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## HOUSING MANAGEMENT CONTRACT

between

**[NAME OF REGISTERED PROVIDER]**

and

**[NAME OF MANAGING AGENT]**

dated

**[day month year]**

for

Housing with Support

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## HOUSING MANAGEMENT CONTRACT

### 1 The Parties, Commencement and Interpretation

1.1 This Housing Management Contract is made between:

**[Name of RP]** (The RP) whose registered office is at **[address]** and is a registered provider of social housing under the Housing and Regeneration Act 2008, Registration No: **[number]** *insert/delete* and an industrial and provident society, Registration No: **[number]** and/or company limited by guarantee, Registration No: **[number]** and/or registered charity, Registration No: **[number]**. **The RP is an exempt charity. insert/delete**

and

**[Name of Agent]** (The Agent) whose registered office is at **[address]** and is a *insert/delete* - registered provider of social housing under the Housing and Regeneration Act 2008, Registration No: **[number]** and/or an industrial and provident society, Registration No: **[number]** and/or company limited by guarantee, Registration No: **[number]** and/or registered charity, Registration No: **[number]**. **The Agent is an exempt charity. insert/delete**

1.2 This Contract commences on **[date]**

1.3 For the purposes of this Contract the words and phrases set out in the first column of clause 2 will bear the meaning given in the second column of that clause

### 2 Definitions and Interpretation

#### 2.1 Definitions

Adaptations	Alterations to the Property or mechanical or electrical appliances that will enable the Property to be more suitable to the needs of the Occupants as the result of their disability or impairment and which either do or will form part of the Property once installed or carried out.
Affordable Rent	“Affordable” rents (up to 80% of market rent) can be introduced by RPs where the additional revenue generated forms part of a funding package for the development of new homes under a delivery agreement with the HCA. They can be charged on both the new homes built and any relets to new tenants of existing homes.
Agent’s Personnel	All employees, staff, other workers, agents and consultants of the Agent who are engaged in the provision of the Services to the Occupiers at the Property from time to time.
Aids	Portable items and equipment needed by the Occupant as the result of their disability or impairment that will assist the Occupant’s ability to live independently in the Property.
Bad Debts	Money owed by Occupants for their accommodation which the Agent is likely to be unable to collect and which will have to be written off.
Care	The regulated activity which is care as defined by the Health and Social Care Act 2008 and related legislations and regulations.

CORE Forms	System for recording information on all social housing lettings required by the Social Housing Regulator
CQC	Care Quality Commission or successor body which enforces compliance with regulations on the provision of adult social care or treatment services.
Cyclical Works	Planned painting of internal communal areas, windows, front doors, clearing out and repairing loose guttering so as to prevent deterioration in the physical condition of the stock, as more particularly defined in Schedule 4.
Days	Calendar days except where specified otherwise.
Day to Day Repairs	Those repairs not classed as emergency, cyclical or major and described in more detail in Schedule 4. Also known as responsive repairs.
Decent Homes Standard	A standard set by Government for social housing; there are four criteria relating to minimum standards, repair, facilities and thermal comfort.
Employee Liability Information	in respect of each of the Agent's Personnel engaged in the Services: <ul style="list-style-type: none"> <li>a) their identity and age;</li> <li>b) their relevant written statement of employment particulars (as required under section 1 of the Employment Rights Act 1996);</li> <li>c) information about any disciplinary action taken against them and any grievances raised by them within the previous two years;</li> <li>d) information about any court or tribunal case, claim or action either brought by any or all of the Agent's Personnel against the Agent within the previous two years or where the Agent has reasonable grounds to believe that such action may be brought against the Agent and or RP arising out of the employment of the Agent's Personnel with the Agent; and</li> <li>e) information about any collective agreement which will have effect after the Termination Date in relation to the Agent's Personnel pursuant to regulation 5(a) of TUPE.</li> </ul>
Financial Year	Year running from first day of [month] to last day of [month] in the calendar year.
Housing Management Services	The services provided to Occupants by the Agent on behalf of the RP and described in more detail in clause 11 and Schedule 3.
Ineligible Charge	A service charge not eligible for or not covered by Housing Benefit
Local Authority	The borough, county or district council which commissions, monitors or determines strategies for support, care or housing provision in the locality of the Property subject to this Contract is [name] insert plural if two tier area.
Major Repairs	The planned replacement or repair of key building components as they reach the end of their useful life. Key building components include kitchens, bathrooms, boilers, roof structure, electrical systems. Also referred to as stock renewal.
Management Fee	The amount awarded to the Agent per Unit per week for Housing Management Services in accordance with clause 14.
Minor Repairs	Small works which would be expected to be the tenants' responsibility in rented housing for people without support needs and carried out by the Agent such as easing doors, unblocking sinks, fitting and replacing curtain poles, towel rails etc., as set out in Schedule 4.
Notice	Any notice received by either party from any source (excluding notices to

	quit or seeking or requiring possession) which relates to the Property or the Occupants.
Occupants	Persons accommodated at the Property who have or should have entered into an Occupancy Agreement.
Occupancy Agreement	The Occupancy Agreement entered into by each of the Occupants in the form of tenancy or licence agreement set out in Schedule 8.
Personal Charges	Any charges made to the Occupant by the Agent which they are personally liable to pay; this will include meals, individual room heating and other such services which are ineligible for Housing Benefit plus the Occupant's own contribution to the accommodation charges where they have been assessed as not eligible for full Housing Benefit.
Property	The property or properties more particularly described in Schedule 1.
Registered Provider (RP)	Organisations that provide affordable housing and are registered with and monitored by the Social Housing Regulator under the provisions of the Housing and Regeneration Act 2008. The term Registered Provider (RP) replaces Registered Social Landlord (RSL).
Rent	The amount payable for each unit as an accommodation charge, exclusive of additional service charges.
Rent Plan	The policy published from time to time by the RP in accordance with the requirements of the Social Housing Regulator in force regarding the setting of rent levels in its properties.
Retail Price Index	The UK Retail Prices Index (All Items) or if this ceases to be published, another published index of general prices or the value of money as decided by the RP.
Right of Audience	A right conferred by the court to represent a claimant: many county courts will allow an employee of a landlord to represent the landlord in an application for possession but will not allow an employee of a managing agent to do so.
Services	Any services whether Housing Management, Maintenance or other Services to be provided by the Agent to the RP under this Contract.
Service Charge	The amount payable under the terms of the Occupancy Agreement for the services referred to in the schedule to the Occupancy Agreement.
SHiP	Supported Housing in Partnership, a grouping of registered providers of social housing involved in supported housing and general needs housing who have developed some common monitoring practices. SHiP is a Company Limited by Guarantee.
Social Housing Regulator	The body appointed by Government to oversee the funding, regulation and monitoring of providers of grant funded, affordable housing (in 2011 known as the Tenant Services Authority, from April 2012 the Regulation Committee of the Homes and Communities Agency).
Support	Support to an individual to enable them to achieve or maintain independent living, in some cases known as housing related support or referred to as a Supporting People service.

Target Rent	The rent for the unit which is to be achieved under rent restructuring introduced by the Social Housing Regulator in 2002; for supported housing target rents are to be achieved by 31 March 2013. It is calculated by a formula based on property values, local earnings and size; movement from actual to target is subject to rules relating to caps and flexibility.
TUPE	Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended from time to time during the operation of this Contract.
Unit	A room, set of rooms or bedspace at the Property capable of being the subject of an Occupancy Agreement
VAT	Value Added Tax as defined and set by HM Revenue & Customs
Voids	A unit empty between lettings.
Voids and Bad Debts Allowance	The amount assessed as provision to the Agent for Rent and Service Charge income lost through voids and bad debts.

## 2.2 Interpretation

- 2.2.1 Words importing the singular shall where appropriate include the plural and vice versa and words importing the masculine shall where appropriate include the feminine and vice versa.
- 2.2.2 References to any legislative provisions shall be deemed to include references to any further legislation in force at the time replacing amending or supplementing it together with all other regulations directions conditions circulars or consents made or given under it or deriving validity from it and any relevant decisions of courts of competent jurisdiction.
- 2.2.3 The headings in this Contract are for information only and do not form part of or affect the composition of this Contract.
- 2.2.4 The Schedules and Appendices are part of this Contract and will have full force and effect as though expressly set out in the body of this Contract. However, if there is a conflict between the body of this Contract and a Schedule or Appendix the body of the Contract prevails.
- 2.2.5 All references to clauses refer to clauses in this Contract.

## 3 The aims and objectives

- 3.1 The aim of the parties in making this Contract is to ensure high quality provision of housing management for people receiving a support or care service and who are occupying the Property as tenants or licencees of the RP.
- 3.1.1 **Optional**  
At the commencement of this Contract, the Agent has a contract with **[name of local authority or other commissioner]** to be the primary provider of support services to the Occupants of this Property.
- 3.2 The purpose of this Contract is to:
- Set out the terms under which the RP delegates certain of its landlord responsibilities to the Agent;

- Set out the respective roles and responsibilities of the two parties;
- Ensure effective joint working and good liaison
- Ensure that standards of service to the Occupants of the Agency managed Property are equal in quality to those received by the RP's other tenants and licencees.

3.3 Details of the Property covered by this Contract are set out in Schedule 1

3.4 Details of the type of support or care service provided to the occupants of the Property covered by this Contract are set out in Schedule 1

## 4 Appointment

4.1 The RP as principal appoints the Agent as its exclusive managing agent for the Property to provide the Housing Management Services and (if applicable) such Maintenance Services as are delegated to it on behalf of the RP in accordance with the terms of this Contract and set out in Schedules 3 & 4.

4.2 In consideration of the appointment the Agent hereby agrees with the RP to carry out the Agent's obligations in this Contract inclusive of the Housing Management and (if applicable) such Maintenance Services as are delegated to it on behalf of the RP as set out in Schedules 3 & 4.

## 5 Duration

5.1 *Either* This Contract is for a period of [years], commencing on [start date] and will end on [end date]. *Or* This Contract shall commence on [date] and will continue until the termination by either party in accordance with this Contract.

5.2 *Delete if not applicable*

Where the RP is the leaseholder of the Property and that lease is determined for whatever reason, this Contract will end on the same date as the lease ends. The RP will notify the Agent immediately of any notice to terminate the RP's lease. Where the lease end date is known at the start of this Contract, the end date in clause 5.1 above will reflect it.

## 6 General Terms

6.1 This Contract is intended by both the RP and the Agent to constitute an enforceable and legally binding contract between the two parties.

6.2 No variations to this Contract, schedules and appendices will be effective unless recorded in writing and signed by authorised representatives of the RP and the Agent. Neither party will unreasonably refuse consent to a variation requested by the other. Written confirmation of any amendment will not be unreasonably withheld or delayed by either party.

6.3 The RP and the Agent expressly agree that nothing in this Contract shall in any way intend to create or be deemed to create a partnership between them as defined by the Partnership Act 1890 or similar legislation.

6.4 Neither party intends to confer any right or benefit upon a third party and for the avoidance of doubt, the provisions of the Contracts (Rights of Third Parties) Act 1999 are expressly excluded from this Contract.



- 6.5 Neither party will sub-contract or assign its rights, obligations or benefits under this Contract without the prior consent in writing of the other party (such consent not to be unreasonably withheld or delayed).

## 7 Use of the Property

### 7.1 The Agent agrees that:

- 7.1.1 It will not use the Property for occupation by more than the number of Occupants specified in Schedule 1 to this Contract without the prior written consent of the RP.
- 7.1.2 It will not make a material change to the type of support or care service provided at the Property, such as would affect the housing management service, without the prior consent of the RP (such consent not to be unreasonably withheld or delayed).
- 7.1.3 It will not allow any member of its staff to reside in the Property without the prior written consent of the RP. Where consent is given, staff will be issued with a service occupancy agreement in a form approved by the RP. The Agent agrees that any staff it employs at the Property and who occupy any of the accommodation at the Property, shall occupy such accommodation for the further and better performances of their duties and the terms of their occupancy agreement will automatically terminate if employment is terminated for any reason or, if earlier, on the termination of the Contract or the transfer of the individual's employment under TUPE.
- 7.1.4 It may, with the prior written consent of the RP and subject to 7.2.2, use part of the Property as office accommodation, sleep-in accommodation, interview rooms or, where consent has been given under 7.1.3, for staff accommodation.
- 7.1.5 **Optional**  
Where Occupants receive **additional** support or care from other providers and where practicable to do so, the Agent may allow the other providers to use interview rooms and have such access to other communal facilities as can benefit that Occupant without detriment to the services available to other Occupants.

### 7.2 The RP agrees that:

- 7.2.1 It will not unreasonably withhold or delay its consent to requests made under Clause 7.
- 7.2.2 It reserves the right to make a charge for office and staff facilities, subject to consultation with the Agent. This consultation will take into account the need for and benefits to Occupants of on-site facilities; any funding and planning requirements related to its provision; and any actual costs relating to its provision and maintenance, including provision for future costs, which are additional to those met by the charges to Occupants of the Property. If applicable, terms of occupation, details of facilities and a breakdown of charges are set out in Schedule 15.
- 7.2.3 **Optional**  
Any office facilities not needed for the provision of the housing management service and capable of attracting a rent shall be dealt with outside of this Contract by a separate letting agreement.

## 8 Tenure

- 8.1 The Property covered by this Contract remains under the legal ownership of the RP and the Occupants are the tenants or licencees of the RP.



## 8.2 **The RP will:**

Specify, in consultation with the Agent, the appropriate Occupancy Agreement (whether tenancy or licence) to be issued by the Agent in accordance with the RP's tenure policy and as appropriate to the purpose of the service. Before making any changes to the tenure policy which may affect occupancy and management of the Property, the RP will consult with the Agent.

## 8.3 **The Agent will:**

- 8.3.1 Issue the appropriate Occupancy Agreements specified by the RP and set out in Schedule 8. It will not vary the terms of this Agreement without the written consent of the RP.
- 8.3.2 Not allow anyone into possession of a Unit until they have signed the Occupancy Agreement, subject to 8.3.4
- 8.3.3 Ensure that all conditions of the Occupancy Agreement are explained to the Occupant in clear and understandable terms, inform Occupants of their rights and obligations under this Agreement and their more general rights and obligations as set out in any regulations or guidance applicable to the RP.
- 8.3.4 Where the intended Occupant lacks mental capacity to sign the Occupancy Agreement, the Agent will ensure that a person authorised by the Court of Protection to do so (Deputy or person with power of attorney) signs it on their behalf.

## 9 **Legal Proceedings against or by Occupants**

- 9.1 The Agent is authorised in the name of the RP to take out and conduct any legal proceedings required in respect of any breach of the Occupancy Agreement by any Occupant or to obtain possession of a Unit, whether or not legally occupied.
- 9.2 While the Agent takes primary responsibility for legal proceedings, in exceptional cases and where agreed by both parties that it is reasonable to do so, the RP may at its sole discretion take full or shared responsibility for carrying out and funding the proceedings. In any such cases, the terms of any transfer or share of responsibilities will be agreed and recorded before action is started or any costs incurred.
- 9.3 **The Agent will:**
  - 9.3.1 Comply with the RP's and its own published procedures and guidance on legal proceedings relevant to the type of Occupancy Agreement in use which are in force at the time.
  - 9.3.2 Either obtain the RP's written permission or notify the RP in writing before taking legal proceedings against an Occupant as set out in the stages below. Where permission is required, such permission is not to be unreasonably withheld or delayed. Note that this listing of stages for RP approval does not constitute a guide to the action which may be required in any particular case.
    - ~~[Delete permission or notification as agreed]~~
    - a) Issuing of any notice to terminate or seeking possession of an Occupancy Agreement – permission/notification
    - b) Action following expiry of the notice – permission/notification
    - c) Applying to Court – permission/notification
    - d) Court dates – notification

- e) Court decisions – notification
- f) Issuing of Bailiff's warrant for eviction – permission/notification
- g) Date of Property repossession – notification

9.3.3 Provide the RP with all supporting information requested to enable it to comply with requests for permission and to monitor action taken.

9.3.4 For all but the exceptional cases referred to in 9.2 where an alternative responsibility has been agreed, bear the cost of all proceedings for possession and claims/defences from occupants in relation to possession (including Human Rights Act challenges), including the employment of a solicitor and barrister, and indemnify the RP from and against all costs associated with any such action taken whether with or without the permission of the RP. Any costs ordered to be paid by the Occupant will belong to the Agent.

#### 9.4 **The RP will:**

9.4.1 Respond to the Agent's requests for permission to act within three working days or seven working hours for emergency actions. In the event of an emergency decision being required out of hours or where the RP cannot be contacted, the Agent may take the emergency action and will inform the RP the following working day.

9.4.2 At its sole discretion take over conduct of such legal proceedings or issue them in cases where it reasonably deems necessary to do so. The Agent will supply all such information and copy documents required and will bear the legal and other costs as the result of any such action, except where the RP has agreed that it will meet them. The Agent may instigate a request for the RP to take over legal proceedings. The RP may agree or refuse this request at its sole discretion.

9.4.3 Take account of the costs to the Agent of taking legal action, including those related to having no Right of Audience to present possession cases in court, when determining financial responsibilities and management fees.

9.4.4 Indemnify the Agent against the cost of claims/defences from occupants in relation to possession (including Human Rights Act challenges) where such action arises from any failure on the part of the RP for its responsibilities under this Contract or its Occupancy Agreement.

## 10 **Policies and Procedures**

10.1 The RP and the Agent will operate policies and procedures in relation to this Contract which comply with accepted good practice, the requirements of the Social Housing Regulator and any other relevant regulatory bodies. These policies and procedures may include but are not restricted to the following:

- Abandonment and surrender
- Alterations and Adaptations
- Anti-social behaviour
- Arrears
- Bad debts
- Complaints procedure
- Confidentiality
- Customer Service Standards
- Data protection
- Equality and diversity
- Eviction

- Furniture and white goods provision
- Harassment
- Health and safety
- House rules
- Maintenance priorities and response times
- Monitoring
- Move on and resettlement
- Protection of vulnerable adults and children
- Resident consultation and involvement
- Selection and allocation
- Tenure
- Voids

10.2 The RP and the Agent will use their best endeavours to enter into a Joint Working Protocol or similar agreement, as at Schedule 9, with the relevant local authority or other principal commissioner and regulator of the support or care service provided to Occupants, where the contractual requirements of that body have a material effect on the policies and procedures of the RP and Agent in relation to this Contract.

10.3 The RP and the Agent will maintain and share with each other on request their business contingency plans relevant to services provided under this Contract.

10.4 **The Agent will:**

10.4.1 Provide to the RP on request copies of all its policies and procedures relevant to its responsibilities and duties carried out under this Contract.

10.4.2 Where its own policies and procedures conflict with that of the RP, consult with the RP on the purpose of the different approach. Where agreed to comply with regulatory requirements or to be of benefit to Occupants, it will follow those of the RP on the relevant issue from the date that it receives written notification from the RP of this.

10.5 **The RP will:**

10.5.1 Provide to the Agent on request copies of all the RP's policies and procedures relevant to the RP's responsibilities and duties carried out under this Contract

10.5.2 Inform the Agent of any changes to regulatory requirements affecting the RP's provision of the Property and the RP's responsibilities under this Contract.

## 11 Housing Management Services

11.1 The RP and the Agent will ensure that the housing management services provided to all Occupants meet the quality and outcome standards set by the Social Housing Regulator and the RP's own customer service standards and will have regard to guidance on standards such as that issued by SHiP.

11.2 **The Agent will:**

11.2.1 Maintain knowledge of regulatory expectations and standards relevant to its housing management responsibilities.

11.2.2 Provide housing management services to the standards set out in Schedule 3.

11.2.3 Provide the housing management services listed in Schedule 3. The summary provided

in this clause identifies key responsibilities but is not an exhaustive list. The Agent may be required to provide such alternative or additional services as are required for the successful running and maintenance of the Property and/or the safety and comfort of Occupants. In such circumstances, the housing management services set out in this Contract may be extended or varied as agreed by the parties.

Key responsibilities of the Agent include:

- a) Selection of Occupants and allocation of accommodation in line with the policy at Schedule 10 and with equalities legislation and good practice guidance;
- b) Letting units, signing up and advising on the Occupancy Agreement;
- c) Keeping such records of applications, allocations and refusals as are required by the Social Housing Regulator and local authority or other regulator or funder (including CORE forms or their replacement);
- d) Collecting all rents and service charges for services provided by the RP on behalf of the RP;
- e) In consultation with the RP setting service charges for services provided by the Agent and collecting those service charges;
- f) Keeping records of all payments made by Occupants and providing statements to them in an agreed format;
- g) Informing Occupants of changes to rent and service charges at least one month before date due;
- h) Advising Occupants on Housing Benefit (or equivalent) claims;
- i) Advising Occupants on compliance with their Occupancy Agreement, including antisocial behaviour, harassment, nuisance or damage, and taking any action required to enforce this;
- j) Providing and following a clear complaints procedure for the services carried out under this Contract and advising Occupants of complaints procedures relating to services provided by the RP and complaints procedures relating to the support service provided with the Property;
- k) Consulting with and reporting to Occupants on performance of and any changes to services carried out under this Contract, liaising with the RP on any co-ordinated consultation and reporting on RP services;
- l) Advising on and assisting Occupants with reporting, arranging access for or carrying out repairs as set out in clause 12 and Schedule 4 of this Contract;

### 11.3 The RP will:

11.3.1 Advise the Agent on any regulatory expectations and standards relevant to the RP's and the Agent's housing management responsibilities and advise the Agent of the RP's own customer service standards.

11.3.2 Key responsibilities of the RP include:

- a) Setting the rent or licence fee for each unit in accordance with its Rent Plan;
- b) Notifying the Agent of the Target Rent or Affordable Rent to be applied on relet of a unit;
- c) Notifying the Agent of the new rent for each unit [eight/twelve] weeks before the date due to take effect;
- d) Setting the service charges for services provided by the RP in consultation with the Agent and notifying the Agent of the new charge [eight/twelve] weeks before the date due to take effect;
- e) Providing the facilities or services for which its service charges are made;
- f) Providing the repair and maintenance services outlined in clause 13 and listed in Schedule 4;

## 12 Move on

- 12.1 Where an Occupant has a short term Occupancy Agreement, the Agent will support them to move on to other accommodation, having regard to any Joint Working Protocol or local homelessness prevention agreements, as and when the Occupants have either:
- completed their period of support,
  - refused to engage in support, or
  - have support or care needs which cannot be met in this Property.
- 12.2 Where the Occupant has an assured tenancy without a fixed term and no longer has support or care needs which can be met in this Property (whether because those needs have diminished or have increased), the Agent will support them to transfer to suitable alternative accommodation, liaising with the RP and having regard to any RP quotas, internal transfer policies, Joint Working Protocol or local lettings policies. **[Either]** While the RP will use reasonable endeavours to assist, it accepts no obligation to provide alternative accommodation. **[Or]** The RP will consider any requests for move-on from an assured tenant in line with its current transfer policy.
- 12.3 **[delete if not applicable]** The RP may at its discretion offer to the Agent an annual move-on quota for the Property which the RP will then use reasonable endeavours to make available to the Agent.

## 13 Property Maintenance Services

- 13.1 The RP and the Agent will carry out a joint inspection at commencement of this Contract to identify and agree any works required and confirm an inventory of all fixtures, fittings, furniture, equipment and liabilities for the buildings and grounds which make up the Property described in Schedule 1.
- 13.2 The RP and the Agent will ensure that the property maintenance services which they provide to Occupants enable the Property to meet the decent homes standard, any other quality standards set by the Social Housing Regulator for all tenants or licencees of RPs, all relevant legislative requirements and the RP's own customer service standards.
- 13.3 The RP and the Agent will ensure that their record keeping for the property maintenance services for which they take responsibility enables them to report to Occupants and the Social Housing Regulator on performance against standards.
- 13.4 **Delete option which does not apply**  
**Option 1**  
 The Agent is responsible for Minor Repairs. The RP is responsible for all other repairs, including Day to Day Repairs including void and emergency works, Cyclical Works and Major Repairs.
- Or**
- 13.4 **Option 2**  
 Where the Agent has requested it and where the Agent can demonstrate that it meets the criteria for managing agents to do their own repair work set out by the RP in Schedule 6, the Agent is responsible for Minor Repairs, Day to Day Repairs including void and emergency works. The RP is responsible for Cyclical Works and Major Repairs.
- 13.5 Definitions of the repair work types, reporting arrangements, customer service standards and response times are set out in clause 2.1 (Definitions) and in Schedule 4.
- 13.6 Should the Agent wish to change its repairing option it must make written application at least six months before the start of the next financial year, and where applying to change to Option 2 provide all evidence required in Schedule 6 with its application. The RP shall

respond no later than five months before the start of the next financial year. The RP's decision to accept or refuse the application is at its sole discretion. The RP retains the right to summarily withdraw Option 2 where the Agent has substantially failed to meet the standards and requirements of Schedule 6. In the event of Option 2 being terminated for breach of standards, there will be a full accounting of spending of the Maintenance Allowance and any unspent money returned to the RP.

13.7 For work which is the responsibility of the RP

**The Agent will:**

- a) Give all necessary assistance to the RP at all reasonable times, which will be with at least 48 hours notice except in the case of emergencies, to enter and examine the condition of any part of the Property to enable the RP to carry out its responsibilities for the maintenance of the Property;
- b) Assist the Occupants to or itself report promptly to the RP any repairs required;
- c) Keep a record of repairs reported and action taken, follow up and inform the RP of any performance problems;
- d) Assist the RP or their contractor with the making and keeping of appointments with the Occupants;
- e) Advise the RP of any client risk assessment which would indicate a risk to an Occupant or the RP or its contractor and agree with all parties on action appropriate to that risk;
- f) Report criminal damage to the police and obtain an incident number for any insurance claim or proceedings;
- g) For malicious damage by an Occupant, reimburse the RP for its cost and recover the amount due from the Occupant as provided for by law and the Occupancy Agreement;
- h) Where either an emergency or a planned major repair requires an Occupant to move out of their accommodation, the Agent and the RP will work together to secure alternative accommodation. Where this is required because of work which is the RP's responsibility, the RP will meet the cost of the alternative accommodation.

13.8 For work which is the responsibility of the RP

**The RP will:**

- a) Inspect the condition of the Property at least every [number] years in conjunction with the Agent, reasonable notice of the proposed inspection to be given to enable a representative of the Agent to accompany the RP representative;
- b) Providing the Agent with copies of gas and electricity testing safety certificates on completion of the tests;
- c) Make adequate provision for future major repairs and renewals at the Property;
- d) Inform the Agent of the Property's place in the Cyclical Works programme, when these programmes are drawn up or revised, and give the Agent a minimum of [number] weeks written notice of the start of works;
- e) Consult with the Agent on any proposals to change the frequency of Cyclical Works or component renewals affecting the Property;
- f) Enable the Agent to consult with Occupants where choices are available by providing information on options with enough time for involvement of the Occupants;
- g) Advise the Agent of any changes in legislative or regulatory requirements relating to the RP's property maintenance obligations and services.

13.9 For work which is the responsibility of the Agent, in addition to the general responsibilities set out in clause 13, the Agent will provide to the RP such evidence of its performance and compliance with regulations as the RP may reasonably require to ensure that the maintenance service provided by the Agent is meeting standards set by



the Social Housing Regulator for all tenants or licencees of RPs and the RP's own customer service standards.

- 13.10 For work which is the responsibility of the RP, in addition to the general responsibilities set out in clause 13, the RP will provide to the Agent such evidence of its performance and compliance with regulations as the Agent may reasonably require to ensure that the maintenance service provided by the RP is meeting standards set by the Social Housing Regulator for all tenants or licencees of RPs and the RP's own customer service standards.
- 13.11 The Agent will not make or permit any alteration to the Property without the prior written consent of the RP, such consent not to be unreasonably withheld or delayed. Any claim for compensation for approved alterations considered to be improvements will be assessed by the RP as set out in its policy at Schedule 12
- 13.12 The RP and the Agent agree to pay compensation to Occupants in accordance with the provisions of Schedule 14 where either the RP or the Agent fail to complete qualifying repairs, for which they are responsible according to the applicable Repair Option, within the standard response times as listed in Schedule 4.

### 13.13 **Services**

The RP and the Agent will ensure that the additional services identified in Schedule 7 and in the Occupancy Agreement's listing of services are provided in accordance with all relevant legislation and regulations and the RP's own customer service standards.

- 13.13.1 The RP and the Agent will account for spending on the services for which they are responsible to each other and to the Occupants to whom they are provided in the manner required for either fixed or variable service charges, as applicable. This accounting shall accord with legislation, regulations and relevant guidance and be carried out annually, as set out in clause 14, and prior to any termination of this Contract, as set out in clause 19.
- 13.13.2 Where the Agent proposes to provide a service chargeable item for which payment will extend beyond the duration of this Contract, it will consult with the RP in order to establish future financial liabilities before the purchasing decision is made.

### **Fire Safety, Health and Safety**

- 13.14 The RP and the Agent will at all times comply with all regulations, bye laws and other requirements relating to all relevant aspects of health and safety, including fire safety.
- 13.14.1 The Responsible Person under the Regulatory Reform (Fire Safety) Order 2005 is the person who has control over the premises. For this Property the Responsible Person is ~~delete either/or the RP/the Agent~~. The RP and the Agent will co-operate to enable the Responsible Person to fulfil its duties under this Order. The duties of both parties under this Order are set out for guidance in Schedule 11.
- 13.14.2 **The RP will:**
- a) Ensure that any risk assessments for which it is responsible are carried out;
  - b) Provide, maintain in good repair and service adequate fire equipment which may include: fire alarms, smoke detectors, emergency lighting, fire extinguishers, fire blankets, and heat detectors, and replace the same where necessary;
  - c) Recharge the Agent for any repairs or replacement of equipment damaged by the Occupants or their visitors;
  - d) Carry out any repairs related to fire safety which are its responsibility in either Option



- 1 or Option 2 depending which Option is agreed with the Agent;
- e) Arrange for electrical installation testing and carry out any repairs required which are its responsibility in either Option 1 or Option 2 depending which Option is agreed with the Agent;
- f) Carry out electrical Portable Appliance Testing for items for which it is responsible;
- g) Arrange for the carrying out of a suitable legionella risk assessment for the Property, and where appropriate, arrange for testing and corrective repairs and maintenance at the Property for legionella;
- h) Arrange for a suitable assessment to be undertaken to determine whether asbestos is present at the Property and inform the Agent where any part of the Property is on the RP's asbestos register. Where it is, ensure that guidance on carrying out maintenance work on the Property (or the relevant part of the Property) is issued to the Agent and that recommended works are carried out to secure the health and safety of those using the Property;
- i) Ensure compliance with the Furniture and Furnishings (Fire) (Safety) Regulations 1988 (as amended in 1989 and 1993) in relation to any furniture and furnishings which the RP provides.

#### 13.14.3 **The Agent will:**

- a) Ensure that risk assessments required under the Regulatory Reform (Fire Safety) Order 2005 are carried out;
- b) Carry out all fire alarm tests, fire drills, inspections of means of escape and staff training;
- c) Maintain records of all fire safety and health and safety risk assessments, inspections, checks and reports which it carries out at the Property.
- d) Provide advice and information on fire safety and other health and safety matters to Occupants, including enforcement of the Property's smoking policy as applicable;
- e) Carry out any repairs related to fire safety which are its responsibility in either Option 1 or Option 2 depending which Option is agreed with the RP;
- f) Carry out electrical Portable Appliance Testing for items for which it is responsible;
- g) Regularly inspect and report to the RP all defects and repairs related to fire safety and equipment which are the RP's responsibility;
- h) Ensure compliance with the Furniture and Furnishings (Fire) (Safety) Regulations 1988 (as amended in 1989 and 1993) in relation to any furniture and furnishings which the Agent provides;
- i) Recover from the Occupants any charges due from them for repair or replacement of equipment damaged by them or their visitors;
- j) Co-operate and assist the RP with arrangements for access for water supply and asbestos inspections and testing;

#### **Aids and Adaptations**

- 13.15 The RP and the Agent will work together to support those Occupants who need Aids or Adaptations because of disability or impairment to enable them to live in the Property, taking account of the Disability Discrimination Act 1995 and Equality Act 2010.
- 13.15.1 Portable Aids or equipment provided by statutory or charitable agencies to Occupants of the Property are the responsibility of the Agent who will liaise with the Occupant and relevant agencies on their provision and return or disposal.
- 13.15.2 Any Adaptations at the Property at the start of this Contract form a part of the Property.
- 13.15.3 Any request for Adaptations at the Property made by an Occupant, or the Agent on behalf of the Occupant, will be considered by the RP as set out in the RP's Adaptations Policy at Schedule 13. Where the RP carries out an Adaptation it will own and maintain it and take account of the cost of doing so, including any provision for depreciation, in its

landlord charges.

- 13.15.4 Where the RP decides that it is unable to fund and carry out an Adaptation, the RP and the Agent shall agree the terms on which the Agent may apply on behalf of the Occupant to other statutory and charitable funding agencies. These terms shall include the need to obtain the approval of the RP to carry out the building or installation work as set out in the RP's Property Alterations Policy, the allocation of responsibility for the maintenance and cost of maintenance and depreciation of the Adaptation, whether it is to be removed or left in situ on termination of this Contract and any other questions relating to the ownership or liability for the Adaptation and associated works.

## 14 Financial Responsibilities

- 14.1 The RP and the Agent will agree an allocation of financial responsibilities which recognises the resource and risk implications for both parties in the provision of a high quality housing service to Occupants.

### 14.2 The RP will

- a) Pay any mortgage payments or ground rent due on the Property;
- b) Notify the Agent of all new rents and target rents as set out in clause 11.3.2;
- c) Consult with the Agent on setting service charges for services to be provided by the RP and notify the Agent of these charges as set out in clause 11.3.2;
- d) Apply all the service charges collected on its behalf for services provided under this Contract to meet the costs of those services.
- e) Where service charges are variable, supply the Agent with annual service charge statements for services provided by the RP for the Agent to incorporate into statements to Occupants;
- f) Invoice the Agent each [month/quarter/year] for the amounts due under this Contract.

### 14.3 The Agent will

- a) Collect the rent and service charges due under the Occupancy Agreements and pay the amount due to the RP after deductions, fees and allowances as set out below at the agreed intervals;
- b) Pay the appropriate authorities and companies all council tax, water rates, utility costs, licence fees and any other such costs or charges due for services provided at or related to occupation of the Property, except those which the Occupants are responsible for paying directly to the authorities or companies concerned under the terms of their Occupancy Agreement;
- c) In consultation with the RP set service charges for services provided by the Agent as set out in clause 11.3
- d) Apply all the service charges collected for services provided under this Contract to meet the costs of those services. The Agent shall retain all service charges collected for services which it provides;
- e) Where service charges are variable, providing Occupants with annual statements for services provided by the Agent and the RP.

- 14.4 The amounts due to the RP and Agent respectively are calculated as:

*Delete which two of Variants A, B or C are not to be used*

#### 14.4.1 Variant A

The Agent will retain a fixed management fee out of the rents collected at the Property to cover the housing management service it provides under this Contract. It will include an additional maintenance allowance where repair Option 2 has been agreed, as Schedule 6. The fee at the start of this Contract is set out in Schedule 2.

- 14.4.2 In calculating the net rent and service charges to the RP, the RP will deduct from the amount payable by the Agent:
- Voids and Bad Debts Allowance.
  - **Add any other if applicable e.g. Internal Decoration Allowance, legal fees**
- The allowance(s) at the start of this Contract is (are) set out in Schedule 2.
- 14.4.3 The fees and allowances will be subject to an annual review and will include an inflationary adjustment based on the increase (if any) in the Retail Prices Index over the year ending in the September of the previous year. This annual review will also take into account any evidence submitted of changes to costs whether due to material difference in the legal or regulatory environment or other factors which have an impact on the costs of either party. The RP will notify the Agent of the proposed new amounts at least two months before the start of the next Financial Year.
- 14.4.4 If the Rent and Service Charges payable to the RP by Occupants in the Property change during the Financial Year, the Voids and Bad Debts Allowance shall be applied to the new Rent and Service Charges payable. The adjustment shall be made in the net rent and service charge payable by the Agent to the RP at the end of the [month/quarter] in which the Rents or Service Charges were increased or decreased.
- 14.4.5 Except where expressly provided for in this Contract, if the amount collected by the Agent is less than the amount due to the RP, then the Agent shall pay the shortfall from its own resources to the RP. Where the Agent considers that a shortfall may occur or has occurred due to a failure by the RP adequately to carry out its responsibilities under the terms of this Contract the Agent shall immediately notify the RP giving reasons for and amount claimed to recompense. The RP will respond within 10 working days of receiving of this notification. In the event of a failure to agree, either party may refer to the disputes procedure set out in this Contract.
- 14.4.1 **Or Variant B**  
The Agent will pay a fixed fee to the RP and retain the balance of the rent and service charges it collects from the Occupants.
- 14.4.2 The RP will produce an annual budget, which shows the costs it anticipates it will incur in complying with its obligation under this Contract including but not limited to costs of maintenance, major repairs sinking fund, mortgage payments or ground rent due on the Property, service charge expenditure incurred by the RP and a management charge, each year two months before the start of the next Financial Year. The fee paid to the RP will cover these costs.
- 14.4.3 If any shortfall in income occurs due to a failure by the RP adequately to carry out its responsibilities under the terms of this Contract the Agent shall immediately notify the RP giving reasons and amount of shortfall. The RP will respond within 10 working days of receiving of this notification. If the RP is unable to correct the shortfall, it will be deducted by the Agent from the fee payable to the RP. If the RP does not agree with the deduction, it will refer to the disputes procedure set out in this Contract.
- 14.4.1 **Or Variant C**  
The Agent will retain [number] % of the rent collected as its management fee to cover the housing management service it provides at the Property under this Contract.
- 14.4.2 In calculating the net rent payable to the RP the Agent shall make a Void and Bad Debts Allowance of [number] %.
- 14.4.3 If the Rent and Service Charges payable to the RP by Occupants in the Property change during the Financial Year, the Voids and Bad Debts Allowance shall be applied to the

new Rent and Service Charges payable. The adjustment shall be made in the net rent and service charge payable by the Agent to the RP at the end of the [month/quarter] in which the Rents or Service Charges were increased or decreased.

- 14.4.4 Except where expressly provided for in this Contract, if the amount collected by the Agent is less than the amount due to the RP, then the Agent shall pay the shortfall from its own resources to the RP. Where the Agent considers that a shortfall may occur or has occurred due to a failure by the RP adequately to carry out its responsibilities under the terms of this Contract the Agent shall immediately notify the RP giving reasons and the amount claimed in recompense. The RP will respond within 10 working days of receiving of this notification. In the event of a failure to agree, either party may refer to the disputes procedure set out in this Contract.

## 15 VAT

- 15.1 The RP and the Agent confirm that the management of the Property is considered to be an exempt supply for the purposes of VAT, being ancillary to the provision of support services which are considered to constitute welfare services for the purposes of VAT, but if found to be subject to VAT then all sums payable under this agreement shall be deemed to be made **exclusive/inclusive (delete as applicable)** of VAT.
- 15.2 If the Agent's Housing Management Services become subject to the payment of VAT, and are greater than the minimum threshold for compulsory VAT registration and if the Agent is not registered for VAT at the commencement of this agreement, the Agent shall register with H. M. Revenue and Customs for VAT
- 15.3 The Agent shall not voluntarily register with H. M. Revenue and Customs for VAT without prior consultation with the RP.

## 16 Insurance

- 16.1 **The RP and the Agent will:**
- 16.1.1 Indemnify each other in full for and against all claims, costs, expenses or liabilities whatsoever and howsoever arising, incurred or suffered by either party, including without limitation all legal expenses and other professional fees (together with any VAT thereon) in relation to any failure by the other party to comply with its obligations pursuant to this Contract. This indemnity may be through Business Continuity insurance or other provision.
- 16.1.2 Take out and maintain employer's liability insurance for at least the minimum amount required by law for each and every claim, act, omission or occurrence or series of claims, acts, omissions or occurrences which is sufficient to cover their own liabilities under this agreement.
- 16.1.3 Take out and maintain public liability insurance for at least the minimum amount required by law for each and every claim, act, omission or occurrence or series of claims, acts, omissions or occurrences which is sufficient to cover each party's liabilities under this agreement.
- 16.1.4 Provide each other with evidence of insurance on request.
- 16.1.5 Not do anything, or knowingly permit anything to be done in the Property which would invalidate any insurance taken out by either party or which would increase the premiums payable.

**16.2 The RP will:**

- 16.2.1 Insure the Property against fire and such risks as the RP shall in its absolute discretion determine to its full replacement value and where possible apply any monies received in respect of such insurance in reinstating the Property.
- 16.2.2 Insure against third party claims arising through lack of maintenance (Property Owners' Liability Insurance).
- 16.2.3 Pay the Agent any excess payment required where a claim is made by the Agent because of an act or omission on the part of the RP.
- 16.2.4 **Delete if not applicable** Take out insurance in respect of all usual risks for any equipment provided and maintained by the RP.

**16.3 The Agent will:**

- 16.3.1 Insure all contents and any fittings or fixtures at the Property and identify ownership for the purposes of its insurers.
- 16.3.2 Pay the RP any excess payment required where a claim is made by the RP because of an act or omission on the part of the Agent.
- 16.3.3 **Delete if not applicable** Take out insurance in respect of all usual risks for any equipment provided and maintained by the Agent
- 16.3.4 Advise the Occupants that their personal items and effects are not insured by either the Agent or the RP and that the Occupants should take out insurance to cover them.

**17 Monitoring, Liaison and Review**

17.1 The RP and the Agent will have regard to any regulatory requirements issued by the Social Housing Regulator and to any good practice guidance provided in and for the sector including that by SHiP.

**17.2 The RP will:**

- a) Monitor the Agent's performance of the housing management and (as applicable) property maintenance and any other services provided under this Contract. The RP will assess the risks involved in its management of the Agent and amend its monitoring practices in the light of the risks identified;
- b) Report on its performance of the services for which it is responsible, in a format agreed with the Agent and the Occupants, and take into account any feedback from them on its performance;
- c) Provide to the Agent any report on its governance or performance by the Social Housing Regulator within 14 days of receipt;
- d) Provide the Agent with a proposed calendar of meetings and Property visits. The RP and Agent shall meet at least every 12 months to review the operation of this Contract, or more frequently if requested by either party.

**17.3 The Agent will:**

Provide to the RP the following reports at the intervals specified or on request:

**Delete any not applicable**

- a) Performance monitoring information for housing management and (as applicable) maintenance services in the format requested by the RP. At the date of this Contract

- the housing management information is in the form of SHiP Quarterly Returns which are due within 21 days of the end of the quarter;
- b) Rents and service charges in a format requested by the RP. At the date of this Contract the format for this information is the SHiP Rents and Service Charges Return;
  - c) Where the Agent is not subject to monitoring of these areas by the Social Housing Regulator, annual certification of areas of governance and probity in a format requested by the RP. At the date of this Contract the format for this information is the SHiP Annual Self Certification form;
  - d) Any other information identified in this Contract or its Schedules as relevant to the services provided under this Contract;
  - e) Any other information requested by the RP to enable it to complete any regulatory and statistical returns to the Social Housing Regulator;
  - f) Any report on its governance or performance of support, care or treatment services at the Property by the agencies responsible for the commissioning and monitoring of those services within 14 days of receipt.

#### 17.4 The RP and the Agent will

- a) Pass on to the other within seven days of receipt a copy of any statutory Notice received or served on the Property;
- b) Notify the other immediately of any significant development, incident or complaint concerning the Property, its Occupants, the RP or the Agent which could lead to adverse publicity, legal or regulatory action or affect the services provided to Occupants or the condition of the Property;
- c) Respect the confidentiality of information concerning the Occupants which may from time to time become available to them and comply in all respects with the requirements of the Data Protection Act 1998 insofar as it relates to the Occupants and the Property.

## 18 Determination of Disputes

### 18.1 Initial procedure

Should either party be dissatisfied with the performance of the other under the terms of this Contract, have differences about the interpretation of the Contract or have any other dispute relating to the Property and either party's services to its Occupants which cannot be resolved through liaison meetings, the following sequence of action will be pursued:

- Either party will request a special meeting to review the working of the Contract giving 10 working days prior written notice (or a shorter notice period if the parties agree). The written notice must specify the alleged breach of the agreement. The other party will attend that meeting;
- If the issue remains unresolved the dissatisfied party will request a meeting between senior managers of both parties on giving 10 working days prior written notice (or a shorter notice period if the parties agree). The other party will attend that meeting.

### 18.2 Referral to arbitration or mediation

If the issue remains unresolved after the procedure has been followed then the dispute or difference may be referred by either party to an independent **either** mediator **or** arbitrator for settlement.

**Delete either:**

A suitably qualified independent mediator shall be appointed by agreement between the parties or in default of agreement by the President or other duly authorised officer of the National Housing Federation. The mediation will be conducted in accordance with the



requirements of the mediator. Any costs shall be borne as the mediator directs.

**Or**

A suitably qualified independent arbitrator shall be appointed by agreement between the parties or in the absence of agreement by or on behalf of the President of the Law Society whether the disagreement be as to the profession or the identity of the arbitrator or both. The arbitration will be conducted in accordance with the Arbitration Act 1996. Costs will be borne as the arbitrator directs.

- 18.3 Use of this disputes procedure does not prevent either party from serving notice of termination where there are grounds to do so as set out in this Contract or taking any other legal action against the other party.

### **Housing Ombudsman awards**

- 18.4 In the event of an award by the Ombudsman where the RP is at fault the RP shall reimburse the Agent for any expenses reasonably incurred by the Agent in dealing with the Ombudsman's investigation. Any compensation will be paid as directed by the Ombudsman.
- 18.4.1 In the event of an award by the Ombudsman where the Agent is at fault the Agent shall reimburse the RP for any expenses reasonably incurred by the RP in dealing with the Ombudsman's investigation. Any compensation will be paid as directed by the Ombudsman.

## **19 Termination**

### **Grounds for Termination**

- 19.1 Where this Contract is for a fixed term, see clause 5, it will end on expiry of that term unless subject to alternative agreement between the parties. Other than on expiry of fixed term, this Contract may be terminated as follows:
- a) On expiry of **[either six or twelve]** months written notice given by either party to the other;
  - b) On expiry of written notice from one party to the other where both parties have mutually agreed an alternative notice period;
  - c) On expiry of three months notice given by either party where the other has failed to comply with the terms of the contract;
  - d) On service of written notice with immediate effect by either party if the other should be formally dissolved or struck off by Companies House, cease operation, become insolvent, have its registration under the Housing and Regeneration Act 2008 withdrawn or have its charitable status withdrawn;
  - e) On service of written notice with immediate effect in the event of gross or fundamental breach of this Contract by one party on the defaulting party. Such gross or fundamental breach would include but is not limited to actions or omissions on the part of either party which seriously endanger the health and safety or well being of the Occupants.
- 19.2 Where the commissioner of the support service terminates the Agent's contract to deliver that service to the Occupants of the Property, the following circumstances and notice periods may apply. The RP and Agent will refer to the provisions of the Joint Working Protocol or similar agreement at Schedule **9** where the commissioner is a party to that Protocol.
- 19.2.1 Either  
If the commissioner of the support service does not enter into a new contract with



another party to provide support services to the Occupants in place of the Agent, the Agent may decide that it can continue to provide a support service funded from other sources (including individual purchasing of support) and wish to continue providing services under this Contract. In this event the RP will evaluate the viability of the Agent's proposals and decide whether to offer a housing management contract varied to take account of the new circumstances or, if it deems the service to be unviable, give the Agent three months written notice of termination.

- 19.2.2 Or  
If the commissioner of the support service does not enter into a new contract with another party to provide support services to the Occupants in place of the Agent, and the Agent decides it is unable to offer a viable service without this contract funding, the RP and Agent will mutually agree and confirm in writing a notice period which will be three months or such longer or shorter period as both agree and which enables any responsibilities to the Occupants to be met.
- 19.2.3 Or  
If the commissioner of the support service wishes to enter into a new contract with another party to provide support services to the current Occupants, and the RP and the commissioner have agreed that the new party should also provide the housing management service, the RP will agree a start date with the commissioner and new party that enables it to give at least three months written notice of termination of this Contract to the Agent.
- 19.2.4. Or  
If the commissioner of the support service wishes to enter into a new contract with another party to provide support services to the current Occupants and the new party is unable to also provide the housing management service, the RP will terminate this Contract with three months notice or such longer or shorter period as both RP and Agent agree. It may at its discretion choose to offer the Agent a new housing management only contract.

### **Procedure following Notice of Termination**

- 19.3 The RP and Agent will work together to achieve a smooth handover of the Property, its assets, records and services. The requirements relating to Occupants will vary depending on the terms of the Occupancy Agreement and the nature of the support service provided.

### **Procedure for Occupants**

- 19.4 Where this Contract is terminated but the support service is to be continued to the same client group on terms similar to the preceding one, the current Occupants may remain in the service. In this instance, the handover arrangements are that:
- 19.4.1 The RP will notify the Occupants of the appointment of a new managing agent and arrange for any variations of Occupancy Agreement required;
- 19.4.2 The Agent will in line with Data Protection requirements, its confidentiality policy and the Joint Working Protocol, agree with the new agent what information and Occupants' records should be passed on to the new Agent.
- 19.5 Where this Contract is terminated and the Property is no longer to be used for a service of the same kind, the RP will require vacant possession. In this instance, the handover arrangements are that:
- 19.5.1 Where vacant possession is required, the RP and Agent will agree a variation to the

financial arrangements which takes account of the requirement on the Agent to hold units empty during the notice period.

- 19.5.2 Where vacant possession has not been achieved before the expiry of the termination notice, the RP and the Agent will negotiate a temporary extension to this Contract on current or varied terms.
- 19.5.3 Where the Occupants have assured shorthold tenancies or licences the Agent will serve the appropriate notice and give them all reasonable assistance to move on to other accommodation, having regard to any Joint Working Protocol, RP quotas or local lettings policies but as a last resort will issue legal proceedings in time to achieve vacant possession before expiry of the termination notice.
- 19.5.4 Where the Occupants have assured tenancies the Agent will liaise with the RP on transfer to suitable alternative accommodation, having regard to any RP quotas, internal transfer policies, Joint Working Protocol or local lettings policies.

### **Procedure for Assets, Fixtures, Fittings and Accounts**

- 19.6 [Two] months] before expiry of the termination notice there will be a full accounting between the parties to this agreement, and apportioned payments or repayments will be made of all money paid in advance or arrears.
- 19.7 Where the current Occupants are to remain in the Property but with a housing management service provided by a new agent:
- 19.7.1 The RP will ensure that the notice to the Occupancy Agreement on change of managing agent does not preclude the new agent from acting on any notice or legal proceedings started by the previous agent.
- 19.7.2 Where the Occupant has arrears of rent and service charges on their account at the date of handover to the new agent, and where the Contract places responsibility for the shortfall in rent payable to the RP on the Agent, the Agent will inform the RP of these amounts. Unless an alternative arrangement is agreed by both the RP and the Agent, the RP will advise the new agent that although the debt is still shown on the Occupant's account the Agent has paid this sum to the RP and therefore any repayment made by the Occupant should be forwarded by the new agent to the Agent.
- 19.8 [Two] months before expiry of the termination notice the RP and Agent will carry out a full joint inspection of the Property to agree what repair and maintenance work is required before handover and which party is responsible for it. This schedule of work will be written up by the RP for use by both parties and will include a timetable, any penalties for failure to complete work required and any payment of cost in lieu of work required that may be agreed.
- 19.9 The joint inspection of the Property will also identify the presence and condition of all fixtures, fittings, furniture and equipment and whether they were provided and paid for by the RP, Agent or Occupants. Those fixtures, fittings, furniture and equipment paid for by service charges shall, if the Property is to continue to be used for accommodation with support, remain in the Property and, if required, be brought up to the agreed standard by the party responsible for them. If the Property is no longer to be used for accommodation with support and the fixtures, fittings, furniture and equipment are in poor condition, the party responsible for them shall remove them.
- 19.9.1 [Optional] If there are unspent funds from payment in advance for fixtures, fittings, furniture and equipment held by the Agent those funds shall be passed to the RP for future use at the Property. If the Agent has paid for items in advance, the RP may

arrange for their reimbursement from charges collected in the future unless alternative agreement was reached as set out in clause 13.13.2.]

### **The Agent will**

- 19.10 Ensure that outgoing Occupants take with them any fittings or other possessions they own. Any clearing of abandoned possessions or making good of damage caused by Occupants' removals as provided for in the Occupancy Agreement will be carried out by the Agent.
- 19.11 [Two] months before expiry of termination notice, advise the RP of all service contracts, licences or agreements relating to the Property which are held in name of the Agent and, in consultation with the RP, either terminate or arrange for the name of the contracting party to be changed, as agreed.
- 19.12 Pass all records relating to the services provided to Occupants under this Contract to the RP, having regard to the requirements of the Data Protection Act and to its confidentiality policy.

## **20 Staffing**

- 20.1 The RP and Agent will comply with all legislation, regulations and good practice relevant to their employment of staff.
- 20.2 At all times, the Agent shall ensure that:
- a) each of the Agent's Personnel is suitably qualified, adequately trained and capable of providing the applicable Services in respect of which they are engaged;
  - b) there is an adequate number of Agent's Personnel to provide the Services properly; and
  - c) it is and shall be responsible for all aspects of the appointment, employment, training, support, supervision, discipline and discharge of the Agent's Personnel. This includes all appropriate checks with, and reports to, the Criminal Records Bureau, Independent Safeguarding Authority or their successor bodies.
- 20.3 Subject to Clause 21 nothing in this Contract shall be construed as creating an employment, or other contractual relationship between the RP and any or all of the Agent's Personnel.
- 20.4 The Agent will indemnify the RP from and against all liabilities awarded against or incurred by the RP, its agents and subcontractors as a result of or in connection with any claim by the Agent's Personnel, save where any liability arises as a result of any negligence on the part of the RP or its other agents or subcontractors.
- 20.5 The RP will indemnify the Agent from and against all liabilities awarded against or incurred by the Agent as a result of or in connection with any claim by the Agent's Personnel that arises wholly or mainly as a consequence of any negligence on the part of the RP, its employees, or other subcontractors.

## **21 TUPE**

- 21.1 When notice is served of termination of this Contract or any of the Services, both the RP and Agent will obtain their own advice on the application of TUPE.
- 21.2 If required to do so by the application of TUPE, the Agent will at least 12 weeks prior to the termination of this Contract provide the Employee Liability Information to the RP and keep this regularly updated. The Agent will warrant the accuracy and completeness of

the Employee Liability Information.

- 21.3 When notice has been served of termination of this Contract, the Agent will not without the consent of the RP terminate, appoint, change terms and conditions, reassign duties or relocate staff employed to deliver the Services provided under this Contract without the consent of the RP such consent not to be unreasonably withheld or delayed.
- 21.4 The Agent shall indemnify the RP in full for and against all claims, costs, expenses or liabilities whatsoever and howsoever arising incurred or suffered by the RP including without limitation all legal expenses and other professional fees (together with any VAT thereon) in relation to:
- a) the termination by the Agent of the employment of any of the Agent's Personnel;
  - b) any liability which arises in relation to the Agent's Personnel in relation to the period prior to the transfer of their employment to the RP which transfers to the RP by operation of TUPE; and
  - c) any claim made at any time by any employee of the Agent who is not disclosed pursuant to clause 21.2 who claim to have become an employee of or have rights against the RP by virtue of TUPE;
  - d) any failure by the Agent to comply with its obligations pursuant to TUPE;
- provided that such costs, claims, expenses and liabilities are not payable as a result of any act or omission of the RP.
- 21.5 The RP shall indemnify the Agent in full for and against all claims, costs expenses or liabilities whatsoever and howsoever arising, incurred or suffered by the Agent including without limitation all legal expenses and other professional fees (together with any VAT thereon) in relation to any failure by the RP to comply with its obligations pursuant to TUPE.

## **22 Miscellaneous**

- 22.1 The RP and the Agent will comply with the statutory and regulatory obligations which affect the Property both now or in the future including, but not limited to, the requirements where applicable of:
- the Health and Safety Acts and the Health and Safety Executive;
  - all Acts relating to discrimination on the grounds of protected characteristics;
  - all Acts relating to the provision of social housing and the regulations of the body or bodies which may from time to time be responsible for regulating the provision of social housing;
  - regulations relating to Houses in Multiple Occupation;
  - Acts and regulations relating to the safety and supply of gas and electrical services and appliances at the Property;
  - the Data Protection Act 1998;
  - the Mental Capacity Act 2005
  - the Health and Social Care Act 2008 and regulations on regulated activities and registration with CQC.

## **23 Notices**

- 23.1 Any Notice under this Contract shall be sufficiently served if it is sent by recorded delivery post, addressed to the other party at its address recorded in this Contract or otherwise notified in writing to the other party and proof of posting shall be sufficient proof of service on the second working day following the day of posting.

**To be signed by Chief Executive, Director, Board Member or Management Committee Member.**

Signed on behalf of [Name of RP] by:

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Position in organisation: \_\_\_\_\_

Date: \_\_\_\_\_

Signed on behalf of [Name of Agent] by:

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Position in organisation: \_\_\_\_\_

Date: \_\_\_\_\_