

**BURY COUNCIL  
AND  
SIX TOWN HOUSING LIMITED**

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**HOUSING IMPROVEMENT AGENCY  
SERVICES AGREEMENT**

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NOVEMBER 2008



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# HIA SERVICES AGREEMENT

Dated: 1<sup>st</sup> November 2008

Between:

1. **Bury Metropolitan Borough Council** of Town Hall, Knowsley Street, Bury, BL9 0SW (referred to in this Agreement as 'the Authority') and
2. **Six Town Housing Limited** whose registered office is at Town Hall, Knowsley Street, Bury BL9 0SW (referred to in this Agreement as 'the Service Provider').

## BACKGROUND

- A. The Authority has decided to establish a Home Improvement Agency to provide an integrated support and technical service to enable those in need of support to bring about adaptations to their home to enable them to maintain their independence, health and well-being in their chosen home for as long as possible.
- B. The Authority has commissioned the Service Provider to deliver the Services.
- C. Schedule 1 (Services Specification) sets out the targets, and service standards to be achieved and maintained.

## TERMS AND CONDITIONS OF THE AGREEMENT

### 1.0 DEFINITIONS AND INTERPRETATION

- 1.1 When they are used in this Agreement, the terms and expressions set out below in the first column have the meanings set out in the second column.

"Abuse"	Means an act(s) that violates an individual's human and/or civil rights or a failure by person(s) to prevent such violation;
"Agreement"	Means this agreement comprising these terms and conditions and the attached schedules;
"Benchmarking Exercise"	Means an exercise carried out by the Parties in accordance with clause 9 (Benchmarking) to assess whether the processes and procedures used by the Service Provider to deliver the Services and the prices charged might be improved having regard to processes and procedures used by third parties to deliver similar services and the prices charged in similar circumstances;

"CLG"	Means the Department of Communities and Local Government;
"Commencement Date"	Means for Minor Works 1 July 2008 and for Major Works 1 October 2008;
"Confidential Information"	Means information obtained from or relating to either the Service Provider or the Authority's business affairs, servants, agents or employees, or any information regarding the Service Users, the Services or this Agreement;
"Contract Manager(s)"	Means the person(s) who are to represent each of the parties as described in clause 7 ( <b>Contract Manager</b> );
"Contract Procedure Rules"	Means the rules in the Authority's Constitution relating to the procurement of contracts;
"Contract Review"	Means a review undertaken by us of one or more of the Services in accordance with clause 11 ( <b>Contract Review and Monitoring</b> ) to determine whether the Service Provider is complying with all the Service Provider's obligations, in respect of the relevant Services, under the Agreement;
"Day/s"	Means Monday to Sunday inclusive unless where otherwise stated;
"Default"	Means any failure by the Authority or the Service Provider to carry out their respective obligations under this Agreement;
"Default Notice"	Means a notice setting out the nature of the Default committed and, if the Default can be put right, the action required to put it right and the timescale within which it is to be put right. Any such timescale must be reasonable in all the circumstances;
"Early Contract Review Notice"	Means a notice which the Authority are entitled to serve on the Service Provider stating that one or more of the Services Contract Reviews has been brought forward and the date on which it is, or they are, to commence;
"Exempted Information"	Means any information or category of information, document, report, contract or other material containing information relevant to this Agreement that the parties are not required to disclose under the FOIA;
"Expiry Date"	Means 31 March 2013 or as extended under Clause 2;
"FOIA"	Means Freedom of Information Act 2000;

"FOIA Exemption"	Means any applicable exemption to the FOIA including, but not limited to, confidentiality (Section 41 FOIA), trade secrets (Section 43 FOIA) and prejudice to commercial interests (Section 43 FOIA);
"Force Majeure"	Means any event or circumstance that is both beyond the control of whichever one of us is affected by such event or circumstance and which, acting prudently, diligently and with reasonable foresight, could not have been prevented by the affected party, including acts of war, acts of God, decrees of Government, riots and civil commotion but excluding any labour dispute between the Service Provider and the Service Provider's staff or the failure by the Service Provider to provide the Services due to any acts or omissions of the Service Provider's subcontractors;
"Information Sharing Protocol/ISP"	Means the procedures adopted by a number of Local Authorities, including us, which provide for the sharing of information relating to suppliers of services to such Local Authorities, including suppliers of services relating to Supporting People, detailed in a document entitled "Protocol for Sharing Information Between Local Authorities about Service Providers";
"Major Works"	Means works that are the subject of a disabled facilities grant approved by the Authority (and works which in the Authority's properties are equivalent to a disabled facilities grant) and "DFG Works" shall be construed accordingly;
"Minor Works"	Means any of General Advice and Information, Minor Adaptations, Home from Hospital and Handy Person and Small Repairs each described in Schedule 1 (Specification);
"Payment"	Has the meaning described in Clause 6 (Payments) and Schedule 2 (Payment Terms);
"Performance Default"	Means a measure of performance against any PI in a Service Area during any month which is below the Target Performance level for that PI
"Performance Indicator (PI)"	Means the measurements that record service performance achievements in relation to specific elements of the Services set out in Schedule 1 (Specification);
"Persistent Performance Default"	Means in each and every month of any 2 month period the measure of performance against any PI in a Service Area is below the Target Performance level;

"Premises"	Means those properties listed in Schedule 5 (Lease) at which the Service Provider are to provide the Services and that are within the boundaries of the Metropolitan Borough of Bury;
"Quality Assessment Framework/ QAF"	Means the document of that title issued by the CLG comprising a number of quality standards relating to Supporting People and methodology for suppliers of services relating to Supporting People to evidence, through self-assessment, their performance against such quality standards;
"Race Equality Scheme"	Means our document that aims to ensure race equality in all of our operations and practices which the Authority are obliged to produce and operate under The Race Relations (Amendment) Act 2000;
"Regulatory Body"	Means a body which is established either by statute or in some other way and to whose regulatory powers either the Service Provider or the Authority (or both the Service Provider and the Authority) are subject excluding any body of which membership is voluntary;
"Remittance"	Means the document to be issued by us with each Payment;
"Resumption Notice"	Means a notice issued by us to the Service Provider instructing the Service Provider to recommence the provision of Services that the Service Provider have previously ceased to provide as a result of a Suspension Notice;
"Serious Default"	Means a Default on the Service Provider's part which might materially prejudice the health, safety or welfare of a Service User or Service Users;
"Service Area"	Means any one of Major Works and Minor Works;
"Services"	Means the Services which are detailed in Schedule 1 (Services Specification) and Schedule 6 (Minor Adaptations) and 'Support Service' means any one of them;
"Service User"	Means a person who receives or who may receive the Services which the Service Provider is to provide under this Agreement;
"SP HIA Workbook"	Means the return to be completed by the Service Provider on a quarterly basis to report upon the Service Provider's performance in relation to SPIs, the format of which is specified by Communities and Local Government, on its

Supporting People web site, and the quarterly periods are defined in the electronic form on such website;

“Suspension Notice”

Means a notice the Authority serve on the Service Provider under clause 24.7 which sets out details of the Services which are to be suspended whilst the Authority carry out an investigation into a Serious Default;

“Target Performance”

Means the measure of performance for a Service Performance Indicator set out in Schedule 1 (Specification);

“Variation”

Means a change, amendment or variation to this Agreement or to the Services, made in accordance with clause 28 (**Variation to the Agreement**);

“the Authority/us”

Means not only the legal entity referred to at the start of this Agreement as ‘the Authority’ but also any legal entity to whom the Authority may assign this Agreement and any legal entity that takes over our statutory functions. Unless the context otherwise requires, ‘us’ and ‘our’ shall also be taken to refer to ‘the Authority’;

“Working Days”

Means between 9:00am and 5:00pm Monday to Friday inclusive, but does not include any Days which are bank holidays or public holidays;

“the Service Provider”

Means not only the person referred to as ‘Service Provider’ at the start of this Agreement but also any person to whom the Service Provider assign the Service Provider’s interest in this Agreement (although the Service Provider will need our permission under clause 39 (**Assignment and Sub-contracting**) to do so).

- 1.2 Unless the context makes it clear that this is not what is intended, any reference in this Agreement to:
  - 1.2.1 the feminine includes a reference to the masculine and vice versa;
  - 1.2.2 the singular includes a reference to the plural and vice versa;
  - 1.2.3 a person includes a reference to an individual or a firm, partnership, company, or corporation;
  - 1.2.4 a ‘clause’ or a ‘schedule’ in this Agreement means a reference to a clause or schedule of this Agreement.
- 1.3 The headings in this Agreement are for ease of reference only and do not affect its interpretation.
- 1.4 Any reference in this Agreement to any enactment, order, regulation or other similar instrument is to be taken to mean a reference to any such enactment, order, regulation or other similar instrument which is in force for the time being. This includes (for as long as they are in force):

- 1.4.1 any amendments or modifications to any such enactment, order, regulation or other similar instrument; and
- 1.4.2 any re-enactment of any such enactment, order, regulation or other similar instrument.

## **2.0 COMMENCEMENT AND DURATION**

- 2.1 This Agreement will take effect from the Commencement Date and will continue in force until the Expiry Date unless terminated earlier in accordance with the provisions of clauses 24 or 25 or as extended by us giving not less than two (2) month's written notice prior to the Expiry Date upon terms that the Authority have both agreed.

## **3.0 THE SERVICES**

- 3.1 The Service Provider shall provide the Services during the term of this Agreement in accordance with Schedule 1 (Specification) and the terms of this Services Agreement.
- 3.2 The Service Provider shall in respect of Major Works comply with Schedule 8 (Major Works and Grant Payments).

## **4.0 SERVICES STANDARD**

- 4.1 The Service Provider must provide the Services with all the skill, care and diligence to be expected of a competent Home Improvement Agency to meet the target service standards set out in Schedule 1 (Specification).
- 4.2 In providing the Services the Service Provider must also comply with:
  - 4.2.1 any and all codes of practice, performance ratings and quality standards that are laid down in this Agreement or that are issued to the Service Provider as part of an agreed Variation; and
  - 4.2.2 all statutory provisions which apply to the deliver of Disabled Facilities Grants, major or minor adaptations including support and advice affecting these services.
  - 4.2.3 the European Convention on Human Rights; and
  - 4.2.4 the provisions of the Disability Discrimination Act 1995.

## **5.0 PREMISES**

- 5.1 Prior to the Commencement Date, the Authority shall grant to the Service Provider and the Service Provider shall accept a Lease for the Premises in the form set out in the Schedule 5 (Form of Lease).
- 5.2 If the Services Agreement is terminated for any reason prior to the Expiry Date, the Lease shall automatically cease and determine with effect from the date the Services Agreement is terminated.

## **6.0 PAYMENT**

- 6.1 The Service Provider shall not charge any Service User or any other person or other legal entity any charges relating to or in connection with the provision of the Service by the Service Provider or the benefit of such Services to the Service User, unless authorised to do so under this Agreement.
- 6.2 The Authority will make the Payments by BACS transfer to the Service Provider's bank account within priority (30) days of receipt of a valid invoice in accordance with the provisions of Schedule 2 (Payment Terms).
- 6.3 The Authority will make the payments relating to VAT only invoices, as referred to and subject to them being in accordance with the provisions of clause 44, by BACS transfer, within thirty (30) Days of the date of receipt of such invoices.
- 6.4 If any invoice (or part thereof) referred to in Clause 6.2 is disputed, the dispute shall be dealt with in accordance with the Dispute Resolution Procedure.

## **7.0 CONTRACT MANAGERS**

- 7.1 Both parties must appoint a person to exercise their rights and powers under this Agreement, called the Contract Manager. This will not limit in any way either parties rights or obligations.
- 7.2 Details of the person that each of the parties has appointed to act as Contract Manager from the Commencement Date (telephone number, fax number, e-mail address and postal address) are set out in Schedule 3.
- 7.3 The Contract Managers will also be entitled to appoint another person or persons to exercise some or all of functions (each a 'deputy Contract Manager') but if the Contract Manager does so, the Contract Manager must give the other Contract Manager at least five (5) Working Days written notice.
- 7.4 Both parties will be entitled to change the identity of the Contract Manager at any time (and the Contract Manager may change the identity of any deputy Contract Manager at any time) but if they do then they must give the other party at least 5 Working Days written notice, unless for reasons beyond their control, this is not possible. If this is the case, they will notify the other party by whatever means appears reasonable to them although the notifying party must then confirm any such notice in writing within five (5) Working Days. If the contact details of the Contract Manager or deputy Contract Manager change the relevant party must notify the other party and supply updated contact details in accordance with clause 34 (**Notices**).
- 7.5 Any such notice referred to in clauses 7.3 or 7.4 must contain the same details regarding the replacement Contract Manager or (replacement) deputy Contract Manager as are set out in Schedule 3 regarding the original Contract Manager.
- 7.6 Until the relevant party has notified the other of any change in the identity of the Contract Manager or a deputy Contract Manager, both parties will be entitled to treat the last person notified to them as the Contract Manager or the deputy Contract Manager (as the case may be).
- 7.7 All notifications of changes under this clause 7 should be made in accordance with clause 34 (**Notices**).

## **8.0 MINOR WORKS**

8.1 The Service Provider shall carry out all Minor Works in accordance with Schedule 1 (Specification).

## **9.0 BENCHMARKING**

9.1 The Authority may carry out a Benchmarking Exercise at any time during the course of this Agreement and the Service Provider shall cooperate with the Authority to assist with the Benchmarking Exercise.

9.2 In connection with any Benchmarking Exercise, the Authority and the Service Provider shall meet as often as reasonably necessary to assess whether the processes and procedures used by the Service Provider to deliver the Services concerned might be improved having regard to the processes and procedures used by other service providers who are in a position to provide the Services.

9.3 The Authority and the Contractor shall each bear their own costs in carrying out the Benchmarking Exercise including the costs of any third party which either may commission.

9.4 If the results of the Benchmarking Exercise disclose that the processes and procedures used by the Contractor to deliver the Services or the Service Provider's prices might be improved having regard to the processes and procedures used by and the prices charged by other service providers who are in a position to provide the Services, then the Authority may request a variation to this Services Agreement in accordance with clause 28 (Variations to the Agreement).

## **10.0 FRAUD**

10.1 The Service Provider shall notify the Authority immediately, and confirm in writing, if the Service Provider has reason to suspect that any fraud has occurred, is occurring or is likely to occur, relating to the Services, and shall take all reasonable steps to prevent any fraud.

## **11.0 CONTRACT REVIEW AND MONITORING**

11.1 The Authority shall be entitled to carry out a Contract Review of each of the Services at any time. The Authority will give the Service Provider reasonable notice of when the Authority plan to undertake a Contract Review and the Authority will issue the Service Provider with guidance as to what information and assistance the Service Provider will be required to give us during and in connection with the Contract Review. The Service Provider shall use all reasonable endeavours to co-operate with the Authority in carrying out such Contract Reviews and submit relevant information to the Authority, which the Authority may require from time to time, including where the Authority are entitled to do so under clause 24 or the Authority are required to do so under any service review and monitoring programme approved by the Authority.

11.2 The parties agree that it would be beneficial to regularly review the Service and the Agreement to ensure that the Services and Agreement still meets all parties' requirements and those of the Service Users. The parties shall endeavour to meet from time to time, as is reasonably practicable, and at such meetings the parties

will discuss and, where appropriate, negotiate in good faith, in relation to the issues listed below and any other issues that the parties believe are relevant to their relationship. The issues to be discussed at each meeting will normally include:

- a) report of operations/performance; and
- b) a review of the Services and the provisions of this Agreement and their effectiveness; and
- c) any suggestions for improving or changing the Service or the Agreement.

Any changes to the Service or the Agreement will be agreed in accordance with clause 28 (**Variations to the Agreement**).

## **12.0 STATUTORY DUTIES**

- 12.1 The Authority have various statutory duties in relation to this Agreement (for example, under Part 1 of the Local Government Act 1999 (Best Value)) to carry out a regular review of the Services.
- 12.2 The Service Provider must fully co-operate with the Authority in carrying out any such statutory duty or requirement and, subject to clause 17 (**Data Protection Act**), the Service Provider must make available to the Authority such facilities and such assistance, as the Authority may reasonably request, provided the Authority have given the Service Provider reasonable notice.
- 12.3 For example, the Service Provider must allow the Authority's employees or authorised agents access to:
  - 12.3.1 the Service Provider's employees or those of the Service Provider's sub-contractors or suppliers who are involved in the provision of the Services; and
  - 12.3.2 all information, reports, financial accounts, documents, records (whether in human or machine readable form) and data which the Service Provider hold or have access to which are relevant to this Agreement or the Services.
- 12.4 The Service Provider must also allow the Authority to take copies of the information, reports etc referred to in clause 12.3.2.
- 12.5 Any information, reports etc made available to the Authority under this clause 12 (**Statutory Duties**) shall be treated by the Authority as Confidential Information in accordance with the provisions of clause 19 (**Confidentiality**) subject to clause 20 (**Freedom Of Information Act (FOIA)**).

## **13.0 COMPLAINTS PROCEDURE**

- 13.1 The Service Provider must operate a complaints procedure approved by the Authority.
- 13.2 The Service Provider's complaints procedure must:
  - 13.2.1 be approved by the Authority, such approval not being unreasonably withheld or delayed ; and
  - 13.2.2 comply with the requirements of any Regulatory Body to which the Service Provider are subject, including any change in such requirements.

13.3 At the Authority's reasonable request, the Service Provider must supply the Authority with a copy of the Service Provider's records and the Service Provider's responses relating to complaints made in relation to the Service.

#### **14.0 STAFF**

14.1 The Service Provider must employ sufficient numbers of people of sufficient ability, skill, knowledge, training and experience so as to properly provide, and to supervise the proper provision of, the Service.

14.2 The Service Provider must have a recruitment and selection policy in accordance with best industry practice and provide the Authority with a copy of this at the Authority's request.

14.3 The Service Provider must keep complete and accurate records of all staff training undertaken and allow the Authority to inspect these records at the Authority's request.

14.4 The Service Provider must arrange for the Criminal Records Bureau to carry out enhanced checks on all the Service Provider's staff, managers, directors or other persons employed by the Service Provider or any volunteers engaged by the Service Provider to provide or supervise, manage or direct the provision of the Services and any other persons otherwise involved in the provision of the Services and, upon the Authority's request, confirm to the Authority in writing that Criminal Records Bureau checks have been undertaken in respect of such staff, managers, directors or other persons employed by the Service Provider or volunteers engaged by the Service Provider. The Service Provider must ensure these enhanced checks are undertaken not less frequently than every three (3) years. Without prejudice to the above, in the event that there is a delay or potential delay in obtaining the results of enhanced checks or the Service Provider experience any other difficulties in arranging for the enhanced checks to be undertaken, the Service Provider must notify our Contract Manager immediately that the Service Provider become aware of such delay or other difficulties.

14.5 The Service Provider must use best endeavours to ensure that only suitable staff, managers, directors or other persons are employed by the Service Provider and that only suitable volunteers are engaged by the Service Provider to provide or supervise, manage or direct the provision of the Service or are otherwise involved in the provision of the Services, in respect of each of the Services provided by the Service Provider, taking in to consideration all relevant factors including any relevant information obtained from the Criminal Records Bureau, information provided by the relevant person during discussions, the nature of the Service to be provided, the degree of access to Vulnerable Persons and the extent of supervision and ensure that job and person specifications or any other document or criteria used to recruit persons, including volunteers, reflect the above requirements and specify that Criminal Records Bureau checks, where applicable, will be required to be undertaken prior to persons being employed or engaged. The Service Provider must operate appropriate risk assessment procedures to ensure the above in accordance with good practice.

14.6 The Service Provider must use, retain and dispose of the information relating to Criminal Records Bureau checks in accordance with the requirements of the Criminal Records Bureau and store the information securely and keep full and accurate records of the checks undertaken, including reference numbers, and checks yet to

be undertaken, and a system to monitor when another check is due and to ensure that the checks are undertaken in a timely fashion.

- 14.7 The Service Provider must have a policy for the protection of Service Users.
- 14.8 The Service Provider must at all times comply with the relevant legislative requirements set out within the Quality Assessment Framework and at all times maintain the standards required by the Quality Assessment Framework.
- 14.9 The Service Provider must have in place all relevant policies, relating to the Services that a competent provider of these types of services should have, and must ensure that these are updated as required and that all staff are trained in their reporting obligations under the Quality Assessment Framework.
- 14.10 The Service Provider must comply with any existing or future legislation, standards, guidance, regulations or similar instrument that apply to the provision of the Service, for the protection of Service Users or changes to existing legislation, standards, guidance, regulations or similar instrument and fully support and co-operate with us in the implementation of any changes that the Authority are required to make to the Authority's operations as a result of such legislation, standards, guidance, regulations or similar instrument.

## **15.0 EQUAL OPPORTUNITIES**

- 15.1 The Service Provider must operate an equal opportunities policy for as long as this Agreement is in force and provide the Authority with a copy of such policy at the Authority's request.
- 15.2 The Service Provider must use all reasonable endeavours to make sure that the Service Provider's equal opportunities policy complies with all statutory obligations as regards discrimination on the grounds of colour, race, nationality, cultural or ethnic origin, marital status, gender, age, disability, religion or sexual orientation in relation to:
  - 15.2.1 decisions made by the Service Provider in the recruitment, training or promotion of staff employed or to be employed in the provision of the Services; and
  - 15.2.2 the provision of the Services; and
  - 15.2.3 the carrying out of the Service Provider's obligations under this Agreement.
- 15.3 The Service Provider, and any subcontractor employed by the Service Provider, shall observe the Commission for Racial Equality's Race Relations Code of Practice in employment as approved by Parliament and issued in 1984.
- 15.4 In the event of any finding of unlawful racial discrimination or of an adverse finding in any formal investigation by the Commission for Racial Equality being made against the Service Provider, or any subcontractor employed by the Service Provider, by any court or industrial tribunal, whilst the Agreement is in force, the Service Provider shall inform the Authority of this finding and shall take appropriate steps to prevent repetition of the unlawful racial discrimination.
- 15.5 The Service Provider shall, on request, provide the Authority with details of any steps taken or to be taken by the Service Provider to prevent repetition of any unlawful racial discrimination as referred to in clause 15.4 above. The Service Provider shall provide such information as the Authority may reasonably request for

the purpose of the Authority assessing that the Service Provider are taking appropriate steps to prevent repetition of the unlawful racial discrimination including, if requested, examples of any instructions, recruitment advertisements or other literature and details of the Service Provider's procedures for the monitoring of job applicants and employees.

- 15.6 In providing the Services, the Service Provider must observe the Authority's Race Equality Scheme, a copy of which the Authority shall make available to the Service Provider on request, and provide us with any monitoring information the Authority may reasonably require to ensure this.

## **16.0 PROCUREMENT, DOCUMENTATION, RECORDS AND INFORMATION**

- 16.1 The Service Provider shall in providing the Services comply with Schedule 7 (Procurement).
- 16.2 The Service Provider must compile and maintain such information as the Authority may reasonably require to enable the Authority to submit to the CLG any information or data required by them for the purposes of evaluating the Service Performance Indicators. In specifying the information to be compiled and maintained for this purpose the Authority will have regard to any directions or guidance that the CLG may issue relating to the form and extent of such information.
- 16.3 The Service Provider must provide the information referred to in clause 16.2 and Schedule 4 (Monitoring), including when requested completing the SP HIA Workbook, to the Authority on a quarterly basis, and at such other times as the Authority may reasonably require, by the return dates notified to the Service Provider by the Authority.
- 16.4 In addition, at the Authority's reasonable request (but subject to clauses 17 (**Data Protection Act**) and clause 19 (**Confidentiality**)) the Service Provider must provide the Authority with:
- 16.4.1 such information which the Authority may reasonably require for the purpose of assessing how the Service Provider is carrying out the Service Provider's obligations under this Agreement and the safety and the welfare of the Service Users; and
  - 16.4.2 the names of and information relating to the Service Users; and
  - 16.4.3 any information (including original contracts, invoices, receipts, credit notes, vouchers, statements and books) relating to Payments or VAT only invoices; and
  - 16.4.4 any information in relation to or associated with the Service Provider's performance of the Service Provider's obligations under the Agreement.
  - 16.4.5 All the information and at the times set out in Schedule 1 (Specification).
- 16.5 Notwithstanding clause 16.4, the Service Provider must allow the Authority's Contract Manager or any person authorised by the Contract Manager, together with appropriate staff, at all reasonable times, to inspect or witness the provision of the Services.

- 16.6 In inspecting or witnessing the provision of the Service, the Authority will have proper regard to the nature of the Service being provided, particularly where this involves Service Users.
- 16.7 The Service Provider must notify the Authority if:
- 16.7.1 there is a change in who controls the majority of the shares in or the voting rights amongst shareholders or members of the Service Provider's organisation or there is a material change in the objects of the Service Provider's organisation; or
  - 16.7.2 the Service Provider merge with another organisation; or
  - 16.7.3 subject to clause 5, the Service Provider subcontract any of the Service Provider's obligations under this Agreement to another organisation; or
  - 16.7.4 the Service Provider in any way transfer the Service Provider's business to another organisation.
- 16.8 The originals of all documents referred to in this clause 16 must be retained safely by the Service Provider for a period of six (6) years from the date of the last payment to the Service Provider under or by virtue of this Agreement.

## **17.0 DATA PROTECTION ACT**

- 17.1 The Parties must comply with the requirements of the Data Protection Act 1998 insofar as they apply to the provision of the Services and/or otherwise to this Agreement. The Service Provider shall ensure that the Service Provider is authorised to supply to the Authority as a Data Processor any personal data required to be supplied to the Authority under this Agreement and where necessary that authorisation shall include the right to transfer such personal data to the CLG.

## **18.0 HEALTH AND SAFETY**

- 18.1 The Service Provider must comply with the requirements of the Health and Safety at Work Act 1974 insofar as they apply to the provision of the Service.
- 18.2 For as long as this Agreement is in force the Service Provider must have in place a health and safety policy which complies with all statutory requirements.
- 18.3 The Service Provider must have written Health and Safety policies for all Health and Safety matters that are relevant to the provision of the Service and make them known to all the Service Provider's staff or any other person involved in the provision of the Service.

## **19.0 CONFIDENTIALITY**

- 19.1 The Service Provider must use all reasonable endeavours to ensure that, subject to clause 17 (**Data Protection Act**), the Service Provider (and any person employed or engaged by the Service Provider in connection with the provision of the Service in the course of such employment or engagement) will:
- 19.1.1 only use Confidential Information relating to us, our business, our affairs, our servants, agents or employees or the Service Users, the Service or this Agreement, for the purposes of this Agreement; and

- 19.1.2 not disclose such Confidential Information to any third party without our prior written consent; and
- 19.1.3 not to use such Confidential Information for the solicitation of business from us, from any Service Users or other party.
- 19.2 The Authority must use all reasonable endeavours to ensure that, subject to clause 17 (**Data Protection Act**), the Authority will:
  - 19.2.1 only use Confidential Information relating to the Service Provider, the Service Provider's business, the Service Provider's affairs, the Service Provider's servants, agents, employees, subcontractors or the Service Users, the Service or this Agreement, for the purposes of this Agreement; and
  - 19.2.2 not disclose any Confidential Information to any third party outside of this agreement without our prior written consent.
- 19.3 Notwithstanding the provisions of clauses 19.1 and 19.2, both parties shall be allowed to disclose any Confidential Information to any consultant, contractor or other person engaged by either one of us in connection with this Agreement or the provision of the Services provided that in each such case the consultant, contractor or person concerned has signed a confidentiality undertaking on substantially the same terms as set out in this clause 19 (**Confidentiality**).
- 19.4 Further, the restrictions in clauses 19.1 and 19.2 shall not prevent either of the parties disclosing to the other, Confidential Information about a Service User where this is in the best interests of the Service User concerned or such disclosure is necessary so as to protect the health, safety or the welfare of the Service User or other Service Users.
- 19.5 Notwithstanding the provisions of clause 19.2, the Authority may obtain from and disclose to other Local Authorities information relating to the Service Provider in accordance with and as described in the Information Sharing Protocol. The Authority shall supply the Service Provider with a copy of the ISP upon request and without undue delay. In the event that the Authority issue a notification, under the ISP, the Authority shall take all reasonable steps to ensure that the Service Provider are sent a copy of such notification.
- 19.6 The restrictions in this clause 19 shall continue to apply after the Expiry Date of the Agreement or termination date of the Agreement, as applicable, but they shall not apply (whether whilst this Agreement is in force or after) to information which:
  - 19.6.1 is in, or comes into, the public domain (except if this is as a result of a breach by either one of us of this clause);
  - 19.6.2 is required to be disclosed by law;
  - 19.6.3 was already in the Authority's or the Service Provider's possession without any restriction as to its use; or
  - 19.6.4 subsequently lawfully comes into our or the Service Provider's possession from a third party; or
  - 19.6.5 is required to be disclosed by any Regulatory Body (for the avoidance of doubt this will include the Supporting People Commissioning Body) or governmental body or our District Auditor; or
  - 19.6.6 is required to be disclosed under the FOIA or Environmental Information Regulations 2002.

## **20.0 FREEDOM OF INFORMATION ACT (FOIA)**

- 20.1 The Service Provider recognise that the Authority are subject to legal duties which may require the release of information under FOIA or the Environmental Information Regulations 2002 or any other applicable legislation or codes governing access to information ("Access Duties") and that the Authority may be under an obligation to provide information on request. Such information may include matters to, arising out of or under this Agreement
- 20.2 Notwithstanding anything in this Agreement to the contrary including, but without limitation, the general obligation of confidentiality imposed on the parties to this Agreement under Clauses 19.1 and 19.2, in the event that the Authority receive a request for information under our Access Duties, the Authority shall be entitled to disclose all such information and documentation (in whatever form) as the Authority are obliged to disclose under our Access Duties. In respect of any disclosure under our Access Duties, the Authority shall advise the Service Provider of the intention to disclose the information, prior to such disclosure being made.
- 20.3 When submitting a tender or agreeing the terms of this Agreement the Service Provider may identify in writing information which the Service Provider consider to be commercially prejudicial or a trade secret. The Service Provider may also indicate if the Service Provider believe that information should be accepted by us in confidence. Such an expectation should only be asserted where the Service Provider believe the Service Provider would have grounds to sue for breach of confidence were the information to be disclosed. Where the Service Provider identify sensitive information the Authority will have due regard to the Service Provider's comments or objections.
- 20.4 Notwithstanding clause 20.3 the Authority shall be responsible for determining whether information is exempt from disclosure under FOIA and for determining, in our absolute discretion, the information to be disclosed in response to a request for information.
- 20.5 The Service Provider will assist us in complying with our obligations under our Access Duties. In the event that the Authority receive a request for information under our Access Duties and require the Service Provider's assistance in obtaining the information that is subject to such request or otherwise, the Service Provider will respond to any such request for assistance from us at the Service Provider's own cost and promptly and in any event within ten (10) Days of receiving our request.
- 20.6 If at the Service Provider's request the Authority seek to rely upon a FOIA exemption, the Service Provider shall indemnify us for any costs including but not limited to responding to information notices or lodging appeals against a decision of the Information Commissioner.
- 20.7 The Authority shall not be liable for any loss, damage, harm or other detriment however caused arising from the disclosure of any information relating to this Agreement which the Authority are obliged to disclose under our Access Duties.

## **21.0 INSURANCE**

- 21.1 For as long as this Agreement is in force the Service Provider must take out and maintain as a minimum the insurances set out in clause 21.3. The Service Provider

must also ensure that any of the Service Provider's sub-contractors who are providing any or all of the Service on the Service Provider's behalf take out and maintain equivalent insurances, as a minimum.

- 21.2 All insurances must be taken out and maintained with a reputable insurance company approved by us.
- 21.3 The insurances referred to in clause 21.1 are as follows:
- 21.3.1 employer's liability insurance in a minimum amount for each and every claim, act or occurrence or series of claims, acts or occurrences which complies with statutory requirements (at the date of this Agreement this is currently £10m); and
  - 21.3.2 public liability insurance in a minimum amount of £5m for each and every claim, act or occurrence or series of claims, acts or occurrences; and
  - 21.3.3 professional indemnity insurance in an amount of £2m for each and every claim, act or occurrence or series of claims, acts or occurrences.
- 21.4 The Service Provider must provide us with a copy of the policy schedule for the insurances referred to in clause 21.3 at our request together with evidence that the insurances are in force. Whilst normally, the Authority shall not ask for such schedules or evidence more than once in each calendar year, the Authority reserve the right to do so, if the Authority consider it reasonably necessary.
- 21.5 If the Authority are of the opinion (acting reasonably) that any of the policies of insurance do not provide sufficient cover to comply with clause 21.3 then the Service Provider must rectify (or if applicable, ensure that the sub-contractor rectifies) the position as soon as possible.
- 21.6 If the Service Provider do not (or where applicable if the sub-contractor does not) rectify the position within three (3) Working Days or within the timescale agreed, then the Authority shall be entitled to treat such failure as a Serious Default of this Agreement.

## **22.0 THE SERVICE PROVIDER'S LIMITS OF LIABILITY**

- 22.1 The Service Provider's liability for personal injury to or death of any persons, arising out of or in connection with the Agreement, due to the Service Provider's negligence, Default or breach of statutory duty or on the part of any person the Service Provider employ or engage to carry out the Service Provider's obligations under this Agreement shall be unlimited.
- 22.2 The Service Provider's liability for any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982 shall be unlimited.
- 22.3 This clause 22 shall not exclude or limit the liabilities of either party for fraud or misrepresentation.

## **23.0 AUTHORITY LIMITS OF LIABILITY**

- 23.1 The Authority's liability for personal injury to or death of any persons, arising out of or in connection with the Agreement, due to its negligence, Default or breach of statutory duty or on the part of any person the Authority employ or engage to carry

out our obligations under this Agreement shall be unlimited. Clauses 23.2 and 23.3 shall not apply to such liability.

- 23.2 Subject to clause 23.1 and to the extent permitted by law, the Authority shall not be liable to the Service Provider, either in contract, tort, under statute or otherwise for any indirect, consequential or punitive losses or damages including losses or damages for loss of business, revenues or profits arising out of or in connection with the Agreement.
- 23.3 This clause 23 shall not exclude or limit the liabilities of either party for fraud or misrepresentation.

## **24.0 PERFORMANCE DEFAULTS AND RECTIFICATION**

### **Performance Defaults**

- 24.1 If in any Month a Performance Default has occurred the Service Provider shall identify that Performance Default in the Monthly Performance Report following the Month in which the Default occurred and shall set out in the report:

24.1.1 the reason why the Default has occurred; and

24.1.2 the steps that the Service Provider proposes to take to avoid a recurrence of the Default and to achieve Target Performance during the current Month.

### **Persistent Performance Default**

- 24.2 If a Persistent Performance Default has occurred the Service Provider shall identify that Persistent Performance Default in the Monthly Performance Report following the Month in which the Default occurred and shall set out in the report:

24.2.1 an analysis of the reasons why the Persistent Performance Default has occurred; and

24.2.2 set out in detail the steps that the Service Provider proposes to take to bring performance up to Target Performance level including details of changes that it proposes to make to its management, staffing, staff training and resources in order to improved performance; and

24.2.3 the period within which its performance will be at Target Performance level.

and the parties shall seek to agree the rectification programme within 5 Days of the issue of the Monthly Performance Report.

### **Contract Review**

- 24.3 In addition to the other provisions of clause 24, the Authority may also serve the Service Provider with notice that the Authority will be undertaking a Contract Review (giving the Service Provider 14 Days notice). Following such a Contract Review, the Authority may take further action if appropriate in accordance with the provisions of clauses 24 and 25.

### **Suspension**

- 24.4 If the Default is a Serious Default and the Authority consider (acting reasonably) that:

24.4.1 the Serious Default is of such seriousness; or

24.4.2 there is a continuing threat to the health, safety or the welfare of any or all of the Service Users, or where the Authority have concerns relating to protection of Service Users;

such that in either case it is not appropriate for the Service Provider to carry on providing any or all of the Services, then the Authority will also be entitled to serve on the Service Provider a Suspension Notice.

24.5 If the Authority serve a Suspension Notice then:

24.5.1 the Service Provider will cease providing the Services set out in the Suspension Notice from the date specified in the Suspension Notice; and

24.5.2 the Authority will be entitled to:

24.5.2.1 terminate this Agreement as a whole or terminate the application of this Agreement to the Service Area concerned with immediate effect by giving the Service Provider notice; and

24.5.2.2 arrange for an alternative provider to provide the Services in the Service Provider's place and charge the Service Provider the additional costs and expenses incurred by the Authority as the result of such alternative service provision which shall be recoverable in accordance with clause 36.1., and the Service Provider shall provide all reasonable assistance to such alternative service provider and the Authority to ensure that the alternative services can be provided.

24.6 If after the Service Provider has been served with a Suspension Notice the Authority consider that the Service Provider may resume provision of some or all of the suspended Services then the Authority will serve on the Service Provider a Resumption Notice which shall set out the Service to be resumed and the date upon which they are to be resumed.

24.7 The Authority will be entitled to set out in the Resumption Notice such conditions relating to the Service Provider's resumption of the Service as may be reasonable.

24.8 If the Authority consider (acting reasonably) that the Service Provider are not to resume provision of some or all of the suspended Service then the Authority will be entitled to give the Service Provider notice either terminating this agreement as a whole or the application of this Agreement to the suspended Service concerned, with immediate effect.

### **Default**

24.9 If the Service Provider has committed a Default which is capable of remedy, the Authority may serve a Default Notice on the Service Provider specifying:

24.9.1 the type of Default that has occurred giving reasonable details; and

24.9.2 requiring that Default to be rectified within the period specified in the notice.

24.10 If the Service Provider fails to rectify the Default within the time period specified in the notice the Authority may terminate this Agreement with immediate effect and without notice.

## **25.0 TERMINATION**

25.1 If:

- 25.1.1 the Service Provider are an individual and the Service Provider are declared bankrupt, or a bankruptcy petition is filed against the Service Provider at court, or the Service Provider attempt to make or make a composition or arrangement for the benefit of the Service Provider's creditors; or
- 25.1.2 the Service Provider are a corporate body and the Service Provider have a receiver or liquidator appointed over the Service Provider; or
- 25.1.3 the Service Provider commit or cause the commission of any criminal offence in providing the Services (except for any minor offence or minor traffic offence); or
- 25.1.4 in relation to any contract with us the Service Provider, or any person employed by the Service Provider or acting on the Service Provider's behalf, commit(s) an offence under the Prevention of Corruption Acts 1889 to 1916 or shall have given any fee or reward the receipt of which is an offence under section 117(2) of the Local Government Act 1972

then the Authority will be entitled to give the Service Provider notice terminating this Agreement, with immediate effect.

- 25.2 If a Termination Performance Default occurs the Authority will be entitled to either terminate this Agreement as a whole or the application of this Agreement to a Service Area by giving the Service Provider not less than three (3) months written notice.
- 25.3 If the Authority terminate this Agreement or its application to particular parts of the Service under clause 25 then, without prejudice to any other rights or remedies the Authority have under this Agreement, including clause 36 (**Recovery Of Sums Due**):
  - 25.3.1 the Service Provider will continue to provide the Service during the period of notice unless the Authority request otherwise;
  - 25.3.2 the Authority shall be entitled:
    - 25.3.2.1 to recover any sums in respect of Service not provided or services provided which did not meet the requirements of this Agreement; and
    - 25.3.2.2 to retain any monies owed to the Service Provider under this Agreement until the Service Provider have paid all monies owed to the Authority under this Agreement or to deduct any such monies owed to the Authority under this Agreement from the monies owed to the Service Provider under this Agreement.
- 25.4 The Service Provider may terminate this Agreement or its application to particular parts of the Service by giving not less than three (6) months written notice if:
  - 25.4.1 on three (3) separate occasions in any period of twelve (12) months (whether consecutive or not) the Service Provider have served on the Authority a Default Notice because the Authority have failed to pay the Service Provider a Payment on time; or
  - 25.4.2 the Authority have committed a substantial breach of any material term of this Agreement and failed to remedy such default within a reasonable period of time.

- 25.5 Either party shall have the right to terminate the Agreement or the application of this Agreement to particular parts of the Service for convenience at any time by giving no less than six (6) months' notice to the other unless agreed otherwise.
- 25.6 If the Service Provider terminates this Agreement or its application to particular Services under clauses 25.7 or if the Authority terminates this Agreement or its application to particular parts of the Service under clause 25 then the Service Provider will continue to provide the Service during the period of notice unless agreed otherwise.
- 25.7 If this Agreement or its application to particular parts of the Service is terminated, whether under clause 24 (**Performance Defaults and Rectification**) or this clause 25 (**Termination**), then the provisions of clause 30 (**Information and Retendering**) shall apply; and subject to clauses 25.6.2. and 36 (**Recovery Of Sums Due**), the Authority must continue to pay the Service Provider the Payments until the date of termination of the Agreement or termination of the particular part of the Service, as applicable, in respect of the relevant Service unless such Services are not provided or do not meet the requirements of this Agreement in which case the Authority shall either not pay any relevant Payments and/or be entitled to recover any such sums paid, as applicable.

## **26.0 FORCE MAJEURE**

- 26.1 If either one of the parties fails to carry out our its respective obligations under this Agreement as a result of Force Majeure then whichever one of the parties is affected shall not be liable under this Agreement for such failure, provided the affected party shall have given the other party notice of the occurrence of Force Majeure as soon as is reasonably practicable.
- 26.2 If an event of Force Majeure occurs then the parties shall meet as soon as is reasonably practicable to discuss how best the affected party can continue to fulfil its obligations until the Force Majeure ceases.

## **27.0 DISPUTE RESOLUTION**

- 27.1 If there is a dispute been either party concerning the interpretation or operation of this Agreement then either Contract Manager may notify the other Contract Manager that it wishes the dispute to be discussed by them at a meeting to be held solely for the purpose of resolving the dispute and the Contract Managers shall use reasonable endeavours to resolve the dispute at such meeting, negotiating on the basis of good faith.
- 27.2 If after twenty eight (28) Days (or such longer period as both of the parties may agree) of the date of the notice referred to in clause 27.1, the dispute has not been resolved, then either Contract Manager may notify the other that it wishes the dispute to be referred to a meeting of a Chief Officer (or a person appointed by the Chief Officer to act on the Chief Officer's behalf) of both parties, to resolve, negotiating on the basis of good faith.

## **28.0 VARIATIONS TO THE AGREEMENT**

- 28.1 A Variation (including to the scope and nature of the Services) shall only be valid if it has been agreed in writing and signed by both of the parties with the exception of variations to the Payment which shall be in the sole discretion of the Authority.
- 28.2 If either one of the parties wishes to vary this Agreement then it shall request the Variation by sending to the other party two (2) copies of a completed Variation Form, as set out in Appendix 1, which shall detail the nature of the Variation sought and the reasons for it.
- 28.3 If either one of the parties receives a completed Variation Form, from the other party, then within 28 Days of receipt it shall either execute the two (2) copies of the Variation Form and return one (1) copy to the other party or alternatively notify the other party that it does not agree to the proposed Variation and the reasons why.

## **29.0 WAIVER**

- 29.1 If either of the parties fails to exercise or delays in exercising any right or remedy to which it is entitled under this Agreement, then this shall not constitute a waiver of any such right or remedy.
- 29.2 If either of the parties waives a Default on the part of the other then this shall not constitute a waiver of any future Default.
- 29.3 No waiver shall be effective unless it is:
- 29.3.1 expressly stated to be a waiver; and
  - 29.3.2 in writing; and
  - 29.3.3 signed by the Contract Manager of the party waiving the right or remedy to which it is entitled under this Agreement.

## **30.0 INFORMATION AND RETENDERING**

- 30.1 Subject to clauses 17 (**Data Protection Act**) and 19 (**Confidentiality**), at the Authority's reasonable request, the Service Provider must use all reasonable endeavours to provide the Authority with such information and data as the Authority may reasonably require to enable the Authority to prepare the necessary documentation to appoint another person to provide the Services in the Service Provider's place or to enable the Authority itself to provide the Services.
- 30.2 The requirement set out in clause 30.1 does not include any information or data which the Service Provider reasonably consider relates solely to the Service Provider's business or tax affairs and does not relate to the Services.
- 30.3 Subject to clauses 17 (**Data Protection Act**) and 19 (**Confidentiality**) the Service Provider shall co-operate with the Authority (at the Authority's reasonable request) to ensure the continuity of the Services and any similar services to be provided by the provider succeeding the Service Provider, the orderly termination of the Service, the administration of the recovery of any sums due from the Service Provider to us under this Agreement and any other required exit activities and succession arrangements, as the case may be, and the Service Provider shall do such other things and execute such documents as may be necessary for such purposes.

### **31.0 TUPE**

- 31.1 Subject to clauses 17 (**Data Protection Act**) and 19 (**Confidentiality**) the Service Provider must provide the Authority with such information as the Authority may reasonably require to enable it to comply with any obligations the Authority have under TUPE when either this Agreement terminates or expires or particular Services are terminated including information concerning the relevant employees involved in the provision of the Service and related management and administration activities and their conditions of employment.
- 31.2 The Service Provider must provide the Authority with the information referred to at clause 31.1 above in the following circumstances and in accordance with the specified periods:
- a) at the Authority's reasonable request made at any time in the 9 months before an Expiry Date; or
  - b) if this Agreement or its application to particular Services is terminated on notice, within 20 Working Days of the Service Provider giving or receiving notice of any such termination; or
  - c) if this Agreement or its application to particular Services is terminated immediately, within twenty (20) Working Days of termination.

### **32.0 BEST VALUE**

- 32.1 In undertaking the Service the Service Provider must use all reasonable endeavours to ensure measurable and continuous improvement in the performance of the Service and ensure that the Services are relevant, efficient and effective and give the Authority best value for money.

### **33.0 CONTRACT (RIGHTS OF THIRD PARTIES) ACT 1999**

- 33.1 Neither one of us 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 Agreement.

### **34.0 NOTICES**

- 34.1 Any notice or other communication under this Agreement must be in writing and can only be sent by:
- 34.1.1 recorded delivery post; or
  - 34.1.2 personal delivery; or
  - 34.1.3 fax
- 34.2 For the purposes of sending written notice or other communication by recorded delivery post, personal delivery or fax, each party's Contract Manager shall send such notices or communications to the other party's Contract Manager at the addresses and to the fax numbers set out in Schedule 3.
- 34.3 If the Authority's address or fax number changes, the Authority must notify the Service Provider in accordance with this clause 34 (**Notices**).

- 34.4 If the Service Provider's address or fax number changes, the Service Provider must notify the Authority in accordance with this clause 34 (**Notices**).
- 34.5 Subject to clause 34.6, all notices and communications shall be deemed to have been served:
- 34.5.1 if posted, two (2) Working Days after the date when posted;
  - 34.5.2 if personally delivered, on the date of delivery; or
  - 34.5.3 if sent by fax, when a transmission report is generated confirming that the fax has been transmitted in full.
- 34.6 Notwithstanding clause 34.5, if a notice is deemed to have been served on a Day which is not a Working Day or it is not received between the hours of 9am to 5pm on a Working Day then it shall be deemed to have been served on the next immediately following Working Day.

### **35.0 CONFLICT OF INTEREST**

- 35.1 The Service Provider must take appropriate steps to ensure that neither the Service Provider nor any employee, servant, agent, supplier or sub-contractor is placed in a position where there is or may be an actual conflict or potential conflict of interest relating to the financial or personal interests of the Service Provider or such persons employed by the Service Provider.
- 35.2 The Service Provider must disclose to the Authority full particulars of any such actual or potential conflict of interest which may arise.

### **36.0 RECOVERY OF SUMS DUE**

- 36.1 Wherever under this Agreement any sum of money is recoverable from or payable by the Service Provider (including any sum which the Service Provider are liable to pay to the Authority in respect of any breach of this Agreement), the Authority may deduct that sum from any sum then due or which at any later time may become due to the Service Provider under this Agreement or under any other agreement or contract with the Authority or with any department, agency or authority of the Crown.

### **37.0 ENTIRE AGREEMENT**

- 37.1 This Agreement sets out all the terms and conditions that the Service Provider and the Authority have agreed regarding the provision of the Services. This means that it supersedes any representations, documents, negotiations or understandings, whether oral or written, made, carried out or entered into before the date of this Agreement provided always that this Clause 37 does not seek to exclude or limit liability for any fraudulent misrepresentation.

### **38.0 PRIORITY OF DOCUMENTS**

- 38.1 If there is any inconsistency or conflict between what is set out in any of the clauses of this Agreement and what is set out in any of the schedules, then what is set out in the clauses will take precedence.

### **39.0 ASSIGNMENT AND SUB-CONTRACTING**

- 39.1 If the Service Provider wants to sub-contract the carrying out of the Service Provider's obligations under this Agreement then the Service Provider must first obtain the Authority's written consent.
- 39.2 Notwithstanding clause 39.1, the Authority's consent will not be required to a floating charge over substantially the whole of the Service Provider's assets, property and undertaking.
- 39.3 However, even if the Authority have given consent to the Service Provider's sub-contracting the carrying out of the Service Provider's obligations under this Agreement the Authority can subsequently withdraw it, provided that the Authority act reasonably in doing so and give the Service Provider reasonable notice. This means that at the end of the notice period the Service Provider will have to terminate the sub-contract concerned.
- 39.4 The Service Provider should note that the Authority giving the Service Provider consent to sub-contract will not relieve the Service Provider of the Service Provider's obligations under this Agreement and that the Service Provider will be responsible for the acts, defaults and neglect of any sub-contractor or any employee, agent or servant of any such sub-contractor, as if they were the Service Provider's own acts, defaults and neglect. This will be the case even if as a condition of the Authority giving consent the Authority require the sub-contractor to agree directly with it that it will carry out all the Service Provider's obligations under this Agreement.
- 39.5 The Service Provider may not:
- 39.5.1 assign the Service Provider's interest in this Agreement or any part of it to any other person; or
  - 39.5.2 create any interest in this Agreement or any part of it (for example by way of a trust); or
  - 39.5.3 create any security over this Agreement or any part of it (for example, by way of a fixed charge).

### **40.0 AGENCY**

- 40.1 The Service Provider must not represent to anyone, nor allow any of the Service Provider's employees or agents to represent to anyone, that the Service Provider are our agents or servants.

### **41.0 AUDIT**

- 41.1 The Service Provider shall at all reasonable times (including following termination for whatever reason of this Services Agreement) afford to or procure for any auditor (including any auditor carrying out functions under the Audit Commission Act 1998 or the 1999 Act) conducting an internal audit or an external audit inspection or an audit of Best Value Performance Plans or to or for the Authority's Contract Manager (or its nominee) access to any records, information and data in the Service Provider's possession or control which in any way relate to or are or have been used in connection with the performance of the Services including (but without limitation) our data and information stored on a computer system operated

by the Service Provider and shall include permission to copy and remove any copies and remove the originals of such documents.

#### **42.0 LOCAL GOVERNMENT OMBUDSMAN**

- 42.1 Where any investigation by a Local Government Ombudsman (the "**Ombudsman**") takes place the Service Provider shall:
- 42.1.1 provide any information requested in the timescale required by the Ombudsman;
  - 42.1.2 attend any meetings as required by the Ombudsman and permit its personnel so to attend;
  - 42.1.3 promptly allow access to and the investigation of any documents deemed by the Ombudsman to be relevant;
  - 42.1.4 allow itself and any employee deemed to be relevant to be interviewed by the Ombudsman;
  - 42.1.5 allow itself and any employee to appear as witness in any ensuing proceeding; and
  - 42.1.6 co-operate fully and promptly in every way required by the Ombudsman during the course of that investigation;
- 42.2 For the avoidance of doubt, no additional payment shall be made to the Service Provider for performing the requirements set out in clause 42.1.
- 42.3 For the avoidance of doubt, where any financial redress or other compensation is ordered by the Ombudsman in any investigation arising directly or indirectly out of the default or neglect by the Service Provider in connection with the provision of the Services or any other action by the Service Provider the Authority shall be entitled to recover the cost of that financial redress or other compensation from the Service Provider.

#### **43.0 NO PARTNERSHIP**

- 43.1 Nothing in this Services Agreement shall be construed as a legal partnership (within the meaning of the Partnership Act 1890) or as a contract of employment between the Authority and the Service Provider.

#### **44.0 VALUE ADDED TAX ("VAT")**

- 44.1 The Authority shall pay any VAT on the Payment at the rate and in the manner prescribed by law from time to time.
- 44.2 The Service Provider shall provide the Authority with any information reasonably requested by the Authority in relation to the amount of VAT chargeable in accordance with this clause 44.
- 44.3 Where any amount is calculated by reference to any sum that has or may be incurred under this Services Agreement, the amount shall include any VAT to the extent the such VAT is not recoverable as input tax by that person (or a member of the same VAT group), whether by set-off or repayment.

#### **45.0 SEVERABILITY**

- 45.1 If one or more of the provisions of this Agreement are or become to any extent invalid or unenforceable under any applicable law then the remainder of this Agreement shall continue in full force and effect.
- 45.2 If a provision becomes unenforceable as detailed in Clause 45.1, both of us shall enter into good faith negotiations to endeavour to amend the provision concerned in such a way that, as amended, it is valid and enforceable and to the maximum extent possible, reflects the original intent of both parties.

#### **46.0 REMEDIES CUMULATIVE**

- 46.1 Any remedy or right which either of us may exercise in relation to a Default committed by the other shall be in addition to, and shall be capable of being exercised without prejudice to, all other rights and remedies available to either of us.

#### **47.0 OUR FUNCTIONS AS A LOCAL AUTHORITY**

- 47.1 Nothing in this Agreement shall prejudice or affect the Authority's rights, powers, duties and obligations in relation to the exercise of the Authority's functions as a local authority.

#### **48.0 EXPIRY**

- 48.1 Upon the Expiry Date or date of termination of this Agreement, the Service Provider must give the Authority, or to any person the Authority may specify, all data, information, files, records, documents and the like which the Authority supplied to the Service Provider for the purposes of this Agreement or which were produced or augmented by the Service Provider in connection with the carrying out of the Service Provider's obligations under this Agreement.
- 48.2 Unless the Authority authorise the Service Provider to do so, or the Service Provider are required at law to do so, the Service Provider must not retain any copies of the information etc referred to in clause 48.1.
- 48.3 Clause 48.1 is subject to the provisions of clause 17 (**Data Protection Act**).

#### **49.0 LAW AND JURISDICTION**

- 49.1 This Agreement shall:
- 49.1.1 be governed by and shall be construed in accordance with the laws of England and Wales; and
  - 49.1.2 be subject to the exclusive jurisdiction of the Courts of England, to which both of us shall submit.

**Signed For and On Behalf of Six Town Housing Limited:**

**Name:** .....

**Designation:** .....

**Date:** .....

**Signature:** .....

**Witness:** .....

**Name:** .....

**Designation:** .....

**Date:** .....

**Signature:** .....

**Signed For and On Behalf of Bury Metropolitan Borough Council**

**Authorised Officer:** .....

**Authorised Officer:** .....

## Schedule 1

### Services Specification

#### Section A

##### **A1.0 Introduction**

A1.1 This specification describes the general requirements for the provision and delivery of the Service across the Bury Council area. The individual elements that comprise the Service are detailed in Sections B – F of this Schedule.

##### **A2.0 Aim of the Service**

A2.1 By establishing a Home Improvement Agency (HIA), partner agencies in Bury are seeking to link housing, health and social care strategies and to develop a more unified approach to the provision of housing adaptation services for disabled people, regardless of tenure.

A2.2 The aim of the Service is to provide an integrated support and technical service, by providing a single point of contact and seamless co-ordination of services, in order to enable those in need of support to bring about adaptation to their home and thereby maintain their independence, health and well-being in their chosen home for as long as possible.

A2.3 This aim will be achieved by:

- Providing directly small scale, handyperson type repairs and minor disabled adaptations
- Carrying out major adaptations to Council owned homes
- Offering an agency approach for service users living in private sector (non-Council owned) accommodation that, with the resident's agreement, provides a high degree of support for the Service User in respect of the Disabled Facilities Grant (DFG) process
- Service Users opting not to use the agency service will be provided with a more traditional DFG facility by Urban Renewal.
- Providing information and advice, including advice on accessing appropriate sources of finance, for all Service Users.

A2.4 This agreement recognises the differing approaches appropriate to the service users living in private and public sector accommodation in view of the Council's role as a landlord and property owner but, wherever appropriate, common service, repair and adaptation standards will apply irrespective of tenure and ownership.

A2.5 The partner agencies wish to secure improved value for money in the delivery of the physical works associated with the delivery of the Service.

##### **A3.0 Objectives**

1. Provide a customer focused service
2. Provide excellent access to services
3. Provide a high quality service
4. Facilitate a seamless service through a single delivery agent for all adaptations
5. Provide a flexible personal support service at key stages in the adaptations process
6. Maximise the number of applications that are progressed to completion stage
7. Provide for proper contractual arrangements both between the partnership and the Service Provider, and the Service User and the contractor for the benefit of the Service User
8. Decrease the time taken to provide completed adaptations
9. Provide for a flexible response that meets the needs of the Service User, and not necessarily the needs of the commissioning partner agencies.
10. Improve value for money and maximise outcomes
11. Provide a service within strong performance management framework

#### **A4.0 Service Values and Principles**

A4.1 The following service values will underpin all activities undertaken by the Service Provider:

- Service Users should retain the greatest possible control over their lives;
- Service Users should be treated with courtesy, respect and dignity;
- Service Users should be personally involved in any decision making process that impacts on their lives;
- Service Users' views will be sought on the quality of the service provided;
- The diverse needs of Service Users (including cultural diversity) will be respected.

A4.2 The following service principles will be observed by the Service Provider in its work:

- The Service Provider will adopt a person-centred approach;
- The Service Provider will act only on the authority of the Service User, including the delegation of work to third parties;
- The Service Provider will provide sufficient information to enable the Service User to make informed choices, including advising the Service User in advance of any financial contribution they will be required to make, and keeping the Service User informed of what is happening at each appropriate stage and of what money is being expended.

#### **A5.0 Description of Service**

A5.1 The Service shall consist of the following five service elements, which are described in full in Sections B – F of this Agreement:

- General advice and information
- Major adaptations including simple major adaptations, defined as over £1,000 but less than £20,000 in value, and complex major adaptations defined as a single adaptation or multiple adaptations to a single property over £20,000 in value and including extensions
- Minor adaptations defined costing up to £1,000 in value
- Home from Hospital defined as minor adaptations carried out within short timescales to enable people to return home from hospital
- Handyperson and Small Repairs

A5.2 The Service Provider will establish an appropriate service access point for each service element.

### **A6.0 Volumes of Service**

A6.1 The anticipated annual volumes of service will vary from year to year and is partly dependent on Government allocations and the success of bidding by partner parties through annual capital bidding rounds.

A6.2 The Service Provider will be expected to use staff flexibly, within reason, in order to respond to peaks and troughs in demand.

A6.3 The Service Provider and Urban Renewal will monitor the demand for each service element in accordance with the monitoring arrangements set out in clause A11.

A6.4 In the event that it becomes evident from the monitoring information gathered that projected demand for any service element is likely to exceed the anticipated annual service volumes / budgets, the Service Provider and Urban Renewal shall meet to agree a strategy for managing demand.

### **A7.0 Availability**

A7.1 The Service Provider will operate from premises which are in accordance with disability discrimination legislation.

A7.2 In addition to visiting the Service Provider's premises, Service Users should be able to access the Service by telephone suitable for the Service User's needs, or by letter, fax or e-mail / website.

A7.3 The initial point of contact for Service Users or referrers will be open Monday to Friday between the hours of 9.00 am and 5.00 pm, excluding Bank Holidays.

### **A8.0 Staffing**

A8.1 The Service Provider must recruit, retain and provide adequate staff resources so as to ensure that case management, technical advice and administrative support is available to meet the requirements of this Agreement. The Service Provider will provide appropriate on-going training and professional development opportunities.

A8.2 The Service Provider must have a fair staff recruitment and selection policy and process that takes account of all relevant legislation.

A8.3 The Service Provider's staff are required to comply with relevant health and safety legislation.

### **A9.0 Public Information and Publicity**

A9.1 The Service Provider will be responsible for publicising the service by appropriate means, during the life of the Agreement.

A9.2 Bury Councils corporate public information standards will be applied to all public information produced, including web sites. All information produced for publicity purposes must be approved by the HIA Contract Performance & Development Group (HIA CPDG).

### **A10.0 Service Quality**

A10.1 The Service Provider should have in place a system for assuring that the quality of the service that it provides is based upon the principles of:

- Best Value and continuous improvement.
- Self-assessment, ensuring that day-to-day responsibility for the quality of the Service is managed primarily by the Service Provider, but with review and monitoring carried out in tandem with Urban Renewal, under the direction of the Home Improvement Agency Contract, Performance and Development Group (HIA CPDG).

The Service Provider's quality assurance system will be the Supporting People Performance Framework for Home Improvement Agencies.

### **A11.0 Contract Monitoring**

A11.1 Urban Renewal will establish a HIA Contract Performance & Development Group (HIA CDPG), operating under appropriate terms of reference, to include representation from all funding bodies and other stakeholders.

A11.2 The HIA CPDG will undertake the tasks detailed in Schedule 4.

A11.3 The HIA CPDG will meet initially on a monthly basis in order to maintain an overview of the Agreement. Any reduction in the frequency of meetings will be set by the HIA CDPG.

A11.4 The performance requirements made of the Service Provider are detailed in the Agreement, and in Appendices 1 and 2, and Schedule 4.

### **A12.0 Contract Development**

A12.1 During the period of this Agreement, the HIA CDPG and Service Provider will work together to reshape the Service to reflect information resulting from the monitoring of the Service and the review of the Agreement. Any changes to Services or how they are delivered will be negotiated between the Parties, including any associated changes to the Price.

## Section B

### Service Element 1 – General Advice and Information

#### **B1.0 Service Description**

B1.1 At the outset of the process, the Service Provider will provide information about availability of services, eligibility, and what an eligible Service User can expect from the Service.

B1.2 The Service Provider will provide basic advice, information and where appropriate provide for signposting to other relevant agencies on the following:

- Problems relating to the property condition
- All housing options
- Completion of any necessary forms
- Other services offered by the HIA (e.g. major and minor adaptations, repairs, home safety services, etc)
- Likely financial contributions to relevant works and gap funding by Service Users where appropriate

B1.3 The Service Provider will provide information, and assistance where appropriate, about possible sources of funding to Service Users seeking to undertake repair, adaptation or improvement works in or to their homes, including the following:

- Availability of grants from statutory bodies;
- Releasing equity and accessing loans (to be developed at a later date);
- Obtaining independent financial advice;
- Accessing charitable funding;
- Other support services that may be available
- Benefit entitlement;
- The effect that certain options may have on benefit entitlement;
- Referral to the Service Users insurance company for a possible claim under an existing insurance policy;
- Savings.

This information and assistance will be in addition to that provided by Disability Services at the point of assessment.

B1.4 In respect of the above and where necessary/appropriate, the Service Provider will refer Service Users to other relevant agencies, such as the Citizens Advice Bureau and the Department of Works and Pensions.

B1.5 The Service Provider will ensure that where a referral relates to an adaptation this is only from an 'Assessment' source that is approved by Disability Services, and Urban Renewal as necessary, and that the Service User is aware of the referral.

B1.6 The Service Provider will undertake a home visit where appropriate. This is to gather financial and personal information in order to advise the Service User of the range of options available to them, and agree with them an appropriate course of action and possible sources of funding.

B1.7 Where requested to do so by the Service User and in appropriate circumstances, the Service Provider will act on their behalf to ensure that the Service User receives any additional income to which they are entitled, in order to maximise income.

**B2.0 Eligibility**

B2.1 General advice and information in line with this service is available to any Service User living in Bury, regardless of their financial status or tenure.

**B3.0 Funding of this service element**

B3.1 The provision of General Advice and Information by the Service Provider will be funded through this Agreement.

B3.2 No charges will be made to Service Users for this service element.

**B4.0 Referral Arrangements and Response Times**

B4.1 Initial enquiries will be responded to and home visits undertaken, where required, promptly and in accordance with the performance detailed in Appendix 1.

**B5.0 Monitoring**

B5.1 The Service Provider will keep detailed records of the process followed in each case, which will be made available to Urban Renewal upon reasonable request.

B5.2 Adherence to response targets for initial enquiries and home visits will be monitored, recorded and reported upon through the agreed performance management framework.

## Section C

### Service Element 2 – Major Adaptations

#### **C1.0 Service Description**

C1.1 Major Adaptations will be dealt with within two main types:

- Complex Major Adaptations. These include:
  - Single or multiple adaptations over £20,000 in value, including extensions
  - Adaptations not currently included within a schedule of authorised adaptations to be agreed and maintained by the Service Provider, Urban Renewal and Disability Services
  - Other adaptations which, because of the circumstances of the Service User or the property, are deemed to be particularly problematic
- Simple Major Adaptations. These include:
  - Adaptations over £1,000 and up to £20,000 in value
  - Adaptations included within a schedule of authorised adaptations to be agreed by the Service Provider, Disability Services and Urban Renewal

It is envisaged that most Major Adaptations will fall into the Simple category.

Complex and Simple Major Adaptations can be carried out through one of 3 different routes:

1. Directly carried out by the HIA (Council tenants only)
2. Through a DFG but with the HIA acting as the Service User's agent (non-Council tenants only)
3. Through a DFG administered by the Council without the HIA acting as the Service User's agent.

C1.2 Where direct provision or an agency approach apply, the Service Provider will provide a high level of professional support and advice to the Service User throughout the course of the scheme to ensure a satisfactory outcome for the Service User.

C1.3 For non-agency DFG applications, Urban Renewal will administer the appropriate processes.

The Service Provider and Urban Renewal will, no less than annually, agree an outline process to be used for the administration of Disabled Facilities Grants. The initial procedure to be used will be agreed within 3 months of the date of this Agreement.

The Service Provider will at the commencement of the contract period produce a procurement strategy for all elements of the physical works to be delivered under this agreement including how the various legal and regulatory requirements, including European requirements, will be met. That strategy will be agreed with HIA CDPG.

#### **C2.0 Direct Provision (Council Tenants)**

C2.1 Simple Major Adaptations

Adaptations will be provided following a referral from Disability Service in

respect of a Service User who is also a current Council tenant. All referrals will be made in a prescribed form. The Service Provider will:

- Log and record all referrals
- Arrange by appointment to visit to the Service User's property in order to discuss the major adaptations
- Provide disabled information pack to Service User
- Survey the home to be adapted, design a scheme to meet the Service User's needs and specify the works required to deliver the scheme
- Where appropriate, advise tenant of alternative approaches (e.g. re-housing to more suitable property) and complementary services (e.g. additional aids or support services)
- Consult and seek clarification where required from Disability Services on the appropriateness of proposed adaptations
- Service Users will be offered all reasonable options for the adaptation of their home and will be assisted and enabled in exercising their choice
- Explain, consult and agree with the Service User the proposals including alternative options providing sketch drawings where appropriate
- Obtain any required permissions e.g. dropped curb
- Select an appropriate contractor identified through a contract framework agreed by the HIA CPDG
- Instruct the contractor, including agreeing a work programme and site management arrangements
- Ensure that all works are undertaken in accordance with health and safety guidance and legislation
- Advise Service User that the work has been ordered, the selected contractor, the start date and duration of the work, and keep the Service User informed of progress throughout
- Provide advice to the Service User in respect of temporary accommodation
- Provide appropriate technical supervision to the scheme as work is carried out on site
- Where appropriate carry out inspections of work whilst in progress
- Prepare and issue interim payment certificates and certificates of practical completion
- Ensure that variation and defect procedures are in place to ensure the satisfactory conclusion of the works
- Carry out post completion inspection, and identify and resolve any outstanding issues
- Authorise payment to the contractor
- Confirm completion with Disability Services
- Update records

## C2.2 Complex Adaptations

Complex adaptations will be managed in the same way as major adaptations above with the following exceptions:

1. The Service Provider may select and appoint an appropriate architectural agency from approved list to assist in carrying out the project planning and management roles described above;

2. The Service Provider will retain overall responsibility for the successful implementation of the adaptation within legal and statutory requirements, and in accordance with all relevant service agreements and contracts;
3. In all cases, a joint visit attended by the Service Provider, the appointed architectural agency and Disability Services will take place to agree the adaptations to be carried out, and this will be followed by further consultation meetings where appropriate
4. Detailed drawings will be provided, sufficient to meet the requirements of planning and building regulations, but also sufficient to act as an effective instruction to the contractor for construction of the project
5. Interim payment certificates and certificates of practical completion will be prepared and issued where appropriate;
6. The Service Provider will authorise all payments.

### **C3.0 Agency Service (non Council Tenants)**

#### **C3.1 Simple Major Adaptations**

The agency service will be available to all Service Users (other than those living in Council owned accommodation) who opt to use it. Referrals for simple major adaptations will be made via the agreed format by Disability Services who will send a copy of the referral to Urban Renewal. The Service Provider will:

- Log and record all referrals
- Carry out a preliminary test of resources (by telephone where appropriate) and advise the Service User of the outcome
- Where the preliminary test of resources indicates that the Service User will not be entitled to receive a grant or the grant is likely to be less than the anticipated cost of the adaptation, the Service Provider will offer appropriate advice and assistance including on alternative funding sources and alternative accommodation
- Offer the Agency Service to the Service User and, where accepted, arrange for the approved agreement to be signed
- Where the Service User opts not to use the Agency Service, the Service Provider will provide information on how to access the DFG service provided by the Council
- Arrange, by appointment, to visit the Service User's property in order to discuss the major adaptations
- Make a Decent Homes check with the agreement of the Service User. The process to be agreed within 3 months of the date of this Agreement and reviewed by the HIA CPDG
- Provide an information pack to Service User
- Survey the home to be adapted, design a scheme to meet the Service Users needs and specify the works required to deliver the scheme
- Explain, consult and agree with the Service User the proposals including alternative options providing sketch drawings where appropriate
- Offer Service Users all reasonable options for the adaptation of their home and assist and enable them in exercising their choice
- Consult and seek clarification where required from Urban Renewal and/or Disability Services on issues of eligibility and the appropriateness

- of proposed adaptations
- Prepare any applications and submit them with all relevant documents (e.g. planning permission, building control, drawings) on behalf of the Service User;
  - Obtain the consent of any private landlord where a major adaptation is to be undertaken on their property, prior to commencement of the works
  - Provide advice and assistance to the Service User on any Party Wall Act issues;
  - Select an appropriate contractor identified through a contract framework agreed by the HIA CPDG
  - Complete an application form on behalf of the Service User and submit to Urban Renewal with other relevant documentation for their approval;
  - Request and assist the Service User to instruct the selected contractor using the approved form of contract
  - Agree a work programme and site management arrangements
  - Advise the Service User of the start date and duration of the work, and keep the Service User informed of progress throughout
  - Provide advice to the Service User in respect of temporary accommodation
  - Provide appropriate frequency of technical inspections in relation to the scheme as work is carried out on site
  - Ensure that variation and defect procedures are in place to ensure the satisfactory conclusion of the works
  - Carry out post completion inspection, and identify and resolve any outstanding issues;
  - Confirm completion with Disability Services and Urban Renewal
  - The Service Provider will advise Urban Renewal that payment is due
  - Update records.

### C3.2 Complex Adaptations

Complex adaptations for Service Users in private sector accommodation opting to use the agency service will be managed in the same way as simple major adaptations above with the following exceptions:

1. The Service Provider may select and appoint an appropriate architectural agency from an approved list to assist in carrying out the project planning and management roles described above
2. Detailed drawings will be provided, sufficient to meet the requirements of planning and building regulations, but also sufficient to act as an effective instruction to the contractor for construction of the project
3. The Service Provider will retain overall responsibility for the successful implementation of the adaptation within legal and statutory requirements, and in accordance with all relevant service agreements and contracts
4. The Service Provider will carry out the assessment of entitlement to grant and offer advice on associated issues. Urban Renewal retain all the responsibilities of the housing authority in relation to DFG matters and the relevant legislation.

5. In all cases, a joint visit attended by the Service Provider, the appointed architectural agency and Disability Services will take place to agree the adaptations to be carried out, and this will be followed by further consultation meetings where appropriate
6. Interim payment certificates and certificates of practical completion will be prepared and issued where appropriate by the Service Provider.

#### **C4.0 DFG Approach**

##### Major Adaptations

DFG applications will be administered by Urban Renewal.

#### **C5.0 Eligibility**

C5.1 Major adaptations will be available to disabled individuals as defined by the Housing Grants, Construction and Regeneration Act 1996, who have been assessed by a person approved by Disability Services and for whom a Statement of Need has been produced, and who need assistance to co-ordinate the adaptations. It will be the role of Disability Services to produce the Statement of Need.

C5.2 Local Authority tenants will be provided with appropriate adaptations directly by the Service Provider on behalf of the Council without a test of resources being carried out reflecting the long standing arrangements in place prior to this agreement. Service Users living in non-Council owned properties will receive DFG's where eligible in accordance with practice prior to this agreement. However, Service Users in non-Council accommodation will have the option under this agreement of choosing to have the Service Provider act on their behalf within an agency service.

In all other respects, Service Users across tenures will receive a similar service including comparable service standards unless previously agreed as appropriate by the HIA CPDG and included within the service standards accompanying this agreement.

#### **C6.0 Funding of this service element**

C6.1 The co-ordination of Major Adaptations by the Service Provider will be funded through this Agreement.

C6.2 For actual work undertaken, if the Service User is making application for Local Authority Grant assistance, the cost to the Service User will be their calculated contribution under the test of resources as defined within the current relevant legislation. If there is a shortfall in funding from Urban Renewal / Disability Services, the Service Provider will seek other sources in funding. Where a shortfall in funding is identified, the Service Provider will inform the Service User and Disability Services.

#### **C7.0 Standards**

C7.1 Local standards for this service are as set out in Appendix 1.

#### **C8.0 Monitoring**

C8.1 The Service Provider will keep detailed records of the process followed in each case, which will be made available to Urban Renewal at its request or to the Councils auditors.

## Section D

### Service Element 3 – Minor Adaptations

#### **D1.0 Service Description**

D1.1 The Service Provider shall arrange for the carrying out of minor adaptations that need simple fitting in order to ensure safe and independent living for Service Users.

D1.2 Minor adaptations are those costing up to £1,000. The minor adaptations to be carried out will include the following (not an exhaustive list):

- Fitting handrails, internal and external
- stair-rails and grab rails
- Fitting portable/temporary ramps
- Door threshold removal
- Widening door frames and re-hanging doors
- Installing chair and bed raising systems
- Fitting wall-fixed shower seats
- Fitting floor-fixed toilet frames
- Installing key safes where required as part of a care package
- Minor electrical works e.g. raising sockets
- Minor plumbing works e.g. fitting lever taps
- Half steps
- Ramps

and any other minor adaptations requested by Disability Services or any other approved 'Assessor of Need', acting on their behalf.

D1.3 Disability Services will obtain the consent of any private landlord where a minor adaptation is to be undertaken on their property, prior to commencement of the works.

D1.4 The Service Provider will obtain all necessary consents, including highways, planning and building regulations as might be required to undertake the adaptation.

D1.5 The Service Provider and Disability Services will, at least annually agree the detailed operational procedure to be used for the administration of minor adaptations.

#### **D2.0 Eligibility**

D2.1 Minor adaptations can be provided to any Service Users defined by Bury MBC Disability Services as eligible, as set out in the 'Access to Care' policy that is prevailing at that time.

D2.2 For all Service Users, an assessment must have been undertaken by a competent person authorised to do so by Disability Services.

D2.3 Minor adaptations will normally be carried out by the technicians within the Home Improvement Agency or by other operatives working for the Service Providers. External contractors will only be employed where specific skills or expertise not otherwise available are required or to deal with exceptional peaks in demand.

### **D3.0 Tenure**

D3.1 Minor adaptations are available to all tenures, including all types of tenants subject to the landlord's consent.

### **D4.0 Funding of this service element**

D4.1 The co-ordination and delivery of Minor Adaptations by the Service Provider will be funded through this Agreement.

D4.2 The cost of the minor adaptations to be carried out will normally be up to £1,000 for any single item or combination of items, including the cost of installation but excluding the cost of the associated co-ordination.

D4.3 The cost of an adaptation may exceed £1,000 in exceptional and unforeseen circumstances where specifically requested by Disability Services and agreed with Urban Renewal.

### **D5.0 Standards**

D5.1 Local standards for this service are as set out in Appendix 1 to the service specification schedules.

### **D6.0 Referral Arrangements and Response Times**

D6.1 Referral to the Service Provider for minor adaptations will be via a Care Manager working for Disability Services using the approved referral form that is in operation at that time.

D6.2 The referring Care Manager will determine the priority of a minor adaptation.

### **D7.0 Monitoring**

D7.1 All minor adaptations will be recorded and monitored on the Service Provider's data base as agreed with Disability Services.

D7.2 The Service Provider will provide Disability Services with details of referrals received, jobs undertaken and work completed on a weekly basis.

## Section E

### Service Element 4 –Home from Hospital

#### **E1.0 Service Description**

- E1.1 The Service Provider should arrange for the carrying out of minor adaptations that need simple fitting to ensure the safe discharge from hospital or from Interim Care.
- E1.2 The minor adaptations to be carried out will include the following (not an exhaustive list)
- Fitting hand rails, stair rails and grab rails
  - Fitting portable temporary ramps
  - Door threshold ramps
  - Installing chair and bed raising systems
  - Fitting wall fixed shower seats
  - Fitting floor fixed toilet frames
- and any other minor adaptation requested by Disability Services or any other 'Assessor of Need' acting on their behalf.
- E1.3 The Service Provider will ensure that the consent of any private landlord has been obtained by Disability Services where a minor adaptation is to be undertaken on their property, prior to commencement of the works.
- E1.4 The Service Provider will obtain all necessary consents, including highways, planning and building regulations as might be required to undertake the adaptation.
- E1.5 The Service Provider and Disability Services will, at least annually agree the detailed operational procedure to be used for the administration of minor adaptations.

#### **E2.0 Eligibility**

- E2.1 The service is available to any adult with a disability or over the age of 60 years who is at the time of referral hospitalised (or resident in an interim care facility) and who requires the adaptations requested to be in place to facilitate their safe discharge to their home address.
- E2.2 For all Service Users, an assessment must have been undertaken by a competent person authorised to do so by Disability Services.
- E2.3 Upon receipt of a properly constituted referral from Disability Services, the Service Provider will identify the work required. Minor adaptations will normally be carried out by the technicians within the Home Improvement Agency or by other operatives working for the Service Providers. External contractors will only be employed where specific skills or expertise not otherwise available are required or to deal with exceptional peaks in demand.

#### **E3.0 Tenure**

- E3.1 Minor adaptations under the Home from Hospital Scheme are available to owner-occupier, tenant of private landlord, Housing Association or Six Town Housing Tenant subject to the landlords consent.

#### **E4.0 Funding of this service element**

E4.1 The co-ordinating and delivery of adaptations under this scheme by the Service Provider will be funded through this agreement.

E4.3 The service is delivered free of charge to those referred to the service.

#### **E5.0 Standards**

E5.1 Local standards for this service are set out in Appendix 1.

#### **E6.0 Referral Arrangements and Response Times**

E6.1 Referrals to the service provider under this scheme will be made by Adult Care Services or their approved agents using the approved referral form.

E6.2 The referrer will state to which time scales items need to be supplied by assigning a priority. Performance standards are detailed in Appendix 1. In exceptional cases where the exceptions are stated in Appendix 1 timescales will be agreed with Disability Services.

E6.3 The referring Care Manager will state the 'classification' of minor adaptation.

#### **E7.0 Monitoring**

E7.1 All minor adaptations will be recorded and monitored on the Service Provider's data base as agreed with Disability Services.

E7.2 The Service Provider will provide Disability Services with details of referrals received, jobs undertaken and work completed on a weekly basis.

## Section F

### Service Element 5 – Handyman and Small Repair Service

#### **F1.0 Service Description**

- F1.1 This Service Element is funded by different funding streams for Handyman type works (HPS) and Small Repairs works (SRS). The Service Provider will ensure appropriate record keeping in relation to each case to distinguish and report on those distinct funding streams.
- F1.2 The Service Provider will provide services to support safe and independent living to an upper limit of 1 day (8 hours) per job (HPS) or up to limit of 2 hours for smaller works (SRS) by arranging or undertaking the following tasks:

#### **F2.0 Tasks**

##### **F2.1 General Repairs (HPS)**

- Replacement of windows (max. of 2) or external doors and frames
- Repairs to rotted or otherwise defective windows
- Repairs to flat or pitched roofs

##### **F2.2 General Work (SRS)**

- Moving small furniture
- Putting up shelves and pictures
- Replacing small window panes (M)
- Repairing small areas of rotten wood(M)
- Tiling small areas (M)
- Re-hanging doors (M)
- Repairing small areas of fencing and /or garden gates (M)

##### **F2.3 Plumbing & Drainage**

- Small plumbing repairs – repairs to leaking pipes (HPS& SRS, M)
- Changing tap washers, cistern washers, ball valves etc (HPS& SRS, M)
- Replacing broken WC seats (SRS, M)
- Renewing bath sealant (SRS, M)
- Unblocking sinks (SRS)
- Cleaning blocked gullies and gutters (SRS, M) height restrictions apply.

##### **F2.4 Home Security & Safety**

- Fitting of door chains, appropriate window and door locks and security door viewers(HPS & SRS)
- Fitting of stand alone smoke and carbon monoxide detectors (HPS & SRS)
- Fitting grab rails/hand rails (SRS)
- Fitting stair gates, cooker guards, fire guards (SRS)

## **F2.5 Electrical Work**

- Replacing fuses and plugs (SRS)
- Fitting doorbells (SRS)

F2.6 (M) = Maintenance tasks that are the responsibility of Local Authority and RSL landlords, and therefore not available to tenants of such landlords through this service.

F2.7 Plus any other similar task types that are agreed by Urban Renewal or Disability Services.

F2.8 The Service Provider will be required with the agreement of the Service User to make a Decent Homes check in relation to each case where Handyperson Scheme work is assessed on site or carried out by them. Where the Service Provider is already acting on behalf of a Service User in relation to major adaptations then the check will have already been carried out. The process to be agreed within 3 months of the date of this Agreement.

## **F3.0 Eligibility (HPS)**

F3.1 The eligibility criteria are those specified in the prevailing Private Sector Housing Assistance Policy adopted by the Council.

As at December 2008 the following householders are eligible:

- Elderly – over 60 years of age
- Disabled or infirm
- In receipt of a specified means tested state benefit
- Single parent family with a child under 5 years of age

The eligibility criteria will change from time to time and will be determined by Urban Renewal.

F3.2 The means tested benefits are those related to the definition of vulnerable households specified in the Communities & Local Government Decent Homes definition and guidance update document issued in June 2006 and conditioned by income thresholds where appropriate.

F3.3 The following categories of resident may receive help for certain of the works (HPS):

- Owner-occupiers
- Private tenants with a repairing obligation
- The qualifying tenure may change from time to time and will be determined by Urban Renewal.

## **F4.0 Eligibility (SPS)**

F4.1 This Service will be provided to vulnerable adults (not in paid employment, unable to complete the work themselves, have no-one who can complete the work for them), parents of children at risk of harm/accident or adults with a physical/sensory disability.

F4.2 The following categories of resident may receive help for certain of the works(SRS):

- Owner-occupiers and private tenants
- Local authority tenants (maintenance remains the responsibility of the landlord)
- RSL tenants (maintenance remains the responsibility of the landlord).

#### **F5.0 Funding of this service element**

F5.1 The administration and delivery of the Handyperson Service will be funded through this Agreement, subject to the collection by the Service Provider of Service User fees in accordance with clause F5.2 and the specified budget.

F5.2 The Service Provider will charge the Service User for materials at cost and a contribution to labour costs of £15 for the first 2 hours (SRS & HPS) and £15 per hour thereafter (HPS). This charge will be reviewed by Urban Renewal and Disability Services annually.

F5.3 The balance of any costs to the Service Provider associated with the provision of this service element will be met by Urban Renewal and Disability Services up to the maximum annual budget for this service.

F5.4 The Service Provider will keep accurate records of Service User contributions received.

#### **F6.0 Response Times**

F6.1 This is not an emergency service. The performance standard is detailed in Appendix 1 to this specification schedule. It may be necessary within the performance target times for the Service Provider to make an initial appraisal visit.

#### **F7.0 Referral Arrangements**

F7.1 Referrals to the Service Provider will be received directly from Service Users.

#### **F8.0 Monitoring**

F8.1 The Service Provider will keep detailed records of the process followed in each case. The records will be sufficiently detailed and stored in such a way as to readily report performance upon request by Urban Renewal or Disability Services.

F8.2 On completion of works undertaken the Service Provider will send to the Service User a satisfaction questionnaire. The Service Provider will analyse returned questionnaires and provide appropriate reports upon request by Urban Renewal or Disability Services.

F8.3 The Service Provider will forward to Urban Renewal on a quarterly basis a breakdown of income generated from fees charged to Service Users for the Handyperson Service element, together with a breakdown of expenditure on this service element

- F8.4 The Service Provider will forward to Urban Renewal a quarterly report detailing Decent Homes information, vulnerable categorisation of Service User, ethnicity and diversity information cross referenced with case income and expenditure information as detailed in Clause F5.3.
- F8.5 The Service Provider will provide Disability Services with details of referrals received, jobs undertaken and work completed on a monthly basis. (SRS).

**SCHEDULE 1 - APPENDIX 1**

**Bury Standards & Performance Indicators for Major & Minor Adaptations, Handyperson and Small Repair Scheme.**

<b>GENERAL</b>		
<b>Standard</b>		<b>Performance Indicator</b>
1.	The Service Provider will give the Service User information about its complaints procedure.	All Stage 2 complaints will be reported to the HIA CPDG.
2.	<p>The Service Provider will provide each Service User with a self addressed post paid customer satisfaction form agreed with the HIA CPDG at the completion of all adaptations and other work.</p> <p>Note: Alternative mechanisms may be used for measuring customer satisfaction, these may be agreed at an operational level between the Service Provider and Urban Renewal and Disability Services and ratified by the HIA CPDG.</p>	100% of Service Users will receive an appropriate customer satisfaction form

<b>SERVICE AREA - MAJOR ADAPTATIONS</b>				
<b>Standard</b>		<b>Target Performance level</b>		
Ref.		2008/09	2009/10	2010/11
<b>HIA1</b>	<p><b>The average time in calendar days from the date of the receipt of the referral by the Service Provider to the date of practical completion measured cross tenure.</b></p> <p><b>Note:</b> <b>The referral is e-mailed by Disability Services to both the Service Provider and Urban Renewal. It is the date that the e-mail was sent that will be considered as the date of receipt.</b> <b>The definition of practical completion will be agreed</b></p>	<b>219</b>	<b>201</b>	<b>186</b>

	<b>with Urban Renewal. This is a contract critical indicator.</b>			
HIA1A	Average time from referral to practical completion for major adaptations in the private sector.	282	253	228
HIA1B	Average time from referral to practical completion for major adaptations in the public sector.	170	161	153
<b>HIA2</b>	<b>The percentage of cross tenure Service Users who are satisfied or very satisfied with the <u>overall</u> service they have received. <u>Note:</u> All Service Users receiving a major adaptation completed within the year will receive a Customer Satisfaction Questionnaire. This is a contract critical indicator.</b>	<b>94</b>	<b>95</b>	<b>96</b>
HIA3	Percentage of referrals for major adaptations where the Service User is contacted within 3 calendar days of the date of receipt of the referral from Disability Services. <u>Note:</u> The referral is e-mailed by Disability Services to both the Service Provider and Urban Renewal. It is the date that the e-mail was sent that will be considered as the date of receipt.	80	85	90
HIA4	Percentage of Service Users visited by the Service Providers Caseworker within 14 calendar days of the date of receipt by the Service Provider of the referral from Disability Services. <u>Note:</u> The note is as the previous note in HIA3.	80	85	90
HIA5A	The average time, in calendar days, from the date of receipt of	68	60	54

	the referral by the Service Provider to the date of receipt by Urban Renewal of a <u>full</u> DFG application – for simple major adaptations.			
HIA5B	As HIA 5A above but in relation to complex major adaptations.	124	116	110
HIA6	Average number of calendar days from approval/works order to practical completion for all major adapts (cross tenure):	120	92	60
HIA6A	Average time, in calendar days, from approval to practical completion for private sector major adaptations.	120	92	60
HIA6B	Average time, in calendar days, from works order to practical completion for public sector major adaptations.	120	92	60

**SERVICE AREA – MINOR WORKS  
MINOR ADAPTATIONS & HOME FROM HOSPITAL  
HANDYPERSON & SMALL REPAIR SERVICE**

<b>Standard</b>		<b>Target Performance level</b>		
Ref.		2008/09	2009/10	2010/11
<b>HIA7</b>	<p><b>Percentage of handyperson and small repair scheme cases across tenure completed within the timescales detailed below measured from the referral time:</b></p> <p><b>This is a contract critical indicator.</b></p> <p>For Handyperson and Small Repair works Within 15 working days of the Service User self referral Excludes:</p> <ul style="list-style-type: none"> <li>• where specialist equipment needs to be obtained</li> <li>• where access has not been made available</li> <li>• where funding is not available</li> <li>• where a landlord or similar</li> </ul>	80	85	90

	permissions are required.			
<b>HIA8</b>	<p><b>Percentage of minor adaptations, home from hospital, handyperson and small repair scheme cases found to be satisfactory at post inspection</b></p> <p>Work will be carried out to an acceptable standard of workmanship. A minimum of 10% of completed adaptations will be post inspected.</p>	85	88	90
<b>HIA9</b>	<p><b>Minor Adaptations Completions: ACS2PD016.0</b></p> <p><b>This is a contract critical indicator.</b></p>	<b>94</b>	<b>95</b>	<b>1000</b>
<b>HIA10</b>	<p><b>Minor Adaptations Speed of Service; ACS2PD014.0</b></p> <p><b>This is a contract critical indicator.</b></p>			<b>2.1</b>

## SCHEDULE 1 APPENDIX 2

### Management Information

#### A) Management Information critical to supporting Council reporting requirements in relation to national Performance Indicators, funding etc.

Ref.	MI Description	Comments
	All days should be expressed as calendar days.	
HIA M1	Average length of time waiting for adaptations from assessment to work to work commencement for each of: <ul style="list-style-type: none"><li>• Minor adaptations</li><li>• Major adaptations</li></ul>	Required for SAS 2.2PD051 and 052
HIA M2	Numbers waiting for minor and major adaptations (separately) at the end of each quarter.	Required for SAS 2.2PD053 and 054
HIA M3	Timely completion of Supporting People Workbook.	Further detail in Schedule A

The Service Provider will provide in a timely manner appropriate information to allow the above to be collated.

#### B) Other Management Information

There will be a range of planned and ad hoc management information reports required of the Service Provider for a range of purposes this will range from specific budgetary and demand issues through to other areas to support the development of the Home Improvement Agency.

This will include, by way of example, the following:

- The number of Service Users opting to use the agency service and 'drop-out' rates.
- A weekly list of all current minor adaptations including name, address, date received, date completed, and whether cancelled or on hold
- A breakdown of the different stages of cases held by the Service Provider and projected expenditure

## **SCHEDULE 2**

### **PAYMENT TERMS**

The payment terms for each element of the Services are as follows:

1. Service Area: Minor Works  
  
Payment: £151,000  
  
Payable: £121,000 being £10,083 per month. One month in advance  
£20,000 being £5,000 per quarter  
£10,000 being £2,500 per quarter (PCT)  
materials which are reimbursed quarterly by  
Adult Care Services up to a value of £20k  
per year  
  
Note – This payment is fully inclusive of all costs and expenses incurred by the  
Service Provider in undertaking those Services including labour and  
material costs. No additional costs are payable.  
  
Cost Base: The cost for each element of work will be based upon those  
costs in Schedule 6 (Minor Adaptations and Repair Costs).
2. Service Area: Major Works – all tenures  
  
Payment: For each Major Works project the Authority shall pay a  
service fee calculated at the rate equivalent to 10% of the  
value of the approved grant.  
  
Payable: 50% on the grant being approved by the Authority.  
50% when the Authority make the final grant payment after  
the works have been completed to our satisfaction
3. Invoices:  
The Service Provider shall submit to the Authority each month the Service  
Provider's invoice for all Payments due under this schedule within five (5) days  
of the end of each month.

### **SCHEDULE 3**

#### **DETAILS OF CONTRACT MANAGERS**

##### **Authority Contract Manager**

**Sharon Hanbury**

- Telephone number: 0161 253 6350
- Fax number:
- E-mail address: s.m.hanbury@bury.gov.uk
- Address: Knowsley Place, Duke Street, Bury, BL9 0EJ

##### **HIA Contract Manager**

**Barbara Dempsey**

- Telephone number: 0161 686 8205
- Fax number:
- E-mail address: b.dempsey@sixtownhousing.org
- Address: Seedfield Resource Centre, Parkinson Street, Bury

## SCHEDULE 4

### MONITORING AND REPORTING

#### CONTRACT MONITORING & PERFORMANCE

- 1. Functions of the Home Improvement Agency Contract Performance & Delivery Group (HIA CPDG) will be set out in agreed Terms of Reference for this group.**

The HIA CPDG will have a key role in monitoring the Service Provider. The functions are summarised below:

<b>Task Area</b>	<b>Task Detail</b>
<b>Performance &amp; Information</b>	Request, receive and consider activity reports from the Service Provider Scrutinise and ensure the Service Provider is meeting activity and performance targets within the terms of the Agreement Scrutinise contract performance and ensure consistency of performance of the Service Provider Consider variance of performance and related issues Review performance indicators and make changes as required Consider the implications of contract performance and service activity in relation to the Councils wider performance and service indicators Authorise ad hoc requests for service and performance related information from the Service Provider where not resolved at an operational level
<b>Equality &amp; Diversity</b>	Monitor and review activity and progress against the Equality Impact and Needs Assessment Consider take up of assistance and satisfaction with service referenced to diversity Ensure equitable levels of service activity across all tenures
<b>Financial</b>	Review budget monitoring information and future funding arrangements Review the contract fee and other charging matters
<b>Development</b>	Review future contractual arrangements Longer term development of the service
<b>Miscellaneous</b>	Consider any disputes not resolved at an operational level

## 2. Service Provider Performance

The following table details what is required of the Service Provider in relation to performance. The table should be read in the context of this whole agreement.

<b>Performance Area</b>	<b>Service Provider Performance Requirement</b>
<b>Supporting People (SP)</b>	<p>Comply with the performance and monitoring requirements as set out in the Supporting People Performance Framework for Home Improvement Agencies</p> <p>Complete and return the SP HIA Workbook on a quarterly basis</p> <p>Analyse and summarise the data collected through the SP HIA Workbook</p>
<b>Specific Performance Targets Appendix 1 and 2</b>	<p>Gather and maintain robust data sufficient to report the performance as detailed in Appendix 1 and 2</p> <p>Analyse, summarise and report the performance</p> <p>Ensure access to the primary and derived data to the Council for audit purposes</p>
<b>General Performance</b>	<p>Contribute to the agreed performance management framework developed by the HIA CPDG</p> <p>Maintain and develop an appropriate HIA knowledge management system</p> <p>Respond in a timely manner to any reasonable ad hoc requests for information</p>
<b>Customer satisfaction</b>	<p>Ensure that appropriate Service User satisfaction surveys are used for all elements of the service</p> <p>Agree with Urban Renewal the questionnaires to be used</p> <p>Provide feedback to Service Users</p> <p>Analyse responses and report back to the HIA CPDG in an agreed form</p> <p>Develop action plans to address issues arising from Service User feedback reporting back to the HIA CPDG</p>

**SCHEDULE 5**

**FORM OF LEASE**

**DATED: 15<sup>TH</sup> JUNE 2009**

**THE METROPOLITAN BOROUGH OF BURY**

**to**

**SIX TOWN HOUSING LIMITED**

---

**ANNUAL TENANCY**

**Relating to Premises at  
Seedfield Resource Centre  
(Rooms 53 and 55)**

---

Jayne Hammond  
Council Solicitor  
Town Hall  
Knowsley Street  
Bury  
BL9 0SW

GC/BB/022687  
28<sup>th</sup> April 2009 10.29am

**THIS AGREEMENT** made this 15<sup>th</sup> day of June 2009 **BETWEEN THE METROPOLITAN BOROUGH OF BURY** of Town Hall, Bury, BL9 0SW ('The Council') (1) and **SIX TOWN HOUSING LIMITED** of Point Blue, Moor Street, Bury, BL9 5AQ ('The Tenant') (2).

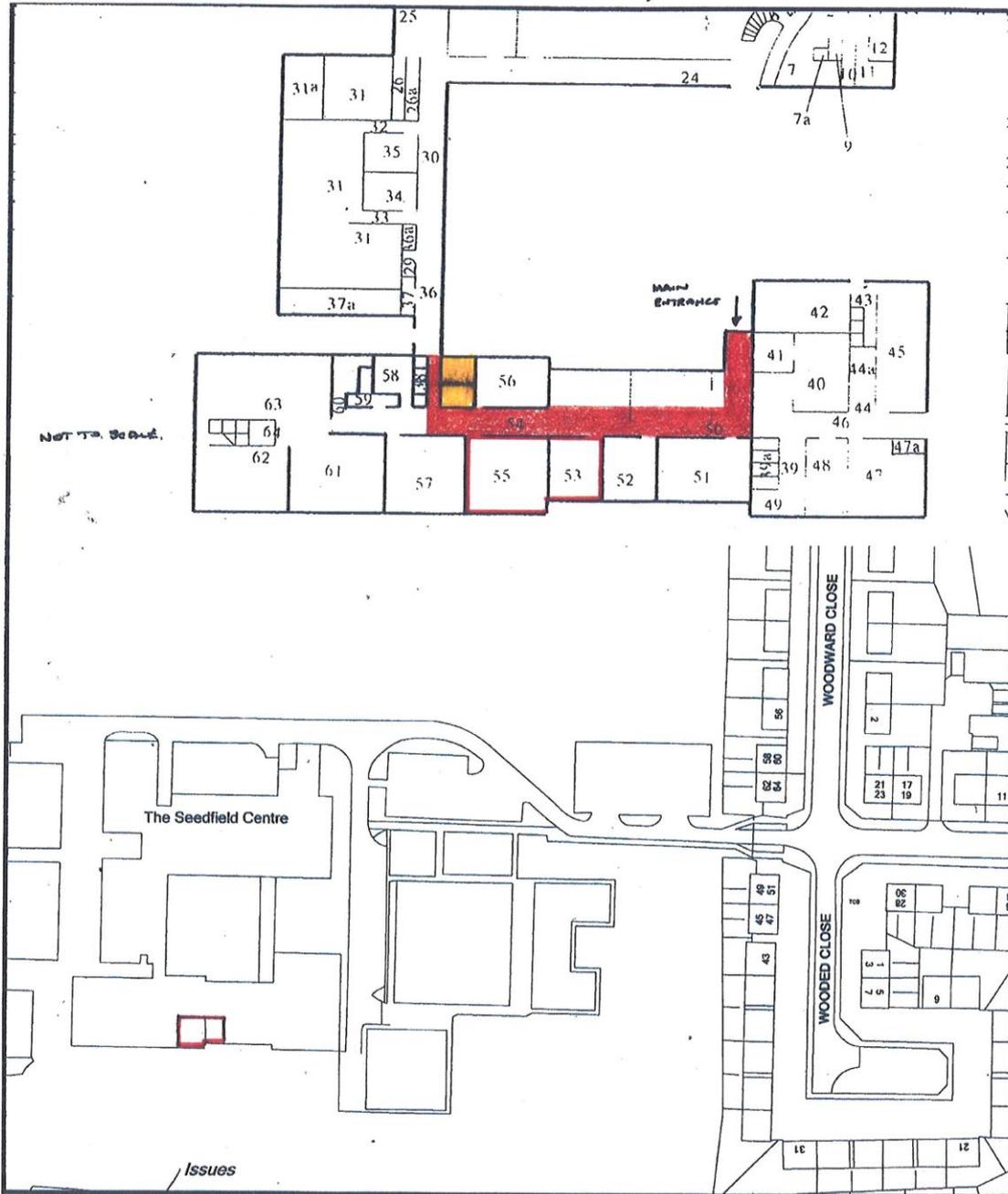
**NOW THIS DEED WITNESSES** as follows:

## **1.0 DEFINITIONS**

**IN THIS** Agreement:

- 1.1 "The Council" where the context so admits includes the person or Company for the time being entitled to the reversion immediately expectant on the determination of the Tenancy.
- 1.2 "The Tenant" where the context so admits includes the Tenant's successors in title.
- 1.3 "The Tenancy" means the tenancy granted by this Agreement.
- 1.4 "The Premises" means Rooms 53 and 55 at the Seedfield Resource Centre shown edged red on the annexed plan and measuring 67.53 square metres.
- 1.5 "The Permitted Use" means Offices.
- 1.6 "The Common Parts" means the entrance hall, staircases, landing and corridors, more particularly shown coloured brown on the annexed plan, and the toilets and washrooms on the ground floor shown coloured yellow on the annexed plan provided for the use of the Council, its tenants and all others so authorised.
- 1.7 "The Insured Risks" means loss or damage by fire, lightning, storm, tempest, explosion, impact to vehicles and aircraft (including any articles dropped therefrom) and burst pipes and such other risks as the Council may deem desirable or expedient.
- 1.8 "The Schedule" means the Schedule annexed to this Agreement.
- 1.9 "The Surveyor" means the Borough Property Services Officer for the time being of the Council.
- 1.10 Words importing one gender shall be construed as importing any other gender.
- 1.11 Where any party comprises more than one person the obligations and liabilities of that party under this Agreement shall be joint and several obligations and liabilities of those persons.
- 1.12 The clause headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation.

**PLAN REFERRED TO  
PHOTOGRAPHIC COPY LIABLE TO  
DISTORTION IN SCALE**



PLAN : Seedfield R53455  
SCALE : 1:1250  
DATE : 02/10/2008

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**Environment and  
Development Services**  
*Property Services*

Lester House  
Broad Street, Bury, BL9 0WA  
Telephone 0161-253-5995  
Fax 0161-253-5985



## **2.0 DEMISE**

**THE COUNCIL** lets and the Tenant takes **ALL THAT** the Premises **TO HOLD** the same unto the Tenant from and including the First day of November 2008 for one year and thereafter from year to year until the Tenancy is determined by either party giving to the other six months written notice (expiring at any time) to determine the Tenancy (or such other notice as may be agreed in writing between the parties) **YIELDING AND PAYING** therefore unto the Council the yearly rent of £11,070.19 by equal quarterly payments in advance on the usual quarter days by Bankers Standing Order the first payment (being an apportioned sum) to be made on the execution hereof and which is calculated on the Council's recharge rate for all internal departments (currently £163.93 per square metre) **AND YIELDING AND PAYING** as additional rents.

2.1 All costs charges and expenses (including legal costs and surveyors fees) properly incurred by the Council incidental to:

2.1.1 any proceedings under section 146 of the Law of Property Act 1925 (or any other notice hereunder) notwithstanding that forfeiture shall be avoided otherwise than by relief granted by the Court

2.1.2 the preparation and service of a Schedule of Dilapidations during or after the Tenancy

2.1.3 the recovery of arrears of rent and interest payable thereon (if any) due to the Council.

2.2 Such costs to be paid without deduction on the quarter date for payment of rent next ensuing after written demand therefore.

In the event of the yearly rent and/or additional rents remaining unpaid after the date upon which the same become due the Tenant shall pay to the Council interest thereon until the date of payment at the yearly rate of four percentum above the base rate of Co-operative Bank PLC.

## **TENANTS COVENANTS**

The Tenant covenants with the Council as follows:

### **3.0 RENT**

3.1 To pay the rents hereinbefore reserved on the days and in the manner aforesaid.

### **4.0 OUTGOINGS**

- 4.1 To pay all rates, taxes, assessments, outgoings and impositions including all water, gas and electricity rates and charges now or hereafter charged and imposed upon the Premises.
- 4.2 To pay and keep the Council indemnified against all VAT which may from time to time be charged on the Rent or on any other monies payable by the Tenant under this Agreement.
- 4.3 If the Council has an option whether or not to charge VAT the Tenant hereby irrevocably consents to the Council freely exercising that option to the extent from time to time permitted by law.
- 4.4 To pay the stamp duty land tax and the Council's legal fees and Surveyors fees on this Agreement and the Counterpart hereof and any renewal hereof statutory or otherwise.

## **5.0 REPAIR**

- 5.1 To keep the fixtures, fittings, exterior and interior of the Premises (including where applicable boundary walls and fences) and the shop front fascia sun blind (including fittings and box), window frames and glass therein, sash cords, doors locks, fasteners and catches, drains, water pipes and gas and electrical installations thereof in good tenantable repair and condition and in such state as shall be necessary for the Permitted Use and to repair in a good workmanlike manner all damage caused by the wilful or negligent act or omission of the Tenant or any person on the Premises with the permission or acquiescence of the Tenant and in such condition as aforesaid to deliver up the same on the termination of the Tenancy.
- 5.2 To report immediately in writing to the said Surveyor any lack of repair for which the Council are responsible.
- 5.3 To keep the Premises in a clean and orderly condition and not cause or permit any accumulation of inflammable materials or trade refuse.

## **6.0 INSURANCE**

- 6.1 To take all reasonable precautions for the prevention of damage by fire or by burst water pipes and not to do or permit or suffer to be done on the Premises anything whereby any fire insurance of the Premises may be rendered void or voidable.

## **7.0 ALTERATIONS**

- 7.1 Not to make any structural alterations or adaptations to the Premises in any way without the prior written consent of the Surveyor.

## **8.0 LANDLORDS RIGHTS**

- 8.1 To permit the Council by its agents or servants and with or without tools and appliances at all reasonable times to enter and view the condition of the Premises and thereupon the Council may serve on the Tenant notice in writing specifying any repairs which the Tenant has failed to carry out in conformity with the foregoing obligations of the Tenant and if the Tenant shall not commence the necessary works within fourteen days after the service of such notice then to permit the Council to enter and carry out such repairs and to pay to the Council the cost (including solicitors fees and surveyors fees and any other costs reasonably incurred by the Council) of such last mentioned work.
- 8.2 To allow the Council, its agents, servants or licensees to enter the Premises after seven days written notice and affix to the exterior of the Premises or lay in, on or over the Premises any wires, cables or pipes (together with ancillary works) or remove, alter or repair the same and to permit such works to remain in position during such period as the Council think fit without interference by the Tenant or anyone acting on behalf or with the acquiescence of the Tenant.
- 8.3 To permit the Council, its agents or servants during six months immediately preceding the determination of the Tenancy to affix and retain without interference upon any part of the Premises such notice or notices as the Council may require for re-letting or selling the same and during the said six months to permit all persons with written authority from the Council to view the Premises at reasonable times.

## **9.0 NUISANCE**

- 9.1 Not to carry on or permit or suffer upon the Premises anything which may be or become a nuisance or annoyance to the Council or the owners or occupiers of any neighbouring property.

## **10.0 SIGNS**

- 10.1 Not without the previous written consent of the said Surveyor to affix or display or permit to be affixed or displayed any placard, poster, signboard or

advertisement on the exterior of the walls, roofs or fences (if any) of the Premises.

## **11.0 USER**

- 11.1 To use the Premises solely for the purpose of the Permitted Use and to obtain all necessary planning permissions and bye-law approvals and not to carry on any other trade business or occupation upon the Premises.
- 11.2 Not to carry on or permit or suffer any sale by auction or mock auction upon the Premises.

## **12.0 ALIENATION**

- 12.1 Unless otherwise permitted under this Clause the Tenant shall not:
  - 12.1.1 hold the Premises expressly or impliedly on trust for another person
  - 12.1.2 part with possession of the premises
  - 12.1.3 share possession of the Premises with another person
  - 12.1.4 allow anyone other than the Tenant, its officers and employees to occupy the Premises.

### Assignment

- 12.2 The Tenant shall not assign or part with possession of the Premises or any part thereof.

### Under-letting

- 12.3 The Tenant shall not under-let the whole or any part of the Premises.
- 12.4 The Tenant shall not charge the whole or any part of the Premises.

### Associated Companies

- 12.5 The Tenant may share occupation of the Premises in a manner which does not transfer or create a legal estate with a company that is a member of the same group (as defined by Section 42 of the Landlord and Tenant Act 1954 as amended by Section 144 and Schedule 18 paragraph 3 of the Companies Act 1989).
  - 12.5.1 for so long as both the Tenant and that company remain members of the same group; and
  - 12.5.2 provided that within 21 days of such sharing the landlord receives notice of the company sharing occupation and the address of its registered office and its irrevocable written acknowledgement that for so long as it

occupies the Premises the Landlord has the same right to distrain against its assets on the Premises as against the assets of the Tenant.

### **13.0 YIELDING UP**

13.1 At the determination of the Tenancy to yield up the Premises in accordance with the Tenant's covenants herein before contained (and if required to do so by the Council in writing to remove from the Premises all building stores equipment and other the property of the Tenant).

### **14.0 INDEMNITY**

14.1 To indemnify the Council against all actions, costs, charges, claims, demands and expenses whatsoever in respect of injury (including fatal injury) or damage to person or property arising from the act, neglect or default of the Tenant or of servants or agents of the Tenant or arising directly or indirectly out of the Tenancy.

### **15.0 COUNCIL'S COVENANTS**

The Council hereby covenants with the Tenant that:

15.1 The Tenant paying the rents hereby reserved and observing and performing the agreements on the part of the Tenant herein contained shall peaceably hold and enjoy the Premises without interruption by the Council or by any person lawfully claiming under them except in so far as provision for interruption is made in this Agreement.

15.2 To keep the main walls, roof, main timbers, gutters and downspouts (except such parts thereof as are to be maintained by the Tenant) in reasonable order and repair having regard to the age, condition and existing state of the Premises and subject to the Tenant reporting any defects to the Council.

15.3 To insure and keep insured the demised Premises with a note of the Tenant's interest endorsed on the policy in the name of the Council (unless such insurance shall be vitiated by any act of the Tenant or the Tenant's servants or visitors) in such sum as the Council shall from time to time be advised by its Surveyor as being the full cost of reinstatement thereof (together with the appropriate addition for professional fees and two years loss of rent) against the loss or damage by the Insured Risks and to produce to the Tenant on demand either the policy of such insurance and the receipt for the last premium or

reasonable evidence from the insurers of the terms of the policy and the fact that the same is subsisting and in effect and (subject as hereinafter provided) in case of destruction of or damage to the Premises by the Insured Risks or any of them the Council will with all convenient speed take such steps as may be requisite and proper to obtain any necessary permits and consent under any regulations or enactment for the time being in force to enable the Council to rebuild and reinstate the same and will as soon as such permits and consents have been obtained spend and lay out all monies received in respect of such insurance (except such sums in respect of loss of rent) in rebuilding or reinstating the same.

## **16.0 RIGHT OF RE-ENTRY**

### **16.1** If at any time during the Tenancy:

The rents hereby reserved or any part thereof shall at any time be in arrear for twenty-one days (whether legally demanded or not) or if the covenants on the part of the Tenant herein contained shall not be performed or observed or if the Tenant becomes bankrupt or enters into any composition with his/its creditors or shall have a Receiving Order in Bankruptcy made against him/it or if being a limited company go into liquidation whether voluntary or otherwise or if the Premises are destroyed or so damaged as in the opinion of the Council to be incapable of repair at reasonable cost then and in any such case it shall be lawful for the Council by its agents at any time thereafter to re-enter upon the Premises or any part thereof in the name of the whole and thereupon the Tenancy shall determine but without prejudice to the right of action of the Council in respect of any antecedent breach of any of the covenants on the part of the Tenant herein contained.

## **17.0 NOTICES**

17.1 That any notice to be served under this Agreement on the Council shall be in writing addressed to the Council Solicitor for the time being of the Council and left at or sent by Recorded Delivery post to the office of the said Council Solicitor at the Town Hall, Bury aforesaid and any notice to be served on the Tenant shall be sufficient if under the hand of the said Council Solicitor and addressed to the Tenant and sent by Recorded Delivery post to the last known

address of the Tenant or to the Premises or by being left at or affixed to the Premises.

## **18.0 SPECIAL CONDITIONS**

- 18.1 That where any matter or thing by the terms of this Agreement requires the consent approval or determination of or is to be to the satisfaction of the Council or the Surveyor the Council or the Surveyor respectively shall be the sole judge and shall not be deemed to be acting in a judicial or quasi-judicial capacity or as an arbitrator.
- 18.2 That any consent approval or determination given by the Council or the Surveyor for the purposes of this Agreement shall not in any way affect the Council's discretion in any capacity other than that of Landlord and that any consent approval or determination of the Council or the Surveyor required for the purposes of this Agreement shall not be implied or given by virtue of any approval consent or determination given by the Council in any capacity other than that of Landlord.
- 18.3 Any statutory right of the Tenant to claim compensation from the Council whether on vacating the Premises or otherwise is excluded to the extent that the law allows.
- 18.4 SAVE AS EXPRESSLY PROVIDED none of the provisions of this Agreement are intended to or will operate to confer any benefit (pursuant to the Contracts (Rights of Third Parties) Act 1999) on a person who is not named as a party to this Agreement.
- 18.5 It is hereby agreed that there is no Agreement for Lease to which this Lease gives effect.



## SCHEDULE 6

### MINOR ADAPTATIONS AND REPAIR COSTS

Service	Average Cost
<ul style="list-style-type: none"> <li>• Fitting handrails, internal and external</li> <li>• stair-rails and</li> <li>• grab rails</li> <li>• Fitting portable/temporary ramps</li> <li>• Door threshold removal</li> <li>• Widening door frames and re-hanging doors</li> </ul>	<p>£100.00            £21.00            £3.07            £350.00            £2-£40.00            In excess of            £1,000.00 so not            MA            Completed by            stores</p>
<ul style="list-style-type: none"> <li>• Installing chair and bed raising systems</li> </ul>	<p>£60.00 + cost of            seat</p>
<ul style="list-style-type: none"> <li>• Fitting wall-fixed shower seats</li> <li>• Fitting floor-fixed toilet frames</li> </ul>	<p>£60.00 + cost of            seat</p>
<ul style="list-style-type: none"> <li>• Installing key safes where required as part of a care package</li> <li>• Minor electrical works e.g. raising sockets</li> </ul>	<p>£40.00 plus cost            of key safe which            range from £20-            £70</p>
<ul style="list-style-type: none"> <li>• Minor plumbing works e.g. fitting lever taps</li> </ul>	<p>£60 plus cost of            taps which varies</p>
<ul style="list-style-type: none"> <li>• Half steps</li> </ul>	<p>£125-175            depends on size</p>
<ul style="list-style-type: none"> <li>• Ramps</li> </ul>	<p>Up to £1,000</p>
<ul style="list-style-type: none"> <li>• Hourly labour rate</li> </ul>	<p>£22.00</p>

## **SCHEDULE 7**

### **PROCUREMENT AND CONTRACT DOCUMENTATION**

**Subject to amendment during the course of this Contract in accordance with the Council's Procurement Strategy and as agreed.**

**1.0** The Services Provider shall not use an external contractor or consultant to undertake any Services unless they have been procured in accordance with the Authority's Contract Procedure Rules.

#### **2.0 DFG Works**

2.1 All contractors used to carry out DFG Works shall have been procured on a framework arrangement and shall only be awarded each contract following a mini price competition between [ ] contractors currently on the framework.

2.2 All DFG contractors appointed to the framework shall enter into the JCT Framework Agreement 2007 with the Authority.

2.3 DFG Contracts entered into with contractors for private owners with a contract value over £10,000 shall be in the JCT Housing Grants (A) form 2002 as amended and where the parties shall be the contractor and private owner with the Services Provider acting as the contract Administrator.

2.4 DFG Contracts entered into for Authority housing with a contract value over £10,000 shall be in the JCT Minor Works Contract 2007 where the parties shall be the contractor and Authority with the Services Provider acting as the Contract Administrator.

2.5 DFG Contracts entered into with contractors for the private owners with a contract Value up to £10,000 shall be in the CIOB Minor Works Contract (2004 Edition).

2.6 Other forms of contract for DFG works only to be used where there is full agreement between the relevant parties.

#### **3.0 Minor Works**

3.1 All external contractors used to carry out Minor Works shall have been procured on a framework arrangement and shall only be awarded each contract following a mini price competition between [ ] contractors currently on the framework.

3.2 All Minor Works contractors appointed to the framework shall enter into the JCT Framework Agreement 2007 with the Authority.

3.3 Minor Works contracts entered into with external contractors shall be in the JCT JA/T 90 form of tender and subject to the JCT JA/C 90 conditions of contract. All such orders shall be issued by the Services Provider as the employer.

#### **4.0 Design Works**

- 4.1 All consultants used to undertake design works for DFG Adaptation Works shall have been procured on a design framework arrangement and shall only be awarded each contract following a mini price competition between 2 consultants currently on the design framework.
- 4.2 All design consultants appointed to the framework shall enter into a framework agreement to be drafted by Legal Services.
- 4.3 The appointment of a consultant for each design contract shall be in the JCT Architects Appointment form and entered into between the consultant and Services Provider.

## **SCHEDULE 8**

### **DISABLED FACILITIES GRANT WORKS AND GRANT PAYMENTS**

#### **A) DFG Adaptation Works**

The Service Provider will provide the following services for DFG Adaptation Works:

1. Survey the Client User's home and develop a schedule of works that meets the needs of the Client User assessed by the Authority that will be necessary and appropriate and reasonable and practicable.
2. The schedule of works should be in sufficient detail to enable a contractor to understand the scope of the required works and to price against individual elements of works to provide a competitive price.
3. Obtain competitive tenders or quotations for the works in accordance with Schedule 7 (Procurement and Contract Documentation).
4. Act as Contract Administrator under the DFG Works Contract and carry out inspections of the works whilst in progress as may be appropriate to the type and complexity of the works.
5. Where required under the DFG Works Contract issue interim payment certificates after having inspected the works and found it to be properly executed.
6. Inspect the works on its final completion and if the works have been properly executed issue a certificate of practical completion.
7. Before the expiry of the defects liability period under the DFG Works Contract (where applicable) inspect the works and agree all defects or faults to the works (if any) that should be rectified by the contractor under the contract, agree those defects with the Client User and ensure that the contractor makes good all such defects.
8. Issue a final certificate under the contract when all defects have been rectified.
9. For each contract maintain a works case file and record in it the condition and progress of the works found on each inspection with photographic evidence where necessary together with details of the purpose of the inspection and relevant discussions with the Client User and contractor.

#### **B) DFG Grant Payments**

1. All grant payments will be made by the Authority direct to the contractor following

the Authority's receipt of a payment certificate under A. above.

2. A copy of all payment certificates issued by the Services Provider must be submitted to the Authority immediately it is issued.
3. Payment certificates submitted to the Authority must be accompanied by an original invoice from the contractor addressed to the Client User itemising all completed works together with the itemised cost. The invoice must be signed by both the contractor and the Client User to signify the Client Users satisfaction with those works.
4. The Authority will deduct any Client User financial contribution to the works cost from the initial payment certificates before any grant is paid.
5. The Authority will not pay more than 90% of the grant prior to practical completion of the works.
6. When the Services Provider issues the final payment certificate under the works contract the Service Provider shall also submit to the Authority:
  - a completed G12 form signed by the Client User
  - a G13 form detailing payment arrangements to the contractor
  - all original contractor guarantees for the works
  - confirmation of compliance with planning approvals and Building Regulations.
7. The Service Provider shall pay the balance of the grant to the contractor when authorised in writing by the Authority such payment to be made "for and on behalf of the Authority".

## APPENDIX 1

### CONTRACT VARIATION FORM

	Ref No:
	Date:
Title of Variation:	
Details of Variation:	
Reasons for Variation:	
Impact of Variation:	
Timetable:	
Price:	
Service Provider:	Signed:
Authority Response: Accept/Reject	Signed:
<b>Note:</b> The format of the Variation Control Note may vary from time to time in circumstances where additional information is deemed necessary by the Authority or the Service Provider in order to accurately reflect the nature of the Variation.	

## APPENDIX 2

### CLIENT USER AGREEMENT

Six Town Housing

Home Improvement Agency

Agency Agreement



#### 1. Introduction

At the Six Town Housing's Home Improvement Agency we provide information, advice and assistance relating to disabled adaptations for residents in Bury who are elderly, disabled or otherwise in need of support.

Part of our services is to act on behalf of people who wish to apply to Bury Council for a disabled facilities grant in order to carry out adaptations in their home.

We aim to provide a personal service to our clients in such a way that our clients' needs and wishes are paramount. We will consult you and keep you informed throughout.

#### 2. Information and Advice Service

We are able to provide basic information and advice on the following:

- Availability of disabled facilities grants from Bury Council.
- Procedure to apply for a grant.
- Assistance in applying for a grant.
- Details of our technical support and co-ordination services to carry out the major adaptation works.

Our information and advice service is free to residents in Bury.

#### 3. This Agreement

By signing this agreement you are agreeing to the Home Improvement Agency providing to you the range of technical support and co-ordination services mentioned below. You are also agreeing to be responsible for those matters listed below under the heading "What You Will Be Responsible For".

**Our technical support and co-ordination services for disabled facilities grant works described below are optional. It is not a condition of the**

**issue of a grant that you take up our service. If you wish to organise your own grant works without our services you are free to do so**

#### **4. The Technical Support & Co-ordination Services We Will Provide**

- We will treat you with respect and courtesy at all times, and respect your confidence,
- Provide the services to you competently and carefully,
- Discuss with you and advise you on the work that needs doing and tell you about the different ways of paying for it,
- Visit you at home to help you decide the best option for you, help you fill in forms, advise you on your eligibility for a grant and advise you on other services that may be available to you,
- Submit your grant application on your behalf,
- Liaise with Bury Council to check your eligibility for a grant,
- Receive the grant approval on your behalf,
- Liaise on your behalf with occupational therapists, social services and other agencies as necessary,
- Survey the area of your home to be adapted,
- Provide you with a specification and information about the work to be carried out in your home including where appropriate a sketch plan,
- Wherever feasible, we will provide you with different options for the work so that you can choose what is best for you,
- Obtain any necessary professional advice and apply for any permissions you may need, for example planning approval or the agreement of your landlord,
- Where necessary we will employ an architect to design any specialist aspect of the works,
- Select a contractor on your behalf from our list of contractors who have been chosen on the basis of quality, experience and value for money,
- Provide you with an appropriate works contract between you and the contractor who will carry out the work and provide you with advice on the terms of that contract,
- Arrange for the works contract to be signed by you and the contractor,
- Review and agree, prior to the start of work at your home, the contractor's methods and timing of work,
- Check that the contractor has adequate public and employers liability insurance whilst undertaking the works,
- Where the cost of the works exceeds £10,000 or if the works involve structural work or more than one trade we will act for you under the works contract as the "Contract Administrator" in dealing with the contractor,
- Visit your home to see that the work is proceeding generally in accordance with the works contract,
- Prepare and issue payment certificates to Bury Council.
- Make a final inspection after the completion of works and arrange for correction of any defects under the works contract.

#### **5. What You Will Be Responsible For**

- The contract to carry out the work will be between you and the contractor. Under that contract you will have responsibility to pay the contractor the amounts properly due for the work carried out within the times specified in the contract. **See "Payment of Grant" below.**
- Provide us with the information and documents needed to complete your grant application,
- Tell us straight away if your circumstances or needs change,
- Let us know beforehand if you are unable to keep an appointment,
- You will be responsible for paying any charges made by contractors for costs incurred if, for instance, you fail to provide access to your home when given reasonable notice and an appointment,
- We expect that you will treat our staff and contractors with the same courtesy and consideration you expect from them,
- Our fee to carry out the technical services described above which is 10% of the full cost of the works which will be deducted from the grant and paid direct to the Home Improvement Agency by Bury MBC.

## **6. Payment of Grant**

Bury Council will pay the approved grant or part of it direct to the contractor. Unless the Council shall withhold the grant (or part of it) on account of your acts or omissions or your ceasing to be entitled to the grant the amount of the grant to be paid by the Council to the contractor shall be deducted from the amount certified by the HIA under that contract to be paid by yourself to the contractor.

## **7. Ending This Agreement**

We can end this agreement by giving you written notice. We will normally only end this agreement if:

- You break any condition of this agreement and do not correct this within 7 days of receiving written notice from us requesting you to do so
- If you prevent, stop or delay us or a contractor, without good reason, from carrying out scheduled work
- We have good reason to believe that it is no longer possible to provide the service

You can end this agreement at any time by giving us 14 days notice in writing.

If the agreement is terminated either by you or by us, you shall pay to us any costs we have already incurred or are committed to, including the costs of schedules and drawings prepared prior to termination.

## **8. Complaints**

Six Town Housing operate a comprehensive complaints policy and this also applies to the Home Improvement Agency. If you have a complaint please contact us by telephoning us on 0161 686 8200, emailing us at [enquiries@sixtownhousing.org](mailto:enquiries@sixtownhousing.org), or by writing to us or visiting us at: Freepost RLUY-BXZX-UZGT, Six Town Housing, Point Blue, BL9 5AQ.

**9. Please Complete the Following:**

I/we agree to the Six Town Housing Home Improvement Agency providing the technical services described in clause 4 above for the proposed adaptations to be carried out at my/our home, and dealing with the grant application on my/our behalf.

I/we understand that your fee to carry out the technical services will be 10% of the full cost of the work and that this will be deducted from the grant and will be paid direct to you by Bury MBC.

I/we understand that I/we will be responsible for paying any costs incurred by the contractor arising out of my/our failing to provide access to our home to enable work to be undertaken, provided that reasonable notice and an appointment have been provided by the contractor, or other actions on my/our part which result in the contractor being hindered or unable to carry out or complete the work.

I/we authorise the Six Town Housing Home Improvement Agency to receive and pay monies on my behalf and to obtain the information, including financial information, in the processing of my/our grant application.

I/we understand that I/we may terminate this agreement should I/we wish. However, I/we accept that I/we may be liable for any fees incurred on my/our behalf by Six Town Housing Home Improvement Agency if I/we decide to terminate this agreement.

Name	<input type="text"/>	
Signature	<input type="text"/>	Date <input type="text" value="/ /"/>
Name	<input type="text"/>	
Signature	<input type="text"/>	Date <input type="text" value="/ /"/>
Property	<input type="text"/>	

Signed on behalf of Six Town Housing Home Improvement Agency:

Name	<input type="text"/>	
Signature	<input type="text"/>	Date <input type="text" value="/ /"/>