 shall be evidenced by the signature of an authorised signatory of the Shareholder on the resolution approving the matter in question.

8 Dividends

8.1 The amount of any Dividend to be paid (if any) shall be determined by the Dividend Policy.

9 Anti-corruption

9.1 In this clause:

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

Associated Person means in relation to a party to this Agreement, any person (including an officer, employee, agent or Subsidiary Undertaking) who performs services for or on behalf of that party;

Corrupt Activity means extortion, fraud, deception, collusion, cartels, abuse of power, embezzlement, trading in influence, money-laundering or any similar activity including without limitation any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act;

9.2 Each party declares and undertakes to the other parties that:

9.2.1 it has not and will not in relation to the Company or the operation of the Business, engage in any Corrupt Activity;

9.2.2 it will not authorise or acquiesce in or turn a blind eye to, any Corrupt Activity;

9.2.3 it has and will maintain in place, or in the case of the Company it will put and maintain in place, Adequate Procedures designed to prevent any Associated Person from undertaking any conduct that would give rise to an offence under section 7 of the Bribery Act 2010;

9.2.4 it has not and will not engage in any activity, practice or conduct which could place the Company or any other party in breach of section 7(1) of the Bribery Act;

9.2.5 from time to time, at the reasonable request of the other party, it will confirm in writing that it has complied with its undertakings under this clause 9.2 and will provide any information reasonably requested by the other party in support of such compliance; and

9.2.6 it will ensure that its Associated Persons will comply with its commitments under this clause 9.

10 **Transfer of Shares**

10.1 Except with the prior written consent of the other Shareholders each Shareholder shall comply with the provisions relating to the issue and transfer of Shares contained in the New Articles.

10.2 The Directors and the Company shall procure that no person who acquires Shares in the Company (whether by transfer or allotment or otherwise) (a **New Shareholder**) shall be registered as their holder unless or until he has entered into a Deed of Adherence.

10.3 A New Shareholder who has entered into a Deed of Adherence in accordance with clause 10.2 shall have all the rights and obligations as if he were an original party to this Agreement in the capacity of a Shareholder.

11 **Conflict with the New Articles**

In the event of any ambiguity or discrepancy between the provisions of this Agreement and the New Articles, then it is the intention of the Shareholder that the provisions of this Agreement shall prevail. Accordingly, each Shareholder (so far as each is able) shall take all such steps and do all such acts and things as may be necessary or desirable, including, without limitation, exercising all voting and other rights and powers of control available to it in relation to the Company, so as to give effect to the provisions of this Agreement and shall further if necessary procure (insofar as it is able to do so by the exercise of those rights and powers) any required amendment to the New Articles.

12 **No fetter**

Nothing in this Agreement shall operate to bind the Company or the Council to the extent that it constitutes an unlawful fetter on any statutory power of the Company or the Council (but this shall not affect the validity of the relevant provision as between the other parties to this Agreement or the respective obligations of such other parties as between themselves under clause 11).

13 **Duration and termination**

13.1 This Agreement shall continue in full force and effect, unless otherwise agreed in writing by the Shareholder until the earlier of the following events:

13.1.1 each Shareholder agrees in writing to terminate this Agreement; or

13.1.2 an effective resolution is passed or a binding order is made for the winding up of the Company;

provided that this Agreement shall cease to have effect as regards any Shareholder who ceases to hold any Shares in the Company, except for any provisions which are expressed to continue in force thereafter.

13.2 Termination of this Agreement pursuant to this clause shall not release any party from any liability which at the time of termination has already accrued to another party or which may

accrue after termination of this Agreement in respect of any act or omission prior to such termination.

- 13.3 Upon termination of this Agreement pursuant to clause 13.1.1, the Shareholder shall do all such acts and things as are necessary to procure (so far as they are able) (including, without limitation, the holding of a general meeting of the Company and the passing of appropriate Shareholder resolutions) that the Company be wound up.

14 **Confidentiality**

- 14.1 This clause applies to:

14.1.1 all information of a confidential nature disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by one party to one of the other parties whether before or after the date of this Agreement;

14.1.2 any information concerning the business affairs of one party or other information confidential to that party which one of the other parties learns as a result of the relationship between the parties pursuant to this Agreement;

including any information relating to any party's products, operations, processes, plans or intentions, product information, know-how, design rights, trade secrets, market opportunities and business affairs (together, **Confidential Information**).

- 14.2 In this clause, in relation to a particular item of Confidential Information:

14.2.1 the **Disclosing Party** means the party by whom (or on whose behalf) that Confidential Information is disclosed or (where there is no such disclosure) the party to whom the Confidential Information relates, or to whom the Confidential Information is proprietary or who otherwise desires that the confidentiality of the Confidential Information is respected; and

14.2.2 the **Receiving Party** means the other party.

- 14.3 During the term of this Agreement and after termination of this Agreement for any reason whatsoever, the Receiving Party shall:

14.3.1 keep the Confidential Information confidential;

14.3.2 not disclose the Confidential Information to any other person other than with the prior written consent of the Disclosing Party or in accordance with this clause 14; and

14.3.3 not use the Confidential Information for any purpose other than the performance of its obligations and the exercise of its rights under this Agreement.

- 14.4 Notwithstanding clause 14.3, the Receiving Party may disclose Confidential Information as follows:

14.4.1 to its professional advisers (each, a Recipient) providing the Receiving Party ensures that each Recipient is made aware of and complies with all the

Receiving Party's obligations of confidentiality under this Agreement as if the Recipient was a party to this Agreement; and

14.4.2 to other parties to this Agreement, and where disclosure is required by law, by any court of competent jurisdiction or by any appropriate regulatory body.

14.5 This clause 14 shall not apply to any Confidential Information which:

14.5.1 is at the date of this Agreement or at a later date comes into the public domain other than through breach of this Agreement by the Receiving Party or any Recipient;

14.5.2 was known by the Receiving Party before receipt from (or on behalf of) the Disclosing Party (or, as appropriate, before the Receiving Party learnt of the same pursuant to this Agreement) and which had not previously been obtained under an obligation of confidence; or

14.5.3 subsequently comes lawfully into the Receiving Party's possession from a third party, free of any obligation of confidence.

14.6 The Company acknowledges that the Council is subject to the requirements of the FOIA, the Environmental Information Regulations and other access to information and propriety controls as provided in legislation, and shall facilitate the Council's compliance with its Information disclosure requirements pursuant to and in the manner provided for in clauses 14.7 and 14.10.

14.7 If the Council receives a Request for Information in relation to Information that the Company is holding and which the Council does not hold itself, the Council shall refer to the Company such Request for Information as soon as practicable and in any event within five (5) Business Days of receiving a Request for Information, and the Company shall:

14.7.1 provide the Council with a copy of all such Information in the form that the Council requires as soon as practicable and in any event within 10 Business Days (or such other period as the Council acting reasonably may specify) of the Council's request; and

14.7.2 provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to a Request for Information within the time for compliance set out in Section 10 of the FOIA or Regulation 5 of the Environmental Information Regulations.

14.8 Following notification under clause 14.7, and up until such time as the Company has provided the Council with all the Information specified in clause 14.7, the Company may make representations to the Council as to whether or not or on what basis Information requested should be disclosed, and whether further information should reasonably be provided in order to identify and locate the information requested, provided always that the Council shall be responsible for determining, at its absolute discretion:

14.8.1 whether Information is exempt from disclosure under the FOIA and the Environmental Information Regulations; and

- 14.8.2 whether Information is to be disclosed in response to a Request for Information, and in no event shall the Company respond directly to a Request for Information.
- 14.9 The Company acknowledges that (notwithstanding the provisions of clause 14.1) the Council may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of Functions of Public Authorities under part I of the Freedom of Information Act 2000, be obliged under the FOIA or the Environmental Information Regulations to disclose Information concerning the Managers or the Company:
- 14.9.1 in certain circumstances without consulting with the Company; or
- 14.9.2 following consultation with the Company and having taken its views into account.
- 14.10 The Company shall transfer to the Council any Request for Information received by it as soon as practicable and in any event within 3 Business Days of receiving it.
- 14.11 The Company acknowledges that any lists provided which list or outline Confidential Information are of indicative value only and that the Council may nevertheless be obliged to disclose Confidential Information in accordance with clause 14.9.
- 15 **General**
- 15.1 Except where this Agreement provides otherwise, each party shall pay its own costs relating to or in connection with the negotiation, preparation, execution and performance by it of this Agreement and of each agreement or document entered into pursuant to this Agreement and the transactions contemplated by this Agreement.
- 15.2 No variation of this Agreement or any agreement or document entered into pursuant to this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.
- 15.3 No delay, indulgence or omission in exercising any right, power or remedy provided by this Agreement or by law shall operate to impair or be construed as a waiver of such right, power or remedy or of any other right, power or remedy.
- 15.4 No single or partial exercise or non-exercise of any right, power or remedy provided by this Agreement or by law shall preclude or restrict any other or further exercise of such rights, power or remedy or of any other right, power or remedy.
- 15.5 A waiver of a breach of any of the terms of this Agreement or of a default under this Agreement does not constitute a waiver of any other breach or default and shall not affect the other terms of this Agreement.
- 15.6 A waiver of a breach of any of the terms of this agreement or of a default under this Agreement will not prevent a party from subsequently requiring compliance with the waived obligation.
- 15.7 The rights and remedies provided by this Agreement are cumulative and [subject as otherwise provided in this Agreement] are not exclusive of any rights, powers or remedies provided by law.

- 15.8 If any provision of this Agreement is or becomes illegal, invalid or unenforceable under the law of any jurisdiction, that shall not affect or impair:
- 15.8.1 the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or
 - 15.8.2 the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.
- 15.9 This Agreement, and the documents referred to in it, constitute the entire agreement and understanding between the parties and supersede any previous agreement, understanding or arrangement between the parties relating to the subject matter of this Agreement.
- 15.10 Each of the parties acknowledges and agrees that:
- 15.10.1 in entering into this Agreement, and the documents referred to in it, it does not rely on, and shall have no remedy in respect of, any statement, representation, assurance, warranty or understanding of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement or those documents;
 - 15.10.2 the only remedy available to it arising out of or in connection with this Agreement or its subject matter shall be for damages for breach of contract under the terms of this Agreement;
 - 15.10.3 nothing in this clause shall operate to limit or exclude any liability for fraud.
- 15.11 Save for a person who enters into a Deed of Adherence pursuant to clause 10.2, no person who is not a party to this Agreement shall have any right to enforce this Agreement or any agreement or document entered into pursuant to this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999.

16 **Assignment**

This Agreement is personal to the parties and neither party shall assign, transfer, charge, make the subject of a trust or deal in any other manner with this Agreement or any of its rights or obligations under it, or purport to do any of the same, nor sub-contract any or all of its obligations under this Agreement without the prior written consent of the other party save where the Council's functions are transferred or assigned to a successor body. Each party is entering into this Agreement for its benefit and not for the benefit of another person.

17 **No partnership or agency**

Nothing in this Agreement is intended to or shall operate to create a partnership, or to authorise any party to act as agent for any other or to establish any other fiduciary relationship between the parties. No party shall have authority to act in the name or on behalf of or otherwise to bind any other party in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

18 **Notices**

18.1 Any notice or other communication given under this Agreement:

18.1.1 shall be in writing;

18.1.2 shall be signed by or on behalf of the party giving it;

18.1.3 shall be served by delivering it by hand or sending it by pre-paid recorded delivery or registered post or by fax at the address or fax number set out in clause 18.2 of the party due to receive it and marked for the attention of the person named in clause 18.2 (or at such other address in the United Kingdom or fax number or marked for the attention of such other person as last notified in writing to the other parties;

18.1.4 shall be deemed to have been received:

(a) if delivered by hand, at the time of actual delivery;

(b) in the case of pre-paid recorded delivery or registered post, two Business Days after the date of posting; and

(c) in the case of fax, at the time of completion of transmission.

18.2 The addresses of the parties for the purposes of clause 18.1 are:

The Company

Address: St Aldates Chambers, 109 St Aldates, Oxford, United Kingdom, OX1 1DS

For the attention of: The Company Secretary

The Council

Address: Town Hall, St Aldate's, Oxford, OX1 1BX

For the attention of: **[Client-side representative]**?

To prove delivery it shall be sufficient to prove that the envelope containing the notice was addressed to the address of the relevant party set out in clause 18.2 and delivered either to that address or into the custody of the postal authorities as a pre-paid recorded delivery, registered post or airmail letter, or that the notice was transmitted by fax to the fax number of the relevant party set out in clause 18.2.

18.3 In this clause if deemed receipt occurs before 9am on a Business Day the notice shall be deemed to have been received at 9am on that day, and if deemed receipt occurs after 5pm on a Business Day, or on a day which is not a Business Day, the notice shall be deemed to have been received at 9am on the next Business Day.

18.4 For the avoidance of doubt, a notice or other communication given under this Agreement shall not be validly served if sent by e-mail.

19 **Counterparts**

19.1 This Agreement may be executed in any number of counterparts and by different parties on separate counterparts (which may be facsimile copies), but shall not take effect until each party has executed at least one counterpart. Each counterpart shall constitute an original, and all the counterparts together shall constitute a single agreement.

20 **Applicable law**

20.1 The parties agree that this Agreement and any dispute or claim arising out of or in connection with this Agreement, its negotiation or its subject matter, or any non-contractual obligation arising in connection with the foregoing, shall be governed by and construed in accordance with the laws of England and Wales.

20.2 Each of the parties irrevocably agrees to submit to the exclusive jurisdiction of the courts of England and Wales in relation to any claim or matter arising out of or in connection with this Agreement, its negotiation or its subject matter, or any non-contractual obligation arising in connection with the foregoing.

This Agreement has been executed on the date stated at the beginning of this Agreement.

Schedule 1

Deed of Adherence

Deed of adherence

dated 20[]

By [Limited] a company incorporated in [] (registered number []) whose registered office is at [] (the **New Shareholder**) in favour of the persons whose names and addresses are set out in the Schedule to this Deed (the **Continuing Parties**).

Introduction

- (A) This Deed is supplemental to a Shareholder Agreement dated 2017 the Council and the Company (the **Shareholder Agreement**) and to *[insert details of any subsequent Deeds of Adherence or Amendment]*.
- (B) The New Shareholder wishes to [subscribe for] [acquire] [] Shares in the capital of the Company [from *Transferor*].
- (C) Clause [] of the Shareholder Agreement provides that no person other than a Shareholder shall acquire Shares in the Company (whether by way of transfer or allotment or otherwise) unless he enters into a Deed of Adherence in substantially the form of this Deed.

Agreed terms

- 1 The New Shareholder confirms that [he/it] has been given a copy of the Shareholder Agreement and covenants with the Continuing Parties to observe, perform and be bound by every provision of the Shareholder Agreement (other than the Excluded Clauses) as if the New Shareholder had been an original party to it.
- 2 In this Deed the Excluded Clauses shall mean clauses [insert numbers of clauses to be excluded i.e. ones containing a personal obligation] of the Shareholder Agreement.
- 3 Unless the context requires otherwise, words and expressions defined in the Shareholder' Agreement shall have the same meanings when used in this Deed.
- 4 This Deed shall be governed by and construed in accordance with the laws of [].

This Deed of Adherence has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Schedule

[Insert names and addresses of Continuing Parties]

Schedule 2

New Articles

Schedule 3
Business Plan

Schedule 4

Dividend Policy

The Company shall pay no Dividend to the Shareholder unless the following matters have been met in full:

- 1) The Company and Oxford Direct Services Trading Limited (“the Trading Group”) have fully delivered the Council’s then current MTFP expectation*
- 2) All spending on enhancements of assets to reduce the cost to the Council and to build future business, as set out in the then current Business Plan or as agreed with the Council, have been fully taken into consideration.
- 3) All unbudgeted costs/risks in the Trading Group have been fully taken into consideration.

Provided all the above points have been achieved/taken into account, the Directors shall consult with the Shareholder in regard to the payment of a dividend,

*MTFP figures for first four years (commencing 2018/19) to be confirmed

Execution page

The Common Seal of

Oxford City Council

was affixed to this Deed

in the presence of

Authorised Officer

Executed as a deed by

Oxford Direct Services Limited

acting by [a director and its Secretary][two Directors]

Signature of Director:

Signature of [Secretary][Director]:

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