Management Agreement

between

**Bromford Housing Association Limited**

**(the ‘Registered Provider’)**

**and**

**Support Provider Organisation**

**(The ‘Managing Agent’)**

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amend/delete as necessary

**MANAGEMENT AGREEMENT**

## 1. THE PARTIES

## This Agreement is made between:

## 1.1 Bromford Housing Association Limited (the Registered Provider) a Charitable

## Community Benefit Society (Registration No. 7106) and Registered Provider of Social Housing with the Homes and Communities Agency (Registration No.4819) whose registered office is One Exchange Court, Brabourne Avenue, Wolverhampton Business Park, Wolverhampton WV10 6AU

and

1.3 (Name of agent) (the Managing Agent) whose registered office is at (address) and is a

a registered provider of social housing under the Homes and Communities Agency (Registration No. xxx) and/or industrial and provident society (Registration No. xxx)

a Company limited by guarantee, (Registration No. xxx) and is a Charity registered under the Charities Act 2006

a registered charity, (Registration No. xxx)

(insert/delete as necessary)

## 2. DEFINITION AND INTERPRETATION

## 2.1 Certain words in this Agreement have specific meanings for the purposes of the Agreement. Such words may be indicated by a capital letter (i.e.

## Occupants) and are set out fully below:

In this agreement the following expressions will have the following meanings:

|  |  |
| --- | --- |
| Registered Provider | A Registered Provider of Social Housing as defined  by and registered with the Homes and Communities  Agency.  Bromford Housing Association Limited is a  Registered Provider and its registration number is  4819. |
| Homes and Communities  Agency | An executive non-departmental public body  sponsored by the Department for Communities and  Local Government which regulates social housing  providers in England. |
| Managing Agent | (Insert name of Managing Agent) appoint to:   1. Provide housing management services as agreed on behalf of the registered provider. 2. Provide Support Services which are funded through a separate Service Contract 3. Provide Intensive Housing management services funded by Housing Benefit or other revenue funding options   (delete as necessary) |
| Parties | The Parties to this Agreement |
| Agreement | Means This agreement and all schedules attached |
| Handover | The effective date on which the Property is handed over to the Managing Agent to enable the Managing Agent to provide the Housing Management Services, Care, Support Services and/or maintenance services permitted in accordance with the terms of this Agreement |
| Housing Management  Services | Services relating to estate and tenancy  management, rent setting, allocation and lettings,  arrears, customer involvement, anti-social  behaviour, housing support, information and advice  including those provided by the Managing Agent on  behalf of the Registered Provider |
| Cyclical Works | Planned painting of internal communal areas,  windows, front doors, clearing out and repairing  loose guttering to prevent deterioration |
| Major Repairs | The planned replacement or repair of key building  components to include kitchens, bathrooms, boilers,  roof structure, electrical systems. |
| Term | Means the period over which the agreement covers  and as referred to in **clause 5.2.** |
| Financial Year | Means from 1st April to 31st March in each calendar  Year |
| Quarter | Means any of the following periods: 1 April to 30  June; 1 July to 30 September; 1 October to 31  December; 1 January to 31 March |
| Occupants | Persons accommodated at the Property who  satisfy the selection criteria set out in **Schedule 4**  and who have entered into an Occupancy  Agreement. |
| Occupancy Agreement | An Occupancy Agreement entered into by each of  the Occupants in accordance with the form of  tenancy or licence agreement set out in **Schedule 3** |
| CORE forms | System for recording information on all social  housing lettings required by the social housing  regulator |
| Property | Insert relevant address(es) relating to this  Agreement as set out in **Schedule 1** |
| Unit | Means a self-contained property, room or bed  space within a property available to be let and the  subject of an Occupancy Agreement |
| Void Percentage | The amount retained by the Managing Agent which  is calculated as a percentage of net rents as  provision for rental loss occurred through re-letting.  As reviewed in the annual budget and set out in  **Schedule 8.** |
| Void | A unit permanently vacated and empty between  lettings. |
| Void Works | Works required to bring the Unit up to the lettings  standard set out in **Schedule 6** |
| House of Multiple  Occupation (HMO) | As defined within the standard test detailed in Part  2 Section 254 (2) of the Housing Act 2004, or as  superseded by future legislation |
| Responsible Person | Means the Person who has control of the premises  in relation to a workplace, employer and/or carrying  on of a business or other undertaking as defined  within the Regulatory Reform (Fire Safety) Order  2005. |
| Rent Policy | The policy published from time to time by the  Registered Provider in accordance with the  requirements of the social housing regulator in  force regarding the setting of rent levels in its  properties |
| Rent | The amount payable for each unit as determined by  the Registered Provider and their Rent Policy as an  accommodation charge, exclusive of additional  service charges |
| Service Charge | The amount payable under the terms of the  Occupancy Agreement for the services referred to in  the Occupancy Agreement and which may be  applied by either/or Registered Provider and  Managing Agent. |
| Furniture and Equipment | Means all chattels and equipment and all plant  machinery apparatus and goods and furniture which  are not permanently affixed to the Property and  which shall include but not be limited to fire  detection/fighting equipment, white goods, carpets  and floor coverings; curtains and other similar  items. |
| Consumer Price Index  (CPI) | Published as a statistical measure of inflation (or  deflation) by the Office of National Statistics based  on the price level of a market basket of consumer  goods and services purchased by households and  collected periodically to represent real value of  money. |
| Commissioners | (Insert the local authority health or social service  details) who are responsible for funding and  monitoring the Managing Agent 's Service Contract  or purchasing arrangements |
| Service Contract | Means the separate agreement between the  Managing Agent and the Commissioner in order for  them to provide services specific to the needs of the  Occupants. |
| Support Services | Means the services delivered by the Managing Agent to the Occupants which aims to sustain or develop independence in accommodation and may include housing related support and/or Intensive Housing Management as set out in **Schedule 2.** |
| Intensive Housing Management | Means housing management functions that are  more intensively provided as a consequence of the  additional needs of tenants. Examples include  explaining the occupancy agreement and assisting  people to abide by it, controlling access to the  premises or offering advice and guidance on  keeping property to a reasonable standard of  hygiene.  Delete where not required. |
| Notice | Any notice received by either party from any source  [*excluding notices seeking possession]*, which relates  to the Property or the Occupants |
| Working Day | Monday to Friday 9.00 am to 5.00 pm |
| TUPE | Transfer of Undertakings (Protection of  Employment) Regulations 2006 or as amended,  during the operation of this agreement. |
| Employee  Liability Information | The Managing Agent's Personnel engaged in the  services delivered under this Agreement:  a) identity and age  b) employment particulars as required under  Section 1 of the Employment Rights act 1996  c) information about any disciplinary action taken  against them and any grievances raised by them  within the previous two years  d) information about any court or tribunal case,  claim or action either brought by any or all of the  Managing Agent's Personnel  e) information about any collective agreement  which will have effect after the Termination Date in  relation to the Managing Agent's Personnel  pursuant to regulation 5(a) of TUPE |
| Dilapidations Survey | Is a very detailed survey recording the condition of  building components and systems down to minor  wear and tear/staining and used to verify the  performance standards between the Registered  Provider and the Managing Agent in respect of  Property compliance. |

2.2 **Interpretation**

2.2.1 Words importing the singular will where appropriate include the plural and vice versa and words importing the masculine will where appropriate include the feminine and vice versa.

2.2.2 References to any legislative provision, will be deemed to include references to any further legislation brought into force replacing amending or supplementing it.

2.2.3 The headings in this agreement are for information only and do not form part of or affect the construction of this agreement.

2.2.4 The Schedules are part of this agreement and will have full force and effect as though expressly set out in the body of this Agreement save that if there is a conflict between the body of this agreement and a Schedule the body of the agreement prevails.

## 3. AIMS AND OBJECTIVES

## 3.1 The aim of the Parties in making this Agreement is to ensure high quality provision of Housing Management Services for people who are in receipt of Support Services and and who are occupying the Property as tenants or licensees of the Registered Provider.

## 3.2 The Property offers self-contained units and/or rooms within shared accommodation

## defined as supported housing and as set in in Schedule 1.

## 

## 3.3 The Agreement is entered into on the basis that the Managing Agent will provide

## Housing Management Services on behalf of the Registered Provider and has

## contracted with (insert relevant commissioner/purchasing arrangements)in order

## to provide separate Support Services specific to the needs of the Occupants. Delete

## where not applicable

Or where no revenue contract such as SP, health or other insert…..

3.3 The Agreement is entered into on the basis that the Managing Agent will provide Housing Management Services on behalf of the Registered Provider and has also secured additional funding through Housing Benefit for Intensive Housing Management services in order to provide additional support to the Occupants who live in the Property and meet the selection criteria for the service as set out in **Schedule 4.**

3.4 The details of the Support (and/or Intensive Housing Management) Services received by the Occupants as referred to in **clause 21** and set out in **Schedule 2.**

3.5 The purpose of the agreement is to:

3.5.1 set out the terms under which the Registered Provider delegates certain landlord responsibilities to the Managing Agent

3.5.2 set out the respective roles and responsibilities of the Parties to ensure effective joint working and good liaison

3.5.3 ensure the standards of service to the Occupants of the Agency Managed Property are equal in quality to those received by the Registered Provider’s other tenants and licensees.

**4.** **APPOINTMENT**

4.1 The Registered Provider as principal hereby appoints (insert name) as it’s Managing Agent for the Property to provide Housing Management Services as delegated to it on behalf of the Registered Provider in accordance with this Agreement and set out in **Schedule 2.**

4.2 In consideration of this appointment the Managing Agent agrees with the Registered Provider to carry out the obligations of the Managing Agent within this agreement and as set out in **Schedule 2.**

## 5. COMMENCEMENT AND DURATION

5.1 This Agreement commences on (insert date – day/month/year) which shall also be the date of the Handover.

Or,

5.1 This Agreement commences on (insert date – day/month/year). The Managing Agent and the Registered Provider acknowledge that this Agreement replaces a previous agreement (‘the Previous Agreement”) relating to the provision of services at the Property dated (insert date). The Managing Agent and the Registered Provider both acknowledge that the Previous Agreement terminates on the same day that this Agreement Commences.

5.1 delete one paragraph as applicable

5.2 This Agreement will continue for a Term of 3 years and will end on (insert date) unless brought to an end earlier in accordance with the termination provisions of **clause 26** of this Agreement.

5.3 The Agreement may be renewed or extended beyond the Term by agreement

between the Parties subject to a review of service demand, funding and performance. This review will be completed by the Parties not less than six months prior to expiry of the Agreement.

Or alternatively, if the Registered Provider is a leaseholder of the Property replace 5.2 & 5.3 above with the following or delete if not applicable:

5.2 This Agreement will continue for a Term of 3 years and will end on (insert date)

unless brought to an end earlier in accordance with the termination provisions of

**clause 26** of this Agreement. The Managing Agent acknowledges that the Registered

Provider is a leaseholder of the Property and agrees that if that Lease is terminated

for whatever reason, this Agreement will terminate on the same day the Lease ends.

5.3 This Agreement can be renewed or extended beyond the Term by agreement

between the Parties subject to a review of service demand and performance or

availability of the Property where the Registered Provider is the leaseholder and

**clause 5.2** applies. The review will be completed by the Parties not less than six

months prior to expiry of this Agreement.

**6. GENERAL TERMS**

6.1 The Managing Agent and the Registered Provider agree that nothing in this Agreement will in any way create a partnership between them.

6.2 This Agreement is intended by both the Registered Provider and the Managing Agent to constitute an enforceable and legally binding contract between the Parties.

6.3 This Agreement may be amended at any time during the Term by written Agreement between the Registered Provider and the Managing Agent in accordance with **clause 6.4.**

6.4 No extension or variation to this Agreement will be effective unless recorded in writing and signed by both Parties.

6.5 Neither party intends to confer any right or benefit upon a third party and for the avoidance of doubt, the provisions of the Contracts (Rights of Thirds Parties) Act 1999 and 2001 are expressly excluded from this Agreement.

**7. ASSIGNMENT**

7.1 The Managing Agent cannot assign this Agreement to any other party. The rights of the Managing Agent within the Property shall cease should their Service Contract for the provision of Support Services be terminated or where for any other reason they cannot meet their obligations and the provisions of **clause 21.4** apply.

7.2 Neither party will assign or transfer the obligations of this Agreement save that sub-contracting for specialist repairs or servicing works to the Property, furniture or equipment are permitted hereunder and the Parties remain responsible for any acts or omissions of such sub-contractors.

**8. USE OF THE PROPERTY**

**The Registered Provider agrees that:**

8.1 The Managing Agent has the consent of the Registered Provider to use the Property solely for the purpose of providing the services outlined under this Management Agreement.

8.2 The Managing Agent has the consent of the Registered Provider to use a defined area or Unit within the Property as set out in **Schedule 1** as an office and/or sleep in accommodation in order to provide services in accordance with their Service Contract and to meet the needs of the Occupants. The permission granted within this Agreement does not provide the Managing Agent with exclusive possession.

8.3 It reserves the right to make a charge for office and staff facilities subject to consultation with the Managing Agent. This will take into account the need and benefit of the Occupants, whether the office and facilities are capable of attracting a rental income and actual costs of provision and maintenance. Where applicable a separate Occupancy Agreement (Licence ) included at **Schedule 10** will set out the terms and conditions of use and costs also shown in the annual budget as set out in **Schedule 8.** Delete/amend as necessary

**The Managing Agent agrees that:**

8.3 It will not use the Property for occupation by more than the number of Occupants as set out in **Schedule 1** to this Agreement without the prior written consent of the Registered Provider.

8.4 The Property will be used for people who require Support Services as set out in **Schedule 4** of this Agreement.

8.5 It will not make any changes to the type of Support Services provided at the Property to affect the Housing Management Service without the prior written consent of the Registered Provider, such consent not to be unreasonably withheld or delayed.

8.6 It will not allow any member of its staff or members of their family to reside in the Property without the prior written consent of the Registered Provider. Such consent not to be unreasonably withheld or delayed, however, will take account of current regulatory requirements for the Registered Provider to have appropriate probity arrangements in place.

8.7 It will not permit the Property or any part thereof to be used as a private dwelling for an Occupant other than where specified in **Schedule 1** without the written consent of the Registered Provider.

**9. TENURE**

9.1 The Properties covered by this Agreement remain under the legal ownership of the Registered Provider and the Occupants are the tenants or licensees of the Registered Provider.

**The Registered provider will:**

9.2 Specify the format of the Occupancy Agreement (whether tenancy or licence) to be issued by the Managing Agent which may be revised from time to time in response to regulatory requirement or industry best practice.

**The Managing Agent will:**

9.3Issue Occupancy Agreements on behalf of the Registered Provider using the format specified format by the Registered Provider as set out in **Schedule 3** or as may be revised as per **clause 9.2.**

9.4 Not vary the terms of the Occupancy Agreement without the prior written consent

## of the Registered Provider.

## 9.5 Not allow anyone possession of a Unit until the Occupancy agreement has been

## signed by them or where clause 9.8 applies their representative.

## 9.6 Ensure that the Occupancy Agreement is completed to include the name and

## address of the party to whom notices should be issued in the event of legal action

## against the Occupants as set out in clause 10.

## 9.7 Inform Occupants and/or their representative about their rights and obligations

## under the terms of the Occupancy Agreement in clear and understandable terms.

##### 9.8 In the case of lack of mental capacity where the intended Occupant will be unable to sign or understand the responsibilities of the Occupancy Agreement the Managing Agent agrees:

9.8.1 To comply in every respect; and

9.8.2 to use its best endeavours to ensure that any and all representatives of the intended Occupant comply in every respect with the requirements of the Mental Capacity Act 2005 and any associated legislation including any replacement or successor act or legislation and/or any guidance or recommended best practice including guidance issued by or requirements of the Court of Protection from time to time.

## 10. TAKING LEGAL ACTION AGAINST OCCUPANTS (a)

10.1 The Managing Agent is authorised in the name of the Registered Provider to take

and conduct any legal proceedings required in respect of breach of the Occupancy

Agreement or to obtain possession of a unit, whether or not legally occupied.

10.2 The Managing Agent will notify the Registered Provider in writing prior to any legal

action being taken with the reasons and justification for the action.

10.3 The Managing Agent will comply with the Registered Provider's and their own

procedures and guidance on legal proceedings relevant to the type of Occupancy

Agreement in use which are in force at the time.

10.4 The Managing Agent will bear the cost of all proceedings for possession or breach

of Occupancy Agreement. Any costs ordered to be paid by the occupier will belong

to the Managing Agent.

10.5 Where it is agreed between the Parties that such action is necessary the Managing Agent will keep the Registered Provider informed of each stage of proceedings including:

* Issue of Notice to terminate or seek possession
* Court dates and decisions
* Action following expiry of notice
* Date of property repossession

10.6 The Registered Provider will respond to requests from the Managing Agent for

permission to act within three working days or one day for emergency actions.

In the event of an emergency decision and the Registered Provider cannot be

contacted the Agent may take the emergency action and inform the

Registered Provider the next working day.

10.7 The Registered Provider in consultation with the Managing Agent, reserves the

right to take over conduct of proceedings in cases where the Registered

Provider acting reasonably, considers it necessary to do so and seek to recover

costs incurred from the Managing Agent

10.8 The Registered Provider will indemnify the Managing Agent against the cost of claims

from Occupants in relation to possession (including Human Rights challenges) where

such action arises from any failure on the part of the Registered Provider for its

responsibilities under this Agreement.

**10. TAKING LEGAL ACTION AGAINST OCCUPANTS (b)**

10.1 In consultation with the Managing Agent, the Registered Provider will take

and conduct any legal proceedings required in respect of breach of the

Occupancy Agreement or to obtain possession of a unit.

10.2 The Registered Provider will seek to recover the cost of all proceedings from

the Managing Agent. Any costs ordered to be paid by the occupier will be repaid

to the Managing Agent, subject *to* all of the Registered Provider's costs for proceedings being met.

10.3 The Registered Provider will notify the Managing Agent at each of the following

stages:

## Issue of Notice to terminate or seek possession

## Court dates and decision

## Action following expiry of notice

## Date of Property repossession

## 10.4 The Registered Provider will indemnify the Managing Agent against the cost of

claims from Occupants in relation to possession (including Human Rights challenges)

where such action arises from any failure on the part of the Registered Provider for

its responsibilities under this Agreement.

Note: Legal Action - delete either 8a) or 8b) depending on who it is agreed will be

Responsible.

## 11. POLICY AND PROCEDURE

## 11.1 The Registered Provider and the Managing Agent will comply with the relevant

## regulatory requirements and guidance laid down by the Homes and Communities

## Agency or their successor from time to time in respect of matters covered by the

## terms of this Agreement.

## 11.2 The Registered Provider will inform the Managing Agent when revisions to the relevant regulatory requirements affect the Registered Provider's responsibilities under this Agreement and which will have a bearing on the housing management services provided by the Managing Agent.

## 11.3 On request at commencement or during the period of this Agreement the Managing

## Agent will provide the Registered Provider with the latest copies of its policy or

## procedure documents relating to:

* Health and Safety (compliant with Health & Safety at Work Act 1974 and the Regulatory Reform (Fire Safety) Order 2005)
* Equality and Diversity
* Customer Consultation
* Selection, Allocation and Move On
* Complaints
* Safeguarding
* Harassment
* Data Protection
* Housing Management (tenure, anti-social behaviour, arrears, eviction, possession)

11.4 The Managing Agent will carry out its duties under this Agreement having regard to the provisions of those policies and will notify the Registered Provider of any significant changes to those documents.

11.5 The Registered Provider will carry out its duties to comply with their current policies and provide copies or information as may be requested by the Managing Agent in respect of:

* Health and Safety (compliant with Health & Safety at Work Act 1974 and the Regulatory Reform (Fire Safety) Order 2005)
* Safeguarding
* Bullying and Harassment
* Complaints
* Probity
* Data Protection
* Repairs and Maintenance
* Tenancy Policy
* Scheme Management
* Rent Collection and Arrears Management

11.6 The Registered Provider and the Managing Agent will maintain and share with each other on request their business continuity plans relevant to the services provided under this Agreement.

**12. HOUSING MANAGEMENT SERVICES**

12.1 The Registered Provider and the Managing Agent will ensure that the Housing

Management Services provided to all Occupants meet the quality and outcome

standards set by the Homes and Communities Agency for supported housing and the

Registered Providers own customer service standards.

**The Registered Provider will:**

12.2 Set the rent or licence fee for the Units in accordance with the Providers current

Rent Policy and regulatory guidance issued for supported housing rents and notify

the Managing Agent of the rent or licence fee on or before **1st February** each year.

12.3 Set service charges which are relevant to the services provided by the Registered

Provider and which are sufficient to meet the anticipated cost of those services

notifying the Managing Agent on or before the **1st February** each year. The

Registered Providers service charges will be in addition to those which may be set for

services provided by the Managing Agent.

12.4 Provide the repair, replacement and maintenance services set out in **Schedule 2.**

12.5 Provide the facilities or services for which service charges are made as set out in

**Schedule 2.**

12.6 Consult with the Managing Agent prior to any changes to the provision of Housing

Management Services as required by statutory provision or other reason where

necessary to inform the Managing Agent's consultations with the Occupants as per

**clause 12.13.**

**The Managing Agent will**

12.7 Select the occupiers and allocate Units in accordance with the Selection and

and Allocation policy as set out in **Schedule 4** to this Agreement.

12.8 Let Units at rents in accordance with those notified by the Registered Provider.

12.9 Advise on the contents of the Occupancy Agreement with Occupants and/or

their advocates and ensure that they understand it prior to signing.

12.10 Set service charges which are sufficient to meet the anticipated cost of providing

the services the Managing Agent has committed to provide under this Agreement.

In consultation with the Registered Provider ensuring service charges do not exceed

those approved by the Homes and Communities Agency at bid stage where relevant

for new build developments or which subsequently require to be acceptable to the

Local Authority Housing Benefit department.

12.11 Collect all the rents and service charges due under the Occupancy Agreement on

behalf of the Registered Provider.

12.12 Inform the Occupants of the new rent and service charge on or before **1st March** in

each year using appropriate formal rent review notifications in line with that

recommended by the Registered Provider.

12.13 Consult with the Occupants on any proposed change in the Housing Management Services carried out under this Agreement howsoever arising.

12.14 Administer the Occupancy Agreement on behalf of the Registered Provider and use its best endeavours to ensure that the Occupants meet their obligations under the Agreement.

12.15 Take appropriate action in respect of breach of the Occupancy Agreement when

necessary to include both verbal and written warnings prior to any formal action

relating to Possession and/or Injunction.

12.16 Advise and assist Occupants with reporting and access arrangements for repairs or

property inspections.

12.17 Provide any repair, replacement or maintenance services which may be agreed

with the Registered Provider and set out in **Schedule 2.**

12.18 Provide the services for which service charges are made and agreed with the

Registered Provider and as set out in **Schedule 2.**

**13. MOVE ON**

13.1Where it becomes apparent the service no longer meets the needs of an Occupant because they have support needs which cannot be met at the Property the Managing Agent will be responsible for exploring alternative accommodation or services with the Occupant, their representative/advocate and Commissioners. While the Managing Agent may approach the Registered Provider for assistance in making alternative provision the Registered Provider will use reasonable endeavours to assist it accepts no obligation.

13.2 The Managing Agent will support Occupants who no longer require the Support provided at the Property to move on to other accommodation and will use reasonable endeavours to identify suitable alternatives. At the written request of the Managing Agent, the Registered Provider will consider the provision of

## suitable alternative accommodation for any Occupant, subject to local lettings policy

## arrangements.

**14. FINANCIAL RESPONSIBILITIES**

## The Registered Provider and the Managing Agent agree that

## 14.1 The Managing Agent will retain a fixed management fee of £(see guidance) per individual Unit from the rent collected from the Occupants. This fee will be paid to the Managing Agent to cover the Housing Management Services which are the responsibility of the Managing Agent and set out in Schedule 2. The management fee will be reviewed each year in line with the uplift applied to rents using September CPI and adjusting for any regulatory amounts imposed where applicable.

14.2 In calculating the net rent which is payable by the Managing Agent to the Registered Provider an allowance of (see guidance**)** will be retained by the Managing Agent as provision for rent losses arising from a Unit which remains vacant whilst re-letting occurs and bad debts from rent and service charge arrears which the Managing Agent is unable to recover. The total money collectable by the Managing Agent will be known as ‘the Void Percentage’

14.3 If the actual voids and bad debts during any Financial Year are less than the Voids Percentage the Managing Agent shall be entitled to keep the balance of the Voids Percentage. If the actual voids and bad debts during any Financial Year are greater than the Voids Percentage the Managing Agent shall be liable for the additional loss to the Registered Provider.

14.4 The Managing Agent shall not be liable for void losses in respect of any Unit that have arisen because the Registered Provider has failed to comply with its obligations under the terms of this Agreement.

14.5 The rent and service charges collected by the Managing Agent under the Occupancy Agreement and paid to the Registered Provider will represent:

* the weekly or monthly rent due from each Unit in the Property less the agreed management fee and the Void Percentage, and
* the weekly or monthly service charge due from each Unit in the Property to the Registered Provider, as agreed in the annual budget.
* These sums are reflected in the agreed budget at service commencement and set out in **Schedule** **8**

14.6 The amounts due to the Registered Provider and remitted by the Managing Agent will be reviewed annually and the annual budget revised with effect from the 1st April of each year.

14.7 If the rent payable to the Registered Provider by the Occupants in the Property changes during the Financial Year as a consequence of applying the re-let rents which are notified to the Managing Agent by the Registered Provider at the time of the rent review the amount due under the agreed annual budget will not be amended. In such circumstances an increase or reduction of rent will not require the sums due to either party to be recalculated regardless of benefit or liability arising.

14.8 If the service charge payable to the Registered Provider by the Occupants in the Property changes during the Financial Year the adjustment shall normally be made at the start of the next Financial Year as agreed in the annual budget with the Managing Agent.

14.9 By exception, where either party finds it necessary to make written representations to the other about proposed increase or decrease in the service charges during the current Financial Year each party shall give proper consideration to those representations and will within one month of receiving representations give a reasoned written response to representations made.

14.10 The Registered Provider will discharge any mortgage payments or ground rent due on the Property.

14.11 The Registered Provider and the Managing Agent will apply service charges in respect of the services that each provide and pays for in order to meet the costs of those services and the Managing Agent shall retain all service charges collected in respect of services for which the Managing Agent pays.

14.12 The Registered Provider will invoice the Managing Agent for the whole of the annual sum due under the budget in **April** each year together with a payment schedule detailing the payments which are due monthly in arrears.

14.13 The Managing Agent will be required to confirm the rents and service charges

applied to the Occupants of the Property, including their own service charges as requested by the Registered Provider in **November** each year in preparation for the annual rent and budget review. The Registered Provider will review the budget and notify the Managing Agent of any required revisions to the budget in relation to rents and housing management expenditure on or before the **1st February.**

## 15. VAT

## 15.1 The Registered Provider and the Managing Agent confirm that the management of the Property is considered to be an exempt supply for the purposes of VAT, being ancillary to the provision of Support Services which are considered to constitute welfare services for the purposes of VAT but if found to be subject to VAT then all the sums payable under this agreement has be deemed to be made exclusive of VAT.

## 15.2 If the Housing Management Services which the Managing Agent provide under the terms of this Agreement become subject to the payment of VAT, and are greater than the minimum for compulsory VAT registration and if the Managing Agent is not registered for VAT at the commencement of this Agreement, the Managing Agent shall register with H. M. Customs and Excise for Value Added Tax.

## 15.3 The Managing Agent shall not voluntarily register with H. M. Customs and Excise for Value Added Tax without the prior consultation with the Registered Provider.

## 16. PROPERTY MAINTENANCE SERVICES

**The Registered Provider will:**

16.1 Be responsible for carrying out their obligations to maintain and repair the

Property as defined within relevant legislation, regulation and policy to include:

* the Landlord and Tenant Act 1985, Section 1
* the Housing Act 2004
* the Regulatory Framework for Social Housing as issued by the Homes and Communities Agency or successor body
* the Registered Provider's Repairing and Maintaining Assets Policy

## 16.2 Use its best endeavours to carry out repairs with the minimum disruption to the Occupants and within the service standards set out in Schedule 5.

## 16.3 Carry out redecoration at the Property so that the external parts are redecorated in line with the Registered Provider’s current cyclical maintenance procedures.

## 16.4 Inform the Managing Agent whether the Property is to be included in the Registered Provider’s cyclical maintenance programme and give the Managing Agent a minimum of four weeks' notice in writing before work commences.

## 16.5 Make adequate provision for future major repairs to the Property and consult with the Managing Agent to enable consultation with the Occupants where choices are available.

16.6 Keep all gas and electrical fittings which have been provided by the Registered Provider in good and safe working order (including replacing where necessary) and carry out regular gas and electrical checks sufficient to comply with all applicable legal and regulatory requirements. Provide the Managing Agent with copies of relevant certification as necessary.

16.7 Transfer agreed items of furniture and equipment at the time of Handover and commencement of this Agreement to the ownership and responsibility of the Managing Agent. The Registered Provider will ensure they are in good working order at the point of Handover and shall evidence compliance with relevant electrical and fire safety standards where applicable. An inventory is set out in **Schedule 9.**

Where applicable add as a further paragraph – amending subsequent numbering and clauses as necessary….

Where the Registered Provider has entered into a new agreement for the same Property with the Managing Agent under a Previous Agreement as described in **clause 5.1** and the items of furniture and equipment originally transferred at handover under the Previous Agreement have been and continue to be in the continuous ownership and the responsibility of the Managing Agent then no new items of furniture and equipment shall be transferred to the Managing Agent unless the Parties agree otherwise.

16.8 Carry out repairs required as a result of an act of deliberate damage or neglect by the

Occupants or their visitors when required in order to meet their legal responsibilities

and ensure that there is no risk to health and safety. The Managing Agent will be

recharged for the cost of the repair.

16.9 Carry out any repair required as a result of a non-malicious or accidental damage and bear the cost where it is agreed they are responsible as set out in **Schedule 2.**

16.10 In conjunction with a nominated representative of the Managing Agent carry out internal and external inspections of the Property as required to ensure compliance with the obligations of both Parties.

16.11 In the case of handing over newly constructed buildings the properties will be subject to a 12 month defect period. At the end of this period the Registered Provider and will conduct a joint inspection with the Managing Agent to agree any responsibility for defects.

**The Managing Agent will:-**

16.12 Notify the Registered Provider of any need for repairs or maintenance they are responsible for promptly after becoming aware of the need as set out in **Schedule 5** or any subsequent repairs guidance issued.

16.13 Where requested and where the Managing Agent is responsible for minor repairs or maintenance work not undertaken by the Registered Provider this is set out in **Schedule 2.**

16.14 Let units which comply with the standards as set out in **Schedule 6.**

16.15 Ensure that all Furniture and Equipment owned by or transferred to the Managing Agent by the Registered Provider whether at the point of the Handover or under a Previous Agreement, are subsequently maintained in a safe and usable condition, replacing where required as required by **Schedule 2** and provide evidence of compliance with all applicable legal and regulatory requirements where required.

16.16 Keep the interior of the Property in good decorative order and ensure that the Property is redecorated internally (including any internal common parts and/or staff and/or office space) at least once in every 5 years or as may be required in the event of damage or wear and tear by the Occupants or to meet the letting standard set out in **Schedule 6.** Agree the specification for the works with the Registered Provider prior to completion.

16.17 All equipment provided by the Registered Provider and transferred to the Managing Agent as set out in **Schedule 9** should be handed over to the Registered Provider in a safe and usable condition, subject to fair wear and tear on termination of this Agreement, howsoever caused.

16.18 Agree that the Property will be handed back to the Registered Provider in a good and lettable condition meeting the standards set out in **Schedule 6** to include the individual units, communal and resource areas on termination of this Agreement, howsoever caused.

16.19 On request the Managing Agent shall provide full and free access to any unit(s) within the Property which are not already occupied by an Occupant to include the Resource Unit or Office Space occupied by the Managing Agent. In the case of units occupied by an Occupant within the Property upon 24 hours notice from the Registered Provider provide access (within normal office hours), and to be present at the Property with the Registered Provider, where necessary, when such access is provided. In case of emergency the Registered Providers and others authorized by it will be provided with immediate access to any unit occupied or otherwise.

16.20 Advise the Registered Provider of any risk assessment relating to the Occupants

which would indicate potential risk for the Occupant, the Registered Provider or

contractors in order to agree appropriate arrangements.

16.21 Reimburse the Registered Provider for the cost of any repairs necessitated by any act or omission of the Managing Agent or which are due to deliberate damage by the Occupants as per **clause 16.8.**

16.22 Reimburse the Registered Provider for the cost of repairs which are the responsibility of the Managing Agent and which may be undertaken by the Registered Provider at the request of the Managing Agent, howsoever arising.

16.23 Report to the police any criminal damage at the property and obtain a crime reference number, which must be advised to the Registered Provider where they are required to respond to repairs as a result of this circumstance.

16.24 Take appropriate action against perpetrators of deliberate damage and collect charges made for repair as a result of damage as provided by law and the Occupancy agreement.

16.25 In conjunction with the Registered Provider carry out internal and external inspections of the Property to ensure compliance with the obligations of each Party when required.

16.26 Give all necessary assistance to the Registered Provider at all reasonable times to enter and examine the condition of any part of the Property to enable the Registered Provider to exercise its functions as owner of the Property.

16.27 Not make or permit any alteration to the Property without the prior written consent of the Registered Provider.

**17.** **AIDS AND ADAPTATIONS**

17.1 Requests made by an Occupant or the Managing Agent on their behalf for an

adaptation or improvement above the original building specification does not

constitute maintenance, however, the Parties will take account of the Disability

Discrimination Act 1995 and the Equality Act 2010 when considering such requests.

17.2 Where this type of work may be required in order to meet the changing need of an

Occupant(s) or disability of a potential Occupant the Registered Provider will work

with other parties, including the Managing Agent and Commissioners to agree the

suitability of the request and how the work can be funded.

17.3 Where the Registered Provider agrees to carry out an adaptation it will own and

reflect any cost of provision, maintenance or depreciation in their charges.

17.4 Where the Registered Provider decides that it is unable to fund and carry out an

adaptation the Parties shall agree the terms on which the Managing Agent may apply

on behalf of the Occupant to other statutory or charitable funding agencies. These

terms shall include the need for the approval of the Registered provider to carry

out the building installation work, the cost of maintenance and depreciation,

whether it is to be removed or left in situ on termination of this Agreement and

any other question relating to ownership or liability.

## 18. MAJOR REPAIRS

18.1 Should any major repair work require the Occupants to vacate the Property to enable work to be completed the Registered Provider agrees to provide alternative accommodation for the duration of that work, where reasonable to do so.

18.2 The Managing Agent will give access to such consultants and contractors as may be required to carry out major repairs on the Property providing adequate notice has been given and will provide the Registered Provider with any information requested in connection with the carrying out of the major repairs works.

**19. FIRE, HEALTH AND SAFETY**

**The Registered Provider will:**

19.1 Ensure suitable fire precautions for the Property have been provided at the time of

handover of the property and which comply with the requirements of the Housing

Act 2004 and Regulatory Reform (Fire Safety) Order 2005 and subsequent regulation

updates and byelaws relating to fire safety to include:

19.1.2 Compliance where shared accommodation and/or House of Multiple

Occupation (HMO) requirements are applicable at the time of handover.

19.1.3 the means of escape within the Property meets current building regulation

and/or fire officer requirements at the time of handover.

19.1.4 Provide and install adequate fire equipment in relation to detection and warning at the time of handover.

19.1.5 Ensure that any furniture or equipment provided at service commencement meets Furniture and Furnishings (Fire Safety) Regulations 1988 (as amended 1989, 1993 and 2010) and as may be subsequently amended.

19.2 Conduct a suitable and sufficient fire risk assessment at the point of Handover or

service commencement prior to the property becoming occupied and thereafter

devolve this responsibility to the Managing Agent as the 'Responsible Person'

19.3 Liaise appropriately with the Managing Agent to ensure that fire risk assessments

conducted by the Managing Agent have timely and documented responses to any

action and/or recommendation identified in line with the Registered Provider's

monitoring process.

19.4 Take responsibility for the maintenance and servicing of fire equipment to fulfil the

duties required by the Regulatory Reform (Fire Safety) Order 2005 to include, but not

limited to, fire alarms, smoke detectors, emergency lighting and heat detectors

where it is the Registered Provider’s responsibility as set out in **Schedule 2.**

19.5 Take responsibility for the maintenance and servicing of fire fighting equipment

(extinguishers and blankets) to fulfil the duties required by the Regulatory Reform

(Fire Safety) Order 2005 where it is the Registered Provider's responsibility and set

out in **Schedule 2.**

19.6 Replace fire equipment as may be required to ensure adequate protection following

recommendations from the fire officer and/or service contractor where the

Registered Provider is responsible for the depreciation and replacement as set out in

**Schedule 2**

19.7 Reserve the right to service, maintain and replace any fire equipment where it is

agreed this is the responsibility of the Managing Agent and as set out in **Schedule 2**

should it become known the Managing Agent has failed to comply with the

requirements of the Regulatory Reform (Fire Safety) Order and their responsibilities

to ensure the safety of employees, occupants or other relevant persons. The

Registered Provider will recharge the Managing Agent full costs and take any other

appropriate action in such circumstances.

19.8 If necessary, the Registered Provider will also carry out repairs or replacement of fire

equipment which may be required as a result of an act of deliberate damage or

neglect, howsoever arising. The Managing Agent will be recharged costs as necessary

subject to the provisions of **clause 16.8.**

19.9 Be responsible for the control of Legionella bacteria risk in line with their Legionella

policy which complies with:

* The Health and Safety at Work, etc. Act 1974
* The control of substances hazardous to health (COSHH)
* HSE Guidance HSG274 – Legionnaire’ disease: Technical guidance

19.10 Be responsible for the installation and servicing of Thermostatic Mixing Valves on

outlets where required. This will be as set out in **Schedule 2.**

19.11 Where the Parties have entered into this Agreement subsequent to a Previous

Agreement and the Managing Agent has occupied and managed the Property for a

continuous period since the commencement of the Previous Agreement and acted

as the 'Responsible Person' the Fire Risk Assessment carried out by the Managing

Agent will be used to verify that the Property continues to meet the

requirements referred to in **clause 19.1.**

**The Managing Agent will:**

19.12 Act as the 'Responsible Person' as defined within the meaning of the Regulatory Reform (Fire Safety) Order 2005 and subsequent updates to regulations and byelaws and undertake general fire precautions to ensure the safety of employees, occupants and other relevant persons in the Property.

19.13 Report to the Registered Provider any actual or suspected deficiencies in the fire precautions or fire equipment immediately these become known where the Registered Provider is responsible for servicing and maintenance as set out in **Schedule 2**

19.14 Take responsibility for the maintenance and servicing of fire fighting equipment to

fulfil the duties required by the Regulatory Reform (Fire Safety) Order to include fire

extinguishers and fire blankets where this is the responsibility of the Managing Agent

as set out in **Schedule 2.**

19.15 Conduct suitable and sufficient fire risk assessments which should be completed and

reviewed regularly in accordance with the Regulatory Reform (Fire Safety) Order by

an appropriate competent person using the PAS79 format or equivalent. These will

be required at service commencement and thereafter on annual basis in order to

identify the relevant fire safety precautions necessary to maintain the safety of the

Property.

19.16 Provide a copy of their most up to date fire risk assessment to the Registered Provider

as necessary or when requested.

19.17 Ensure actions identified as a result of any fire risk assessment conducted are responded to within the timescales identified and any requirements or recommendations made are immediately notified to the Registered Provider where this relates to the responsibilities they have for the Property and set out in **Schedule 2.**

19.18 Comply with the requirements of the Regulatory Reform (Fire Safety) Order and subsequent updates to regulations and bye laws relating to means of escape in the event of fire.

19.19 Ensure that any Furniture and Equipment provided by the Managing Agent at the

Property meets Furniture and Furnishings (Fire) (Safety) Regulations 1988 (as

amended 1989, 1993 and 2010) or further amended.

19.20 Where required carry out fire alarm, emergency lighting tests and fire drills at

appropriate intervals and record these for inspection.

19.21 Regularly check that fire equipment and appliances are in good working order

including but not limited to smoke detectors, extinguishers and fire blankets which

are maintained by the Registered Provider.

19.22 Ensure that fire doors are not fixed open and that self closing mechanisms are not

disconnected where these are required.

19.23 Maintain a log of fire servicing and equipment replacement at the Property where

this type of equipment is provided.

19.24 Be responsible for providing any enhanced fire precaution requirements in order to

fulfil the Regulatory Reform (Fire Safety) Order 2005 which is the result of alterations

undertaken by the Managing Agent and/or which may redefine the property as a

House of Multiple Occupation (HMO) at their own cost.

19.25 Comply with the Health Act and the Smoke-free (Premises and Enforcement)

Regulations 2006 where applicable and ensure suitable arrangements and fire safety

awareness for Occupants who may choose to smoke in their own homes.

19.26 Conduct regular health and safety inspections of communal areas and occupied units

in order to identify any issues or repairs required by either party.

## 20. STAFFING

20.1 The Registered Provider and the Managing Agent will comply with all legislation, regulation and good practice relevant to the employment of their staff.

20.2 Subject to **clause 27,** nothing in this Agreement shall be construed as creating employment, or other contractual relationship between the Registered Provider and any or all of the Managing Agent's employees.

20.3 The Managing Agent will indemnify the Registered Provider from and against all liabilities awarded against or incurred by the Registered Provider, its agents and sub-contractors as a result of or in connection with any claim by the Agent's personnel, save where any liability arises as a result of any negligence on the part of the Registered Provider or it's other agents or subcontractors.

20.4 The Registered Provider will indemnify the Managing Agent from and against all liabilities awarded against or incurred by the Managing Agent as a result of or in connection with any claim by the Managing Agent's personnel that arises wholly or mainly as a consequence of any negligence on the part of the Registered Provider, its employees or other sub-contractors.

**21. SUPPORT SERVICES**

**The Managing Agent will**

21.1 Provide Support Services to the Occupants of the Property in accordance with the provisions of their Service Contract where applicable. Other services may be provided subject to alternative funding arrangements.

## 

21.2 At all times ensure:

* staff are suitably qualified, adequately trained and capable of providing the services for which they are engaged, including the housing management services
* there is an adequate number of staff to provide the services properly

21.3The Managing Agent will notify the Registered Provider immediately should their Service Contract or alternative funding arrangements become subject to notice in order to agree appropriate termination provisions in line with **clause 26** where this becomes necessary.

## 22. INSURANCES

**The Registered Provider will**

22.1 Insure the Property against fire and such risk as the Registered Provider shall in its absolute discretion determine to its full replacement value and where possible apply any monies received in respect of such insurance in re-instating the Property.

22.2 Insure against thirdparty claims arising from the condition of the Property (Property Owners Liability Insurance).

22.3 Such other risks as the Registered Provider may from time to time determine.

**The Managing Agent will**

22.4 Take out insurance in respect of all usual risks for communal contents and for any

Other furniture and equipment they own and are responsible for within the Property.

22.5 Advise the Occupants that their personal items and effects are not insured and that the Occupants should take out insurance to cover them.

**Both the Registered Provider and the Managing Agent shall**

22.6 Take out and maintain employer’s liability insurance for the amount of £10 million

22.7 Take out and maintain public liability insurance for the amount of £5 million.

22.8 Indemnify each other in respect of any costs, damages, losses, expenses or liabilities

incurred as a result of the breach or non-performance or non-observance of its

obligations under this Agreement and hold appropriate Professional Indemnity

insurance.

22.9 Ensure appropriate and adequate Fidelity Insurance to cover employees in the

administration of the Property and service referred to in this Agreement.

22.10 Not to do anything or knowingly permit anything to be done in the Property which

would invalidate any insurance taken out by either party or which would increase the

premiums payable.

22.11 Provide each other with evidence of insurance on request.

## 23. MONITORING, LIAISON AND REVIEW

23.1 Both Parties will have regard to any relevant advice or guidance issued by the Homes

and Communities Agency to the matters dealt within this Agreement and which may

be notified by the Registered Provider to the Managing Agent as required.

23.2 The Registered Provider will monitor the standards of service delivered by the

Managing Agent as set out in **Schedule 2** through the monitoring arrangements

set out in **Schedule 7** which may be subject to periodic review by the Registered

Provider.

23.3 The Managing Agent agrees to comply with the operational requirements of the

monitoring arrangements set out in **Schedule 7** which may be subject to periodic

review by the Registered Provider and will provide:

* Void Notifications on the day notice received
* New letting notifications and CORE forms, within 3 days
* Rents and Service Charges breakdowns as required to inform rent and budget reviews
* A copy of their formal rent notifications to the Occupants

23.4 The Parties agree to meet as a minimum on an annual basis to review the operation of this Agreement as part of the Registered Provider’s Annual Performance Review process however, informal meetings, may be requested by either party as and when required.

23.5 The Registered Provider will encourage and consider feedback from the Managing Agent and Occupants on the service it provides.

23.6 Any assessment of performance which warrants more frequent contact between the Parties will be communicated and documented as part of the Annual Performance Review process action planning and can be requested by either party.

23.7 The Managing Agent will report on its governance or performance of Support Services at the Property by those commissioning or monitoring those services within 14 days of receipt.

23.8 The Managing Agent will allow the Registered Provider reasonable access to its accounting and financial records relating to the Property if requested.

23.9 Notify the other immediately of any incident which could lead to adverse publicity or

of any complaint received concerning the Property or service.

23.10 Both Parties will jointly agree prior to the disclosure of information to third parties

where there may be potential for negative observations regarding the reputation of

the service, property or occupants. i.e. the press regarding funding issues, anti-social

behaviour, health and safety or similar.

23.11 In providing information the Registered Provider and the Managing Agent will ensure

that individual Occupants confidentiality is not breached. Both Parties agree to

respect the confidentiality of information concerning the Occupants which may from

time to time become available to them. It shall not be considered a breach of

confidentiality where the sharing of information between the Registered Provider and

the Managing Agent is necessary to ensure the effective management of the Property

or the safety and welfare of the Occupants and/or staff.

**24. MISCELLANEOUS**

24.1 Comply with the statutory and regulatory obligations which affect the Property and

Social Housing either now or in the future including, but not limited to, the requirements of:

* the Health and Safety Acts and the Health and Safety Executive;
* all Acts relating to the provision of social housing and the regulations of the Homes and Communities Agency;
* Acts and regulations relating to the safety and supply of gas and electrical services and appliances at the Property;
* all Acts relating to discrimination on the grounds of sex, race or disability;
* the requirements of the Data Protection Act 1998

## 25. COMPLAINTS AND DISPUTES

25.1 Should either party be dissatisfied with the performance of the other under the terms

of this Agreement and this cannot be resolved through liaison meetings, the

following sequence of action will be pursued:

25.1.1 either party will request a special meeting to review the working of the

Agreement by giving 10 days prior written notice (or a shorter notice period

if the Parties agree). Where breach of the Agreement is alleged, the written

notice must specify the alleged breach(es) of the Agreement. The other party will attend that meeting where requested.

25.1.2 if the issue remains unresolved the dissatisfied party will request a further

meeting between senior managers of both Parties giving 10 days’ prior

written notice (or a shorter notice period if the Parties agree). The other

party must attend that meeting where requested.

25.2 If the issue remains unresolved after the procedure has been followed the dispute or difference will be referred by either party to a suitably qualified independent arbitrator agreed between the Parties, or in the absence of agreement, by or on behalf of the President or Vice President of the Chartered Institute of Arbitrators The arbitration will be conducted in accordance with the Arbitration Act 1996 or any successor or replacement legislation.

25.3 Both Parties will be obliged to comply and co-operate with the arbitration procedure at each stage and to share equally the costs of appointment of the arbitrator. Costs thereafter will be apportioned in the manner determined by the arbitrator. The arbitrator’s decision shall be binding on the Parties.

25.4 The use of the arbitration procedure does not prevent either party from serving notice of termination where there are grounds to do so as set out in this Agreement.

## 25.5 Housing Ombudsman Awards

## 25.5.1 In the event of an award by the Ombudsman where the Managing Agent is found to be at fault the Managing Agent will reimburse the Registered Provider for any expenses reasonably incurred by the Registered Provider in dealing with the Ombudsman's investigation.

25.5.2 In the event of an award by the Ombudsman where the Registered Provider is found to be at fault the Registered Provider will reimburse the Managing Agent for any expenses reasonably incurred by the Managing Agent.

25.5.3 Any compensation award will be paid as directed by the Ombudsman.

## 26. TERMINATION ARRANGEMENTS

26.1 This Agreement will end on expiry of the Term as set out in **clause 5.2** unless the Parties agree otherwise.

Other than by expiry of the Term, this Agreement may be terminated as follows:

26.1.1 By either Party forthwith by written notice if a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party, or an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party.

26.1.2 By either Party giving three months written notice to the other where the other party fails to comply with a term of the Agreement, and this cannot be resolved through liaison meetings or the Complaints and Disputes procedure outlined in **clause 24.**

26.1.3 By the service of one month’s written notice in the event of fundamental breach of this Agreement by either party. Such fundamental breach would include, but is not limited to, actions or omissions on the part of either party that seriously endanger the health and safety or well-being of the Occupants and warrant not following the provisions of the Complaints and Disputes procedure set out in **clause 25**.

26.1.4 On the expiry of (six or twelve) month's written notice given by either party to the other, or on the expiry of written notice from one party to the other where the Parties have mutually agreed an alternative notice period.

26.2 It is agreed that prior to exercising any right to termination under this Agreement that both the Registered Provider and Managing Agent shall consult with Commissioners in order to ensure the individual needs of the Occupants can continue to be met.

**Procedure following Notice of Termination**

26.3 Upon terminations of this Agreement for any reason the Registered Provider and the Managing Agent will work together to ensure a smooth handover of the Property.

26.4 The Registered Provider will carry out a Dilapidations Survey in conjunction with the Managing Agent to identify the condition of the property, presence of fixtures and fittings, furniture and equipment either (as appropriate) two months prior to the expiry of the Term or in the event of termination for another reason as soon as is practicable. The dilapidation survey will be conducted in accordance with the National Housing Federation (NHF) schedule of rates or its equivalent to ensure the terms of this Agreement have been adhered to and to agree any outgoing costs with the Managing Agent where applicable.

26.5 Upon termination there will be a full accounting procedure between the Parties in respect of payments made or due up until the day of agreement expiry or termination for any other reason and final handover of the Property.

26.6 Where the Agreement expires or is terminated for another reason and the Support Services are to be provided by another organisation under similar funding arrangements with Commissioners the current Occupants may remain in the accommodation, subject to the agreement of the Registered Provider. In such circumstances:

26.6.1 The Registered Provider will notify the Occupants of the appointment of a new managing agent.

26.6.2 The Registered Provider will ensure the notice for existing Occupancy Agreements does not preclude the new managing agent from acting in respect of any legal proceedings they may become responsible for.

26.6.3 The Managing Agent will comply with all applicable Data Protection and confidentiality requirements in order to agree with the new agent what information and records relating to the Occupants should be shared.

26.2.4 The final accounting procedure refer to in **clause 26.5** will take account of any unspent funds from the payment in advance of service charges held by the Managing Agent for furniture and equipment replacement and depreciation to be passed to the Registered Provider.

26.7 Where this Agreement terminates and the Property is no longer to be used for the

provision of the same kind of service the Registered Provider will require vacant

possession.

In such circumstances:

26.7.1 The Registered Provider and Managing Agent will agree a variation to the financial arrangements to take account of the requirement for the Managing Agent to hold empty units during any notice period, subject to a maximum of a six month period.

26.7.2 Where vacant possession has not been achieved before the expiry of the Term or any other termination date the Registered Provider and Managing Agent will negotiate a temporary extension to this Agreement on current or varied terms.

26.7.3 The Managing Agent will serve the appropriate notice of termination of the Occupancy Agreement on the Occupants and give all reasonable assistance to move them on to alternative accommodation, liaising with the Registered Provider, Commissioners, family and/or advocates as necessary. Where necessary the Managing Agent will issue legal proceedings in time to achieve the vacant possession before expiry of the termination notice.

26.7.4 The Managing Agent will ensure that outgoing Occupants remove any of their own furniture, equipment or other possessions and will make good any damage caused as provided by the Occupancy Agreement.

## 27. TUPE

## 27.1 When notice is served of termination of this Agreement both the Registered Provider and the Managing Agent will obtain their own advice on the application of TUPE

## 27.2 If the application of TUPE is required, the Managing Agent shall provide the

## Registered Provider at least 12 weeks prior to the termination of this Agreement with such information as the Registered Provider may reasonably require in order to comply with the provisions of the Transfer of Undertakings (Protection of Employment Regulations) 1981. The Managing Agent will warrant the accuracy and completeness of the Employee Liability Information.

27.3 The Managing Agent agrees that this information may be shared with potential alternative Managing Agents in situations where TUPE might apply.

27.4 The Managing Agent shall indemnify the Registered Provider in full against all claims, costs, expenses or liabilities arising, incurred or suffered by the Registered Provider including but without limitation all legal expenses and other professional fees (together with any VAT thereon) in relation to the provisions of TUPE when this Agreement ends.

27.5 The Registered Provider shall indemnify the Managing Agent in full for and against claims costs, expenses or liabilities arising, incurred or suffered by the Managing Agent including but without limitation all legal expenses and other professional fees (together with any VAT thereon) in relation to any failure by the Registered Provider to comply with its obligations pursuant to TUPE.

**28. NOTICES**

28.1 Each party agrees to pass on to the other, within seven days of receipt or sooner, a copy of any Notice relating to the Property received by it or served upon it by a third party.

28.2 Any Notice required to be given under the Agreement shall be sufficiently served or given if served personally or sent by recorded delivery post addressed to the other party at the address recorded in this Agreement at **clause 1** or last known address where this has been updatedand proof of posting will be sufficient proof of service.

28.3 Any such notice shall be deemed to have been received two Working Days from the date of posting or received the same day where served personally save where this occurs after 4 pm when it will be deemed to have been served on the next Working Day.

**Signed on behalf of the Registered Provider by:**

Signature:

Name: Position:

In the presence of:

Signature:

Name: Position:

Date:

**Signed on behalf of the Managing Agent by:**

Signature:

Name: Position:

In the presence of:

Signature:

Name: Position:

Date: