

DATED

2003

**THE MAYOR AND BUGESSES OF THE
LONDON BOROUGH OF ISLINGTON**

-and-

[ISLINGTON HOMES] LIMITED

**AGREEMENT FOR HOUSING MANAGEMENT
AND OTHER SERVICES**

Version 4 (15.12.03)

Ref: David Daniels

Tel: 0207 527 3461

**Louise Round
Director of Law and
Public Services
Town Hall
Upper Street
London N1 2UD**

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THIS AGREEMENT is made the
2003

day of

BETWEEN:

- (1) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF ISLINGTON** of the Town Hall, Upper street, London NI 2UD (“the **Council**”); and
- (2) **[ISLINGTON HOMES LIMITED]** (company registered no.) whose registered office is situate at Highbury House, 5 Highbury Crescent, London N5 1RN (“the **Organisation**”).

WHEREAS

- (A) The Council is the local housing authority for its area pursuant to Sections 1 and 2 of the Housing Act 1985 and pursuant to the powers contained in that Act provides housing accommodation and exercises general management, regulation and control of its housing accommodation.
- (B) Pursuant to Section 27 of the Housing Act 1985 and with the approval of the Secretary of State and pursuant also to Section 2 of the Local Government Act 2000 and all other enabling powers the Council agrees that a third party exercises such of the Council’s management and other functions as are herein specified.
- (C) The Council and the Organisation have agreed that the Organisation shall provide and the Council shall co-operate with it in providing the Services in the manner and upon the terms hereinafter set out.

IT IS AGREED as follows:-

PART A - PARTNERSHIP IN DELIVERY BETWEEN THE ORGANISATION AND THE COUNCIL

1. **THE DELIVERY PLAN**

The Organisation’s Delivery Plan for the Contract Year beginning on the Commencement Date is set out in Annex 1.

The Organisation shall deliver the Delivery Plan for each subsequent Contract Year to the Council in the format set out in Annex 2.

The Delivery Plan:-

- 1.1 sets all the outputs of the Organisation, the key performance requirements of the Services and includes the performance standards required;

- 1.2 includes the overall strategy of the Organisation and how the Organisation will deliver the key strategic goals of the Council and the community the Council represents;
- 1.3 details the financial and staffing resources required to enable the Organisation to deliver the Delivery Plan and perform the Services with skill, care and diligence.

2. **COMMITMENT TO THE COMMUNITY**

The Services to be carried out by the Organisation are set out in the Delivery Plan and are part of an important relationship between the Council and the community it represents. The Council's Community Strategy contains the key objectives of this relationship. The Organisation has a duty to help deliver those objectives. The Organisation through the Delivery Plan and the Annual Performance Plan shall ensure that all its policies and activities support the objectives of all relevant Council plans, policies and strategies ("the Strategies") including (but not exclusively) the Community Strategy and those other plans and strategies which are entitled, relate to or are the equivalent of the following:-

- Housing;
- Economic Development;
- Anti Poverty;
- Social Inclusion;
- Crime & Disorder
- Neighbourhood Renewal;
- Tenant Empowerment;
- Home Energy Efficiency;
- New Deal for Communities;
- Child Support;
- Older People;
- Supporting People
- Health and Housing

For such purposes the Organisation shall:-

- 2.1 ensure all staff are trained in and understand the Strategies;
- 2.2 provide information to help the Council up date and develop the Strategies;

2.3 demonstrate in the Annual Performance Plan how resources will be used to meet the objectives of the Strategies.

3. **EQUALITIES**

The Council has a strong commitment to equalities and in providing the Services the Organisation shall operate equalities policies and procedures in all aspects of its work. By implementing these policies and procedures the Organisation shall ensure that it does not discriminate against any person or other organisation on the grounds of colour, race, ethnic or national origin, disability, nationality, gender, sexuality, age, class, appearance, religion, responsibility for dependants, unrelated criminal activities, being HIV positive or having AIDS, or any other matter which causes a person to be treated with injustice.

3.1 In undertaking the Services, the Organisation shall follow the best professional practice in relation to equalities and in particular (but without limitation) shall comply with:-

3.1.1 all relevant legislation (including the Sex Discrimination Acts 1975 and 1986, Race Relations Act 1976, Race Relations (Amendment) Act 2000 and Disability Discrimination Act 1995) as well as statutory and other official guidance and codes of practice (including the Code of Practice in Rented Housing: For the Elimination of Racial Discrimination and the Promotion of Equal Opportunities (1992) ;

3.1.2 the Council's own policies relating to equality in service delivery and in employment as the same may be adopted and amended from time to time.

3.2 The Organisation shall comply with its Equalities Policy set out in Annex 5. The application of this policy must include how the Organisation:-

3.2.1 employs and recruits staff;

3.2.2 deals with board membership and other issues arising from its constitution;

3.2.3 handles racial disputes and harassment;

3.2.4 commissions contractors, consultants and agents;

3.2.5 implements the Delivery Plan.

3.3 In undertaking the Services, the Organisation shall comply with the provisions of section 71(1) of the Race Relations Act 1976 (as amended) as if the Organisation were a body within the meaning of Schedule !A to that Act.

- 3.4 The Organisation shall at the request of the Council provide a breakdown of its workforce by race and gender as the Council may reasonably require in order to satisfy itself as to the Organisation's compliance with Clause 3.2.1 above.
- 3.5 The Organisation shall monitor the representation within its workforce of persons of different racial groups (meaning groups of persons defined by reference to colour, race, nationality or ethnic or national origins) and shall, so far as the Organisation is not prohibited from doing so by the Race Relations Act 1976 (as amended) take all such action as is appropriate if it appears to the Organisation that any racial group is under-represented in its workforce employed in the provision of the Services by comparison with the proportion of members in that racial group known or believed to be engaged in such services either in Greater London or in the United Kingdom as a whole.
- 3.5 The Organisation shall:
- 3.5.1 inform the Council in writing as soon as becoming aware of any legal proceedings (whether civil or criminal) brought or likely to be brought against the Organisation or any investigation being conducted pursuant to the legislation referred to in Clause 3.1 or of any judgements, awards, convictions or settlements arising therefrom;
- 3.5.2 on request provide the Council with such further information and documentation in respect of such legal proceedings or investigation as it may require; and
- 3.5.3 in the event of any finding of unlawful discrimination being made against it or any subcontractor during the Contract Period by any court or employment tribunal or of an adverse finding in any formal investigation, take appropriate steps to prevent repetition of the discrimination.
- 3.5.4 Where any investigation is conducted or proceedings are brought under the legislation referred to in Clause 3.1, which arise directly or indirectly out of any act or omission of the organisation, its employees, agents or subcontractors and where there is a finding against the Organisation in such investigation or proceedings, the Organisation shall indemnify the Council with respect to all costs, charges and expenses (including legal and administrative expenses) arising out of or in connection with such investigation or proceedings and such other financial redress to cover any payment the Council may have been ordered or required to pay to a third party.
- 3.6 The Organisation shall provide such information and documentation as the Council may reasonably request for the purpose of assessing the Organisation's compliance with this Clause 3.

4. **TENANT INVOLVEMENT**

The Council has a partnership with its tenants and leaseholders and to further this relationship the Organisation will adopt the Council's existing Tenant Compact as its own Tenant Compact and honour that Tenant

Compact so as to support and encourage tenant involvement. The initial form of the Tenant Compact is set out in Annex 4 and the Delivery Plan will include sufficient resources to ensure that the objectives of the Tenant Compact are met.

- 4.1 The Organisation shall amend the Tenant Compact from time to time so far as necessary to comply with all statutory requirements and other official guidance issued from time to time and follow best professional practice .
- 4.2 The Organisation shall review and consult upon the Tenant Compact objectives annually and shall ensure that sufficient resources will be provided for in the Delivery Plan to deliver these objectives.
- 4.3 The Organisation shall ensure that the Tenant Compact will include strategies for involving 'difficult to reach' groups and those tenants who do not normally get involved in the management of their homes.
- 4.4 The Organisation shall provide a summary of the Annual Performance Plan to the Council Representative for approval and on receipt of approval shall forward a copy to every household affected.

PART B – PERFORMANCE RESPONSIBILITIES OF THE COUNCIL

5 DUTY OF BEST VALUE

- 5.1 The Council has a duty of Best Value and must make arrangements to secure continuous improvement in the way in which its functions are exercised having regard to a combination of economy, efficiency and effectiveness. In discharging its responsibilities under this Agreement the Organisation must also make the same arrangements to secure Best Value.
- 5.2 The Council following the receipt of the Annual Performance Plan will consider whether the Council through the Organisation should continue to exercise a particular function or service and will consider the level and the way in which it should exercise that function or service. The Council will also consider its objectives and strategies in relation to that function. Any variations to this Agreement following such consideration shall be effected in accordance with Clause 67.
- 5.3 The Annual Performance Plan shall be agreed and the Best Value Reviews shall be carried out in accordance with Clauses 7 and 8 respectively. In the event of an extension to this Agreement and wherever the Council so requests the Organisation will assist the Council to carry out any best value reviews of the Organisation's housing management function which the Council is required by statute to carry out.

PART C – PERFORMANCE RESPONSIBILITIES OF THE ORGANISATION

6 FUTURE DELIVERY PLANS

- 6.1 The Organisation shall provide to the Council's Representative by 1st November 2004 an initial draft of the Annual Sections of the Delivery Plan for the Contract Year commencing on 1st April 2005 in the Delivery Plan Format. The sections of the Delivery Plan comprising the financial plan the performance plan and the resourcing plan will be received on this annual basis. The section of the Delivery Plan comprising the service delivery plan shall be reviewed concurrently with the other sections unless the Delivery Plan Format provides for more frequent reviews (in which event the parties shall carry out such review procedures as are stipulated in the Delivery Plan Format and the annual reviews provided for below in this Clause 6 shall accommodate the result of intervening reviews). The section of the Delivery Plan comprising the capital programme will be reviewed so as to (a) reflect the outcome of the Council's housing investment programme bid to the Government in July each year and (b) enable the Council to settle the revenue and capital programme, fix rents and determine the following year's schemes in January each year in response to the Housing Revenue Account subsidy announcement by the Government in the preceding December. After the first year the Organisation shall provide to the Council by 1st November in each subsequent Contract Year a draft of the Annual Sections of the Delivery Plan for the following Contract Year in the Delivery Plan Format.
- 6.2 The Delivery Plan will include an action plan setting out the Organisation's suggested measures that might be taken by the Organisation, the Council or other organisations to secure further or continuous improvement in the Services PROVIDED THAT against any measure which it considers might be taken by the Organisation itself, the Organisation shall set out whether the implementation of such measure would result in any increase or reduction in cost to the Organisation of implementing the Delivery Plan if the measure were to be a variation under the provisions of Clause 63.
- 6.3 When submitting the draft of the Annual Sections of the Delivery Plan in each Contract Year to the Council's Representative the Organisation shall make suggestions for possible improvements in or development of the Services. The Council will consider any such suggestions but it will be under no obligation to adopt any or all of them.
- 6.4 The Council shall give due consideration to the draft Delivery Plan and shall within fifteen (15) Working Days of receipt of the Annual Sections of the Delivery Plan notify the Organisation as to whether such sections are agreed.

- 6.5 If the Council shall notify the Organisation that the draft Delivery Plan is not acceptable, it shall further notify the Organisation of any changes required.
- 6.6 The Council's Representative together with senior officers of the Council relevant member of the Council's Executive and representatives of the relevant tenant representative body will meet with nominated Board Members of the Organisation and the Chief Executive of the Organisation within thirty (30) Working Days of the receipt by the Council of the Annual Sections of the said draft Delivery Plan to review the draft Delivery Plan and to review the Organisation's performance in the preceding Contract Year against the targets set out in that year's Delivery Plan.
- 6.7 This meeting will form part of a series of meetings between the Council's Representative and senior officers of the Council, relevant member of the Council's Executive the relevant tenant representative body nominated Board Members of the Organisation and the Chief Executive of the Organisation (the "Delivery Plan Meetings"). The Delivery Plan Meetings will take place once every three months (or more frequently if required by other provisions of this Agreement or otherwise reasonably requested by either the Council or the Organisation).
- 6.8 Where the Council is not satisfied with the Organisation's performance following the review in Clause 6.6 the Council shall be entitled to issue instructions to the Organisation to implement any measures which the Council may deem necessary to ensure that the Organisation performs the current Delivery Plan. These measures will also be reflected so far as necessary in the draft Delivery Plan for the following Contract Year.
- 6.9 In the event that the Council and the Organisation shall not have agreed the Delivery Plan for the next Contract Year by 1st March in the current Contract Year, the matter shall be referred for resolution in accordance with Stages 1 and 2 of the dispute resolution procedure in Clause 74 and pending such resolution the then current Delivery Plan shall continue in full force and effect (incorporating such changes as shall have been agreed by both parties) If the matter is so resolved then the draft Delivery Plan shall be adopted in accordance with such resolution and subject to such modifications as may have been agreed. If the matter is not resolved the changes notified by the Council shall be deemed to be incorporated as modifications to the draft Delivery Plan and the draft Delivery Plan as so modified shall be the current Delivery Plan.
- 6.10 The Council will use the relevant part of the Delivery Plan in compiling the Council's own Housing Revenue Account business plan and in conducting any of its own best value reviews.

- 6.11 In the event that notwithstanding any measures taken pursuant to this Clause 6 the Organisation continues to fail to demonstrate that the Agreement and the Services represent best value the Council shall be entitled if necessary to terminate this Agreement.
- 6.12 There shall be one formal meeting in each Contract Year to which the elected members of the Council, Board Members of the Organisation and nominees of the relevant tenant representative body shall be invited to discuss that year's Delivery Plan and review the Organisation's performance.

7 THE ANNUAL PERFORMANCE PLAN

- 7.1 Throughout the Contract Period the parties shall work together to ensure that the Agreement and the Organisation's performance of the Services represents value for money and best value generally and achieves continuous improvement for the benefit of the Council .
- 7.2 In addition to any requirements in the Delivery Plan Format the Organisation's Annual Performance Plan shall contain the following matters:-
- 7.2.1 an analysis of the Organisation's objectives in respect of the Services;
- 7.2.2 an analysis of the Services throughout the previous Contract Year, focusing on those areas which were successful and unsuccessful;
- 7.2.3 an identification in the Organisation's view of the reason for the successes and failures referred to in Clause 7.2.2 recognising that (a) some of the matters may be due to the Organisation's performance of the Services (or that of its sub-contractors, employees or agents), (b) others may be due to the actions or omissions of the Council, other companies engaged by the Council and/or the Council's staff and (c) other matters may be due to external or other circumstances;
- 7.2.4 performance targets [(based on best value indicators as a minimum)] for the next Contract Year compared with performance targets in the current Contract Year;
- 7.2.5 proposals to improve the provision of the Services having regard to the duty of Best Value Duty including, without limitation, having regard to:
- 7.2.5.1 technological developments; and
- 7.2.5.2 expectations of the Service Users, in relation to the nature, content and delivery of the Services.

- 7.2.6 a timetable of planned Best Value Reviews and a summary of any previous Best Value Reviews;
- 7.2.7 any other matters specified by the Secretary of State under Section 6 of the Local Government Act 1999;
- 7.2.8 an action plan as described in Clause 6.2.
- 7.3 The submission of the Annual Performance Plan by the Organisation to the Council as part of the Delivery Plan shall be without prejudice to any monitoring or performance review which may be carried out by the Council under any of the other terms of the Agreement (including but not limited to Clause 7.5).
- 7.4 The Council shall take account of the Annual Performance Plan in compiling the Council's own annual performance plan and in conducting any Best Value Reviews (whether relating wholly or partly to the Services, housing or cross-cutting or otherwise).
- 7.5 The Organisation shall upon a written request from the Council promptly provide such written evidence or other supporting information as the Council may reasonably require to verify and audit the information and other material in the Annual Performance Plan.
- 7.6 The Organisation shall carry out any measure reasonably required by the Council or recommended by the Secretary of State or the Audit Commission in order to achieve best value and value for money. The Organisation shall co-operate and assist fully with the Council, the Secretary of State and the Audit Commission during any best value inspection.
- 7.7 Any disputes between the parties in relation to this Clause 7 may be referred by either party to the dispute resolution procedure and, if necessary, the Expert in accordance with Clause 67.

8 BEST VALUE

Best Value Duty

- 8.1 The Organisation acknowledges that the Council is subject to a duty of Best Value and the Council and the Organisation acknowledge that the provisions of this Clause 8 are intended to assist the Council in discharging its duty of Best Value in relation to the Services.
- 8.2 The Organisation shall, throughout the Contract Period and at its own cost, but only to the extent of its obligations in this Agreement, make

arrangements to secure continuous improvement in the way in which the Services are provided having regard to a combination of economy, efficiency and effectiveness.

- 8.3 The Organisation shall undertake such actions and supply such information, data or other assistance as the Council shall reasonably request to enable the Council to comply with Part 1 of the Local Government 1999 Act (the “1999” Act) including, without limitation:
 - 8.3.1 assisting the Council to prepare its annual Best Value Performance Plan in relation to the Services;
 - 8.3.2 assisting and supporting the Council in undertaking a Best Value Review of the Services (or part thereof);
 - 8.3.3 facilitating the audit of the Council’s Best Value Performance Plan by the Council’s auditor pursuant to Section 7 of the 1999 Act;
 - 8.3.4 facilitating the Council preparing any statement, in response to the Council’s auditor’s report pursuant to Section 9 of 1999 Act;
 - 8.3.5 facilitating any inspection undertaken by the Audit Commission of the Council’s compliance with its duty of Best Value in respect of the Services pursuant to Section 10 of the 1999 Act;
 - 8.3.6 assisting the Council in relation any action taken by the Secretary of State under Section 15 of the 1999 Act;
 - 8.3.7 actively promoting, supporting and assisting the Council in meeting its duty of Best Value in respect of the Services; and
 - 8.3.8 complying with the applicable Publication of Information Direction promulgated by the Audit Commission
- 8.4 The Organisation shall permit any Best Value Inspector in connection with the exercise of his statutory powers and duties under Section 11 of the 1999 Act in relation to a best value inspection of the Services access to:
 - 8.4.1 any place where the Services are being performed;
 - 8.4. any document or data relating to the Services; and
 - 8.4.1 any employee, agent or Subcontractor of the Organisation engaged in the provision of the Services.

- 8.4.2 The Council shall, at all times, act reasonably in making requests of the Organisation in connection with the performance and discharge of the Council's duty of Value Duty in accordance with Clause 8.3.

Customer Consultation

- 8.6 The Organisation shall assist the Council in assessing the level of satisfaction amongst Service Users with the Services (including the way in which the Services are delivered and their quality, efficiency and effectiveness) by undertaking a customer satisfaction survey ("**Customer Satisfaction Survey**") in the third quarter of each Contract Year.
- 8.7 The Customer Satisfaction Survey shall be undertaken by means of a questionnaire to Service Users in a form to be agreed between the Organisation and the Council.
- 8.8 Within thirty (30) Working Days of the return date for the Customer Satisfaction Survey questionnaires, the Organisation shall prepare a report on the results of the Customer Satisfaction Survey in such form as the Council shall reasonably require and promptly upon a written request from the Council provide such further details (including copies of all returned questionnaires) as the Council may reasonably require. Following consultation with the Organisation as to publication of the information, the Council may in its absolute discretion publish such information in such form as it shall reasonably determine.
- 8.9 If in the reasonable opinion of the Council, the Customer Satisfaction Survey discloses that the performance or delivery of the Services (or any part of the Services) may be improved having regard to the duty of Best Value, then the Council may serve a written notice on the Organisation (the "Service Improvement Notice") stating the nature of and time scale for improvements to the Services (or any part of the Services) which the Council desires.
- 8.10 The Organisation shall, within 28 Working Days of the date of receipt of a Service Improvement Notice, provide the Council with a written statement (the "Service Improvement Plan") containing the organisation's proposals to achieve the improvements in the Services in accordance with the Service Improvement Notice.
- 8.11 The Organisation shall promptly implement the proposals contained in the Service Improvement Plan to the extent that the implementation of such proposals does not result in an increase in costs.
- 8.12 If the implementation of the proposals contained in the Service Improvement Plan will result in an increase or reduction in costs the Council may, in its absolute discretion, require the Organisation to implement such proposals as a variation and the provisions of Clause 67 shall apply.

Best Value Reviews

- 8.13 On or, on reasonable notice, after the Best Value Review Date the Council may instigate a Best Value Review in relation to the Services (or part of the Services) and thereafter the provisions of this Clause 8.14 to 8.25 shall apply.
- 8.14 The Parties agree that any Best Value Review shall be carried out in good faith and in accordance with applicable legislation and guidance and that each Party shall act reasonably in relation to such review. The Organisation shall provide all necessary assistance to the Council in the carrying out of the Best Value Review and shall procure the attendance of specific officers and employees of the Organisation and its subcontractors at such meetings and provide such documents and information as may reasonably be necessary for this purpose.
- 8.15 The Best Value Review shall consist of an exercise undertaken by the Council with the assistance of the Organisation on the basis of an objective comparison to determine whether the Council is achieving its duty of Best Value in the delivery of the Services by the Organisation. Such exercise shall be carried out by assessing the competitiveness of the Organisation's performance of the Services by reference to scope, specification, performance standards and cost in comparison with the performance of the same or similar services provided by or on behalf of other local authorities and other public, voluntary and commercial organisations.
- 8.16 In carrying out the Best Value Review, the Council may take into account the results of the:
- 8.16.1 Customer Satisfaction Surveys; and \ or
 - 8.16.2 Annual Performance Plans
- 8.17 The timetable, procedure and process for the Best Value Review and nature of the comparative and other material to be researched (including the way in which such research is obtained) shall, following consultation with the Organisation, be notified by the Council to the Organisation prior to the Best Value Review Date. The Best Value Review will be conducted so as to enable the Council to:
- 8.18 analyse whether the Organisation should be providing the Services and the level at which the Services are provided;
 - 8.18.1 analyse the Organisation's objectives in providing the Services;
 - 8.18.2 assess the Organisation's performance in:

- (i) providing the Services by reference to any relevant best value performance indicators
 - (ii) meeting any relevant best value performance standards (including standards which have been specified but do not yet apply)
 - (iii) meeting any relevant best value performance target
- 8.18.3 consult with other best value authorities (as defined in Section 1 of the Local Government Act 1999) and all other appropriate stakeholders and interested parties about the provision of the Services;
- 8.18.4 assess the competitiveness of the Organisation's performance in providing the Services by comparison with similar service providers;
- 8.18.5 meet the Council's statutory obligations to review all functions over a 5 year cycle;
- 8.18.6 address any other matters specified by the Secretary of State under Section 5 of the Local Government Act 1999.
- 8.19 On completion of the Best Value Review, the Council shall supply a copy of the Best Value Review report (the "Best Value Review Report") to the Organisation. If the Best Value Review Report indicates that, in the reasonable opinion of the Council, the Services may be performed or delivered more efficiently, effectively or economically having regard to its duty of Best Value, then the Council may serve a Best Value review notice (the "Best Value Review Notice") on the Organisation setting out the nature and timing of any changes it considers necessary to the cost, provision, performance or delivery of the Services (or part of the Services) which the Council desires.
- 8.20 Within twenty (20) Working Days of the date of receipt of a Best Value Review Notice, the Organisation shall provide the Council with a written statement (the "Best Value Review Plan") setting out the Organisation's proposals for achieving the changes to the Services (or part of the Services) in accordance with the Best Value Review Notice.
- 8.21 As soon as practicable after the Council receives the Best Value Review Plan, the Parties shall meet to discuss and endeavour to agree upon the issues set out in the Best Value Review Plan. In such discussions, the Council may modify the Best Value Review Notice, in which case the Organisation shall, as soon as reasonably practicable, and in any event not more than thirty (30) Working Days after the receipt of such modification,

- notify the Council of any consequential changes to the Best Value Review Plan.
- 8.22 If the parties are unable to reach agreement on the Best Value Review Plan then the dispute shall be determined in accordance with the dispute resolution procedure in Clause 74.
- 8.23 Within twenty (20) Working Days after the content of the Best Value Review Plan has been agreed or otherwise determined pursuant to the dispute resolution procedure in Clause 74 the Council shall:
- 8.23.1 confirm in writing the Best Value Review Plan; or
- 8.23.2 withdraw the Best Value Review Notice.
- 8.24 If the Council does not confirm the Best Value Review Plan within twenty (20) Working Days of the Best Value Review Plan having been agreed or determined in accordance with the dispute resolution procedure, then the Best Value Review Notice shall be deemed to have been withdrawn.
- 8.25 If the Council does confirm the Best Value Review Plan, the parties shall meet and agree arrangements for the implementation of the plan and any consequential variations necessary to this Agreement, the Services, Delivery Plan and Annual Performance Plan shall be dealt with in accordance with Clause 67..
- 8.26 In the event that the Organisation refuses to implement the Best Value Review Plan, the Council may but not unreasonably or vexatiously terminate the Contract on the first anniversary of the first Best Value Review Date by written notice to the Organisation and the provisions of Clause 65 shall apply to such termination.
- 8.27 The Organisation shall take all reasonable steps to mitigate any costs arising as a consequence of a Best Value Review Notice and Best Value Review Plan.
- 8.28 For the avoidance of doubt, the Council shall be entitled to carry out such number of Best Value Reviews of the Services (or part thereof) during the Contract Period as it considers reasonably necessary to comply with its duty under Section 5 of the Local Government Act 1999

9 PERFORMANCE INDICATORS

- 9.1 To facilitate the maintenance, production and publication by the Council of standards of performance in accordance with the Audit Commission Act 1998 and Part I of the Local Government Act 1999, the Organisation shall

keep detailed records of its performance in relation to the performance indicators as set out in the Delivery Plan.

- 9.2 The Council shall be entitled to inspect the Organisation's records kept pursuant to Condition 9.1 upon five Working Days written notice.
- 9.3 By 30th April in each Contract Year, the Organisation shall provide to the Council's Representative a written report setting out the information required under Condition 9.1 in respect of the previous Contract Year.
- 9.4 In the event of any change in the performance information to be kept and published pursuant to the Audit Commission Act 1998, Part I of the Local Government Act 1999 or locally, the Council's Representative shall be entitled to vary, omit or add to the records to be kept by the Organisation pursuant to Condition 9.1.
- 9.5 Whenever reasonably requested to do so by the Council's Representative the Organisation shall provide to the Council such information and data as is necessary to establish whether or to what extent the Organisation's performance of the Services meets the targets for the performance indicators set from time to time for local authority housing services and other similar measures as set out in the Delivery Plan.

10 OFFICIAL RETURNS, HOUSING INSPECTIONS ETC

- 10.1 The Organisation shall keep and maintain all necessary information and shall provide all necessary assistance to enable the Council to complete all necessary returns of housing statistics and other information relating to the Services including but without limitation:-
 - 10.1.1 returns to the Office of the Deputy Prime Minister and other Government Departments;
 - 10.1.2 information required under the Report to Tenants Determination (as revised from time to time);
 - 10.1.3 Housing Revenue Subsidy claim forms;
 - 10.1.4 Housing Investment Programme submissions;
 - 10.1.5 submissions or responses in respect of best value inspections (whether carried out by the Housing Inspectorate or otherwise).
- 10.2 The Organisation shall supply the Council with such assistance and information as the Council may reasonably require to enable it to allocate such expenditure as the Council may incur under this Agreement between its general fund and housing revenue accounts.

- 10.3 The Organisation will provide such information as the Council from time to time shall reasonably require to permit the Council to complete management reports (whether of a regular or cyclical nature) on the provision of the Services.

PART D – STRATEGIC RESPONSIBILITIES OF THE ORGANISATION

11 ADVICE AND SUPPORT IN DEVELOPING CORPORATE STRATEGIES AND REVIEWS IN THE COUNCIL

The Organisation will be a strategic partner of the Council and a significant user of the Council's General Fund services. The views of the Organisation as a stakeholder, a service user and service provider will be essential in the development of the Council's corporate strategies and reviews of services. The Organisation will respond promptly to consultation requests on such corporate issues and will provide information as required.

12 REPRESENTING THE COUNCIL IN RELATED OR PARTNERSHIP ACTIVITY

The Organisation will at the request of the Council's Representative or in pursuit of Delivery Plan objectives work with other agencies, bodies and organisations in partnerships and projects. This might include (but not be limited to) area and other consultative forums, community safety meetings, regeneration partnerships and social services case conferences.

PART E – STRATEGIC RESPONSIBILITIES OF THE COUNCIL

13 CONSULTATION WITH STATUTORY AND OTHER BODIES

- 13.1 The Council's Representative shall carry out any and all consultations and negotiations with statutory or voluntary bodies in relation to such matters as shall from time to time be stipulated by the Council's Representative and the Organisation shall when required to do so by the Council's Representative provide information, advice and assistance to support such consultations or negotiations.
- 13.2 Subject to Clause 13.1 the Organisation shall carry out all other consultations or negotiations with the said statutory or voluntary bodies and shall respond to any enquiries from such bodies in relation to the circumstances of individual tenants or applicants for accommodation on a basis (as to confidentially and otherwise) as is appropriate and consistent with both the Organisation's and the Council's legal obligations and duties.

14 CONSULTATION WITH TENANTS AND LEASEHOLDERS

- 14.1 Without prejudice to its continuing obligations under Section 105 of the Housing Act 1985 the Council shall whenever reasonably requested by the Organisation to do so or otherwise as the Council shall deem appropriate in connection with the Services consult with its tenants and leaseholders about the subject-matter of this Agreement.

PART F – RESPONSIBILITIES OF THE ORGANISATION

15 FUNCTIONS DELEGATED

- 15.1 The Council functions delegated by the Council to the Organisation for the purposes of this Agreement shall be those functions or activities listed in column 1 of Annex 3 and identified by a “√” in column 2 or column 3 in Annex 3 as being the responsibility of the Organisation.
- 15.2 The Council housing functions retained by the Council shall be all the functions of a local housing authority including (without limitation) those functions listed in column 1 of Annex 3 and identified by a “X” in column 2 and column 3 of Annex 3.

16 PROVIDING THE SERVICES

- 16.1 In consideration of the Management Fee the Organisation shall at all times perform the Services to the satisfaction of the Council’s Representative in accordance and in compliance with the Contract Standard which shall require the Organisation to perform the Services with all due skill, care and diligence and in accordance and otherwise in compliance with:-
- 16.1.1 the Delivery Plan and in particular (but without limitation) the key performance requirements of the Services set out therein;
- 16.1.2 any current best value performance indicators issued by the Government or regulatory body which are relevant to the performance of the Services or any part thereof
- 16.1.3 Council Guidelines and in particular (but without limitation) those relating to customer care;
- 16.1.4 any reasonable instructions issued to the Organisation by the Council’s Representative pursuant to or in connection with the Agreement;
- 16.1.5 all applicable Legislation;
- 16.1.6 in a manner which shall preserve, promote and enhance and shall not prejudice the reputation and interests of the Council;

- 16.1.7 in good and full co-operation with any other company, consultant or contractor engaged by the Council to carry out related or relevant works or services on behalf of the Council; and
- 16.1.8 in a manner which has regard to the interests and welfare of tenants, leaseholders and/or residents and the management and maintenance of the Dwellings to a high standard.
- 16.2 The Organisation shall comply with the statutory duties of the Council delegated to it and shall ensure that the Council is not in breach of such duties.
- 16.3 The Organisation shall have proper regard to (and, where appropriate ensure compliance with) all relevant policies, formal guidance, codes of practice, national initiatives and priorities issued or notified from time to time on behalf of the Secretary of State or any Government Department.
- 16.4 The Organisation shall ensure that throughout the Contract Period it has available all such resources (including staff, equipment and materials) as may be necessary for the proper provision of the Services to the Contract Standard.
- 16.5 The Organisation shall inform the Council's Representative promptly of and confirm in writing if the Organisation is unable or fails to provide the Services or any part thereof, or if the Organisation is aware of anything of whatsoever nature and whether or not the result of any act or omission on the part of the Council which prevents or hinders or which may prevent or hinder the Organisation from complying with the Agreement, giving details of the circumstances, reasons and likely duration. The provision of information under this Clause shall not in any way release or excuse the Organisation from any of its obligations under the Agreement.
- 16.6 The Organisation shall notify the Council's Representative and the Council shall notify the Organisation's Representative immediately of any materially adverse circumstances in relation to the Services of which the other is aware and anticipates would be reasonably likely to justify the other party taking action to protect its interests (including its reputation and standing).
- 16.7 Should the Organisation require any further instruction or information which is necessary for or in connection with the provision of the Services, the Organisation shall make a written application in adequate detail for the same to the Council's Representative.
- 16.8 The Organisation shall at all times comply with the Council's Constitution including (without limitation) the Contract Standing Orders and Financial

Regulations incorporated therein as the same may from time to time be amended, varied or replaced.

- 16.9 The Organisation shall as may be necessary or desirable co-operate, liaise with and co-ordinate its activities with those of any other contractor or subcontractor employed directly or indirectly by the Council on other work or services and shall provide the Services in harmony with and at no detriment to any other service provided by or to the Council.
- 16.10 Where an appropriate technical specification (as defined in Regulation 8 of the Public Supply Contracts Regulations 1995, Regulation 8 of the Public Works Contracts Regulations 1991 or Regulation 8 of the Public Services Contracts Regulations 1993 (as applicable)) is current, all equipment, goods, materials and consumables used or supplied in the provision of the Services and all Works undertaken shall, as a minimum requirement, comply with that technical specification or an equivalent standard without prejudice to any higher standard required by the Contract.
- 16.11 The Organisation shall provide each year to the Council's Representative a copy of its audited accounts within six months of the relevant accounting reference date together with any internal control reports (whether or not produced by its auditors). In the event that the Organisation fails to provide accounts and reports in accordance with this Clause 16.11 then, without prejudice to any other rights or remedies available to the Council, the Council's Representative or such persons as may from time to time be nominated by the Council's Representative shall be given access to all and any accounting documents and information in the possession, custody or control of the Organisation.
- 16.12 The Organisation shall throughout the Contract Period maintain and implement such quality assurance systems and procedures as are appropriate to enable the Organisation to ensure that the Services are always provided to the Contract Standard and the Organisation shall afford the Council full access to such systems and procedures for audit or other purposes. In the event that the Organisation fails to comply with this Clause 16.12 the Council shall be entitled to:-
- 16.12.1 establish its own quality assurance systems and procedures, and
- 16.12.2 require the Organisation to use the same.
- 16.13 The Organisation shall throughout the Contract Period maintain and implement an environmental management strategy which ensures that the Services are always carried out to the Contract Standard and shall regularly review such strategy to take account of changes in Legislation and working

methods and the introduction of new equipment, substances, consumables and materials.

- 16.14 The Organisation shall use reasonable endeavours to obtain and maintain appropriate external quality accreditations in accordance with the provisions of the Delivery Plan. The Organisation shall keep the Council's Representative informed at regular intervals as to the progress it has made in achieving the external quality accreditations and shall supply such documentation to the Council's Representative as he may reasonably require.
- 16.15 The Organisation shall permit the Council and \ or the External Auditor to audit the Organisation's environmental management strategy and quality assurance system. The Organisation shall make available on reasonable notice and at no cost to the Council in connection with any such quality audit, all personnel, facilities, data and documents reasonably requested by the Council and \ or External Auditor.
- 16.16 The Organisation shall co-operate with the Council in such tenant consultation and liaison on matters which are not the Organisation's responsibility under this Agreement as the Council may reasonably require from time to time.
- 16.17 In addition to the agreed procedures for office opening and availability of staff set out in the Delivery Plan, the Organisation will ensure that in the event of any emergency or significant unforeseen difficulty occurring with respect to the delivery of the Services appropriate Organisation personnel will advise the Council's Representative as a matter of urgency and will continue to take responsibility for the situation until it is agreed by the Council's Representative that responsibility may be handed over to another agency or authority.
- 16.18 The Organisation shall not permit its interests to interfere or conflict with its duty (which the Organisation hereby acknowledges) to provide the Services in the utmost good faith.
- 16.19.1 The Organisation shall notify the Council's Representative immediately upon becoming aware of an matter which the Organisation reasonably considers may be a conflict of interest for the Organisation in providing the Services.
- 16.19.2 Following receipt of such notification, the Council's Representative and the Organisation's Chief Executive shall meet as soon as reasonably practicable to discuss the potential conflict of interest and use all

reasonable endeavours to agree upon steps to be taken by the Organisation to eliminate the risk of such potential conflict of interest arising

17 STATUTORY RESPONSIBILITIES

- 17.1 Without prejudice to the particularity of other Clauses in this Agreement the Organisation shall comply with all statutory requirements to be observed and performed in connection with the Services and shall discharge all statutory functions of the Council delegated by the Council to the Organisation for the purposes of this Agreement pursuant to section 27 of the Housing Act 1985 (as amended).
- 17.2 Nothing in this Agreement shall fetter or limit the Council's ability to discharge its statutory functions.
- 17.3 Save in so far as the same arises out of an express provision of this Agreement, the Organisation shall have no right, remedy or claim against the Council arising out of or under this Agreement for any act or omission of the Council whether as planning authority or otherwise.

18 VARIATIONS TO TENANCY AGREEMENTS

The Organisation shall not vary or accept or acquiesce in any variation to the Council's form of secure tenancy agreement or conditions or any handbook or other provisions incorporated therein without the prior written consent of the Council.

19 THE ORGANISATION'S PERSONNEL

- 19.1 The Organisation shall employ sufficient, properly and suitably qualified, competent, skilled, honest and experienced persons to ensure that the Services are provided at all times and in all respects in accordance with the Agreement. The Organisation shall ensure that there are sufficient personnel available to cover for holidays, sickness, maternity leave, training or any other absence.
- 19.2 The Organisation shall ensure that every member of the Organisation's personnel so engaged is and at all times remains properly and sufficiently instructed, trained and supervised with regard to the provision of the Services including but not limited to:
- 19.2.1 the task or tasks such persons have to perform;
- 19.2.2 all relevant provisions of the Agreement and all relevant Legislation and case law;
- 19.2.3 all the Council's Guidelines ;

- 19.2.4 all relevant policies, rules, procedures and standards of the Council including but not limited to the Council's Constitution;
- 19.2.5 all relevant rules, procedures, statutory requirements and EC Directives concerning health and safety, including the Council's health and safety policy;
- 19.2.6 fire risks and fire precautions;
- 19.2.7 the need to recognise situations which may involve actual or potential danger of personal injury to any person and where possible, without risk, to make safe such situations;
- 19.2.8 the need to maintain the highest standards of courtesy, consideration and customer care.
- 19.3 The Organisation shall, for the purposes of enabling the Council and the Council's Representative to satisfy themselves as to the Organisation's compliance with this Clause 19 maintain, at all times, accurate and up to date records of all of the personnel of the Organisation who are or who are likely to be involved in the provision of the Services, including their names, qualifications, and capacity in which they are engaged and attendance records and shall on written request from the Council afford the Council Representative full access to those records.
- 19.4 The Council's Representative shall, upon giving seven (7) day's notice in writing, have the power to require the Organisation (but not unreasonably or vexatiously) to remove from the provision of the Services or a specified part thereof any remove from the provision of the services or a specified part thereof any personnel of the Organisation (including the Organisation's Representative) specified in such notice if in the opinion of the Council's Representative that person:
 - 19.4.1 is not performing her or his work in compliance with the Agreement or to the Contract Standard; or
 - 19.4.2 is or is deemed to be guilty of misconduct or negligence; or
 - 19.4.3 is acting in a manner which is detrimental to the Council's interests including its reputation ; or
 - 19.4.4 is not medically fit to perform the Services or provides a risk to the health of those with whom that person may come into contact during work on the Agreement;

PROVIDED THAT the Council's Representative may require the Organisation to suspend from the provision of the Services with immediate

effect any member of the Organisation's personnel if in the opinion of the Council Representative that person has committed an act of gross misconduct or gross negligence or presents an imminent risk of danger to health and safety.

- 19.5 At any time prior to the expiry of a notice given under Clause 19.4 the Organisation shall have the right to make representations to the Council's Representative concerning the member of the Organisation's personnel referred to therein. After having regard to any such representations the Council's Representative shall be entitled at her/his absolute discretion to withdraw such notice suspend its operation upon such conditions as s/he thinks fit or to confirm the notice.
- 19.6 Upon confirmation by the Council's Representative of a notice given under Clause 19.5 the Organisation shall promptly remove or procure the removal of such member of the Organisation's personnel from the provision of the Services and shall immediately provide or procure a replacement to the satisfaction of the Council's Representative unless the Council determines otherwise.
- 19.7 The Council shall in no circumstances be liable either to the Organisation or to such member of the Organisation's personnel in respect of any cost, expense, liability, loss or damage occasioned by such removal under Clause 19.6 or any ensuing disciplinary or legal proceedings. The Organisation shall fully indemnify the Council against any such claim made by such member of the Organisation's personnel and in respect of all proceedings, claims, damages, demands, fines, penalties, expenses, compensation, court or tribunal orders (including any order for re-instatement or re-engagement), awards costs and all other liabilities whatsoever.
- 19.8 If the circumstances under which the Services are provided are such that any personnel of the Organisation are exempt from the provisions of Section 4(2) of the Rehabilitation of Offenders Act 1974 by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended) then the Organisation shall ensure that all personnel engaged in the provision of the Services shall provide information in accordance with the said Act and Order about convictions which would otherwise be spent under the provisions of the said Act.
- 19.9 The Organisation shall disclose to the Council's Representative the names and addresses and sufficient information and as appropriate all convictions of its personnel engaged or to be engaged in and about the provision of the Services to enable the Council to make or require the Organisation to make proper checks. The Council may require such personnel to be removed from or not engaged in the provision of the Services or a specified part thereof. This right of removal shall not be exercised unreasonably or vexatiously by the Council's Representative.

- 19.10 The Council shall in no circumstances be liable either to the Organisation or to such personnel in respect of any cost, expenses, liability, loss or damage occasioned by any non-engagement or removal of personnel effected under Clause 19.9 and the organisation shall fully indemnify the council against any claims made by such personnel.
- 19.11 For the avoidance of doubt, the Organisation shall at all times be fully and solely responsible under this Agreement for the payment of all income and other taxes, national insurance contributions and levies of every kind, relating to or arising out of its employment of any individual from the Commencement Date and shall fully and promptly indemnify the Council in respect of any liability of the Council in respect thereof.

20 CONTROL AND SUPERVISION OF THE ORGANISATION'S PERSONNEL

- 20.1 The Organisation shall:
- 20.1.1 give written notice to the Council's Representative of the identity of the person whom the Organisation wishes to appoint as the Organisation's Representative;
- 20.1.2 give written notice to the Council's Representative of the identify of the person(s) whom the Organisation wishes to appoint as deputy(ies) to the Organisation's Representative;
- 20.1.3 ensure that any written notice given pursuant to Clauses 20.1.1 or 20.1.2
- 20.1.3.1 (unless not reasonably practicable) is given at least twenty (20) Working Days before the proposed date of the appointment (except in the case of the first Organisation's Representative and first deputy(ies) to the Organisation's Representative when such notices must be given prior to the Commencement Date);
- 20.1.3.2 specifies details of such person's qualifications, experience and expertise; and
- 20.1.3.3 in the case of a deputy to the Organisation's Representative, the proposed duration of her \ his appointment.
- 20.1.4 not appoint any person as the Organisation's Representative or deputy to the Organisation's Representative without the Council's prior written approval, such approval not to be unreasonably withheld or delayed.
- 20.1.5 promptly inform the Council in writing whenever a person is appointed as the Organisation's Representative or as deputy to the Organisation's Representative and the effective date of such appointment.
- 20.1.6 promptly inform the Council in writing of the revocation or proposed revocation of the authority of the Organisation's Representative or deputy to the Organisation's Representative stating the reasons for such revocation and the date from which it took or will take affect. Until any such notice shall have been served on the Council by the Organisation, the Council shall be entitled to treat any person notified, approved and appointed as being the authorised Organisation's Representative or deputy to the Organisation's Representative as the case may be.

- 20.2 The Organisation's Representative shall be the duly authorised representative of the Organisation and shall have full authority to act on behalf of the Organisation in connection with the provision of the Services and generally in connection with this Agreement.
- 20.3 The Council shall be entitled to treat any act of the Organisation's Representative in connection with this Agreement as being expressly authorised by the Organisation save where the Organisation has notified the Council that such authority has been revoked.
- 20.4 Any notice, information, instruction or other communication given or made to the Organisation's Representative shall be deemed to have been given or made to the Organisation provided that it has been given, made or subsequently confirmed in writing.
- 20.5 The Organisation shall ensure that throughout the Contract Period the Organisation's Representative or deputy to the Organisation's Representative:
- 20.5.1 is available to be contacted by the Council's Representative at all times of the day and night whether during the week or weekends or during bank holidays and the Organisation's Representative's and deputy to the Organisation's Representative's telephone numbers (including mobile telephone and pager numbers) must be made available to the Council's Representative and the Organisation shall notify the Council's Representative if the Organisation's Representative or deputy to the Organisation's Representative is on holiday or sick leave together with the name and telephone number of any such substitute contact;
- 20.5.2 consults the Council's Representative :
- (a) in the form and at the times mutually agreed and as provided in the Delivery Plan;
 - (b) as and when required by the Council's Representative ; and
 - (c) as often as may reasonably be necessary to ensure a continuous and efficient provision of the Services in accordance with the Agreement; and
- 20.5.3 follows and complies with any Instructions given or issued by the Council' Representative in connection with performance of the Services.
- 20.6 Nothing in Clauses 20.1 to 20.5 shall in any way alter, modify, relieve or in any other way vary the Organisation's obligation to provide the Services.
- 20.7 No act or omission of the Organisation's Representative or the deputy to the Organisation's Representative or any member of the Organisation's personnel shall in any way relieve or modify any liability, responsibility, obligation or duty of the Organisation under the Agreement.
- 20.8 The Organisation shall throughout the Contract Period provide a sufficient number of supervisory personnel (in addition to the Organisation's Representative and deputy to the Organisation's Representative) to ensure that the personnel of the Organisation engaged in and about the provision of

the Services are at all times adequately supervised and properly perform their duties to the Contract Standard and comply with the Council's Guidelines.

- 20.9 The Organisation shall at all times ensure that its supervisory personnel are sufficiently skilled trained and instructed with regard to all matters under the Agreement. If in the opinion of the Council's Representative the Organisation is not employing sufficient staff or staff with the appropriate ability and status to supervise adequately the Agreement then the Organisation shall engage such additional supervisory personnel as the Council's Representative shall reasonably deem to be necessary and the cost shall be borne by the Organisation.
- 20.10 The Organisation shall provide and shall ensure that the personnel of the organisation wear and keep visible at all times when engaged in the provision of the Services appropriate identification (including photographic identification) and shall ensure that when requested to do so any personnel of the Organisation shall disclose their identity and status as personnel of the Organisation and shall not attempt to avoid so doing.
- 20.11 The Organisation shall ensure that the personnel of the Organisation are properly and presentably dressed and carry out their duties and conduct themselves in a manner consistent with the Council's Guidelines on customer care. Where a member of the Organisation's personnel is engaged on duties in connection with the provision of the Services, which make the wearing of special or protective clothing or footwear necessary or appropriate, the Organisation shall provide and shall require such member of the Organisation's personnel to wear such clothing or footwear.
- 20.12 The personnel of the Organisation engaged in or about the provision of the Services shall be under the control and direction of the supervisory personnel of the Organisation. However, the Organisation shall nevertheless ensure that the personnel of the Organisation whilst on Council premises (other than HRA property) comply with any necessary instructions and requests given to them by the relevant Council's premises manager.
- 20.13 The Organisation shall ensure that the personnel of the Organisation do not behave in a manner calculated or likely to be offensive to customers of the Services by virtue of their age, gender, colour, race, ethnicity, culture, religion, disability or sexual orientation, nor in a manner which is insensitive to the needs of customers with learning difficulties or customers suffering from emotional or behavioural disturbance or customers who do not have English as their first language.

21 USE OF ASSETS

- 21.1 The Organisation shall at all times during the Contract Period provide, maintain and replace or procure the provision, maintenance and replacement of all such vehicles, equipment and other assets (hereinafter together referred to as "Assets") and materials as may be necessary from time to time for the provision of the Services.

- 21.2 All Assets employed by the Organisation in the performance of the Services at any time must be either owned, leased or hired by the Organisation pursuant to an operational lease (and not finance lease) (the “Leasing Contract”) or contract of simple hire (and not hire purchase) (the “Hire Contract”) the benefit of which lease or contract must be capable of assignment or novation by the Organisation to the Council or to an organisation nominated by the Council for the purpose of carrying out the Services (or any of them) so that the Services may be continued to be provided by a third party in the event of the termination of this Agreement for any reason.
- 21.3 The Organisation shall obtain the prior written approval of the Council's Representative before hiring, leasing or purchasing any Asset the cost of which counts against the Council's prudential borrowing limit.
- 21.4 The Organisation shall ensure that any such Leasing Contract or Hire Contract requires the owner of the relevant Assets to lease or hire the Assets to the Council on the same terms as the Assets were leased or hired to the Organisation save that the Council shall be entitled to permit the use of the Assets by any other body or person providing the Services (or any of them) provided that the Organisation shall put, keep and maintain all Assets employed in the performance of the Services at all times in good and serviceable repair and in such condition as is required for the proper performance by the Organisation of its obligations under the Agreement.
- 21.5 The Organisation shall at all times be responsible for any necessary licensing and for the payment of all licensing fees, taxes and insurances as may be required in connection with the possession or use of all Assets employed in the provision of the Services.
- 21.6 The Organisation shall put, keep and maintain all Assets employed in the performance of the Services at all times in good and serviceable repair and in such condition as is required for the proper performance by the Organisation of its obligations under the Agreement.
- 21.7 All Assets and materials used by the Organisation shall conform to any applicable British Standard and when so requested the Organisation shall provide the Council with evidence to prove that such Assets and materials so conform.
- 21.8 The Organisation shall permit the Council to inspect at any time any Assets or materials used or proposed to be used by the Organisation in the provision of the Services and the Organisation shall facilitate such inspections

- 21.9 The Organisation shall only keep such potentially dangerous or hazardous materials or equipment on the Premises as are necessary for the provision of the Services and are approved by the Council's Representative (such approval not to be unreasonably withheld or delayed) and such materials or equipment shall at all times be kept under proper control and the Organisation shall ensure that all such materials and their usage and storage comply with all applicable laws.
- 21.10 The Organisation shall ensure that the Assets only bear such words, devices, insignia or logos as have been previously approved in writing by the Council's Representative.
- 21.11 The Organisation shall be responsible for making its own arrangements for insurance, storage and security of the Assets used in the performance of the Services.
- 21.12 The Organisation shall ensure that it has, at all times, adequate resources of Assets and acknowledges that absence of appropriate or sufficient Assets will not be a sufficient reason for non performance of any part of the Services
- 21.13 The Organisation shall ensure that the Assets are used by the personnel of the Organisation in a safe manner without risk to the health and safety of the other personnel of the Organisation and third parties.
- 21.14 The Organisation shall ensure that on termination or expiry of the Agreement, there are sufficient Assets available to enable the Services to be provided by the Council or another organisation contracted by the Council.
- 21.15 At the expiry of the Contract Period or upon termination of this Agreement (whichever shall first occur) the Council may serve a notice upon the Organisation requiring the Organisation to (a) transfer free of charge to the Council or any other person or persons as may be specified in such notice all Assets and materials owned and used by the Organisation, (b) assign or novate the benefit of all contracts or agreements in respect of leased and hired Assets and (c) assign or novate the benefit of any maintenance or service contract relating to those Assets.
- 21.16 Upon receipt of a notice under Clause 21.15 requiring the Organisation to transfer to the Council or any Council nominee the benefit of any contract or agreement for the lease or hire of any Assets and any maintenance or service contract relating to those Assets, the Organisation shall forthwith execute all documents required to effect such assignment or novation and shall deliver such Assets to the Council in such condition as they may be in at the date of the said notice.
- 21.17 The provisions of Clauses 2.15 and 2.16 shall not apply :

- 21.17.1 where the Agreement is renewed for a further period, until the expiry of that further period or termination of the renewed Agreement (whichever shall first occur); or
- 21.17.2 if the Organisation is transferred to or merged with a registered social landlord which continues to provide the Services to the Council; or
- 21.17.3 the Organisation is converted into a registered social landlord (or similar body) and the Council's housing stock is transferred to that organisation.

22. **CONTRACTS TO BE ADMINISTERED AND PROCURED**

Contracts to be administered

- 22.1 The Organisation shall act on behalf of the Council in administering the Existing Contracts and shall:-
 - 22.1.1 comply with all reasonable requirements of the Council in respect of any or all of the Existing Contracts;
 - 22.1.2 monitor and review the performance of those contractors carrying out the Existing Contracts;
 - 22.1.3 take all proper steps (but not including legal action or proceedings unless so required expressly in writing by the Council) to enforce the Existing Contracts;
 - 22.1.4 at the request of the Council supply all information including copies of any documents to the Council; and
 - 22.1.5 liaise with the Council in respect of any renewal or re-letting of any of the Existing Contracts

and for the avoidance of doubt this Clause 22.1 shall apply to all the Existing Contracts listed in the First Schedule and any others relating to the Services and (if not made in accordance with Clause 22.2) all renewals of and additions to any of the same in respect of which the Organisation shall undertake the administration.

- 22.2 If a contractor under an Existing Contract is not performing to the reasonable of the satisfaction of the Organisation, the Organisation shall be entitled to invoke the provisions in that Existing Contract for dealing with poor performance including, where applicable, the service of warning or material breach notices and the imposition of monetary deductions but excluding suspension, part termination or termination. If the performance of the contractor under an Existing Contract continues to be unsatisfactory, the Organisation shall submit a full report to the Council which may recommend, where applicable, suspension, part termination or termination of the Existing Contract. If the Council part terminates or terminates a Existing Contract then the Organisation may procure a replacement

contractor in accordance with the Council's Constitution and applicable EU and UK public procurement Legislation. Any such replacement contract shall be entered into by the Organisation and the replacement contractor and shall be treated as a New Contract for the purposes of this Agreement.

- 22.3 The Organisation acknowledges and agrees that orders for housing planned preventive maintenance and improvements works will be:
- 22.3.1 ordered from Caxton Islington Limited in accordance with the service contract between the Council and that contractor for building repairs, gas servicing and building and window cleaning; or
 - 22.3.2 awarded to contractors with approved status under the Council's existing strategic framework agreements relating to building works

where such housing planned preventive maintenance and improvement works fall within the scope of the above contracts

Procurement of Contracts

- 22.4 Subject to Clause 23, the Organisation shall be entitled to procure and enter into New Contracts in its own name necessary for the proper discharge of its obligations under this Agreement PROVIDED THAT:
- 22.4.1 the procurement is undertaken in accordance with the Council's Contract Standing Orders and applicable EU and UK public procurement Legislation; and
 - 22.4.2 if the contract is for capital works to the Council's housing stock, the scheme is included in the Council's approved housing capital programme and the value of the contract (inclusive of fees) is within the sum allocated to that scheme or the expenditure is otherwise approved by the Council

23 ASSIGNMENT AND SUB-CONTRACTING ETC

- 23.1 The Organisation shall not:
- 23.1.1 assign the Agreement or any part thereof or the benefit or advantage of the Agreement or any part thereof;
 - 23.1.2 subject to Clause 23.6, sub-contract the provision of the Services or any part thereof to any person without the previous written consent of the Council's Representative and which if given shall not relieve the Organisation from any liability or obligation under the Agreement and the Organisation shall be responsible to the Council for the acts, defaults or neglect of any sub-contractors, its employees or agents in all respects as if they were the acts, defaults or neglect of the Organisation itself and shall remain primarily and directly liable for the Organisation's obligations under this Agreement;

- 23.1.3 sub-delegate responsibility for any of the housing management functions (delegated to the Organisation under this Agreement) to a third party
- 23.2 The Organisation shall ensure that any sub-contractor permitted to perform any part of the Services under Clause 23.1.2 shall be fully supplied with all necessary information about this Agreement (including any relevant instructions given by the Council's Representative to the Organisation).
- 23.3 The Organisation shall include a term in any subcontract properly entered into for the purposes of this Agreement requiring payment to be made to the subcontractor by the Organisation within a specified period not exceeding twenty (20) Working Days from receipt of a valid invoice (as defined in that sub-contract).
- 23.4 The Organisation shall not be released from any of its obligations under this Agreement as a result of the termination of a subcontract.
- 23.5 The burden of indemnities in favour of the Council in Clause 29 shall be extended to the Organisation's subcontractors (and to such extent monies are received from any of its subcontractors in respect of indemnities contained in the relevant subcontract shall be held by the Organisation on trust for the Council).
- 23.6 The Council hereby gives its consent to the Organisation to:
- 23.6.1 sub-contract the carrying out of housing planned preventive maintenance and improvement works to the Council's housing stock in accordance with the Council's approved housing capital programme and the section of the Delivery Plan relating to the capital programme; and
- 23.6.1 sub-contract the carrying out of other parts of the Services provided that the value of the sub-contract does not exceed £[]
- 23.7 Nothing in this Contract shall prohibit or prevent any subcontractor employed by the Organisation from being employed by the Council in any capacity.
- 23.8 The Organisation shall not carry out work for or provide services to third parties without the Council's prior written consent

24 USE OF COMPUTER SYSTEMS AND SOFTWARE

- 24.1 The Council shall permit the Organisation to use for the purposes of providing the Services the Council's Computer Systems as set out in Part 1 of the Fifth Schedule for the Contract Period or in the case of the Council's Computer Systems which are leased or rented for the duration of the relevant lease or rental agreement subject to such terms, conditions and stipulations as are set in Part 2 of the Fifth Schedule or as the Council may notify to the Organisation from time to time.

- 24.2 The Council grants to the Organisation a non-exclusive non-transferable licence to use the Council's Software as set out in Part 1 of the Fifth Schedule for the Contract Period subject to such terms, conditions and stipulations as are set in Part 2 of the Fifth Schedule or as the Council may notify to the Organisation from time to time.
- 24.3 The Organisation shall only use the Council's Computer Systems and/or Council's Software for the purposes of providing the Services and for the benefit of the Council and shall not under any circumstances (unless expressly authorised so to do by the Council's Representative) make use of the Council's Computer Systems and/or Council's Software for any third person or allow any other person to use the same
- 24.4 The Council will from time to time make available to the Organisation the technical specifications of the Council's Computer Systems and/or the Council's Software used by the Council in relation to the Undertaking PROVIDED THAT the Council is not prevented from making any such specification available by the provisions of any agreement with a third party relating to the relevant Council's Computer System or Software.
- 24.5 Without prejudice to Clause 24.10 the Organisation shall take all practicable steps to safeguard those parts of the Council's Computer Systems and the Council's Software under the control or influence of the Organisation against unauthorised access, tampering or systems failure.
- 24.6 If and to the extent that the Organisation wishes to use any other computer systems and/or software in the provision of the Services and to the extent that access to or interface with the Council's Infrastructure including the Council's Computer Systems and/or Council's Software is necessary so to do the Organisation shall first obtain the written consent of the Council's Representative and if such consent is given it shall be a condition thereof that the Organisation shall
- 24.6.1 ensure that such other computer systems and/or software are compatible with the Council's Infrastructure including the Council's Computer Systems and/or the Council's Software and further will have no adverse affects on the Council's Infrastructure including the Council's Computer Systems and/or the Council's Software
- 24.6.2 ensure that any computer software it uses is properly licensed; and
- 24.6.3 comply with all relevant requirements of any supplier of the Council's Infrastructure including the Council's Computer systems and/or the Council's Software.
- 24.7 If at any time the Organisation believes that changes modifications or updating to the Council's Infrastructure including the Council's Computer Systems and/or Council's Software are required or would assist in the provision of the Services the Organisation may make proposals for such changes to the Council's Representative and if the Council's

Representative gives his consent to such changes it shall be a condition of such consent that

- 24.7.1 all rights (including licences) in or arising from such changes shall become vested in the Council insofar as they relate to the Council's Infrastructure including the Council's Computer Systems and/or Council's Software; and
- 24.7.2 the Council shall be entitled to require the Organisation on termination of this Agreement by expiry of time or otherwise either to take all necessary steps (including the assignment of licences) to vest the rights in such changes and all data and information in respect of the Services and all related matters in the Council or such other person as the Council may direct or to restore the Council's Infrastructure including the Council's Computer Systems and/or the Council's Software to the state which existed prior to the said changes. The cost of such changes modifications or updating shall be reflected in the relevant part of the Delivery Plan.
- 24.8 If at any time the Council has reason so to do (including but not limited to actual or threatened interference with or damage to the Council's Infrastructure including the Council's Computer Systems and/or the Council's Software) the Council shall be entitled to require that the Organisation cease to use the Council's Computer Systems and/or the Council's Software and disconnect or otherwise separate the Organisation's own computer systems and/or software from the Council's Infrastructure including the Council's Computer Systems and/or Council's Software. The Council will not exercise this right unreasonably or vexatiously or without giving as much notice as practicable (save in cases of urgency) and agreeing to an appropriate variation to the Delivery Plan in accordance with Clause 67.3 to reflect the cost of providing its own computer systems and software.
- 24.9 The Organisation shall afford access to any of the computer systems, software, databases and operations used by it pursuant to this Agreement to the Council's Representative and any person (including auditors) nominated by them for all purposes connected with the subject-matter of this Agreement and the Council's own activities.
- 24.10 The Organisation shall comply with any security policy and procedures which may from time to time be issued by the Council relating to information technology, in whatever form and of whatever nature.

25 DATA

- 25.1 Subject to the provisions of Clauses 24 and 26 the Organisation shall be entitled to access such Service Data and information as is stored on the Council's Computer Systems as set out in the Eighth Schedule which the Organisation may require in order to provide the Services. All Intellectual Property Rights in the Service Data and the databases in which such Service Data is held, shall remain vested in the Council.
- 25.2 In addition to any requirements set out in the Delivery Plan the Organisation will ensure that the Council's Service Data relating to the Services is kept up-to-date.
- 25.3 Without prejudice to Clauses 24.5 and 24.10 and subject to Clause 26 the Organisation shall take all practicable steps to safeguard such Service Data and information as is stored on the Council's Infrastructure including the Council's Computer Systems and/or Council's Software against unauthorised access, tampering or system failure
- 25.4 The Organisation shall at all times ensure that where (following consent under Clause 24.6) the Organisation is using the Organisation's own computer systems:-
- 25.4.1 comprehensive security copies of any computerised Service Data are updated at the end of each Working Day in relation to that day and at least twice a week are stored in a secure location (in the Organisation's possession or under its control) so as to enable the Organisation (or in the event of the default of the Organisation the Council or such other third party as the Council may appoint) to initiate and operate such alternative processing arrangements as may be necessary including (but without limitation) in the event of a partial or complete failure of the Organisation's own computer systems
- 25.4.2 adequate recovery arrangements exist to ensure that the Organisation can continue to comply without interruption with its obligations under this Agreement in the event of a partial or complete failure of the Organisation's own computer systems or software

26 DATA PROTECTION

- 26.1 Without prejudice to Clause 25 and subject to Clause 24.10 the Organisation shall:-
- 26.1.1 comply with its obligations under the Data Protection Act 1998 (including where appropriate obtaining registration thereunder and whether as data controller, data processor or otherwise) and the Computer Misuse Act 1990

- insofar as the performance of the Services and the other requirements of this Agreement give rise to obligations under that Act;
- 26.1.2 provide the Council with such information (including but not limited to a copy of the Organisation's registration under the Data Protection Act 1998) as the Council may require to satisfy itself that the Organisation is complying with the obligations referred to in Clause 26.1.1;
 - 26.1.3 provide the Council with all such assistance as the Council may require to enable the Council to comply with its obligations under the Data Protection Act 1998 and other relevant Legislation in relation to housing records; and
 - 26.1.4 make such application for a change in its registration and take such other steps as may be necessary to afford the Council access to information which is required by the Council in connection with any of its statutory duties and responsibilities and for any purpose connected with this Agreement.
- 26.2 Neither party shall knowingly do anything which places the other in breach of its obligations under the Data Protection Act 1998, the Regulation of Investigatory Powers Act 2003 and other relevant Legislation.

27 CONFIDENTIALITY AND PUBLICITY

- 27.1 The Parties undertake to keep confidential both during the Contract Period and following expiry or termination of the Agreement:
- 27.1.1 all information relating to the business and operations of the other Party;
 - 27.1.2 this Agreement; and
 - 27.1.3 all matters relating to the operation of this Agreement (including, without prejudice to the generality of the foregoing) information and Service Data relating to the provision of the Services.
- 27.2 Clause 27.1 shall not apply to:
- 27.2.1 any disclosure of information that is reasonably and necessarily required by personnel of the Organisation engaged in the provision of the Services under this Agreement;
 - 27.2.2 any disclosure of matters or information which a Party can demonstrate has or becomes generally available to the public and in the public domain otherwise than through the act or default of (or on behalf of) the relevant Party;
 - 27.2.3 any disclosure of matters or information which have comes into the possession of the relevant Party without restriction as to its disposal and otherwise as a result of this Agreement;
 - 27.2.4 any disclosure which is required by law or any order of a court of competent jurisdiction or the rules of any governmental or regulatory authority having the force of law;
 - 27.2.5 any disclosure to enable a determination to be made under the Dispute Resolution Procedure in Clause 74;
 - 27.2.6 any disclosure of information by either Party to any department, office or agency of the Government;
 - 27.2.7 any disclosure by the Council of any document related to this Agreement to

- which it is a party and which the Organisation (acting reasonably) has agreed with the Council contains no commercially sensitive information; or
- 27.2.8 any disclosure for the purpose of
- 27.2.8.1 the examination and certification of the Council's or the Organisation's accounts; or
- 27.2.8.2 any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Council has utilised its resources; or
- 27.2.9 any disclosure by the Council to any third party insofar as this may be reasonably necessary to the performance or provision by that third party of any services or works whatsoever for or to the Council; or
- 27.2.10 any disclosure by the Organisation to any third party insofar as this may be reasonably necessary for the performance or provision of the Services; or
- 27.2.11 any disclosure by the Council in service monitoring reports to the Council's Executive or other member body.
- 27.3 Where disclosure is permitted under Clause 27.2 (other than Clause 27.2.2, 27.2.4, 27.2.7 and 27.2.8) the recipient of the information shall be subject to the same obligation of confidentiality as contained in this Agreement.
- 27.4 When the Organisation, in carrying out its obligations under this Agreement, is provided with information relating to users or potential users of the Services the Organisation shall not disclose or make use of any such information otherwise than for the purpose for which it was provided, unless the Organisation has sought and obtained the prior written consent of that person or the Council's Representative.
- 27.5 At the request of the Council, the Organisation shall facilitate the Council's compliance with the Code of Practice on Access to Government Information (1994) and in the event that the Council is required to provide information to a person as a result of a request made to it under such Code, the Organisation shall provide such information relating to the Agreement or the Services to enable the Council to adhere to the requirements of the Code.
- 27.6 The Organisation shall ensure that its employees agents and subcontractors shall not divulge or dispose of or part with possession custody or control of any Service Data, material or information provided to the Organisation by the Council pursuant to the Agreement or prepared or obtained by the Organisation pursuant to the Agreement other than in accordance with the express written instructions of the Council's representative.
- 27.7 Subject to Clauses 27.8 and 27.9, neither party shall not make any public

statement or issue any press releases or any other form of publicity document regarding the negotiations relating to or the provisions or operation of this Agreement or commercially sensitive or confidential information relating to the other party without obtaining the written approval of the other party (such approval not to be unreasonably withheld or delayed) as to its contents and manner and timing of its presentation and publication.

27.8 Either party may make a public statement or announcement concerning the transaction completed by this Agreement or the provisions of this Agreement if required by:

27.8.1 law; or

27.8.2 any regulatory or Government body to which either party is subject or submits, wherever situated, whether or not the requirement has the force of law

PROVIDED THAT any such public statement or announcement shall be made only after communication with the other party.

27.9 Either party may make or issue a public statement regarding the day to day operation of this Agreement or in respect of an individual case for which the Organisation is responsible PROVIDED THAT any such statement does not contravene the duty of confidentiality contained in this Clause 27.

28 HEALTH AND SAFETY

28.1 The Organisation shall in performing the Services be responsible for the observance by itself and the Organisation's personnel of all Legislation and other legal requirements for the safety health and welfare of the Organisation's personnel and of any other persons at premises used by the Organisation in the provision of the Services.

28.2 In performing the Services, the Organisation shall

28.2.1 provide such facilities and comply with such requirements for the protection of the health and safety of the Organisation's personnel and users of the Services when at premises occupied by the Organisation as set in the Delivery Plan;

28.2.2 adopt and use safe methods of work in order to protect the health and safety of the Organisation's personnel, users of the Services when at premises occupied by the Organisation;

28.2.3 ensure that its health and safety policy statement, procedures, codes of practice and working practices have been drawn to the attention of and are complied with by the Organisation's personnel and that supervisory personnel have a detailed knowledge thereof;

28.2.4 comply with the requirements as to health and safety in its Delivery Plan;

28.2.5 ensure that the Organisation's personnel, whilst on Council premises, comply with the Council's health and safety requirements applicable to those premises;

- 28.2.6 ensure that the Organisation's personnel are properly trained and instructed with regard to fire risks and precautions at the premises occupied by the Organisation and at Council premises and comply with the instructions of fire officers in relation to such matters;
 - 28.2.7 ensure that safety officers are appointed and notify the Council's Representative of their names;
 - 28.2.8 comply with the Health and Safety (Consultation with Employees) Regulations 1996 and consult regularly with such health and safety representatives or committees as the Organisation's personnel may appoint or establish;
 - 28.2.9 nominate a person to be responsible for health and safety matters as required by the Health and Safety at Work etc Act 1974 and the Management of Health and Safety at Work Regulations 1992, such person to be notified to and agreed with the Council's Representative prior to the Commencement Date;
 - 28.2.10 ensure that the Organisation's personnel have received suitable and sufficient health and safety training and are competent to carry out their respective tasks with due regard to the Organisation's obligations under health and safety Legislation;
 - 28.2.11 promptly take all necessary special precautions in respect of any health and safety hazards at the premises occupied by the Organisation of which it is or may become or be made aware of by the Council's Representative, users of the Services or other third party and take all reasonably practicable measures to remove any risks arising from such hazards
 - 28.2.12 ensure that there is maintained at each premises occupied by the Organisation copies of all relevant health and safety Legislation, codes of practice and working rules for the type of Services being performed and shall permit the Organisation's personnel to use and refer to them; and
 - 28.2.13 ensure that the premises occupied by the Organisation are subject to a health and safety inspection at least on a quarterly basis and that a written report is made to the safety officer upon each such inspection and a copy provided to the Council's Representative.
- 28.3 The Organisation shall
- 28.3.1 promptly provide such information and documents as the Council's Representative may from time to time request as evidence of the Organisation's compliance with its obligations under this Clause 28;
 - 28.3.2 provide to the Council's Representative from time to time on written request a copy of the Organisation's current health and safety policy statement, safety codes of practice, methods of safe working practice and risk assessments;
 - 28.3.3 notify the Council's representative as soon as becoming aware of any actual or threatened prosecution of or service of an enforcement notice on the Organisation for any offence pertaining to the health and safety of the Organisation's personnel or other persons or of such conviction on such prosecution and shall provide the Council's Representative with such further information or documentation as may be reasonably requested; and
 - 28.3.4 permit any Safety or Environmental Health or other authorised officer of the Council to enter without prior notice any of the premise occupied by the Organisation for the purpose of inspecting the premises, equipment,

consumables and materials thereon being used or proposed to be used by Organisation in the provision of the Services and co-operate with those officers in order to facilitate their inspections by permitting them to carry out such tests and take such measurements, samples, and photographs as they may consider to be necessary.

- 28.4 The Organisation shall be responsible for and shall indemnify the Council in respect of any actions proceedings or claims brought against the Council arising from the Organisation's non-compliance with this Clause 28.
- 28.5 The Organisation shall keep its health and safety policy, health and safety codes of practice and methods of working under continuous review and make any amendments necessary as a result of any change in law, or working practice or the introduction of new equipment and shall promptly notify the Council's Representative of any such amendments and comply with such revised policy, codes and methods of working in carrying out its obligations under this Agreement.
- 28.6 The Council's Representative shall be entitled to exercise the power to serve a Suspension Notice pursuant to Clause 69.1 in the event of a serious non-compliance by the Organisation with its obligations under the Agreement in respect of health and safety.

29 INDEMNITY AND INSURANCE

- 29.1 The Organisation shall be liable for and shall fully and promptly indemnify and hold harmless the Council, its employees, agents and other contractors against all actions, claims, costs, damages, demands, deductions, expenses, liabilities, losses and proceedings which may arise directly or indirectly from the performance or non-performance by the Organisation of its obligations under this Agreement or any negligent act, default or omission of the Organisation or its employees, agents or contractors in the course of providing the Services including (without limitation);
- 29.1.1 any claim for death or personal injury;
- 29.1.2 any claim for damage to or loss of property or other infringement of property rights or the Intellectual Property Rights;
- 29.1.3 any claim for negligence or breach of statutory duty or other duty;
- 29.1.4 any claim for breach of contract;
- 29.1.5 any claim in respect of judicial review;
- 29.1.6 with effect from 1st April 2005, compensation payments made by the Council to a complainant pursuant to Section 92 of Local Government Act 2000 or Section 31(3) of the Local Government Act 1974 following a finding of maladministration causing injustice by a local commissioner or pursuant to a local settlement where such finding or settlement results from any act default or omission by the Organisation or the Organisation's employees, agents or contractors

except and to the extent that such liability has been caused (or contributed to) by the negligent act, default or omission of the Council or its employees, agents or contractors (other than the Organisation or its agents or contractors) or where such

liability arises as a direct result of the Organisation acting on the instructions or advice of the Council.

- 29.2 Except in the case of liability for death or personal injury, the Organisation shall not be obliged to indemnify the Council for any claim to the extent that it is in excess of ten million pounds (£10m).
- 29.3 The Council shall indemnify the Organisation and the Organisation's employees, agents and contractors against all liability for
- 29.3.1 death or personal injury; and
 - 29.3.2 loss of or damage to property (including property belonging to the Organisation or for which it is responsible)
- which may arise out of or in consequence of the negligent act or default of the Council or its employees, agents or contractors (other than the Organisation or its contractors).
- 29.4 Except in the case of liability for death or personal injury the Council shall not be obliged to indemnify the Organisation for any claim to the extent that it is in excess of ten million pounds (£10m).
- 29.5 The indemnities under Clauses 29.1 and 29.3 and any other express indemnities in this Agreement are conditional upon the Party who is to take the benefit of the indemnity ("the Indemnified").
- 29.5.1 notifying the Party who is giving the indemnity ("the Indemnifier") in writing as soon as reasonably practicable of any claim being made or proceedings threatened or brought against the Indemnified;
 - 29.5.2 not making any admission of liability nor making any offer, promise, compromise or settlement with any third party without the prior written agreement of the Indemnifier which shall not be unreasonably withheld or delayed;
 - 29.5.3 taking such action to avoid, dispute, resist, compromise or contest such claim or proceedings as may reasonably be requested by the Indemnifier;
 - 29.5.4 disclosing such information and documents relating to the claim or proceedings as may be reasonably required by the Indemnifier;
 - 29.5.5 permitting the Indemnifier (at the Indemnifier's expense) to take over the conduct of any claim or proceedings and conduct the same in the name of the Indemnified. PROVIDED ALWAYS that, in the event that the Indemnifier exercises its entitlement so to do, the Indemnifier shall keep the Indemnified fully notified at all times of the progress of the claim or proceedings and shall afford the Indemnified reasonable opportunity to consider and comment upon any material decisions to be taken in respect thereto and shall take full account of any reasonable comments which the Indemnified shall make; and
 - 29.5.6 taking all reasonable and appropriate steps to mitigate losses and the effect of any claims.

29.6 Each Party acknowledges and confirms to the other that, where in respect of the same facts or circumstances it has already recovered in full (for itself or on behalf of any other person for whom it is entitled to claim under this Agreement) sums from the other party, it shall not attempt (and hereby waives and releases any right) to make another claim in respect of the same facts or circumstances.

29.6 Save as otherwise provided in the Leases the Council shall during the Contract Period be responsible for insuring the Premises against fire, explosion, storm and damage on such terms and against such other risks as the Council shall from time to time determine.

29.7 The Organisation shall at all times maintain in force such policies of insurance with reputable insurers or underwriters approved by the Council as shall fully insure and indemnify the Organisation against its liability

29.7.1 to the Council and any employee of the Council;

29.7.2 to the employees of the Organisation;

29.7.3 to any other person

29.8 Without prejudice to Clause 29.7, the Organisation shall throughout the Contract Period take out and maintain or procure the maintenance of the following insurances with reputable insurers approved by the Council, such approval not to be unreasonably withheld or delayed;-

29.8.1 Employer's Liability:

Minimum limit of indemnity £10,000,000 any one event

29.8.2 Public\Third Party Liability
Minimum Limit of Indemnity

£10,000,000 any one occurrence; unlimited during any one period of insurance

29.8.3 Third Party Motor
Minimum limit of indemnity

£5,000,000
any one occurrence

29.8.4 Fidelity Guarantee
Minimum limit of indemnity

£250,000
any one occurrence

29.8.5 Professional Indemnity
Minimum limit of indemnity

£2,000,000
any one occurrence and in all in the aggregate in any Contract Year

29.8.6 Additional Insurance

Any other insurance which is customary or necessary to comply with statutory

requirements or is considered to be desirable or prudent,

- 29.8 No Party to this Agreement shall take or fail to take any reasonable action, or (in so far as it is reasonably within its power) permit anything to occur in relation to it, which would entitle the insurer to refuse to pay any claim under any insurance policy in which that Party is an insured or co-insured.
- 29.10 The Organisation shall ensure that all relevant insurances (including those insurances referred to in Clause 29.8):
- 29.10.1 wherever possible have the interest of the Council endorsed upon them or otherwise expressly by their terms confer their benefits upon the Council; and
- 29.10.2 contain an express provision waiving the insurer's subrogation rights against the Council, its employees, agents and subcontractors.
- 29.11 The Organisation shall at the Commencement Date and thereafter on each anniversary thereof and at such other times as the Council may reasonably require supply the Council with certified copies of all insurance policies required by any of the provisions of this Clause 29 and with any cover notes, premium receipts or other documents necessary to show that such policies are fully maintained and otherwise comply with the Agreement
- 29.12 If and to the extent that the Council is dissatisfied as to the adequacy of any policy of insurance effected by the Organisation pursuant to this Clause it shall give notice in writing to the Organisation to that effect and upon receipt of such notice the Organisation shall forthwith procure and effect such additional, enhanced or other insurance as the Council may require.
- 29.13 In the event that the Organisation fails to comply with a requirement of the Council in accordance with Clause 29.12 the Council shall be entitled to take any of the following steps:-
- 29.13.1 effect such insurances itself and reflect the costs of so doing in the then current Delivery Plan;
- 29.13.2 pay any unpaid premium required to keep such insurance in force and reflect the costs of so doing in the then current Delivery Plan;
- 29.13.3 commence default or other action in accordance with Clause 70.
- 29.14 The premiums for the insurances referred to in Clause 29.8 shall be the responsibility of the Organisation.

- 29.15.1 All deductibles under insurances maintained by the Organisation pursuant to Clause 29.8 shall be the sole and exclusive responsibility of the Organisation.
- 29.16 The Organisation shall notify the Council within ten(10) Working Days after any claim on any of the insurance policies referred to in Clause 29.1 and (if requested by the Council) provide full details of the event or occurrence giving rise to the claim.
- 29.17 Neither failure to comply nor full compliance with the insurance provisions of this Clause 29 shall limit or relieve the Organisation of its liabilities and obligations under this Agreement.
- 29.18 The Organisation shall deal expeditiously and appropriately with all claims submitted to it by third parties or the Council either by using the Organisation's personnel or by referring such claims to its insurers.
- 29.19 Nothing in this Clause 29 shall oblige the Organisation to take out insurance in respect of a risk which is Uninsurable.
- 29.20.1 If a risk covered by the Organisation's insurances in Clause 29.8 becomes Uninsurable then the Organisation shall notify the Council at least two (2) months prior to the risk becoming Uninsurable.
- 29.20.2 If both Parties agree, or it is determined in accordance with the Dispute Resolution Procedure in Clause 74 that the risk is Uninsurable and that the risk being Uninsurable is not due to the actions of the Organisation or Organisation's personnel then the Parties shall meet to discuss the means by which that risk should be managed (including considering measures to share the risk and associated costs).
- 29.20.3 If the requirements of Clause 29.20.1 and 29.20.2 are satisfied but the Parties cannot reach agreement upon management of the risk within forty (40) Working Days of receipt by the Council of the notice pursuant to Clause 29.20.1 then the Agreement shall continue but either Party may refer the matter for determination in accordance with the Dispute Resolution Procedure in Clause 74 and the premium payable for insurance for such risk immediately prior to it becoming Uninsurable shall be reflected in the then current Delivery Plan.
- 29.21 The Council and the Organisation acknowledge and agree that it will be necessary to review and (if necessary) vary the minimum limits of indemnity under the Organisation insurances in Condition 29.8 to ensure that an adequate level of cover is maintained in respect of the same having regard to circumstances and considerations prevailing at the relevant time. Accordingly those limits shall three months prior to any relevant renewal date and in any event annually each Contract Year be subject to review by the Parties.

- 29.22 The Organisation shall insure against any expense, liability, loss, claim or proceedings in respect of any damage whatever to private property (real or personal) insofar as such damage is due to the negligence, omission or default of the Organisation, its employees or agents or any sub-contractor or person for whom the sub-contractor is responsible.
- 29.23 Without prejudice to the generality of this Clause 29, it is hereby agreed and declared that the Organisation shall be liable for any loss or damage whatsoever and howsoever caused to the contents of the Premises and to the full value of such contents in the event of fire.
- 29.24 The Council acknowledges that the Organisation may (if the Council so agrees) discharge its obligations under this Clause 29 by procuring some or all the above insurances through or by the Council or its agents

30 HOUSING INSPECTION

Without prejudice to the other applicable provisions of this Agreement the Organisation shall co-operate fully with the Housing Inspectorate in respect of the inspection of (a) the operation of this Agreement and the work of the Organisation and (b) the Council's own housing service whether in relation to the Organisation's work on behalf of the Council or the Council's own retained functions and activities.

31 PROVISION OF INFORMATION

- 31.1 Without prejudice to the other provisions of this Agreement the Organisation shall provide all relevant information which may be required by the Council in order that the Council can act fairly, properly and in accordance with its statutory obligations in connection with the provision of the Services or the future provision of the same or any similar services and also to deal with investigations or inquiries by the District Auditor, Ombudsman and similar persons or bodies. The Council may make a request for any such information at any reasonable time and the Organisation shall comply with that request as soon as possible.
- 31.2 Subject to Clause 31.1 the Organisation shall consult as often as may be necessary with the Council's Representative or with such other member of the Council's retained housing staff as the Council's Representative may specify from time to time to ensure that the Services are provided and continue to be provided in a continuous and efficient manner and in accordance with the provisions of this Agreement.

31.3 The Organisation's Representative and the Council's Representative shall meet monthly throughout the Contract Period to:

31.3.1 discuss operational issues;

31.3.2 discuss the manner and extent of the Organisation's provision of the Services pursuant to this Agreement and the Delivery Plan;

31.3.3 consider financial and budgetary issues;

31.3.4 consider the monthly performance reports on the Organisation's performance;

31.3.5 consider issues or concerns of the Organisation and the Council relating to the other Party's performance of its functions in relation to this Agreement;

31.3.6 consider and endeavour to resolve amicably by negotiation any disputes relating to operational or other matters; and

31.3.7 consider any other relevant issues which may arise from time to time

subject to the Council's right reasonably to vary the number of such meetings by providing the Organisation with reasonable prior notice thereof

31.4 The Organisation shall observe and comply with any reasonable and appropriate instructions or directions given or made by the Council's Representative so as to help ensure the proper performance of the Services in accordance with the Delivery Plan and all such instructions or directions shall be confirmed in writing by the Council's Representative before the end of the Working Day which follows the issue of such instructions or directions.

31.5 The Organisation shall inform the Council's Representative immediately by telephone or email (and shall confirm in writing as soon as practicable following such call or email) of any or all of the following matters:-

31.5.1 any failure by the Council or its employees or agents or other persons providing services to the Council to meet obligations under this Agreement;

31.5.2 any acts or omissions by the Council or such other persons as are referred to in Clause 31.5.1 which prevent or hinder or are likely to prevent or hinder the Organisation from complying with its obligations under this Agreement; and

31.5.3 any points of contention or other difficulties with any local tenants groups or comparable organisations which might prevent or hinder the Organisation from complying with its obligations under this Agreement.

31.6 The Organisation shall co-operate with all Council departments and other Council contractors to enable them the better to perform their functions and duties either by means of the provision of information or by such other appropriate means as do not involve out-of-pocket expenditure.

- 31.7 The Organisation and the Council shall establish such mutual arrangements as may be necessary (whether by pager, mobile telephones, email or otherwise) to ensure that the liaison arrangements stipulated in this Agreement can be achieved.
- 31.8 The Organisation shall liaise with Council Members, Members of Parliament and other elected representatives in such a manner as shall be reasonably required from time to time by the Council's Representative.

32 ACCESS TO INFORMATION

- 32.1 The Organisation shall at all times throughout the Contract Period allow the Council's Representative and other duly authorised employees or agents of the Council ("Authorised Person") access on reasonable notice (save in the case of emergency or for statutory or audit purposes where no notice shall be required) to the Premises or any other place where the Services are being performed for the purpose of:
- 32.1.1 Investigating, monitoring and inspecting any work performed or being performed pursuant to the provision of the Services;
 - 32.1.2 inspecting taking copies of and (if necessary in the reasonable opinion of the Council's Representative or Authorised Person and subject to the provision of a receipt and duty of safekeeping) removing the originals of Service Data records and documents (including without limitation files relating to tenants and leaseholders and office accounting records) in the possession custody or control of the Organisation in connection with the provision of the Services;
 - 32.1.3 inspecting the security and storage arrangements for documents and files relating to the provision of the Services;
 - 32.1.4 inspecting materials, consumables and equipment used or proposed to be used in connection with the provision of the Services; and the security and storage arrangements therefor;
 - 32.1.5 interviewing members of the Organisation's personnel in connection with the provision of the Services; and
 - 32.1.6 inspecting the Council's Computer Systems, Council's Software and the Organisation's computer systems, software, databases and other information technology resources and procedures used or proposed to be used in connection with the provision of the Services

and if required by the Council's Representative, the Organisation shall make suitable provision for the use of office space within the Premises together with access to a telephone for the sole use of the Council's Representative or Authorised Person to monitor the Organisation's performance of the Services.

33. LOCAL GOVERNMENT OMBUDSMAN AND MALADMINISTRATION

- 33.1 Where a local commissioner appointed by the Commission for Local Administration under the Local Government Act 1974 (the "Local Government

- Ombudsman”) conducts an investigation arising out of or connection with the provision of the Services or any part of them, the Organisation shall:
- 33.1.1 provide any information requested by on behalf of Local Government Ombudsman in the time scale allocated;
 - 33.1.2 attend any meetings with the Local Government Ombudsman or her \ his representative or the Council and permit members of the Organisation’s personnel so to attend;
 - 33.1.3 promptly allow access to and investigation of any relevant documents and data and, if requested, provide copies;
 - 33.1.4 permit the Local Government Ombudsman (or her \ his representative) and \ or the Council to interview face to face or over the telephone any members of the Organisation’s personnel in connection with the investigation;
 - 33.1.5 arrange for relevant members of the Organisation’s personnel to appear as witnesses in any ensuing legal proceedings or internal proceedings of the Council;
 - 33.1.6 co-operate fully and promptly in every way required by the Local Government Ombudsman during the course of the investigation; and
 - 33.1.7 at the request of the Local Government Ombudsman or the Council, issue a suitable apology to the complainant.
- 33.2 For the avoidance of doubt, no additional payment shall be made to the Organisation for performing the requirements set out in Clause 33.1 above.
- 33.3 For the avoidance of doubt and with effect from 1st April 2005, where any financial redress or other compensation is recommended by the Local Government Ombudsman in any investigation arising directly or indirectly out of the provision of the Services or any other action by the Organisation or the Organisation’s personnel, then the Council shall be entitled to recover the cost of that financial redress or other compensation paid by it to the complainant pursuant on or after from the Organisation in accordance with Clause 29.1.6.
- 33.4 At the request of the Council, the Organisation shall co-operate fully with the Council’s Monitoring Officer (designated as such by the Council pursuant to Section 5 of the Local Government and Housing Act 1989 to advise the Council on illegality and maladministration) in the investigation of any complaint concerning any act or omission by the Organisation in carrying out its obligations under this Agreement which may amount to contravention of any entitlement or rule of law or maladministration. The Organisation shall bear the cost of any payment which the Council’s Monitoring Officer, after carrying out an objective investigation into any complaint by a person, advises should be made on behalf of the Council to remedy that complaint if that officer considers the person has sustained injustice as a result of maladministration by the Organisation in connection with the provision of the Services.

34 FRAUD

- 34.1 The Organisation shall not, whether itself or by any director or by any person employed by it to provide the Services commit any of the following (the "Prohibited Acts");
- 34.1.1 solicit or accept any gratuity, tip or any other form of money or take any reward or make any unauthorised charge for any part of the Services;
 - 34.1.2 commit any offence under the Prevention of Corruption Acts 1889 to 1916, or section 117(2) of the local Government Act 1972 or under Legislation creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to this Agreement or any other agreement with the Council;
 - 34.1.3 defraud or attempt to defraud or conspire to defraud the Council in connection with this Agreement or the provision of the Services ; or
 - 34.1.4 commit malpractice in relation to the provision of the Services or otherwise in connection with the Agreement.
- 34.2 If the Organisation (or a director or employee of the Organisation or anyone acting on its behalf or to its knowledge) commits any of the Prohibited Acts with or without the knowledge of the Organisation, in relation to this Agreement then the Council shall be entitled to;-
- 34.2.1 terminate this Agreement by notice in writing having immediate effect upon which the provisions of Clause 72 shall apply; and \ or
 - 34.2.2 require the Organisation to procure the termination of any subcontract or agency agreement if the Prohibited Act is that of the Organisation's sub-contractor or agent; and \ or
 - 34.2.3 require the Organisation to dismiss an employee of the Organisation if the Prohibited Act is committed by that employee; and \ or
 - 34.2.4 recover from the Organisation any loss sustained in consequence of any breach of Clause 34.1.
- 34.3 Any termination notice given pursuant to Clause 34.2.1 shall specify:
- 34.3.1 the nature of the Prohibited Act;
 - 34.3.2 the identity of the party whom the Council believes has committed the Prohibited Act; and
 - 34.3.3 the date on which the Agreement will terminate.
- 34.4 As soon as the Organisation becomes aware of or suspects the occurrence of any Prohibited Act in the provision of the Services or which otherwise affects it the Organisation's Representative shall notify the Council's Representative.

- 34.5 On receiving notification under Clause 34.4 and without prejudice to the Organisation's legal liability and financial responsibility the Council's Representative shall assume and be given sole responsibility for investigating or arranging for the investigation of such Prohibited Act fraudulent action or malpractice.
- 34.6 The Organisation shall afford all possible access and facilities to the Council's Representative and his nominees and agents when the Council's Representative carries out an investigation into any such Prohibited Act, whether the investigation arises following a notification under Clause 34.4 or as a result of the Council's Representative's own information.
- 34.7 The Council's Representative shall have the right (without prejudice to Clause 34.3) to require that the Organisation:
- 34.7.1 suspend all or any stipulated further work under this Agreement if the Council's Representative has reasonable grounds for suspecting that the Organisation (or a director of the Organisation) has committed a Prohibited Act; or
- 34.7. suspend from the provision of the Services any employee of the Organisation if the Council's Representative has reasonable grounds for suspecting that the employee has committed a Prohibited Act.

35 COMPLAINTS

- 35.1 The Organisation shall at the request of the Council's Representative, in the places and in a form approved by the Council's Representative, arrange for notices to be permanently displayed giving information as to how complaints about the provision of the Services may be made. The Organisation shall deal with any complaints received from whatever source in a prompt, courteous and efficient manner.
- 35.2 The Organisation shall keep a written record of all complaints received and of the action taken in relation to such complaints. Such records shall be kept available for inspection by the Council's Representative at all reasonable times. The Organisation shall notify the Council's Representative forthwith in writing of all complaints received and of all steps taken in response thereto.
- 35.3 Until such time as the Organisation adopts its own complaints procedure, it shall comply with the Council's complaints policy as the same may be amended from time to time and will comply with the procedures and standards set out in the Delivery Plan.
- 35.4 Any costs incurred by the Council in responding to and dealing with any justified complaints about the Organisation's performance of the Services (including any matters raised with the Ombudsman) shall be reflected in a variation to the current Delivery Plan.

- 35.5 Where the Local Government Ombudsman has made a recommendation(s) to the Council in respect of a complaint about the Organisation's performance of the Services, the Council shall be entitled to require the Organisation to implement such recommendation(s).
- 35.6 Where a complaint about the Organisation's performance of the Services is referred to the Local Government Ombudsman and the Local Government Ombudsman decides to investigate that complaint, the Council shall take over the handling of that complaint from the Organisation and the Organisation shall comply with its obligations under Clause 33.1.
- 35.5 The Organisation acknowledges that for the purposes of this Clause 35 the term "complaint" means an expression of dissatisfaction about the Organisation's action or lack of action or standard of service, whether justified or not.

36 LEGAL INVESTIGATIONS

- 36.1 Where the Organisation becomes aware of any incident, accident, damage, breach of Legislation or other matter which affects or might reasonably be expected to affect the Organisation's ability to comply with the Delivery Plan or deliver the Services in accordance with this Agreement, it shall immediately notify the Council's Representative and provide all relevant information to enable the Council's Representative to investigate the matter fully.
- 36.2 At the request of the Council's Representative, the Organisation shall
- 36.2.1 provide any relevant documentation and Service Data;
 - 36.2.2 arrange for the provision of statements from members of the Organisation's personnel; and
 - 36.2.3 arrange for members of the Organisation's personnel to give evidence

in connection with any internal investigation, internal disciplinary hearing, arbitration, investigation by the Council's external auditor, court proceedings or any legal inquiry in which the Council may become involved which arises out of or is connected with this Agreement or the provision of the Services by the Organisation.

- 36.3 Should any part of the Services involve the Organisation in performing duties or exercising powers under some other contract it shall upon becoming aware of anything which is likely to give rise to arbitration or litigation forthwith notify the Council's Representative of the existence of any such matter together with such particulars as are available.

37. AUDIT ACCESS

The Organisation shall co-operate fully and in a timely manner with any request from time to time of any auditor (whether internal or external) of the

Council or auditor carrying out functions under the Audit Commission Act 1998 or the Local Government Act 1999 to

- 37.1.1 provide or procure the provision of immediate access to;
- 37.1.2 permit copying of or provide copies of;
- 37.1.3 subject to the provision of a receipt and a duty of safekeeping, permit the removal of the originals of; or
- 37.1.4 provide oral or written explanations of

documents accounts, records and Service Data and information on a computer system operated by the Organisation and any other data or information in the possession or control of the Organisation which in any way relate to, are or have been used in connection with the provision of the Services.

- 37.2 The Organisation shall provide all co-operation and afford all access to personnel and records in order to assist the Council in carrying out any investigations which are already under way at the Commencement Date and any investigations which are carried out after the termination or expiry of this Agreement.

38. EMERGENCIES

- 38.1 Upon the declaration of a civil emergency and at the request of the Council's Representative, the Organisation shall deploy resources from the provision of the Services to enable the Council to carry out any of its functions. The additional cost of any such deployment shall be agreed between the parties (and thereupon treated as a variation of the Delivery Plan) and in default of such agreement the matter shall be referred for determination in accordance with the provisions of Clause 74 (Dispute Resolution).

- 38.2 During any period in which the Organisation is engaged in carrying out work in accordance with a request pursuant to Clause 38.1, the Council's Representative may issue an instruction to the Organisation suspending the provision of the Services (or part of the Services) to the extent reasonably necessary as a consequence of the deployment of members of the Organisation's personnel to comply with the request under Clause 38.1.

- 38.3 Without prejudice to the provisions of Clause 38.1 and at the request of the Council's Representative, the Organisation shall use its best endeavours to provide the following services under the control and direction of the Council's Emergency Officer or his designated representative:-

- 38.3.1 to make provision for persons made homeless as a result of the emergency and evacuees and to supervise and co-ordinate the efforts to secure immediate temporary accommodation for the same including the use of vacant dwellings, sheltered schemes, communal areas in community centres, and other halls and meeting places as the Organisation (having consulted with the

Council) deems appropriate and in addition the Organisation shall so far as possible assist in the equipping of such places for use as temporary accommodation;

38.3.2 to liaise with the Council and such other organisations as the Council shall decide in order to co-ordinate action in dealing with homeless persons and evacuees;

38.3.3 to co-ordinate and supervise the operation of the provision of temporary accommodation described in Clause 38.3.1;

38.3.4 to set up and maintain arrangements for the reasonable protection of any property brought to any temporary accommodation by evacuees and to liaise with the police and other relevant bodies in relation to the safe custody of the same;

38.3.5 whenever so requested by the Council to arrange for the provision of temporary accommodation for homeless persons and/or evacuees;

38.3.6 to manage the temporary accommodation secured pursuant to these provisions for so long as the emergency lasts; and

38.3.7 to produce monthly accounts to the Council itemising its reasonable costs incurred in the provision of the services detailed in Clauses 38.3.1 to 38.3.6 such costs to be agreed between the parties (and thereupon treated as a variation of the Delivery Plan) and in default of such agreement the matter shall be referred for determination in accordance with the provisions of Clause 74 (Dispute Resolution).

38.4 At the request of the Council's Representative, the Organisation shall ensure that an agreed number (or failing agreement such number as may be specified by the Council's Representative) of the Organisation's personnel attend training sessions and / or exercises arranged by the Council for the purpose of enabling such persons to prevent, deal with or alleviate the consequences of any such situation as is mentioned in Clause 38.1. Any additional cost to the Organisation of its participation in any such training session and / or exercises shall be reflected by an appropriate variation to the then current Delivery Plan.

38.5 Certain common emergencies (which shall, for the avoidance of doubt exclude the matters referred to in Clause 38.1) which may affect the performance of the Services are to be anticipated during the Contract Period, including (without limitation) break-ins, minor flooding, minor fire damage and vandalism. The Organisation shall ensure that the Services, so far as reasonably practicable are maintained irrespective of any such common emergencies and, where necessary, rectified at no additional cost to the Council.

39 AGENCY

- 39.1 Neither the Organisation nor its personnel shall in any circumstances hold itself or themselves out as being the servant or agent of the Council otherwise than in circumstances expressly permitted by the Agreement.
- 39.2 Neither the Organisation nor its personnel shall in any circumstances hold itself or themselves out as being authorised to enter into any contract on behalf of the Council or in any other way to bind the Council to the performance, variation, release or discharge of any obligation otherwise than in circumstances expressly permitted by the Agreement.
- 39.3 Neither the Organisation nor its personnel shall in any circumstances hold itself or themselves out as having the power to make, vary, discharge or waive any byelaw or regulation of any kind.

40 SECURITY

- 40.1 The Organisation shall at all times maintain and shall ensure that its personnel and all its visitors maintain the security of and comply with the security arrangements in force in such of the Council's Premises which it is licensed or permitted to use under Clause 41 both when in use and when not in use.
- 40.2 The Organisation shall ensure that access to the Council's Premises which it is permitted to use under Clause 45 is restricted to its personnel and visitors engaged upon or in connection with the provision of the Services.
- 40.3 The Organisation shall comply with the Council's security regulations including any made for the purpose of the Data Protection Act 1998 and the Investigation of Regulatory Powers Act 2000.
- 40.4 The Organisation shall provide to any of its personnel, who shall at any time have access to any relevant Council Premises, security passes in such form as the Council may from time to time determine and issue to the Organisation. The Organisation shall retrieve such security passes from its personnel who cease to need such access or leave the employment of the Organisation and return such passes to the Council.
- 40.5 The Organisation shall be responsible for the safekeeping of any keys, passes and other means of access to Council Premises provided to the Organisation by the Council and shall only permit such keys, passes and other means of access to be given to those members of the Organisation's personnel whose names and addresses have been supplied to the Council and who have been approved by the Council. In addition, the Organisation shall use all reasonable endeavours to ensure that such members of the Organisation's personnel return their keys and passes on cessation of their employment in the provision of the Services and shall immediately inform the Council's Representative of the loss of any such keys, passes and other means of access.

- 40.6 The Organisation shall co-operate with any investigation relating to security at any Council Premises used or visited by members of the Organisation's personnel which is carried out by or on behalf of the Council and, as required;
- 40.6.1 shall make any member of the Organisation's personnel identified by the Council available to be interviewed for the purposes of the investigation; and
- 40.6.2 shall, subject to any legal restriction on their disclosure, provide all documents, records or other materials of any kind which may reasonably be required by the Council for the purposes of the investigation. The Council shall have the right to retain any such material for use in connection with the investigation and shall provide the Organisation with a copy of any material retained.
- 40.7 The Council shall not be under any liability to the Organisation or Organisation's personnel for any loss of or damage to property belonging to the Organisation or Organisation's personnel, whilst at Council Premises except where such loss or damage arises from the negligent act, default or omission of the Council.
- 40.8 The Organisation shall be responsible for the security of any monies received by the Organisation's personnel at Council Premises in connection with the provision of the Services.
- 40.9 The Organisation shall not implement any overt or covert security activities or measures at any Council Premises without the prior written consent of the Council's Representative.

41 USE OF COUNCIL'S EQUIPMENT

- 41.1 The Council shall with effect from the Commencement Date make available to the Organisation for the Contract Period the Council's Equipment listed in the Second Schedule together with any other such assets as may be made available by the Council to the Organisation (hereinafter together called "the Council's Assets") for use in connection with the Services subject to the provisions set out in Clauses 41.2 to 41.13 below.
- 41.2. The Organisation shall
- 41.2.1 keep the Council's Equipment clean internally and externally and in good and serviceable repair and condition at all times and ensure that it is used properly and safely in accordance with all manufacturers' and mandatory operating requirements and regulations;
- 41.2.2 notify the Council promptly if any item of Council's Equipment is lost, stolen, destroyed or damaged beyond economic repair;
- 41.2.3 not sell, lease, assign, charge or part with possession of the Council's Equipment;
- 41.2.4 keep the Council's Equipment at the relevant locations as set out in the Second Schedule and not relocate any item of Council's Equipment to another location without the prior written consent of the Council's Representative (such consent not to be unreasonably withheld or delayed) and if such consent is

- given, bear the cost of safe and secure removal of the item of Council's Equipment and its installation at the new location;
- 41.2.5 not make any material alterations, additions or improvements to any item of Council's Equipment without the prior written consent of the Council's Representative (such consent not to be unreasonably refused or delayed);
- 41.2.6 be responsible for any necessary licensing and for the payment of all licensing fees, taxes and insurances as may be required in connection with the possession or use of the Council's Equipment and shall not to do anything which would or might cause such licenses to be terminated or vitiate partly or wholly any insurances effected by the Organisation in respect of the Council's Equipment;
- 41.2.7 not to use the Council's Equipment in such a manner as to be a danger or nuisance to the users of the Services and other third parties;
- 41.2.8 permit the Council, the Council's Representative and its authorised officers and agents on having given reasonable notice, to inspect the Council's Equipment and facilitate that inspection;
- 41.2.9 deliver up the Council's Equipment free from encumbrances and in good and serviceable condition to the Council (or as otherwise directed by the Council) on the termination or expiry of the Agreement;
- 41.2.10 be responsible for the security of the Council's Equipment both when in use and not in use;
- 41.2.11 will renew or replace any of the Council's Equipment whenever necessary so as to ensure compliance with the Organisation's obligations under Clause 21.1 and all the provisions of Clause 21 shall thereupon apply to such renewals or replacements; and
- 41.2.12 cause the Council's Equipment to bear such words, devices, insignia or logos as the Council's Representative shall agree and approve.
- 41.3 The Organisation acknowledges that certain items of Council's Equipment as listed in the Second Schedule are leased by the Council and that, accordingly the Organisation's licence to use such equipment will expire on the date of expiry of the relevant leasing contract unless either those leasing contracts are extended by the Council or the Council acquires the leased Council's Equipment failing which the replacement obligation in Clause 41.2.11 shall apply.
- 41.4 In respect of any of the Council's Equipment which are leased the Organisation shall comply with the terms and conditions of such leases and at the expiry or earlier determination of such leases return the said Council's Equipment to the lessor or otherwise as the Council shall direct.
- 41.5 For the avoidance of doubt, the Council's Equipment shall remain the property of the Council or relevant leasing company as applicable and the Organisation shall not acquire any right, title or interest in the Council's Equipment.
- 41.6 The Organisation shall make its own arrangements for the cleaning, maintenance, repair, safety, insurance and security of all Assets owned leased or hired by the Organisation and used in the performance of the Services and the Council shall be under no liability in respect thereof.

- 41.7 The Organisation shall ensure that Assets owned leased or hired by the Organisation are operated and used by Organisation's personnel in a safe, reasonable and efficient manner without risk to the health and safety of the Organisation's personnel, users of the Services and other third parties.
- 41.8 The Organisation shall at all reasonable times and on reasonable notice permit the Council's Representative access to inspect and test all Assets used in the provision of the Services.

PART G – RESPONSIBILITIES AND RIGHTS OF THE COUNCIL

42 FAILURE TO PERFORM

No liability shall be incurred by the Organisation if but only to the extent that such liability would not have arisen if the Council had properly complied with its obligations under this Agreement.

43 PROVISION OF INFORMATION

Subject always to any legally binding constraints (whether under statute or otherwise) the Council shall use its reasonable endeavours to provide the Organisation with such information as the Organisation may properly require to enable it to comply with its obligations under this Agreement.

44 ASSIGNMENT

The Council shall not assign the benefit of this Agreement save by operation of law pursuant to a statutory scheme or otherwise as directed by the Secretary of State.

45 USE OF PREMISES

- 45.1 The Council shall make available to the Organisation the Premises detailed in the Third Schedule on the terms and conditions set out in the form of Leases in the Seventh Schedule.
- 45.2 On the date of this Agreement the Council shall grant and the Organisation shall take the Leases of the premises in the agreed form so as to take effect on the Commencement Date and in connection therewith:
- 45.2.1 the Organisation shall join with the Council at its own expense in making applications to the County Court for an order under section 38(4)(a) of the Landlord and Tenant Act 1954 (as amended) authorising the inclusion in such leases of a provision excluding sections 24 to 28 inclusive of the Landlord and Tenant Act 1954; and
- 45.2.2 the completion of the leases shall be conditional upon the grant of the said court orders and accordingly the parties shall use their best endeavours to obtain such orders and comply with any formalities in relation thereto.

46 COUNCIL'S EQUIPMENT

- 46.1 The Council shall
- 46.1.1 be entitled on reasonable notice to inspect the Council's Equipment;
- 46.1.2 in the event that the Organisation fails to insure the Council's Equipment in accordance with its obligations under Clause 41.2.6, be entitled itself to insure and keep insured the Council's Equipment against fire and theft and such other risks which the Council (acting reasonably) considers it is commercially prudent to insure at the Organisation's expense;
- 46.1.3 not do anything which would or might vitiate any insurances effected in respect of the Council's Equipment; and
- 46.1.4 be entitled to retake possession of the Council's Equipment if it is not delivered up by the Organisation immediately following the expiry or termination of the Agreement.

47 HOUSING INSPECTION

The Council shall afford the Organisation all reasonable assistance in order to enable the Organisation to comply with its obligations under Clause 30.

48 SERVICES SUPPLIED BY COUNCIL

The Council shall supply to the Organisation the services described in the Ninth Schedule on the terms set out therein

49 INTELLECTUAL PROPERTY RIGHTS

- 49.1 At the expiry or earlier termination of the Agreement, the Organisation shall transfer to the Council or whomsoever the Council shall direct the Service Data and all other documents, material, data, databases and information (in whatever form) in its possession relating to the Agreement or to the provision of the Services, together with any relevant computer software processing facilities.
- 49.2 Any and all Intellectual Property Rights in any matter or thing developed under this Agreement or arising from the provision of the Services by the Organisation (including, without prejudice to the generality of the foregoing, any software) other than Intellectual Property Rights belonging to a third party shall belong to the Council and the Organisation agrees that it shall execute or cause to be executed all deeds, documents and acts required to vest such intellectual property rights in the Council.
- 49.3 The Organisation shall forthwith upon becoming aware of any actual, threatened, attempted or suspected infringement by any third party of any of the Council's Intellectual Property Rights (including (without limitation) seizure or other interference with Service Data):
 - 49.3.1 provide full particulars thereof to the Council;
 - 49.3.2 assist, co-operate with and follow the instructions of the Council in relation to any such claims including (without limitation) protecting or defending the Council's Intellectual Property Rights against any infringing party; and

- 49.3.3 at the request of the Council, entrust the conduct of any proceedings in relation to such claim to the Council.
- 49.4 The Organisation shall indemnify the Council in accordance with Clause 29.1 from and against all claims and proceedings made or brought against the Council in respect of any infringement or alleged infringement of any third party Intellectual Property Rights in connection with the provision of the Services.
- 49.5 The Organisation shall promptly notify the Council if any claim or demand is made or action brought or threatened against the Organisation for infringement or alleged infringement of any Intellectual Property Rights which may affect the carrying out of the Services.
- 49.6 Subject to Clause 49.7, the Organisation shall conduct any litigation arising from, and all negotiations in connection with any claims, demands and actions in respect of any infringement or alleged infringement of any Intellectual Property Rights. The Council shall at the request of the Organisation, afford the Organisation all reasonable assistance for the purpose of contesting any such claims, demands and actions. The Organisation shall reimburse the Council for all costs and expenses (including, but not limited to legal costs and disbursements on a full indemnity basis) incurred in so doing.
- 49.7 If so requested by the Council, the Organisation shall either
- 49.7.1 take all such steps as may be necessary to avoid the infringement or the alleged infringement of any Intellectual Property Rights; or
- 49.7.2 procure such licence as may be necessary to continue the carrying out Services without infringement, on terms which are reasonably acceptable

50 RIGHT TO USE DOCUMENTS

- 50.1 The ownership of and an unrestricted right to use any document produced by the Organisation, its sub-contractors and agents for all purposes envisaged by or arising under this Agreement shall be vested in the Council.
- 50.2 At the expiry or earlier termination of the Agreement the Organisation shall transfer all documents, materials and other information (in whatever form) in its possession relating to the Agreement to the Council or whomsoever the Council shall direct.

51 RIGHT TO USE PREMISES

The Organisation shall permit the Council to use any of the Premises or other premises used by the ALMO in the provision of the Services at any time in the event of a declaration of a civil emergency affecting the area of the Council and / or neighbouring areas by the Council or other statutory or public authority and the Organisation shall give all necessary assistance including the provision of staff to the Council in arranging emergency use.

52 EXCLUSION OF LIABILITY

- 52.1 The Council shall not be liable to the Organisation, whether in contract, tort or otherwise, for any loss damage or injury howsoever caused or arising out of or in connection with the provision by the Organisation of the Services or the use of or occupation by the Organisation of any of the Council's premises (including the Premises) save in relation to any deliberate or negligent act or omission of the Council or any of its employees (in the course of their employment) and in particular any such deliberate or negligent act or omission which gives rise to death or personal injury.
- 52.2 The Council shall not in any circumstances be liable to the Organisation for any indirect, economic or consequential loss whatsoever, irrespective of the cause or causes of such loss.

53 RIGHTS AND DUTIES RESERVED

All rights, duties and powers which the Council has as a local authority or which the Council's officers have as local authority officers are expressly reserved and in particular (but without limitation) the Council reserves the right to exercise its powers as a landlord in respect of any of its properties notwithstanding the provisions of this Agreement.

54 WAIVER

Failure by the Council at any time to enforce the provisions of the Agreement or to require performance by the Organisation of any of the provisions of the Agreement shall not be construed as a waiver of or as creating an estoppel in connection with any such provision and shall not affect the validity of the Agreement or any part thereof or the right of the Council to enforce any provision in accordance with its terms.

PART H – FINANCIAL ARRANGEMENTS AND OTHER MATTERS

55 FINANCIAL ARRANGEMENTS

The Organisation shall comply with all the financial arrangements described in the Sixth Schedule

56 RECOVERY OF RENT

In collecting rent or other sum or sums from tenants or any other third parties on the Council's behalf, the Organisation shall proceed therewith with all due expedition and diligence and generally in accordance with all requirements of the Council's Representative. Any rent or sums so obtained shall be remitted forthwith to the Council and shall until receipt by the Council be held by the Organisation on trust for the Council. If any such other monies are temporarily paid by the Organisation into any bank, building society or other similar account, such account shall be designated as a trust account with the Council's name appearing in its title. No such monies shall be mixed with any other money. The Organisation shall keep full and proper records as to the receipt

and transfer of such monies in such form as the Council's Representative may approve and shall provide whenever requested access thereto and copies thereof.

57 RIGHT TO USE SURPLUSES

If the Organisation out-performs the Delivery Plan and if as a consequence the Council would benefit from sums for which it had not budgeted and the Council did not require the same to meet any existing or future obligations or commitments (whether to third parties or otherwise) then to the extent permitted by and subject to any conditions set out in the Delivery Plan the Organisation shall be entitled to use such sums in accordance with any scheme for surpluses forming part of the Delivery Plan or such other scheme for surpluses as may be agreed by the Council (such agreement not to be withheld or delayed).

58 INTEREST ON OVERDUE PAYMENTS

Save where payment is reasonably disputed by the Council and the Organisation has been notified of such dispute, if and whenever any payment due by either party to the other party in accordance with this Agreement shall at any time remain unpaid for a period of twenty-one (21) days next after becoming payable a further and additional sum by way of interest on the same calculated on a day-to-day basis with quarterly rests at an annual rate higher by two (2) per cent than the Co-operative Bank plc Base Rate in force from time to time from the date upon which such sum first became payable shall (if demanded) be accounted for (as if paid by) the defaulting party to the other party.

59 VALUE ADDED TAX

All payments by either party hereto to the other party pursuant to the terms of this Agreement shall be exclusive of any Value Added Tax chargeable in respect of the supply of goods or services for which the payment is consideration and in so far as such payments fall to be made under this Agreement such Value Added Tax shall be added to the amount thereof and paid in addition thereto upon production of a proper Value Added Tax invoice.

PART I – EMPLOYMENT AND STAFFING

60 EMPLOYEES

60.1 TUPE Information

60.1.1 The Council warrants to the Organisation that to the best of its knowledge, information and belief after making careful inquiry, subject to Clause 60.1.3, as at the date of this Agreement:

- 60.1.1.1 the Transferring Employees listed in Part 1 of the Fourth Schedule are employed by the Council and assigned to work in the Undertaking which will transfer to the Organisation on the Commencement Date; and
- 60.1.1.2 the details regarding the Transferring Employees set out in Part 1 of the Fourth Schedule are correct
- 60.1.2 The Council shall only be liable under this warranty:-
 - 60.1.2.1 from the date of this Agreement for a period of 6 Months following the Commencement Date; and
 - 60.1.2.2 only to the extent that the losses are direct losses (which for these purposes is a loss suffered by the Organisation which is not a consequential loss); and
 - 60.1.2.3 only to the extent that the losses referred to in Clause 60.1.2.2 are notified to the Council within 30 days of the Organisation becoming aware of the same.
- 60.1.3 The Organisation accepts and acknowledges that the Council shall have the right to notify the Organisation of amendments to the list of Transferring Employees in Part 1 of the Fourth Schedule at any time up to seven (7) Working Days before the Commencement Date.

60.2 Transfer of Employees from the Council to the Organisation

- 60.2.1 The Parties agree that the arrangements created by this Agreement are or shall be deemed to be a relevant transfer for the purposes of the Regulations or the Directive in respect of the Transferring Employees.
- 60.2.2 With effect from 00.00 hours on the Commencement Date the contracts of employment of the Transferring Employees (subject to the right of any Transferring Employee to object to being employed by the Organisation) shall be transferred (together with each collective agreement made by or on behalf of the Council with the Trade Unions in respect of the Transferring Employees) from the Council to the Organisation in accordance with and save as provided by the provisions of the regulations TUPE, to the intent and effect that with effect from such date, each of the Transferring Employees shall be treated as if at all times he or she had been employed by the Organisation upon the same terms and conditions as those which applied to his or her employment by the Council prior to his or her transfer, save in so far as they relate to the matters set out in Clause 62 (Pensions) of this Agreement (and which shall be governed by the same) or as to benefits for old age, invalidity or survivors, as the case may be.
- 60.2.3 In the event that the contracts of employment of the Transferring Employees do not transfer from the Council to the Organisation in accordance with the provisions of the Regulations and/or the Directive. the Organisation shall offer to employ the Transferring Employees with effect

from the Commencement Date on the same terms and conditions on which they were employed by the Council immediately before that date, save insofar as they relate to the matters set out in Clause 62 (Pensions)(and which shall be governed by the same) or as to benefits for old age, invalidity or survivors, as the case may be.

60.3 Indemnities

60.3.1 The Council shall indemnify and hold harmless the Organisation from and against all losses, costs, claims, demands, actions, awards, liabilities and expenses (including legal expenses on an indemnity basis) incurred or suffered in connection with or as a result of any claim or demand by any Transferring Employee arising out of her or his employment in so far as such claim or demand arises from any act default or omission of the Council prior to the Commencement Date including without limitation, any such matter relating to or arising out of:

60.3.1.1 the Council's rights, powers, duties and/or liabilities under or in connection with any such contract of employment or collective agreement or under statute (which rights, powers, duties, and/or liabilities have been transferred to the Organisation in accordance with the Regulations);

60.3.1.2 anything done or omitted up to the Commencement Date by the Council in respect of any such contract of employment or collective agreements or in respect of the employment of the Transferring Employees;

60.3.1.3 the Council's failure to pay to any Transferring Employee any sums properly due in respect of the period prior to the Commencement Date;

60.3.1.4 any claim by any trade union, staff association or employee representative recognised by the Council in respect of all or any of the Transferring Employees arising out of the Council's failure to comply with any legal obligation to such trade union, staff association or employee representative whether under the Regulations or Directive;

60.3.1.5 any claim by any person (other than a Transferring Employee) relating to that person's employment by the Council or on the basis that her/his employment had or should have transferred to the Organisation;

60.3.1.6 any claim by a Transferring Employee to entitlement to a gratuity under the Council's scheme for the payment of gratuities to non-pensionable staff. The amount of any gratuity payment (payable on retirement of such Transferring Employee) shall be calculated by the Council on behalf of the Organisation.

PROVIDED THAT this indemnity shall not apply to any claim arising as a result of the cessation of employment with the Council of any Transferring Employee contemplated under Clause 60.2 (whether or not the Regulations do in fact apply) nor to any act, default or omission of the Council which arises or is occasioned directly from any act, default or omission of the Organisation.

- 60.3.2 The following provisions shall apply in relation to any claim pursuant to Clause 60.3.1.
- 60.3.2.1 the Organisation shall not voluntarily take or omit to take any action (other than as is required by law or under the terms of an obligation or a contract binding on it), which has the effect of causing any liability for which the Organisation is indemnified pursuant to Clause 60.3.1 to become payable;
 - 60.3.2.2 the Organisation shall promptly inform the Council in writing on becoming aware of any claim to which the indemnity in Clause 60.3.1 may apply;
 - 60.3.2.3 no compromise or settlement of such claim shall be made by the Organisation without the Council's prior written consent (such consent not to be unreasonably withheld or delayed);
 - 60.3.2.4 the Organisation shall provide the Council and its professional advisers access (at reasonable times upon reasonable notice) to any information, documents and records relating to such claim and within its possession or control for the sole purpose of investigating such claim and enabling the Council to take the action referred to in this Clause 60.3.2 and shall allow the Council and its advisers to take copies (at their own cost) of any documents relevant solely to such claim; and
 - 60.3.2.5 subject to receiving an indemnity as to costs in a form satisfactory to the Organisation (acting reasonably) the Organisation shall enable the Council (at its own expense and in the name of the Organisation) to contest such claim and shall provide the Council with such assistance as it may reasonably request to avoid, contest, resist, compromise or defend such claim and (subject to the Organisation being kept regularly informed by the Council) the conduct of the any legal or other proceedings in connection with such claim shall be delegated to the Council provided that the Council shall not accept or pay or compromise such claim (and shall procure that such claim shall not be accepted paid or compromised) without the prior written consent of the Organisation (such consent not to be unreasonably withheld or delayed).
- 60.3 The Organisation shall indemnify and hold harmless the Council from and against all losses, costs, claims, demands, actions, awards, liabilities and expenses (including legal expenses on an indemnity basis) in connection with or as a result of
- 60.3.3.1 any claim or demand by any Transferring Employee in respect of redundancy, unfair dismissal, breach of contract, any other claim arising at common law, sex, race or disability discrimination, equal pay and any claim in tort or otherwise (in all cases whether arising under UK or European law) arising from any act, default or omission of the Organisation in relation to any Transferring Employee on or after the Commencement Date which shall be deemed to include the cessation of such Transferring Employee's employment with the Council as contemplated by Clause 60 .2. (whether or not the Regulations do in fact apply);
 - 60.3.3.2 any claim or allegation by any Transferring Employee that the identity of the Organisation or any proposed or actual substantive changes to that Transferring Employee's working conditions including vested or prospective

pension rights is or are to the Transferring Employee's detriment whether such claim or allegation arises before or after the Commencement Date; and

60.3.3.3 any claim (including any entitlement of a Transferring Employee under or consequent upon such claim) by any trade union, staff association or employee representative (whether or not recognised by the Organisation in respect of all or any of the Transferring Employees) arising from or connected with any failure by the Organisation to comply with any legal obligation to such trade union, staff association or other employee representative whether under Regulation 10 of the Regulations, under the Directive or otherwise and, whether any such claim arises or has its origins before or after the Commencement Date.

60.4 Information and Consultation

60.4.1 Prior to the Commencement Date the Council and the Organisation shall provide to each other, in sufficient time, such information as is necessary to enable the relevant Party to comply with all of its obligations to inform and if necessary consult with appropriate employee representatives and shall carry out such consultation with appropriate employee representatives as is or may be required of it or them by Legislation.

60.4.2 Without prejudice to the generality of Clause 60.4.1, the Organisation shall forthwith upon request by the Council, provide to the Council such information such information as is required by the Council to enable compliance with its obligations under Regulation 10 of the Regulations including, without limitation:

60.4.2.1 details of the legal, economic and social implications of the transfer of the Undertaking to the Organisation for the Transferring Employees and other affected employees; and

60.4.2.2 the measures (together with the reasons therefor) which the Organisation intends to take in relation to any of the transferring Employees

60.5. Emoluments

60.5.1 All national insurance contributions, tax, pension contributions, wages, salaries and other emoluments in relation to the Transferring Employees, together with all other employer's obligations to the Transferring Employees including those accrued to any extent prior to the Commencement Date shall be borne by the Council up to (but not including) the Commencement Date.

60.5.2 With effect from the Commencement Date the Organisation and not the Council shall be the employer of all the Transferring Employees and the Organisation shall be responsible for all duties and liabilities under or in connection with the contracts of employment of such persons and shall not be entitled to claim any reimbursement from the Council in respect of the costs of employment of any such person including (but not limited to) salaries, wages,

PAYE, national insurance contributions, pension contributions, training costs, insurance, sickness, long-term disability and other benefits, holiday pay and maternity benefit arising in each case after the Commencement Date.

60.6 Loans

60.6.1 The Council has entered into agreements for Car Loans and other staff loans with certain of the Transferring Employees mentioned in Part I of the Fourth Schedule (“the Borrowers”) whereby the Council has lent to each Borrower the sums set out in Part III of that Schedule.

60.6.2 The Organisation shall make appropriate deductions from payment of wages to those Borrowers in accordance with the Car Loan and other staff loan agreements notified to the Organisation) and shall pay the aggregate of the deductions to the Council by the end of the calendar month in which such deductions are made. For the avoidance of doubt, the Organisation shall not be obliged or entitled to take any action to recover Car Loan and other staff loan debts from Transferring Employees other than by way of reduction from wages.

60.7 Staff Structure

60.7.1 The Organisation shall:

60.7.1.1 prior to the Commencement Date establish such staffing structure as may be appropriate to ensure the due and proper performance of the Services; and

60.7.1.2 provide details of the said staffing structure to the Council’s Representative.

60.7.2 The Organisation may not make significant amendments to the said staffing structure during the Contract Period without the prior written approval of the Council’s Representative (which shall not be unreasonably withheld or delayed if the Council’s Representative is satisfied that such amendments will assist in the due and proper performance of the Services).

60.7.3 For the purposes of Clause 60.7.2, “significant amendment” shall mean the creation or deletion of any post for which the gross annual emoluments are £70,000 (adjusted annually in accordance with RPI) or more or the variation of any existing post so as to increase the gross annual emoluments to £70,000 (adjusted annually in accordance with RPI) or more.

60.7.4 The Organisation shall notify the Council’s Representative in writing of any amendments in the said staffing structure during the contract Period whether or not they fall within the provisions of Clause 60.7.

60.8 Employment Records

60.8.1 The Council shall deliver the Employment Records in respect of the Transferring Employees to the organisation within ten (10) Working Days after the Commencement Date PROVIDED THAT the Organisation shall make available to the Council upon request such of the Employment Records as the Council may reasonable require for the purpose of dealing with any claim which may be brought by the Transferring Employees against the Council after the Commencement Date.

60.9 Right to Representation

60.9.1 Without prejudice to its obligations under the Regulations, the Organisation shall take all appropriate steps consistent with good employer practice to ensure that its employees (including but not limited to the transferring Employees) have appropriate representation (whether through trade unions or otherwise).

60.10 Expiry or Termination of Agreement

60.10.1 On termination or expiry of this Agreement, the Organisation will remain responsible for all employees then employed in providing the Services save to the extent that any such employees shall transfer to the Council or to another organisation (whether or not appointed by the Council) responsible for undertaking the Services by virtue of the Regulations and / or Directive in which event:

60.10.1.1 the Organisation shall indemnify and keep indemnified the Council (for itself and any future provider of the Services) from and against all losses, costs, claims, demands, actions, fines, penalties, liabilities and expenses (including legal expenses on an indemnity basis) in connection with or as a result of any claim by any employee of the Organisation or by the trade unions or other recognised employee representative against the Council or future provider of the Services in respect of or in any way relating to any period on and from the Commencement Date to the date of the Employee Transfer envisaged by this Clause 60.10 provided that such claim arises from any act, default or omission of the Organisation in relation to any such employee, trade union or other authorised employee representative and is not due to any act, fault or omission of the Council (or future provider of the Services);

60.10.1.2 the Council shall indemnify and keep indemnified the Organisation from and against all losses, costs, claims, demands, actions, fines, penalties, liabilities and expenses (including legal expenses on an indemnity basis) in connection with or as a result of any claim by any employee of the Organisation or by the trade unions or other recognised employee representative against the Organisation in respect of or in any way relating to any period on or after the date of the Employee Transfer envisaged by this Clause 60 provided that such claim arises from any act, default or omission of the Council in relation to any such employee, trade

union or other authorised employee representative and is not due to any act, fault or omission of the Organisation.

60.11 New Employees

60.11.1 The Organisation undertakes to the Council that:

60.11.1.1 all new employees recruited by the Organisation and employed in connection with the provision of the Services will be employed on fair and reasonable terms and conditions which are, overall no less favourable than those of the Transferring Employees;

60.11.1.2 by the Commencement Date, it will draw and agree arrangements for consultation on the terms and conditions to be offered to new employees, with the recognised trade unions or other elected representatives of the employees;

60.11.1.3 it will consult with the recognised trade unions or other elected representatives of the employees on the terms and conditions to be offered to new employees in accordance with those consultation arrangements;

60.11.1.4 it will comply fully with the provisions of the Code of Practice on Workforce Matters in Local Authority Service Contracts set out in Annex D to the ODPM Circular 03/2003 entitled "Local Government Act 1999: part 1 Best Value and Service Improvement" ("the Code") (or any amendment, extension or replacement of such Code) and will be responsible for ensuring that any sub contractor complies therewith; and

60.11.1.5 it will promptly provide to the Council such information as may be requested by the Council as is necessary to enable the Council to monitor the Organisation's compliance with the provisions of the Code

60.11.2 Where it appears to the Council that the Organisation is not meeting its obligations under the Code, or where a new employee or Transferring Employee (or recognised trade union) notifies the Council that it has been unable to resolve a complaint regarding the Code directly with the Organisation, the Council shall be entitled to request the Organisation to provide a written explanation within ten (10) Working Days of such request.

60.11.3 In the event that the Council is not satisfied with the explanation provided by the Organisation, the Council shall be entitled to serve a notice on the Organisation specifying the immediate actions to be taken by the Organisation to remedy the breaches of the Code. If such notice is not complied with the Council shall be entitled to serve a Warning Notice on the Organisation pursuant to Clause 70.

60.11.4 Any dispute regarding the application of the Code which cannot be resolved satisfactorily between the Parties (and, where applicable, the recognised trade unions or staff representatives representing the Transferring Employees and the new employees) shall be determined in accordance with the Alternative Dispute Resolution procedure set out in Part 4 of the Fourth Schedule.

61 PENSIONS

- 61.1 The Organisation acknowledges that it is a scheme employer for the purposes of the Local Government Pension Scheme Regulations 1997 (as amended).
- 61.2 The Organisation shall offer each Transferring Employee who is a member of or who is at the Commencement Date entitled to be a member of the Local Government Pension Scheme, the right to continue to be or become (as appropriate) a member of the Local Government Pension Scheme.
- 61.3 The Organisation shall offer each new employee recruited by the Organisation and employed in connection with the provision of the Services who is entitled to be a member of the Local Government Pension Scheme, the right to become a member of the Local Government Pension Scheme.

62 INFORMATION ABOUT EMPLOYEES

- 62.1 The Organisation shall, to the extent permitted by Legislation, upon the request of the Council at any time during the period of one year before the expiry of the Agreement or after the service of a Part Termination Notice or Termination Notice:
- 62.1.1 within twenty (20) Working Days deliver to the Council in writing complete, accurate and up-to-date information relating to each of its employee's terms and conditions of employment, job title, age, length of service and benefits, and such other information relating to the employees as the Council reasonably requests;
- 62.1.2 permit the Council to use such information for the purposes of retendering the Services or any services equivalent to any of the Services or arranging for the Services to be undertaken by another organisation; and
- 62.1.3 enable and assist the Council and any future provider of the Services to communicate with and meet the Organisation's employees and the recognised trade unions and / or other approved representatives of the employers.
- 62.2 The Organisation warrants that it will take reasonable skill and care in preparing the information pursuant to Clause 62.1.1.

PART J – MONITORING AND MANAGEMENT

63 MEETINGS BETWEEN COUNCIL AND ORGANISATION

Without prejudice to the specific provisions of this Agreement, the Council and the Organisation shall meet at such level and with such frequency as may be reasonably necessary to ensure that this Agreement is honoured and the Delivery Plan performed.

64 COUNCIL'S REPRESENTATIVE

- 64.1 The Council's Representative shall be the person nominated in writing by the Council from time to time to act in the name of the Council for the purposes of the Agreement.
- 64.2 The Council's Representative shall have power to issue instructions to the Organisation on any matter relating to the provision of the Services and the Organisation shall comply therewith. If any such instruction is a variation within Clause 67 it shall be subject to the terms thereof PROVIDED THAT any delay resulting does not affect the provisions of the Services or the discharge of the Council's statutory duties the Organisation shall be entitled to object to any such instructions which would have the effect of significantly varying the fundamental nature of the Services and the delivery thereof and such objection shall be referred for determination in accordance with Clause 74 (Dispute Resolution).
- 64.3 From time to time the Council's Representative may appoint one or more representatives to act for him generally or for specified purposes or periods. Immediately any such appointment is made, the Council's Representative shall give written notice thereof to the Organisation.
- 64.4 The Organisation shall be entitled to treat any act of the Council's Representative in connection with this Agreement as being expressly authorised by the Council save where the Council has notified the Organisation that such authority has been revoked.
- 64.4 Any notice, information, instruction or other communication given or made to the Council's Representative shall be deemed to have been given or made to the Council provided that it has been given, made or subsequently confirmed in writing

PART K – TMOs

65 TENANT MANAGEMENT ORGANISATIONS

- 65.1 In the event that in accordance with regulations made under Section 27AB of the Housing Act 1985 any tenants propose to form a Tenant Management Organisation (as defined in Section 27AB(8) of the said Act) the Council shall be legally responsible for dealing with all aspects of such proposal.
- 65.2 The Council may pursuant to such a proposal instruct the Organisation to provide such assistance as may be required to the Council and any tenants making such proposal which assistance shall include:-
- 65.2.1 provision of information and records about the Services;

- 65.2.2 providing such reports or other documentation as the Council may reasonably require in a manner and timescale prescribed by the Council for consideration by the tenants or the Council; and
- 65.2.3 attendance at meetings of such tenants and such other help or advice as the Council may require to enable the Council to fulfil its statutory obligations
- 65.3 At such time as a decision is made that a transfer of management responsibility for all or part of the Services is to take place in accordance with the provisions set out in Clause 65.1 the Council may issue further instructions to the Organisation requiring the Organisation to make arrangements to transfer responsibility for the Services and the Dwellings so affected to the Tenant Management Organisation in such manner and within such time scale as the Council may prescribe and the Organisation shall comply with such instructions which may include (but not be limited to):-
 - 65.1.1 transferring data, records, statistics, files and other information in a format and manner prescribed by the Council;
 - 65.1.2 transferring to the Tenant Management Organisation in accordance with the Regulations any employees of the Organisation wholly or mainly engaged in the provision of the part of the Services being transferred to the Tenant Management Organisation;
 - 65.1.3 transferring necessary equipment and materials as may reasonably be stipulated by the Council's Representative;
 - 65.1.4 establishing working arrangements with the Tenant Management Organisation; and
 - 65.1.5 providing any other assistance reasonably needed to enable such transfer to take place.
- 65.2 At such time as a transfer of management responsibility to a Tenant Management Organisation takes place the Council shall be entitled to vary this Agreement in accordance with Clause 67 (giving three (3) months notice to the Organisation) and where such a Variation is made the amendment to the Delivery Plan in accordance with Clause 67.3 shall reflect the cost of providing such Services as remain to be carried out under this Agreement and if no such Services remain this Agreement shall terminate (and Clause 68 shall apply)
- 65.3 The Organisation will assume all those responsibilities of the Council which are set out in any management agreement made between the Council and any Tenant Management Organisation whether such agreement exists at the date of this Agreement or arises during the currency of it and the Council shall be entitled to vary this Agreement to reflect such agreement in accordance with Clause 63

- 65.4 In the event that a Tenant Management Organisation to which responsibility for managing the Services has been transferred in accordance with this Clause 65 ceases to provide all or any part of those Services for all or any of the Dwellings the Council shall be entitled to vary further this Agreement in accordance with Clause 67 so as to require the Organisation to provide such ceased Services and where such a variation is effected a variation may also be made in relation to the current Delivery Plan in accordance with Clause 63.3.
- 65.5 The provisions of this Clause shall apply, mutatis mutandis, to the transfer of additional management responsibilities to an existing Tenant Management Organisation as well as any other Tenant Management Organisations.
- 65.6 The Organisation shall in complying with its obligations under this Clause 65 ensure that to the extent permitted by any existing agreement(s) with any Tenant Management Organisation the obligations to provide the Services at the level and standards required by the Agreement or otherwise prescribed by the Council are unaffected.

PART L – TERM

66 DURATION AND RENEWAL

- 66.1 This Agreement shall expire on the day prior to the tenth anniversary of the Commencement Date unless terminated by the Council pursuant to the provisions of this Clause 66.3 and subject to earlier termination as provided elsewhere in this Agreement.
- 66.2 The Council shall be entitled to renew (but without any obligation whatsoever) to extend the Term for one or more periods of up to five years by giving notice to this effect to the Organisation no later than six calendar months before the date on which the Agreement would otherwise expire pursuant to Clause 66.1.
- 66.3 The Council shall be entitled to terminate this Agreement on the day prior to the fifth anniversary of the Commencement Date by giving not less than three (3) months written notice to the Contractor whereupon the provisions of Clause 72 shall apply.

PART M – VARIATIONS ETC

67 VARIATIONS

- 67.1 The Council may from time to time either unilaterally or in response to representations from the Organisation require changes (hereinafter referred to as “Variations” and each a “Variation”) to be made to the Services and accordingly may upon giving reasonable written notice thereof to the

Organisation add to delete from or otherwise amend in any way the provisions of this Agreement and the Organisation shall be bound by any such Variations.

67.2 Reasonable notice for the purpose of Clause 67.1 shall be deemed to be either:-

67.2.1 three months' notice for changes which the Council has determined will require consultation under Section 105 of the Housing Act 1985 or which it reasonably considers will result in more or fewer staff being required by the Organisation or significantly more cost being incurred by the Organisation; or

67.2.2 one month's notice in any other case

PROVIDED THAT

(1) the Council may agree with the Organisation a longer period for implementation of a particular change which cannot reasonably be implemented within the above periods;

(2) the Council may specify a shorter period, where necessary, to ensure that a change in Legislation is implemented by the commencement date for that Legislation.

67.3 Where a Variation is effected a variation shall be made in relation to the current Delivery Plan as soon as practicable by the Council and the Organisation (both acting reasonably) by reference to any increase or reduction in the Organisation's responsibilities and any likely increase or reduction in cost to the Organisation occasioned by such variation.

67.4 In the event that a Variation is effected by the Council which is not made in response to representations from the Organisation and which is likely to result in the redundancy of one or more of the Organisation's employees (including a Transferring Employee) engaged in the provision of the Services the Organisation shall as soon as practicable:-

67.4.1 identify the relevant employee or employees;

67.4.2 quantify and substantiate the costs which the Organisation is likely to incur by reason of the said redundancy or redundancies; and

67.4.3 notify the Council of the same

and on receipt of such notification the Council shall, having consulted (where necessary) with the Organisation, either:-

67.4.4 take account of the potential redundancy costs to be incurred by the Organisation as a result of the Variation in determining the variation to the Delivery Plan in accordance with Clause 67.3 or (if the Council so determines);

- 67.4.5 meet the amount of the statutory redundancy entitlement of the relevant employee or employees

PROVIDED THAT the Organisation shall have used its best endeavours to limit redundancy costs and the Council shall not be obliged to agree to a variation to the Delivery Plan which reflects the cost of more than the Council's minimum obligation in respect of redundancy payments under the Employment Rights Act 1996, the Local Government (Compensation for Redundancy and Premature Retirement) Regulations 1995, the Redundancy Payments (Local Government) (Modification) (Amendment) Orders 1995 and 1996 and the Local Government (Compensation for Redundancy) (Amendment) Regulations 1996 or other relevant Legislation

- 67.5 The Organisation shall provide to the Council such information as the Council may require to enable it to reach a determination in accordance with Clause 67.4.

- 67.6 It is hereby agreed that no change to the Delivery Plan will be made in respect of the Variation if there is a compensating reduction or re-organisation of any part of the Services.

- 67.7 In the event of a dispute as to how any Variation affects the Delivery Plan pursuant to this Clause 67 the matter shall be determined in accordance with Clause 74 (Dispute Resolution).

68. ALTERATION

- 68.1 Where and whenever the number of Dwellings undergoes a substantial change (hereinafter referred to as an "Alteration") during the Term for any reason (save pursuant to Clause 65 but including (without limitation), stock transfers, PFI / PPP contracts, freehold sales (right to buy and voluntary) and freehold / leasehold purchases) a variation shall be made to the Delivery Plan pursuant to Clause 67.3 and such variation shall take account of any increase or reduction in the Organisation's responsibilities and any likely increase or reduction in cost to the Organisation resulting from such Alteration.

- 68.2 A "substantial change" for the purposes of Clause 68.1 shall mean any increase or decrease of five hundred (500) or more in the number of Dwellings either:-

- 68.2.1 being managed by the Organisation immediately after the Commencement Date; or

- 68.2.2 remaining to be managed by the Organisation following any one or more such substantial changes

and for the avoidance of doubt a substantial change shall be deemed to have arisen as soon as the said increase or decrease occurs whether as a consequence of one event or a series of events.

68.3 The Organisation shall provide to the Council such information as the Council may require for the purposes of Clause 68.1.

68.4 It is hereby agreed that no Variation shall be made pursuant to Clause 67.3 as a result of an Alteration if there is a compensating reduction or reorganisation of any part of the Services.

68.5 If the Organisation disputes a Variation pursuant to Clause 63.3 arising from an Alteration it shall be entitled to refer the matter for determination in accordance with Clause 74 (Dispute Resolution).

69. SUSPENSION AND PART TERMINATION

69.1.1 The Council shall be entitled to serve a Suspension Notice or a Part Termination Notice or exercise the power in Clause 69.6 if the Organisation fails to comply with a Warning Notice in respect of the provision of the Services.

69.1.2 The Council shall be entitled to serve a Suspension Notice in the circumstances set out in Clause 28.6.

69.2 A Suspension Notice shall

69.2.1 state that it is a Suspension Notice;

69.2.2 identify the relevant parts of the Services (the "Suspended Services") in respect of which the Organisation's performance of the Services is forthwith suspended;

69.2.3 set out, in general terms, the matter(s) giving rise to such Suspension Notice;

69.2.4 state that the Organisation's right to perform the Suspended Services is suspended until the Organisation is able to demonstrate to the reasonable satisfaction of the Council's Representative that it is capable of performing that part of the Service in accordance with the Agreement and the Council's Representative, if so satisfied, has notified the Organisation of the date on which it is required to resume provision of the Suspended Services; and

69.2.5 be signed by the Council's Representative (or in his absence, the Council Representative's deputy;

69.3 A Part Termination Notice shall

69.3.1 state that it is a Part Termination Notice;

69.3.2 state, without terminating the whole of the Agreement, those parts of the Service (the "Terminated Services") in respect of which the Agreement is terminated forthwith or on such notice period as may be specified

69.3.3 identify, in general terms, the matter(s) giving rise to such notice; and

69.3.4 be signed by the Council's Representative (or, in his absence, the Council Representative's Deputy)

69.4 If a Suspension Notice or Part Termination Notice is served upon the

Organisation under clause 69.1:

69. 4.1 the Council may itself provide or procure a third party to provide the Suspended Services or the Terminated Services and the Council shall notify the Organisation whether or not a third party will be providing such Suspended Services or Terminated Services. Any such notice shall give particulars of the party which will be providing such services; and
69. 4.2 a variation shall be made in relation to the current Delivery Plan as soon as practicable by the Council and the Organisation (both acting reasonably) by reference to the reduction in the Organisation's responsibilities and any likely reduction in cost to the Organisation occasioned by such Suspension or Part Termination and by reference to the costs and expenses incurred or to be incurred by the Council. in providing the Suspended Services or Terminated Services itself or by a third party.
- 69.5 Immediately following service by the Council of a Suspension Notice or Part Termination Notice the parties shall meet and agree a plan for the operation of the Services during the period of suspension or taking account of the Terminated Services (as the case may be) including (without limitation)
- 69.5.1 appropriate and necessary arrangements for co-operation and liaison between the Organisation and the Council and/or third party provider of the Suspended Services or Terminated Services;
- 69.5.2 arrangements for the Council or third party provider (if the Council so requests) to use all or part of the Organisation's materials, equipment, facilities and premises used in the performance of the Suspended Services or Terminated Services; and
- 69.5..3 any necessary arrangements for the carrying out of or making changes to the remaining part of the Services as a consequence of the Organisation ceasing to provide the Suspended Services or Terminated Services;
- and the implementation of such plan shall be dealt with through the Variation procedure in Clause 67
- 69.6 If the Organisation falls to comply with a Warning Notice, the Council shall be entitled to require the Organisation to accept the placement of a Council nominee with the Organisation for the purpose of assisting the Organisation with the performance of its obligations under the Agreement until the Organisation is able to demonstrate to the reasonable satisfaction of the Council's Representative that it is capable of performing the Services in accordance with the Agreement. If the Organisation wishes to dispute such placement, it may refer the matter for discussion at the next meeting monthly meeting between the Organisation's Representative and the Council's Representative .

70. DEFAULTS

- 70.1 The Council shall be entitled to serve a Warning Notice on the Organisation where the Organisation is in breach of its obligations under the Agreement or fails to perform the Services or any of the Services with reasonable skill and care or performs any of those Services inadequately or otherwise not in accordance with the provisions of the Agreement.

- 70.2 The Warning Notice shall
- 70.2.1 state that it is a Warning Notice;
 - 70.2.2 give reasonable particulars of the breach;
 - 70.2.3 specify in general terms the actions to be taken by the Organisation to rectify the breach and the rectification period which shall not be less than a month; and
 - 70.2.4 state that the Council may serve a Suspension Notice, Part Termination Notice or terminate the Agreement if the Organisation fails to comply with the Warning Notice.

71. TERMINATION

- 71.1 The Council may at any time serve a Termination Notice on the Organisation terminating the Agreement forthwith if the Organisation or where applicable any director or senior manager thereof:
- 71.1.1 commits a fundamental breach of any of the Organisation's obligations under the Agreement;
 - 71.1.2 fails to comply with a Warning Notice served pursuant to Clause 70.1;
 - 71.1.3 changes the Organisation's structure or staffing in a way which in the opinion of the Council adversely affects the ability of the Organisation to discharge its obligations under the Agreement to the Contract Standard;
 - 71.1.4 has any director or senior manager of it convicted of dishonesty;
 - 71.1.5 becomes bankrupt, or makes a composition or arrangement with its creditors, or has a proposal for voluntary arrangements for a composition of debts, or any scheme or arrangement approved in accordance with the Insolvency Act 1986;
 - 71.1.6 has an application made under the Insolvency Act 1986 to the Court for the appointment of an administrator or an administrative receiver;
 - 71.1.7 has a winding-up order made or (except for the purpose of amalgamation or reconstruction) a resolution for voluntary winding-up passed;
 - 71.1.8 has a provisional liquidator, receiver, or manager of its business or undertaking duly appointed;
 - 71.1.9 has an administrator or an administrative receiver (as defined in the Insolvency Act 1986) appointed;
 - 71.1.10 has possession taken by or on behalf of the holders of any debenture secured by a floating charge, or any property comprised in, or subject to, the floating charge;

- 71.1.11 is in circumstances which entitle the court or a creditor to appoint, or have appointed, a receiver, a manager, an administrator or an administrative receiver, or which entitle the court to make a winding-up order;
 - 71.1.12 has ceased or threatened to cease operate; or
 - 71.1.13 has acted or omitted or failed to act whether by itself its employees, sub-contractors or agents in the performance of the Organisation's obligations under this Agreement which in the opinion of the Council delays, interrupts or prevents the performance of the Services required under this Agreement in accordance with the terms of the Agreement and any standard specified herein
- 71.2 A Termination Notice served pursuant to Clause 71.1 shall
- 71.2.1 state on its face that it is a Termination Notice;
 - 71.2.2 set out the ground(s) for termination under the Agreement and, the matter giving rise to such Termination Notice;
 - 71.2.3 state the date of termination of the Agreement which may be forthwith or on such notice period as may be specified therein; and
 - 71.2.4 be signed by the Council's Representative.
- 71.3 If the Council exercises its rights under this Clause 71 to terminate the Agreement then:-
- 71.3.1 the Organisation shall, unless the Council requests otherwise, forthwith cease to perform any of the Services;
 - 71.3.2 immediately hold all rent and other sums collected or obtained under this Agreement on trust for the Council; and
 - 71.3.3 hand over this Agreement to the Council without detriment to the interest of the Council's tenants, leaseholders or other customers of the Council.
- 71.4 The Council undertakes to exercise its power to appoint and remove board members pursuant to the Articles of Association of the Organisation only in any of the circumstances described in Clauses 71.1 and then only for so long as (in the Council's reasonable opinion) the relevant circumstances subsist.

72 OBLIGATION ON EXPIRY OR TERMINATION

72.1 Provision of Assistance

On termination or expiry of the Agreement

- 72.1.1 The parties shall co-operate and agree an exit plan (“Exit Plan”); and
- 72.1.2 The Organisation shall comply with the provisions of the Exit Plan and shall promptly provide such assistance and comply with such timetable as the Council may reasonably require for the purposes of ensuring an orderly and efficient transfer of responsibility for provision of the Services to the Council or other organisation.

72.1 Status Report and Provision of Documentation

- 72.1.1 The Organisation shall within five (5) Working Days of receipt of a Termination Notice or ten (10) Working Days prior to expiry of the Contract Period provide to the Council a comprehensive report (which shall be up to date at the date of submission) relating to the provision of the Services including (without limitation) details of any backlogs, work in progress and other information as may be reasonably required by the Council to enable the Council or such other body as it may appoint to plan properly for the transfer of responsibility for provision of the Services.
- 72.1.2 The Organisation shall on the expiry or termination of the Agreement forthwith deliver up to or transfer to the Council (or such other person as the Council may direct) all Service Data, documents and other data (including computerised data in compatible form on to such computer system as the Council may request) in the possession or control of the Organisation which relate to the performance, monitoring and management of the Services as may be reasonably required by the Council as a result of the transfer of responsibility of the Services. Until such delivery or transfer takes place, the Organisation, upon being so requested by the Council, shall afford the Council’s Representative or such other persons authorised by the Council’s Representative access to the Service Data, documents and other data for the purposes of undertaking or arranging for the undertaking of the Services

72.3 Equipment and Premises

- 72.3.1 On the termination or expiry of the Agreement, the Organisation shall
 - 72.3.1.1 vacate and deliver up the Council’s Premises to the Council in the condition required by the leases;
 - 72.3.1.2 deliver up the Council’s Equipment and the Council’s Computer Systems loaned or licensed to the Organisation, to the Council; and
 - 72.3.1.3 cease to be entitled to occupy the Council’s Premises or to use the Council’s Equipment and Council’s Computer Systems unless permitted in writing to do so by the Council’s Representative for the sole purpose of completing any outstanding provision of the Services.
- 72.3.2 In the event that the Organisation fails to comply with its obligations under Clause 72.3.1.1 the Council shall be entitled to enter upon and repossess the Council’s Premises.
- 72.3.3 If the Organisation fails to comply with its obligations under Clause 71.3.1.2 the Council shall be entitled (and is hereby licensed by the Organisation to do so) to enter upon any of the Organisation’s premises where the Council’s

Equipment and Council's Computer Systems are located and seize any such equipment and systems which has not been returned

73 VARIATION OF CONTRACT

No deletion from, addition to, or variation of this Agreement shall be valid or of any effect unless agreed in writing and signed by the parties

74 DISPUTE RESOLUTION

74.1 General Principles

74.1.1 The general principle underlying this Dispute Resolution Procedure is to provide a process enabling disputes to be considered at three consecutive stages, each such stage being aimed at resolving the dispute. If the processes at any stage are exhausted and the dispute has not been resolved, then the dispute may, at the request or application of either Party be referred to the next stage in the process.

74.1.2 The three stages of the dispute resolution procedure are:-

- 74.1.2.1 Stage 1 – negotiation between the parties at operational level (as referred to in Condition 74.3);
- 74.1.2.2 Stage 2 – internal disputes resolution (in accordance with Condition 74.4); and
- 74.1.2.3 Stage 3 – expert determination (in accordance with Condition 74.5).

74.1.3 Unless this Agreement has expired or terminated, the Parties shall continue to comply with, observe and perform all their obligations under this Agreement (in so far as performance is not prevented by the dispute) regardless of the dispute and notwithstanding the referral of the dispute for resolution in accordance with this Dispute Resolution Procedure.

74.2 General Obligation to Seek Amicable Settlement

74.2.1 The Parties shall each be under a general obligation to use all reasonable endeavours to negotiate in good faith and to settle amicably any dispute of whatever nature arising in connection with this Contract

74.3 Stage 1 Negotiation Between the Parties at Operational Level

74.3.1 Neither Party shall refer any dispute to Stage 2 of the Dispute Resolution Procedure, unless they have first taken reasonable steps to notify and discuss

the dispute with the other Party and to resolve it amicably. The reasonable steps to be taken by either Party shall take into account:-

74.3.1.1 all the surrounding circumstances of the dispute

74.3.1.2 the urgency of obtaining a resolution of the dispute; and

74.3.1.3 the likelihood (or otherwise) of settling the dispute in negotiation with the other Party

and shall include a meeting between the Council's Representative and the Organisation's Representative.

74.4 Stage 2 – Internal Dispute Resolution

74.4.1 Where a dispute has not been resolved at Stage 1 within twenty (20) Working Days of the matter having been referred by either or both Parties to this Dispute Resolution Procedure, the Council's Chief Executive and a nominated Director of the Organisation shall meet to discuss and seek resolution of the Dispute

74.5 Stage 3 – Expert Determination

74.5.1 If the Chief Executive of the Council and the nominated Director of the Organisation are unable to resolve the dispute within twenty (20) Working Days of the matter having been referred to them then either Party may refer the dispute to this Stage 3 of the Dispute Resolution Procedure. Such referral shall be by way of a written notice served by either Party on the other identifying the dispute, referring to this Dispute Resolution Procedure and requiring the dispute to be referred to an expert and the provisions of this Clause 74.5 shall apply in respect of such referrals.

74.5.2 The Parties shall endeavour within ten (10) Working Days of service of the notice of dispute to agree upon the identity of a single expert to whom the dispute shall be referred for determination. If the Parties agree upon the identity of the expert then the dispute shall be referred to such expert.

74.5.3 If the parties are unable to agree on the identify of the expert then the expert shall be nominated by the President for the time being of the Chartered Institute of Housing or a person appointed by him for that purpose.

74.5.4 Upon the expert being so nominated the Parties or either of them shall notify the expert of the nomination and request him or her to confirm within five (5) Working Days whether or not he or she is willing and able to accept the appointment as expert. If the expert is unwilling to accept such appointment then the dispute shall be referred once again to the person identified in Clause 74.5.3 who shall be requested to make a further nomination and the process shall be repeated until a person is found who is willing and able to accept the appointment as expert.

74.5.5 The parties will co-operate to ensure that the terms of the contract of appointment of the expert are agreed with him or her within five Working Days of his or her indication that he or she is willing to accept the appointment.

74.5.6 The terms of reference for the expert shall contain (inter alia) provisions that:-

74.5.6.1 the expert shall as soon as practicable and, in any event, no later than ten (10) Working Days after his or her appointment call the parties to a meeting at which the expert shall raise any

- matters requiring clarification and shall lay down the procedural rules to be applied, which rules shall be in accordance with the terms of this Clause 74.5.6;
- 74.5.6.2 the Parties shall be entitled to supply information or authorise third parties to provide such information (including, without limitation, expert evidence) and make written submissions to the expert within fifteen (15) Working Days (or such longer period as the expert shall authorise) after his or her appointment. Either party shall be entitled to make a written reply within ten (10) Working Days (or such longer period as the expert shall authorise) of receiving a copy of the submission of the other Party;
- 74.5.6.3 the expert may in his or her discretion request such further information, documents or submissions from either Party as the expert considers appropriate. The expert shall ignore information, documents or and submissions supplied and made after the ten (10) Working Day period (or such longer period as the expert shall authorise) referred to in Clause 74.5.6.2, unless the same are furnished in response to a specific request from the expert
- 74.5.6.4 the expert shall be entitled to obtain such independent professional and/or technical advice as he or she may reasonably require and the cost of such advice or assistance shall be recoverable by the expert;
- 74.5.6.5 any and all communications and submissions to and from the expert in respect of the dispute shall be made in writing and a copy thereof provided without delay to the other Party and no meeting between the expert and either of the Parties shall take place unless both Parties have a reasonable opportunity to attend any such meeting;
- 74.5.6.6 the expert shall provide each of the Parties with a draft of his or her determination and the Parties shall be given a period of not less than ten (10) Working Days to make comments on such draft;
- 74.5.6.7 the expert shall give full written reasons for his or her determination;
- 74.5.6.8 the expert shall be entitled to include in his or her decision actions to be undertaken by one or both Parties. Such action shall commence and be completed according to periods specified by the expert for such purpose in the determination;
- 74.5.6.9 the expert shall make his or her final determination within forty (40) Working Days after his or her appointment;
- 74.5.6.10 the expert shall be deemed not to be an arbitrator but shall render his or her decision as an expert and the provisions of the Arbitration Acts 1950 and 1979 and 1996 (as amended from time to time) and the law relating to arbitration shall not apply to the expert or for the determination or the procedure by which he or she reaches the determination. The expert shall be under a duty to act fairly and impartially but the expert shall not be bound

- by other rules and procedures and shall conduct his or her determination of the dispute as he or she thinks fit;
- 74.5.6.11 each party shall bear the cost of providing all information and submissions given by it and the costs and expenses of all witnesses and persons retained by it;
- 74.5.6.12 the decision of the expert shall be final and binding on the Parties save in the event of fraud, mistake in law or material fact;
- 74.5.6.13 the expert shall be entitled to make such decision or award as he thinks just and equitable having regard to all the circumstances then existing and the costs of such expert shall follow the event or in the case of neither party succeeding absolutely such cost shall be apportioned between the parties by the expert in such proportions as he in his absolute discretion thinks fit. Any award of costs under this Clause 74.5.6.13 shall be reflected in a variation to the current Delivery Plan;
- 74.5.6.14 at any time prior to the decision of the expert being communicated to the Parties they may agree a settlement of the dispute referred to the expert;

74.5.7 neither the expert nor any employee or agent of the expert shall be liable to any Party for anything done or omitted in the discharge or purported discharge of his or her functions as expert except when the act or omission is in bad faith.

PART N – NOTICES AND OTHER MATTERS

75 NOTICES

75.1 Any notices or other communication to be given under this Agreement shall be delivered personally or sent by first class recorded delivery post or by facsimile transmission to the address or facsimile number of the Party set out below.

75.1.1 The Council

Addressee: Chief Executive
 Address: Town Hall
 Upper Street
 London N1 2UD
 Facsimile Number: 0207 527 3063

75.1.2 The Organisation

Addressee: Company Secretary
 Address: [Islington Homes Limited]
 Highbury House
 5 Highbury Crescent
 London N5 1RN
 Facsimile Number: 0207 527 []

or such alternative address or facsimile number notified in writing by one Party to the other Party.

- 75.2 Any such notice shall be deemed to be served
- 75.2.1 if delivered personally at the time of delivery provided a written receipt is obtained;
- 75.2.2 if sent by post, two Working Days after the date of posting;
- 75.2.3 if sent by facsimile transmission on the day of transmission (or, if not a Working Day, the next Working day) PROVIDED THAT a confirmatory transmission sheet shows proper transmission and a copy of the notice is posted by first class recorded delivery post to the receiving Party on the day of its transmission.

76 SEVERANCE

If any provision of this Agreement shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any other provision all of which shall remain in full force and effect.

77 PARTNERSHIPS

Nothing in this Agreement shall be construed as establishing or implying any partnership or joint venture between the parties hereto and save as expressly provided nothing in this Agreement shall be deemed to make the Organisation the agent of the Council or authorise the Organisation (a) to incur any expenses on behalf of the Council (b) to enter into any engagement or make any representation or warranty on behalf of the Council or (c) to commit or bind the Council in any way whatsoever without in each case obtaining the Council's Representative's prior written consent.

78 SURVIVAL OF THIS CONTRACT

- 78.1 Insofar as any of the rights and powers of the Council provided for in this Agreement shall or may be exercised or exercisable after the termination or expiry of this Agreement the provisions of this Agreement conferring such rights and powers shall survive and remain in full force and effect notwithstanding such termination or expiry.
- 78.2 Insofar as any of the obligations of the Organisation provided for in this Agreement remain to be discharged after the termination or expiry of this Agreement the provisions of this Agreement imposing such obligations shall survive and remain in full force and effect notwithstanding such termination or expiry.

79 LAW

This Agreement shall be governed by and construed according to English Law and subject to the Dispute Resolution Procedure in Clause 74, the parties submit to the exclusive jurisdiction of the English Courts.

80 CONCURRENT REMEDIES

No right or remedy herein conferred upon or reserved to either party by this Agreement is exclusive of any other right or remedy provided herein or by law or equity and each such right or remedy shall be cumulative of every other right or remedy and may be enforced concurrently therewith or from time to time and shall be without prejudice to any pre-existing liabilities or obligations of the other party under this Agreement.

81 ENTIRE AGREEMENT

81.1 This Agreement constitutes the entire agreement between the parties as to the subject matter hereof and supersedes all previous agreements and understandings (if any) between the parties with respect thereto.

81.2 Each Party acknowledges and confirms that:

81.2.1 it does not enter into this Agreement in reliance on any statement representation, warranty or any other undertaking not expressly set out or referred to in this Agreement; and

81.2.2 this sub clause shall not apply to any statement, representation or warranty made fraudulently, or to any provision of this Agreement which was induced by fraud, for which the remedies available shall be all those available under the law governing this Agreement.

82 HUMAN RIGHTS

82.1 The Parties acknowledge if the Organisation is held to be acting as a public authority for the purposes of the Human Rights Act 1999 and if (and in so far as) any claim is made against the Council (or loss is suffered by the Council) under that Act and that loss or claim;

82.1.1 arises out of the performance by the Organisation of its obligations under this Agreement; or

82.1.2 arises out of any act, default or omission by the Organisation the Organisation shall indemnify and keep indemnified the Council against the same.

83 FREEDOM OF INFORMATION

83.1 The Organisation agrees to use all reasonable endeavours to assist the Council to comply with its obligations imposed under the Freedom of Information Act 2000 (the "2000 Act") including (without limitation);

83.1.1 where necessary to provide the Council with reasonable assistance in

- 83.1.2 complying with any Request For Information served on the Council; and to process Information provided to the Organisation by the Council, in accordance with a records management system which complies with the Lord Chancellor's code of practice for the keeping and management of records under section 46 of the 2000 Act.
- 83.2 Insofar as the 2000 Act applies to the Organisation (under Section 5 of the 2000 Act or otherwise), the Organisation shall:-
- 83.2.1 comply with the 2000 Act and any associated legislation and codes of practice (including (without limitation) the Lord Chancellor's codes of practice issued under sections 45 and 46 of the 2000 Act); and
- 83.2.2 where the Organisation receives a request to disclose Information to a third party under the 2000 Act, which relates to the Council and/or this Agreement:-
- (b) inform the Council about the Request For Information and the nature of the Information being sought as soon as reasonably possible;
 - (c) consider and apply all lawful exemptions provided under the 2000 Act;
 - (d) withhold Information sought in terms of the Request For Information;
 - (e) consult with the Council prior to the disclosure of any such Information; and
 - (e) keep the Council informed about the Organisation's progress in dealing with any Request For Information and where requested by the Council, provide the Council with copies of any correspondence and documents relating to the Request For Information.
- 83.3 Where the 2000 Act does not apply to the Organisation (under Section 5 of the 2000 Act or otherwise) and the Organisation receives a Request For Information, the Organisation shall:-
- 83.3.1 promptly inform the Council about the receipt of the Request for Information; and
- 83.3.2 not disclose or release Information in response to the Request for Information without first consulting with and obtaining the consent of the Council.
- 83.4 The Organisation shall indemnify the Council against all claims and proceedings and all liability, loss, costs and expenses incurred in connection therewith by the Council as a result of any breach of this Clause 83 by the Organisation, its employees, sub-contractors or agents.

84 ECONOMIC AND MONETARY UNION

- 84.1 Without prejudice to Article 3 of Regulation (EC) No 103\97 of 17th June 1997 of the Council of Members of the European Union, the introduction of the euro shall not, of itself:

- 84.1.1 have the effect of altering any provision of, or (in whole or in part) of discharging, cancelling, rescinding, terminating or otherwise excusing performance under this Agreement; or
- 84.1.2 give either Party to this Agreement, the right unilaterally to alter any provision of, or (in whole or in part) to discharge, cancel, rescind, terminate or otherwise avoid its obligations under this Agreement.
- 84.2 If following the introduction of the euro, sterling is substituted by the euro as the currency of the United Kingdom, then all references in this Agreement to sterling or “£” shall be construed as references to euro or “€” (as the case may be) at the agreed sterling euro conversion on the date of that substitution.
- 84.3 Without prejudice to Clauses 84.1 and 84.2 the Parties will negotiate in good faith in order to agree any amendments to this Agreement which the Council determines to be reasonably necessary as a result of the introduction of the euro (and, if relevant, so as to ensure that the terms of this Agreement reflect the current market practices and conventions relating to the introduction of the euro.
- 84.4 The Organisation undertakes that neither the performance nor the functionality of the Organisation’s own computer systems and software will be affected by the introduction of the euro and that any necessary modifications will be effected promptly by the Organisation.

85 NOMINATION RIGHTS AND AGREEMENTS

The Organisation shall afford the Council all appropriate assistance and co-operation to enable the Council to achieve consistency and fairness in the Council’s allocations and nominations policies and procedures throughout the Council’s administrative area.

86 VARIATIONS TO TENANCY CONDITIONS

The Organisation shall implement any variations to the Council’s tenancy terms and conditions required by the Council and help the Council to comply with any requirements of the Housing Act 1985 in respect of such variations.

87 INFORMATION IN TENANTS’ HANDBOOK

The Organisation shall assist the Council in providing existing tenants with information about Council tenancies or other aspects of the Council’s housing functions throughout the Council’s administrative area whether through the tenants handbook or otherwise.

88 INFORMATION FOR PROSPECTIVE TENANTS

The Organisation shall afford prospective Council tenants with such information about tenancies within the Organisation's operational area and elsewhere within the Council's administrative area as may be appropriate or as the Council may reasonably stipulate.

89 TRANSFERS AND MUTUAL EXCHANGES

The Organisation shall adopt such policies and procedures in respect of transfers and mutual exchanges as shall facilitate movement within the Council's administrative area on such terms as the Organisation reasonably determines to be appropriate or otherwise as the Council reasonably stipulates.

90 CONSULTATION WITH OTHER HOUSING SERVICE PROVIDERS

The Organisation shall consult with other housing service providers within the Council's administrative area so as to achieve so far as practicable such goals of fair and consistent treatment for existing and prospective tenants as the Council shall determine.

91 COMPARISON EXERCISES WITH OTHER HOUSING SERVICE PROVIDERS

The Organisation shall participate in such benchmarking and other companion exercises with other housing service providers within the Council's administrative area as the Council shall reasonably require.

92 COUNTERPARTS

This Agreement may be executed in one or more counterparts each of which when executed and delivered shall constitute an original, but together one and the same document.

93 THIRD PARTY RIGHTS

93.1 For the purposes of the Contracts (Rights of Third Parties) Act 1999 the Parties acknowledge that

93.1.1 save for the provisions of Clauses 60 and 61, this Agreement is intended and agreed to be for the benefit solely of the Parties and their lawful successors and permitted assigns and is not intended to and does not create or confer any right or benefit enforceable by any other person or third party; and

93.1.2 all or any of the provisions of this Agreement may be rescinded or varied by the Parties as provided in this Agreement in their entirety or in part without the consent of or the need to give any notice to any person or third party not being a Party

PART O – TERMS USED ETC

94 DEFINITIONS AND INTERPRETATION

94.1 The definitions are as follows:

“2000Act”

means the Freedom of Information Act 2000

“Agreement”

means this Agreement (including the Schedules and Annexes) and any variations in accordance with Clause 67.

“Annual Performance Plan”

means the performance plan forming part of the Delivery Plan which is to be produced annually by the Organisation and which is described in Clause 7.

“Annual Sections of the Delivery Plan”

means those sections of the Delivery Plan which in accordance with Clause 6 are prepared on an annual basis

“Best Value”

and “best value” both mean best value as defined in the Local Government Act 1999

“Best Value Inspector”

means an officer, agent or employee of the Audit Commission empowered to inspect the Council’s compliance with Part 1 of the Local Government Act 1999

“Best Value Performance Plan”

means the best value performance plan which is required to be published by the Council by 30th June each year in accordance with Section 6 of the Local Government Act 1999

“Best Value Review”

means a Best Value Review of the Services which is required to be conducted by the Council in accordance with Section 5 of the Local Government Act 1999

“Best Value Review Date”

means such date or dates for a Best Value Review of the Services or part of the Services (whether or not in conjunction with other Council services) as the Council considers, in its absolute discretion to be appropriate, to ensure compliance with its duty of Best Value

“Car Loans”

means the car loans referred to at Part 2 of the Fourth Schedule and includes any renewals or substitutions thereof.

“Commencement Date”

means 1 April 2004

“Contract Period”

means the period beginning on the Commencement Date and continuing for five years unless (a) terminated sooner in accordance with Clause 71 or in accordance with common law or statute or (b) extended in accordance with Clause 66.

“Contract Standard”

means the standard to which the Services are to be provided as defined in Clause 16.

“Contract Year”

means each continuous period of twelve months during the Contract Period commencing on 1st April and ending on the following 31st March.

“Council Guidelines”

means relevant rules, procedures, guidelines, policies, codes of practice, Standing Orders and Financial Regulations and standards of the Council currently applying or as notified to the Organisation by the Council or the Council’s Representative from time to time, as any of the same may from time to time be amended by the Council and notified to the Organisation.

“Council’s Computer Systems”

means the computer hardware systems owned, leased and/or operated from time to time by the Council or any third party either in whole or in part in connection with the Undertaking.

“Council’s Constitution”

means the Council's documented orders and regulations which must be complied with by the Organisation to the extent that they apply to the subject matter of this Agreement including but not limited to the Contract Standing Orders and Financial Regulations .

“Council's Data”

means any information or data compiled by or on behalf of the Council in connection with the Services.

“Council's Emergency Officer”

means the Chief Executive of the Council or such other individual as the Council may appoint from time to time

“Council's Equipment”

means the equipment and vehicles owned or leased by the Council relating to the Undertaking and listed in the Second Schedule together with any other equipment and assets as may be agreed between the Organisation and the Council in writing.

“Council's Infrastructure”

means the infrastructure components including computer hardware, software, communication networks and devices that are owned and /or used by the Council

“Council's Representative”

means the person nominated pursuant to Clause 60.

“Council's Software”

means any computer software owned by or licensed to the Council relating to or used in connection with the Services.

“Delivery Plan”

means the document so entitled which describes the outputs to be achieved by means of the Services to be provided by the Organisation and any variations of such document made pursuant to Clause 63.

“Delivery Plan Format”

is the format stipulated by the Council for the Delivery Plan for the Services to be provided by the Organisation and forming Annex 2.

“Delivery Plan Strategy”

means in respect of the period up to (but not including) the first anniversary of the Commencement Date the initial Delivery Plan forming Annex 1 and in respect of subsequent years of the Agreement means the Delivery Plan strategy to be submitted by the Organisation pursuant to Clause 6.

“Directive”

means the Acquired Rights Directive 77\187 (as amended, re-enacted, replaced or extended from time to time).

“Dwelling”

means any leasehold or tenanted dwelling house to be managed by the Organisation pursuant to this Agreement and includes (a) any part of a building occupied or intended to be occupied as a separate dwelling house (in particular but without limitation a flat and the communal areas of blocks of flats save that any flat let together with a shop unit as part of the same demise or otherwise as set out in the Third Schedule shall be excluded), (b) any land, gardens, outhouses, private paths or driveways usually enjoyed with any such dwelling house and (c) group homes for sheltered accommodation provided under the Enabling Acts together with any land, gardens or driveways usually enjoyed with any such sheltered accommodation.

“Employee Transfer”

means a relevant transfer of an undertaking for the purposes of the Regulations or the Directive.

“Employment Records”

means all records and other documents in the Council’s possession relating to the employment of the Transferring Employees

“Enabling Acts”

means all those Acts which enable the Council to enter into this Agreement, including (but not limited to) the Housing Act 1985, the Local Government Act 1972 and the Local Government Act 2000

“Existing Contracts”

means the contracts for goods, services and / or works relating to the Undertaking detailed in the First Schedule and any additions thereto made between the Council and a third party as notified by the Council to the Organisation.

“Expert”

means an individual appointed in accordance with Clause 74.

“External Auditor”

means the external auditor of the Council’s accounts under the Audit Commission Act 1998 or under the Local Government Act 1999 in relation to Best Value Performance Plans

“Guidance”

means the guidance entitled “Guidance on Arms Length Management of Local Authority Housing” and any subsequent guidance which modifies or replaces the same

“Information”

as defined in section 84 of the Freedom of Information Act 2000

“Intellectual Property”

Means patents, trademarks, service marks, design rights (whether registrable or otherwise), utility models, applications for any of the foregoing, copyrights, database rights, Know-how and other similar rights or obligations whether registrable or not, in any country including but not limited to the United Kingdom

“Intellectual Property Rights”

means the Intellectual Property which (or the subject matter of which) is created, brought into existence, acquired, used or intended to be used by the Organisation (or any agent, contractor or subcontractor engaged by the Organisation) for the purposes of performing the Services or otherwise for the purposes of this Agreement

“Know-how”

means all information (including that comprised in or derived from data, disks, tapes, manuals, source codes, flow-charts, catalogues and instructions) relating to the Undertaking and the Services.

“Lease(s)”

means the lease(s) to be granted pursuant to Clause 45 in substantially the forms set out in the Seventh Schedule

“Legislation”

means in relation to the United Kingdom

- (a) any Act of Parliament;

- (b) any subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978;
- (c) any exercise of the Royal Prerogative; and
- (d) any enforceable community right within the meaning of section 2 of the European Communities Act 1972

“Local Government Pension Scheme”

means the local government pension scheme established pursuant to regulations made by the Secretary of State in exercise of powers under sections 7 and 12 of the Superannuation Act 1972 (as amended)

“Management Fee”

means the annual management fee payable by the Council to the Organisation in consideration of the provision of the Services as set out in the Delivery Plan

“New Contracts”

means the contracts for goods, services and / or works made between the Organisation and a third party on or after the Commencement Date

“Organisation’s Representative”

means the person who is to represent the Organisation appointed pursuant to Clause 20.

“Part Termination Notice”

means a notice served by the Council in accordance with Clause 69(1) and complying with Clause 69(3)

“Premises”

means the offices and other premises to be leased by the Council to the Organisation for the purposes of providing the Services as described in the Third Schedule and comprised in the form of Leases set out in the Seventh Schedule

“Regulations”

means the transfer of Undertakings (Protection of Employment) Regulations 1981 (as amended, re-enacted or extended from time to time)

“Regulations”

means the Transfer of Undertakings (Protection of Employment) Regulations 1981 and shall be deemed to include (without limitation) the Acquired Rights Directive 77/187 (howsoever amended or interpreted) as it applies to the Council and/or this Agreement and/or this or any subsequent transfer of the Undertaking.

“Request for Information”

as defined in section 8 of the Freedom of Information Act 2000

“RPI”

means the United Kingdom General Index of Retail Prices (All Items) or in the event that the basis of calculation of such Index shall change or if such Index ceases to be published (as to which the Council’s reasonable decision shall be conclusive) such other published index of retail prices or the value of money as the Council and the Organisation may agree PROVIDED THAT in the event that such agreement cannot be reached within twenty-one (21) Working Days of a decision by the Council the RPI shall be determined in accordance with the provisions of Clause 74(Dispute Resolution).

“Service Data”

means all data and information in whatever form given to, produced, originating from or acquired by the Organisation exclusively for the purposes of providing the Services

“Service Users”

means a reasonably representative sample of those tenants, leaseholders and other users who use or benefit from the Services

“Services”

means the services to be provided by the Organisation in accordance with the Agreement and includes any variations thereto made pursuant to Clause 63.

“Staff Loan”

means the staff loans referred to at Part 3 of the Fourth Schedule and includes any renewals or substitutions thereof

“Suspension Notice”

means a notice served by the Council in accordance with Clause 69(1) and and complying with Clause 69(2)

"Tenancy Conditions"

means the conditions on the basis of which the Council's tenants occupy the Dwellings and shall be deemed to include all the Council's rights and obligations whether statutory or contractual and whether or not expressly incorporated.

"Tenant Management Organisation"

means a Tenant Management Organisation as defined in Section 27AB(8) of the Housing Act 1985.

"Termination Notice"

means a notice terminating the agreement served by the Council pursuant to Clause 71(1) and complying with Clause 71(2)

"Transferring Employees"

means the employees occupying the posts listed in Part I of the Fourth Schedule together with any replacement employees for any whose contracts terminate before the Commencement Date

"Undertaking"

means all of the undertaking of the provision of housing management services by the Council its servants or agents immediately before the Commencement Date

"Uninsurable"

means, in relation to a risk, either that insurance is not available in the worldwide insurance market in respect of that risk; or the insurance premium payable for insuring that risk is at such a level that the risk is not generally being insured against in the worldwide insurance market

"Vehicle Lease"

means any vehicle leasing or hire contract in respect of any vehicle leased or hired by the Council.

"Warning Notice"

means a notice served by the Council in accordance with Clause 70.1 relating to inadequate performance of the services by the Organisation

"Working Day"

means any day Monday to Friday (inclusive) save for bank holidays, statutory holidays and other non-statutory holidays taken as public holidays by the Council.

94.2 Reference to the Organisation's personnel shall be deemed to include the Organisation's directors and employees and the Organisation's agents,

sub-contractors and essential visitors (as referred to in Clause 40.2) unless the context otherwise requires.

- 94.3 A reference to the Enabling Acts or any other Act of Parliament, or to any Order, Regulation, Statutory Instrument, or the like, shall be deemed to include a reference to any amendment, re-enactment, consolidation, variation, replacement or extension of the same respectively from time to time and for the time being in force.
- 94.4 Words denoting the singular shall include the plural and vice versa and words denoting the masculine gender shall include the feminine gender and vice versa and words denoting persons shall include firms and corporations
- 94.5 References to Clauses, Schedules and Annexes shall be deemed to be references to the Clauses in and the Schedules and Annexes to this Agreement as so numbered
- 94.6 In this Agreement headings are included for ease of reference only and shall not affect this Agreement or the interpretation thereof

IN WITNESS whereof these presents have been executed as a Deed and delivered the day and year first before within.

**THE COMMON SEAL OF THE)
MAYOR AND BURGESSES OF)
THE LONDON BOROUGH OF)
ISLINGTON was hereunto affixed)
in the presence of:-)**

Authorised Officer

**THE COMMON SEAL of [ISLINGTON])
HOMES LIMITED was hereunto affixed)
in the presence of:-)**

Director

Director / Secretary

THE FIRST SCHEDULE
EXISTING CONTRACTS TO BE ADMINISTERED¹

Contract	Contract Period	Commencement Date	Value (per annum)	Contractor
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¹ Query assign – see the footnote to Clause 22

THE SECOND SCHEDULE

COUNCIL'S ASSETS

[Vehicles, Equipment etc]

**THE THIRD SCHEDULE
PREMISES AND OTHER PROPERTY INFORMATION**

THE FOURTH SCHEDULE
TRANSFERRING EMPLOYEES ETC

[Query anonymise]

PART I - TRANSFERRING EMPLOYEES

Post No	Designation	Name	Date of Birth	Age	Grade	Salary	Date Commenced	Entered Superannuation Scheme	Contractual Notice (Months)	Statutory Notice Months (M) Weeks (W)

PART II
CAR LEASES

Employee	Vehicle	Registered number	Lease Company	Start Date	End Date	Annual Rental
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PART III

CAR LOANS

Employee	Date of Loan	Amount Borrowed	Interest Rate	Total outstanding, including projected interest at the Commencement Date	Period	Final payment due
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THE FOURTH SCHEDULE

PARTIV ALTERNATIVE DISPUTE RESOLUTION PROCEDURE (Clause 60.11.4)

THE FIFTH SCHEDULE

PART 1 COMPUTER SYSTEMS AND SOFTWARE CURRENTLY USED BY THE COUNCIL

(A) Computer Systems

(1) Owned by Council

(2) Leased by Council

(3) Maintenance Agreements

(B) Software

(1) Owned by Council

(2) Licensed by Council

(C) Maintenance and Support Agreements

(1) Computer Equipment

(2) Software

PART 2 TERMS AND CONDITIONS OF USE OF THE COUNCIL'S COMPUTER

SYSTEMS AND SOFTWARE

1 Council's Computer Systems

The Organisation shall:

- 1.1 use the Council's Computer Systems only for in connection with the provision of the Services and shall ensure that the personnel of the Organisation do likewise;
- 1.2 keep the Council's Computer Systems in good repair, condition and working order (fair wear and tear only excepted) and comply with all manufacturers' and mandatory operational requirements and, if required by the Council enter into and maintain maintenance agreements in terms approved by the Council and if any components need to be replaced to replace them with components of a like specification or improved version;
- 1.3 notify the Council without delay if any part of the Council's Computer System is lost, stolen, destroyed or damaged beyond economic repair;
- 1.4 permit the Council's Representative or other agent at any time during the Contract Period access on reasonable notice to inspect and test the condition of the Council's Computer Systems;
- 1.5 Not sell, lease, assign, dispose or part with possession of the Council's Computer Systems or permit any lien, mortgage, charge or other encumbrance to arise over the Council's Computer Systems and to keep the Council's computer Systems free from distress, execution or other legal process;
- .
- 1.6 keep the Council's Computer Systems where they are located at the Commencement Date and not change their location without the prior written consent of the Council and not remove the Council's Computer Systems from their locations otherwise than for or in connection with the Services or as necessary for the purposes of repair, maintenance, modification or alteration;
- 1.7 be responsible for and indemnify and keep indemnified the Council against all actions, charges, claims, costs, damages, demands, expenses liabilities and loss incurred by or made or brought against the Council directly or indirectly from the Organisation's failure to carry out its obligations under this Part 2 of Schedule 5 and from the Organisation's possession, operation, use, removal or return of the Council's Computer Systems or in respect of any negligent act, default or omission of the Organisation in respect of the Council's Computer Systems except and to the extent due to the neglect or default of the Council;
- 1.8 comply with all statutory requirements (including but not limited to the Data Protection Act 1998, Computer Misuse Act 1990 and the Copyright Designs

and Patents Act 1988), byelaws and regulations for the time being in force affecting the keeping, use and operation of the Council's Computer Systems;

- 1.9 Not make or allow to be made any alterations, modifications, additions, improvements or upgrades to the Council's Computer Systems without the prior written consent of the Council's Representative which if granted may be granted subject to the imposition of appropriate conditions.
- 1.10 be responsible for the proper and adequate security of the Council's Computer Systems and shall:
 - 1.10.1 take all reasonable precautions at all times to prevent destruction, loss, theft or damage to the Council's computer Systems; and
 - 1.10.2 If requested by the Council affix at the Council's expense markings on the Council's Computer Systems indicating that they are the property of the Council.
- 1.11.1 insure and keep insured or the Council's Computer Systems or procure that such systems are insured and kept insured to their full replacement value against fire, theft, accident damage and other risks which the Council considers it is commercially prudent to insure.
- 1.11.2 Not do any thing which would or might vitiate in whole or in part any insurance policy effected in respect of the Council's computer Systems.
- 1.11.3 If any part of the Council's Computer Systems are lost stolen destroyed or damaged beyond economic repair to apply any insurance monies received in acquiring a replacement item of at least equivalent condition and value and procure that such item shall become the property of the Council.
- 1.12 observe to perform the terms and conditions (other than as to payment) of any leasing agreements applicable to any leased Council's Computer Systems;
- 1.13 Not (other than as necessarily implied by Paragraph 1.1 above) use or allow or permit to be used the Council's Computer Systems in such manner as to be a danger, nuisance, annoyance or disturbance to the Council or to third parties; and
- 1.14 on termination of the loan of the Council's Computer Systems in accordance with Paragraph 9 below forthwith return the Council's Computer Systems serviced and maintained and in good repair condition and working order (fair wear and tear only excepted) to the Council at such address as the Council shall notify to the Organisation and if necessary to permit the Council's Representative (or his representative) access to any location where the Council's Computer Systems may be for the purposes of removing them or shall otherwise deal with the Council's Computer Systems as instructed by the Council's Representative. In the event that the Organisation fails to return the Council's Computer Systems to the Council in the above condition, the Council shall be entitled to recover its reasonable costs and expenses incurred in remedying such failure, from the Organisation.

2 Council's Software

The Organisation shall:

- 2.1 use the Council's Software only for in connection with the provision of the Services and shall ensure that the personnel of the Organisation do likewise;
- 2.2 use the Council's Software in a skilful, careful and proper manner in accordance with the manufacturer's operating instructions and in the appropriate environmental conditions;
- 2.3 Not decompile (except insofar as is permitted under Section 50B of the Copyright Designs and Patents Act 1988) reverse assemble, analyse or otherwise examine the Council's Software for the purpose of reverse engineering;.
- 2.4 not deliberately modify or make inoperable any feature which is incorporated into the Council's Software to prevent access to unlicensed software or access to any part of the Council's Software or data or information stored thereon which is restricted to the Council and its employees;
- 2.5 not obstruct in any way the Council or its employees or agents in the exercise of the Council's rights under this Agreement including without limitation the right to incorporate features into the Council's Software for the purposes of security or restricting the Organisation's access to those parts of the Council's Software reasonably required in connection with the provision of the Services;.
- 2.6 be responsible for and indemnify and keep indemnified the Council against all actions, charges, claims, costs, damages, demands, expenses liabilities and loss incurred by or made or brought against the Council directly or indirectly from the Organisation's possession, operation and use of the Council's Software or in respect of any negligent act, default or omission of the Organisation in respect of the Council's Software except and to the extent due to the neglect or default of the Council;
- 2.7 comply with all operational and statutory requirements (including but not limited to the Data Protection Act 1998, Computer Misuse Act 1990 and the Copyright Designs and Patents Act 1988), byelaws and regulations for the time being in force affecting the keeping, use and operation of the Council's Software;
- 2.7 not make or allow to be made any alterations, modifications, additions, improvements or upgrades to the Council's Software without the prior written consent of the Council's Representative which if granted may be granted subject to the imposition of appropriate conditions.
- 2.8 notify the Council promptly of any and all defects in the Council's Software arising during the Contract Period and to comply at its own expense with the Council's instructions in relation to any steps to be taken to rectify the defects.

- 2.9 not transfer, licence or otherwise make the Council's Software available to third parties;
- 2.10 not to copy in whole or in part documentation relating to the Council's Software in breach of any relevant software licence or support agreement;
- 2.11 on termination of the licence of the Council's Software in accordance with Paragraph [] below deliver up the Council's Software to the Council; and
- 2.12 Not (other than as necessarily implied by Paragraph 1.1 above) use or allow or permit to be used the Council's Software in such manner as to be a danger, nuisance, annoyance or disturbance to the Council or to third parties.

3 Relocation of Council's Computer Systems

If the Council agrees to the Organisation relocating any part of the Council's Computer Systems, the Organisation shall be responsible for and shall bear the cost of

- 3.1 the safe and secure removal of the part of the Council's computer Systems to its new location;
- 3.2 its installation at the new location;
- 3.3 the installation of all necessary communication devices and interfaces.

4 Competency of Organisation's Personnel

- 4.1 The Organisation shall ensure that its personnel operating or using any of the Council's computer Systems and Software are at all times
 - 4.1.1 suitably and sufficiently qualified competent and careful; and
 - 4.1.2 properly instructed and supervised to operate or use the Council's Computer Systems and Software
- 4.2 The Organisation shall forthwith comply with a requirement of the Council's Representative under Paragraph [] below to remove any member of the Organisation's personnel from the position of operator or user of any item of the Council's Computer Software System or Software..

5 Insurance

The Organisation shall

- 5.1 insure or procure the insurance of the Council and the Organisation against all liability to the Organisation's personnel and to third parties for damage to or loss of property death and personal injury caused by the keeping use and operation of the Council's Computer Systems and Software by the Organisation;
- 5.2 produce to the Council on request the policy or policies of insurance together with evidence of payment of the premiums; and
- 5.3 Not do any act matter or thing which would or might vitiate in whole or in part any insurance policy effected by the Organisation pursuant to Paragraph 5.1.

6 Improper Use

The Organisation shall take all reasonable steps to ensure that the Organisation and its personnel:

- 6.1 do not use the Council's Computer System or Software improperly;
- 6.2 do not operate the Council's Computer Systems outside the appropriate environmental conditions;
- 6.3 do not introduce any computer virus onto the Council's Computer System or Software ; and
- 6.4 do not breach any software licence or intellectual property rights relating to the Equipment.

7. Council's Rights

7.1 Competency of the Organisation's Personnel

- 7.1.1 Subject to consulting with the Organisation's Representative, the Council's Representative shall be entitled but not unreasonably or vexatiously to require the Organisation by notice in writing to remove any member of its personnel from the position of operator or use of any part of the Council's Computer System.
- 7.1.2 The Council shall in no circumstances be liable either to the Organisation or to any member of the Organisation's personnel in respect of any liability, loss or damage occasioned by such removal and the Organisation shall fully indemnify the Council against any claim made by such member of its personnel.

7.2 Modification and Updating of Council's Computer Systems and Software

- 7.2.1 Subject to consultation with the Organisation and agreeing an implementation programme, the Council shall be entitled to alter, develop, modify, replace or update any part of the Council's Computer Systems or Software as part of its IT strategy and where necessary for its own service requirements. The Council shall give reasonable notice to the Organisation if it reasonably considers that such alteration, developments, modification, replacement or update may adversely affect delivery of the Services.
- 7.2.2 The Council may at its absolute discretion agree to alter, develop, modify, replace or update any part of the Council's Computer Systems and Software at the request of the Organisation where reasonably necessary for the continuing provision or development of the Services.
- 7.2.3 The cost of any alteration, development, modification, replacement or update of the Council's Computer Systems and Software shall be met by
 - (a) the Council where made pursuant to Paragraph 7.2.1 above; and
 - (b) the Organisation where made pursuant to Paragraph 7.2.2 above.

8. Third Party Agreements

- 8.1 With effect from the Commencement Date (to the extent not previously done) the Council and the Organisation shall take all necessary steps and execute all necessary documents to obtain such consents from relevant leasing companies in respect of leased Council's Computer Systems and from

software owners in respect of licensed Council Software so as to enable the Organisation to use such Council's Computer Systems and Software in the provision of the Services and to have the benefit of any relevant maintenance and support agreements.

- 8.2 At the request of the Organisation, the Council shall use reasonable endeavours to renew or extend any third party agreement relating to the Council's Computer Systems and Software which expires prior to the end of the Contract Period

9. Termination

- 9.1 The Organisation's rights and obligations under Clause 24 of and Part 2 of Schedule 5 to this Agreement shall forthwith terminate on the occurrence of any of the following events:-
- 9.1.1 immediately on notice given by the Council at any time following any material breach by the Organisation of its obligations under the above provisions of the Agreement which breach (if capable of remedy) was not remedied within one month after written notice from the Council specifying the breach in reasonable details;
- 9.1.2 in relation to any part of the Council's Computer Systems or Software when the Organisation ceases to require that part;
- 9.1.3 on the termination or expiry of the Agreement;
- 9.1.4 in relation to any part of the Council's Computer Systems or Software owned by the Council, the Organisation doing or allowing to be done any act which may prejudice or endanger the Council's right, title or interest in that part; or
- 9.1.5 in relation to any part of the Council's Computer Systems or Software, if the Organisation abandons that part.
- 9.2 Following termination, the Organisation shall forthwith deliver up the terminated Council's Computer Systems and Software to the Council, failing which the Council shall be entitled to re-take possession of the terminated Council's Computer Systems and Software Equipment without further notice.
- 9.3 Termination shall be without prejudice to the enforcement of any rights or liabilities which have previously accrued to either party Clause 24 or Part 2 of Schedule 5 to the Agreement or to the continuing operation of Paragraph [] below.

10 Fees

- 10.1 In consideration of the loan of the Council's Computer Systems and the grant of licences to use the Council's Software, the Organisation shall:
- 10.1.1 reimburse to the Council, all leasing costs incurred by the Council in respect of leased Council's Computer Systems;
- 10.1.2 reimburse to the Council all licence fees payable by the Council in respect of that part of the Council's Software exclusively used by the Organisation in the provision of the Services;
- 10.1.3 reimburse to the Council, all fees and charges incurred by the Council pursuant to maintenance and support agreements relating to those parts of the Council's Computer Systems and Council's Software

exclusively used by the Organisation in the provision of the Services; and

10.1.4 pay to the Council, an annual fee to be agreed between the parties in respect of the use, support and maintenance of that part of the Council's Computer Systems and Council's Software used by both parties. Such fee shall be a reasonable proportion of the total fees and charges incurred by the Council which properly reflects the extent of use by the Organisation

11. General

11.1 Ownership

For the avoidance of any doubt all of the Council's Computer Equipment and Software owned by the Council shall remain the property of the Council (or the relevant leasing company or software licensor, as applicable and the Organisation shall not acquire any right title or interest in that Council's Computer Equipment and Software.

11.2 Suitability of Equipment

The Organisation acknowledges that in entering this Agreement it has not relied on any representations made by the Council and that it has inspected the Council's Computer Systems and Software and is satisfied as to its safety and its condition in respect of all and any defects that inspection ought to have revealed and its suitability for the purposes for which it is to be used by the Organisation.

11.3 Terms, Conditions and Warranties

The Council does not offer the Council's Computer Systems and Software with any representation (whether oral or written) concerning the condition, performance, qualities of the Council's Computer Systems and Software or with or subject to any term condition or warranty express or to be implied by statute description at common law or otherwise and all such representations, conditions, warranties and terms, whether relating to the capacity, age, quality, description, condition, lending, possession, operation or use of the Council's Computer Systems and Software or as to the satisfactory quality or suitability or fitness of the Council's Computer Systems and Software for the Services are hereby excluded.

11.4 Liability of the Council

The Council shall not be liable to Organisation:

11.4.1 In contract or in tort for any loss injury or damage arising by reason of any defects in the Council's Computer Systems and Software whether such defects be latent or apparent on examination (other than liability for death or personal injury arising from the negligence of the Council)

11.4.2 Either for any loss whatsoever suffered by the Organisation as a result of the Council's Computer Systems and Software or any part of it being unstable or unserviceable or to supply any replacement Council's Computer Systems and Software during any period when the Council's

Computer Systems and Software or part of it is unusable or unserviceable.

- 11.4.3 For any loss or damage incurred or sustained by the Organisation in consequence of the termination of this Agreement or in the retaking by the Council of possession of the Council's Computer Systems and Software .

11.5 Force Majeure

Neither party shall be responsible for any delay or failure to perform its obligation (other than obligations as to payment) under this Fifth Schedule due to causes beyond its reasonable control including but not limited to fire, flood or Act of God.

THE SIXTH SCHEDULE
FINANCIAL ARRANGEMENTS¹

The transfer of monies to the Organisation

[These arrangements depend on the financial services arrangements - a book transfer only, superintended by Council staff contracted to the ALMO, or more than that?]

The calculation of the Organisation's fee

[These arrangements depend on

- (a) the relationship between the fee and the rental income – see Clause 52
- (b) the extent of the fee-paid services – do they cover only revenue-financed work or are capital programmes paid for in this way? The key question is “Who writes the (large) contract cheques?”

Whatever is decided it must be VAT efficient – ie the Council must be able to recover the VAT charged by the ALMO]

¹ The financial plan which forms part of the Delivery Plan will deal with the procedures and practicalities. The two issues outlined in this Schedule are deemed sufficiently important to be included here. Both have statutory and contractual implications.

THE SEVENTH SCHEDULE
FORM OF LEASES FOR PREMISES

THE EIGHTH SCHEDULE

USE OF COUNCIL'S COMPUTERS

Data and information which may be used by Organisation and terms for its use

THE NINTH SCHEDULE

SERVICES SUPPLIED BY COUNCIL

[One or more specifications describing the service(s) with (if relevant) rights to vary and terminate]

ANNEX 1

THE INITIAL DELIVERY PLAN

[Drawn up in the format in Annex 2]

ANNEX 2

THE DELIVERY PLAN FORMAT

[NOTE: - Readers are referred to the Delivery Plan framework produced by HACAS Chapman Hendy (Johanna Holmes). Attention is drawn to the Introductory Notes to it. The Agreement has been drafted on the assumption that the Delivery Plan will take the form suggested by HACAS Chapman Hendy. If it does not changes will be required]

ANNEX 3
DELEGATION AGREEMENT

FUNCTION	ACTIVITIES SET OUT IN SECTION 3 OF ODPM GUIDANCE ON ARMS LENGTH MANAGEMENT OF LOCAL AUTHORITY HOUSING X = RETENTION BY COUNCIL 4 = DELEGATION TO ORGANISATION	ACTIVITIES NOT SET OUT IN SECTION 3 OF ODPM GUIDANCE ON ARMS LENGTH MANAGEMENT OF LOCAL AUTHORITY HOUSING X = RETENTION BY COUNCIL 4 = DELEGATION TO ORGANISATION	SECTION 27 CONSENT REQUIRED
1. Housing Strategy	X		
A.1 Strategic work in partnership with RSLs and others	X		
A.2 Tenant involvement in strategy	X		
A.3 Market analysis	X		
A.4 Enabling and resource planning	X		
A.5 Contribution to corporate planning	X		

1.6	Housing best value review programme	X		
1.7	Rent policy	X		
2.	Housing Stock	X		
2.1	Stock condition surveys	4		
2.2	Asset management	4		
2.3	Stock investment decisions	4		
3.	Housing Needs			
3.1	Assessments	X		
3.2	Surveys	X		
4.	Home Energy Conservation Act		4	
5.	Allocations / Lettings			
5.1	Policy	X		
5.3	Allocations	X		
5.3	Choice based lettings scheme	X		
5.4	Housing list management	X		
6.	Homelessness			
6.1	Homelessness strategy	X		
6.2	Homelessness casework	X		
6.3	Homelessness advice	X		

7. Housing Advice			
7.1 General advice	X		
7.2 Advice in respect of individual And leases	4		

<p>8. Private sector and non Council housing</p> <p>8.1 Renewal/ redevelopment Grants</p> <p>8.2 Renovation grants</p> <p>8.3 Disabled facilities grants</p> <p>8.4 Area renewal activity and clearance</p> <p>8.5 Work in relation to HMOs</p> <p>8.6 House condition surveys</p> <p>8.7 Home improvement Agencies</p> <p>8.8 Fitness enforcement activity and other enforcement activity in respect of unsatisfactory housing conditions</p> <p>8.9 Empty property</p> <p>8.10 Energy efficiency</p>		<p>X</p>	
<p>9. Co-ordination with corporate policy in relation to:</p>		<p>X</p>	

Care Services Community safety Neighbourhood renewal Regeneration Housing and health Sustainable development Social exclusion Equalities Anti-social behaviour			
10. New tenancies			
10.1 Making best use of housing stock		4	
10.2 Selection of tenants for vacant properties		X	
10.3 Administration of new lettings	4		
10.4 Housing list management		X	
10.5 Granting of new tenancies	4		
10.6 Successions		4	
10.7 Mutual Exchange administration		4	
11. Repairs and Maintenance	4		
11.1 Reactive repairs	4		

11.2	Planned maintenance	4		
11.3	Decent Homes Standard and other Improvements	4		
11.4	Redevelopment and Renewal	4		
11.5	Right to repair scheme administration		4	
11.6	Common parts / areas and communal services under HRA	4		
11.7	Lighting of lifts, staircases, unadopted estate roads etc	4		
11.8	Disinfestation of HRA properties		4	
11.9	Energy efficiency		4	
12	Void and Empty Property Management			
12.1	Inspection and, as necessary repairs and cleaning	4		
12.2	Major repairs		4	
12.3	Security against squatting and vandalism		4	

12.4 Administration of short life lettings		4	
13 Tenancy Management			
13.1 Enforcement of Conditions of Tenancy	4		
13.2 Evictions and court action to support enforcement		4	
13.3 Alterations to Conditions of Tenancy		X	
13.4 Illegal occupation	4		
13.5 Responsibility for Anti Social Behaviour Orders	X		
13.6 Requests for Anti Social Behaviour Orders	4		
13.7 Managing under- occupation	4		
13.8 Tenants' enquiries and complaints	4		
13.9 Decanting	4		
13.10 Issuing notices to quit and notices seeking possession	4		
14 Estate Management			
14.1 Caretaking	4		
14.2 Environmental services		4	
14.3 Grass cutting/ground		4	

maintenance			
15. Supported Housing Management			
15.1 Sheltered housing schemes		4	
15.2 Call centres		4	
15.3 Supported housing schemes		4	
15.4 Refuges		4	
15.5 Homeless accommodation		4	
15.6 Temporary accommodation		4	
15.7 Reception Centre		4	
16. Right to Buy			
16.1 Administration	4		
16.2 Calculation of discount	4		
16.3 Valuations	X		
16.4 Determination of eligibility	X		
16.5 Service of statutory approvals and notices	X		
16.6 Provision of rtb information to Council	4		
17. Leasehold Management			
17.1 Enforcement of leasehold conditions	4		

17.2 Estate management	4		
17.3 Management of assignments and sublettings	4		
18.Finance			
18.1 Rent setting	X		
18.2 Rent collection	4		
18.3 Recovery of arrears	4		
18.4 Recovery of service and other charges	4		
18.5 Debt counselling		4	
18.6 Financial returns		4	
18.7 Financial management		4	
18.8 HRA business plan (in consultation with the Council)		4	
18.9 Bidding for capital resources (taking account of the Organisation's plans for improving and repairing the stock)	X		
18.10 Housing benefit / rent rebate administration	X		
18.11 Receipt and initial administration of housing benefit application forms	4		
18.12 Insurance of HRA buildings		X	

18.12 Other insurances and claims		X	
19. Procurement			
19.1 Policy	X		
19.2 Letting of contracts in relation to delegated activities	4		
20 Tenant Involvement			
20.1 Tenant Compact	4		
20.2 Promoting Tenant participation	4		
20.3 Information to Tenants	4		
20.4 Reports to Tenants	4		
20.5 Involving Tenants in monitoring and reviewing service standards	4		
20.6 Liaison with tenants' and leaseholders' groups	4		
20.7 Consultation with tenants	4		
21 Other Assets (including lettings management and clearance)			
21.1 Garages		4	
21.2 HRA retail, commercial and industrial premises		4	

21.3 Estate Offices		4	
21.4 Community Centres		4	
21.5 Meeting Rooms		4	
21.6 Miscellaneous HRA properties		4	
22 Clearance and Disposal of Dwellings			
22.1 Sale of dwellings		X	
22.2 Clearance		4	
22.3 Consultation		X	
22.4 Decanting tenants		4	
23 Supporting People			
23.1 Strategy	X		
23.2 Provision of services	4		
24 Housing Providers			
24.1 Client management of TMOs, Housing PFI and housing management contractors		4	
24.2 Client management of housing repairs and cyclical maintenance contractors and other contractors undertaking housing management related works, services and supply contracts		4	

25. The Organisation			
25.1 Determining service standards to be met by the Organisation		X	
25.2 Production of performance information and reports		4	
25.3 Monitoring the Organisation's performance		X	

ANNEX 4

TENANT COMPACT

[i.e. the initial form of the Organisation's own Tenant Compact]

ANNEX 5

EQUAL OPPORTUNITY POLICY

[NB must enable the Organisation to comply with Clause 3.2]