

Dated _____ **2016**

LONDON BOROUGH OF BARNET
BARNET HOMES

HOUSING MANAGEMENT AGREEMENT

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BETWEEN

- (1) **THE LONDON BOROUGH OF BARNET** of Building 4, North London Business Park, Oakleigh Road South, London N11 1NP (**Council**); and
- (2) **BARNET HOMES LIMITED** (registered number 04948659) whose registered address is at Barnet House, 1255 High Road, Whetstone, London N20 OEJ (**Barnet Homes**)

BACKGROUND

- (A) Barnet Homes is a wholly owned subsidiary of TBG, which is itself a wholly owned subsidiary of the Council.
- (B) The Council owns, as at the date of this Agreement, approximately 15,000 residential properties for housing people in need within the borough some of which have been sold on long leases pursuant to right to buy (the **Properties**).
- (C) The Council wishes to appoint Barnet Homes to provide the Services to the Council in relation to the Properties and for meeting its wider housing objectives and obligations in accordance with this Agreement.

AGREED TERMS

1 DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement (including the Background above) unless the context requires otherwise the following words and phrases shall have the meanings indicated below:

30 Year Asset Strategy means the asset management strategy developed in accordance with clause 11.25;

ALMO means Arms' Length Management Organisation;

Annual Delivery and Commitments Plan has the meaning given to it in clause 5.2;

Assigned Employees has the meaning set out in paragraph 1.1.1 of Part 1 of Schedule 6;

Best Value Pensions Direction means The Best Value Authorities Staff Transfers (Pensions) Direction 2007;

BHRP means a private registered provider of social housing pursuant to the Housing and Regeneration Act 2008 established or to be established as part of the Group;

Board means the board of directors in relation to Barnet Homes, BHRP or TBG as the case may be;

CAFT means Corporate Anti-Fraud Team;

CEDR means the Centre for Effective Dispute Resolution;

Change means a change to the Services or any aspect of this Agreement which is approved pursuant to the provisions clause 12;

Change in Law means a change to any Law which affects the Services or any aspect of this Agreement save in respect of any law relating to taxation, which was not foreseeable at the date of this Agreement;

Confidential Information means any information, however conveyed or presented, that relates to the business, affairs, operations, processes, budgets, pricing policies, product information,

strategies, developments, trade secrets, know-how, personnel and suppliers of the disclosing party, together with all information derived by the receiving party from any such information and any other information clearly designated by a party as being confidential to it (whether or not it is marked "confidential"), or which ought reasonably be considered to be confidential (for the avoidance of doubt, in relation to the Council, **Confidential Information** comprises but is not limited to Personal Data or Sensitive Personal Data or any information which relates to any tenant and such information, data and material includes, but is not limited to, all of the Services Policies and such other documents which Barnet Homes may obtain or have access to through any connection to the Council's systems);

Conflict of Interest means an actual conflict of interest between the interests of Barnet Homes and the interests of the Council or a potential conflict where the conflicted party fails to take reasonable steps to prevent such a conflict arising;

Consent means any consent, permission, licence or authority issued by or on behalf of a Relevant Authority which is required to provide the Services or any part of the Services;

Contract Manager means in relation to each party, the person appointed to act on behalf of that party as set out in clause 7.15;

Convictions means other than for minor road traffic offences, any previous or pending prosecutions, convictions, cautions and binding over orders (including any spent convictions as contemplated by section 1(1) of the Rehabilitation of Offenders Act 1974 by virtue of the exemptions specified in Part II of Schedule 1 of the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (SI 1975/1023) or any replacement or amendment to that Order;

CPI means the Consumer Prices Index as published by the Office of National Statistics or if such index ceases to be published, such alternative index which it most closely resembles as agreed between the parties acting reasonably;

Data Controller has the meaning set out in the Data Protection Act 1998;

Data Processor has the meaning set out in the Data Protection Act 1998;

Data Protection Law means the Data Protection Act 1998, the Data Protection Directive (95/46/EC), the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and all applicable laws and regulations relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner;

Data Subject has the meaning set out in the Data Protection Act 1998;

Delegated Functions means the functions delegated from the Council to Barnet Homes which Barnet Homes is to discharge on behalf of the Council as the same are indicatively set out in the table at Schedule 4, subject to annual review in accordance with clause 7.3 and subject always to the provisions of this Agreement and the Shareholders' Agreement;

Development Agency Fee means the sums payable pursuant to clause 11.20;

Direct Losses means all damages, loss, liabilities, claims, actions, costs, expenses (including the cost of reasonably and necessarily incurred legal or professional services), proceedings, demands and charges whether arising under statute, contract or at common law but, to avoid doubt, excluding Indirect Losses;

Directive means the EC Council Directive 2001/23/EC;

Disclosure and Barring Service means the disclosure and barring service being the executive non-departmental public body of the Home Office which replaced the Criminal Records Bureau and the

Independent Safeguarding Authority, as well as any successor body set up by statute or otherwise enabling employers to check an employee's or a prospective employee's criminal record in any relevant circumstance;

EIR means the Environmental Information Regulations 2004;

Eligible Employee means those employees whose contracts of employment with the Council have or shall become, by virtue of the application of TUPE, contracts of employment with Barnet Homes or a relevant sub-contractor;

Employee Liability Information means the employee liability information to be provided pursuant to Regulation 11 of TUPE, save for the identity of the employee;

Employment Liabilities means all claims, including claims for redundancy payments, unlawful deduction of wages, unfair, wrongful or constructive dismissal compensation, compensation for discrimination in relation to sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy or maternity, or sexual orientation discrimination, claims for equal pay, compensation for less favourable treatment of part-time workers, and any claims (whether in tort, contract, statute or otherwise), demands, actions, proceedings and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs and expenses reasonably incurred in connection with a claim or investigation (including any investigation by the Equal Opportunities Commission or other regulatory or supervisory body), and of implementing any requirements which may arise from such investigation, and any legal costs and expenses;

Equalities Impact Assessments means an assessment in accordance with the relevant Services Policy;

Estate Regeneration Programme means the estate regeneration programme as directed by the Council's Development Pipeline Board and as described in Schedule 11;

Estate Regeneration Programme Delay means any delay to the implementation of the Council's Estate Regeneration Programme which causes the actual number of Properties under Barnet Homes' management at any given time during the first five Service Years to be higher than the number of Properties anticipated to be under Barnet Homes' management having regard to the Council's Estate Regeneration Programme;

Expiry Date means 31 March 2026;

Fee means the HRA Fee, the Housing Options Service Fee, the Development Agency Fee and any other fees payable under clause 11 (as the case may be) in respect of the Services each as calculated in accordance with clause 11;

Final Warning Notice has the meaning given to it in clause 15.2;

Five Year Business Plan has the meaning given to it in clause 5.1;

FOIA means the Freedom of Information Act 2000;

Force Majeure means any event or occurrence which is outside the reasonable control of the party concerned, and which is not attributable to any act or failure to take preventative action by the party concerned, including (but not limited to) mandatory compliance with any central government policy, legislation and/or regulations, acts of God (including fire, flood, earthquake or other natural disaster), war or terrorist attack. For the avoidance of doubt, it does not include any strikes, lock outs or other industrial action occurring within Barnet Homes; organisation or within any subcontractor's organisation or any non-performance by Barnet Homes' subcontractors or suppliers;

Future Service Provider means each and every service provider who shall provide any service equivalent to any of the Services immediately after expiry or earlier termination of this Agreement;

Gearing Limit means the limit for secured loans in accordance with the Services Policies or as may be otherwise agreed by the Council;

GF means the Council's general fund;

Good Industry Practice means that degree of skill, care, prudence and foresight and operating practice which would reasonably and ordinarily be expected from time to time of a skilled and experienced service provider (engaged in the delivery of services or outputs of the same type as the Services under the same or similar circumstances);

Group means a subsidiary or holding company of Barnet Homes or another subsidiary or holding company of either such entity (as subsidiary and holding company are defined in Section 1159 of the Companies Act 2006) but not including the Council;

HCA means the Homes and Communities Agency or any similar future authority (including any statutory successor) carrying on substantially the same funding, regulatory or supervisory functions;

Housing Options Service means the part of the Services set out at paragraph 2 of Schedule 1;

Housing Options Service Fee means the sums payable pursuant to clause 11.7;

Housing Partnership Board means the board of the Council referred to as the Housing Partnership Board or any other name by which it is hereafter called;

HRA means the Council's Housing Revenue Account as defined under the Local Government and Housing Act 1989;

HRA Fee means the sums payable pursuant to clause 11.1 and calculated in accordance with clause 11.2;

Indirect Losses means loss of profits (other than profits directly and solely attributable to carrying on of the Services), loss of use, loss of production, increased operating costs, loss of business, loss of business opportunity, loss of reputation or goodwill or any other consequential or indirect loss of any nature, whether arising in tort or on any other basis;

Insolvency Event means any of the following:

- (a) any arrangement or composition with or for the benefit of Barnet Homes' creditors which does not involve a continuation of the Barnet Homes' business in the same or substantially the same form (including any voluntary arrangement as defined in the Insolvency Act 1986) being entered into by or in relation to the person in question;
- (b) a supervisor, receiver, administrator, administrative receiver or other encumbrances taking possession or being appointed over and any distress, execution or other process being levied or enforced (and not being discharged within 5 Working Days) upon, the whole or part of the assets of Barnet Homes;
- (c) Barnet Homes ceasing to carry on business;
- (d) a resolution being passed or an order being made for the administration or the winding-up, bankruptcy or dissolution of Barnet Homes;
- (e) Barnet Homes suffering any event analogous to any of the foregoing in any jurisdiction in which it is incorporated, established or resident;

Law means any applicable law, legislation, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Relevant Authority, delegated or subordinate legislation or notice of any Relevant Authority;

Local Government Pension Scheme means the Local Government Pension Scheme made by the Secretary of State in exercise of powers under sections 7 and 12 of the Superannuation Act 1972, as amended;

Local Government Pension Scheme Regulations means the regulations in force from time to time governing the Local Government Pension Scheme;

Material Breach means a breach of this Agreement which is material and/or persistent (provided that, in the case of a persistent breach, the breach by reason of the persistence has become material) in each case having regard to all relevant circumstances including, without limitation, the nature of the relationship between the parties to this Agreement and the need for each such party to maintain the confidence of the other, the nature of the breach (and in particular whether it be intentional, negligent or otherwise), the regularity with which the obligation which has been breached falls to be performed under the this Agreement and the consequences of the breach and for the avoidance of doubt shall include but shall not be limited to any breach of this Agreement that gives rise to a right to terminate it in its entirety;

Non-outsourced Activities means any strategies, services and activities not forming part of the Services but which are similar in nature to the Services;

Performance Management Framework means the performance management framework set out in Schedule 2;

Personal Data has the meaning set out in the Data Protection Act 1998;

Prohibited Act means an act where a person has:

- (a) offered, given or agreed to give any officer or employee of the Council any gift or consideration of any kind as an inducement or reward for doing or not doing or for having done or not having done any act in relation to the obtaining or performance of this or any other agreement with the Council or for showing or not showing favour or disfavour to any person in relation to this or any other agreement with the Council; or
- (b) in connection with this Agreement paid or agreed to pay any commission other than a payment, particulars of which (including the terms and conditions of the agreement for its payment) have been disclosed in writing to the Council; and
- (c) committed any offence:
 - i under legislation creating offences in respect of fraudulent acts;
 - ii at common law in respect of fraudulent acts in relation to this Agreement; or
 - iii under the Bribery Act 2010; or
- (d) defrauds or attempts to defraud or conspires to defraud the Council;

Properties has the meaning given to it in Recital B;

Regulations means the Public Contracts Regulations 2015

Relevant Authority means those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Agreement or any other affairs of the Council or Barnet Homes;

Relevant Transfer means a relevant transfer for the purposes of TUPE;

Relevant Transfer Date means the date on which an Eligible Employee transfers to Barnet Homes and/or one or more sub-contractor whether by virtue of any Relevant Transfer or deemed Relevant Transfer or otherwise;

Retendering Information has the meaning set out in paragraph 1.1.1 of Part 1 of Schedule 6;

Return Date has the meaning set out in paragraph 2.2 of Part 1 of Schedule 6;

Returning Employees has the meaning set out in paragraph 2.2 of Part 1 of Schedule 6;

Scheme of Delegation means the scheme of delegation set out in Schedule 9 as the same may be revised by the Council from time to time;

Sensitive Personal Data means sensitive personal data as defined under the Data Protection Act 1998;

Service Level Agreement (or SLA) means one or more of the agreements to be entered into by the parties and administered under clause 6 under which the Council will provide certain support services to Barnet Homes to enable Barnet Homes to provide the Services and which are either (i) as at the date of this Agreement incorporated at Schedule 10 or (ii) are prepared under clause 6 during the Service Period;

Service Period means the period commencing on 1 April 2016 and ending on the earlier of the Expiry Date and the Termination Date;

Service Year means a calendar year starting on 1 April and ending on the next following 31 March during the Service Period;

Services means the services set out in paragraphs 2 to 19 (inclusive) of Schedule 1;

Services Policies (or Service Policy) means:

- (a) the relevant Council's policies as referred to in Schedule 5; and
- (b) each and any of Barnet Homes' policies relating to the Services;

Shareholders' Agreement means the agreement dated on or about the date of this Agreement and made between (1) the Council, (2) TBG, (3) Your Choice (Barnet) Limited and (4) Barnet Homes;

Staff means all personnel used by Barnet Homes in the performance of the Services, whether such personnel are operatives, supervisors, directors, or in any manner employed by Barnet Homes or by other contractors of Barnet Homes, or are employed on their own account as independent contractors;

Strategic Housing Board means the board of the Council referred to as the Strategic Housing Board or any other name by which it is hereafter called;

TBG means TheBarnetGroup Limited (company registered number 07873964) whose registered office is at Barnet House, 1255 High Road, Whetstone, London N20 0EJ;

Teckal means the codified rule of EU procurement law as set out within Directive 2014/24/EU and Regulation 12 of the Regulations, deriving from the Teckal case (Teckal Srl v Comune de Viano and Azienda Gas-Acqua Consorziale (AGAC) di Reggio Emilia (C-107/98) [1999] ECR I-8121) pursuant to which the requirement for open advertisement and tendering for public contracts in accordance with the Regulations, does not apply

Tenant Management Organisation means an organisation established in accordance with the Housing (Right to Manage) Regulations 2012;

Termination Date means the date of any termination of Barnet Homes' appointment under this Agreement in accordance with clauses 2.3, 2.4, 15.2, 15.3, 16.1 and 27.6 prior to the Expiry Date;

Termination Notice has the meaning given to it in clause 15.2;

Transferring Employees means any person engaged or employed by the Council, Barnet Homes or its sub-contractor (as appropriate) who is, at the relevant time and for the purposes of TUPE assigned to the relevant undertaking or organised grouping, which will be subject to a Relevant Transfer as a result of a Change;

TUPE means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (246/2006) and/or any other regulations enacted for the purpose of implementing the EC Acquired Rights Directive 77/187 and the Directive as amended into English law;

Warning Notice has the meaning given to it in clause 15.1; and

Working Day means a day when the clearing banks are open for business other than a Saturday, Sunday or public holiday in England or Wales.

1.2 In this Agreement except where the context otherwise requires:-

1.2.1 the masculine includes the feminine and vice-versa;

1.2.2 the singular includes the plural and vice-versa;

1.2.3 a reference in this Agreement to any clause, sub-clause, paragraph, schedule or annex is, except where it is expressly stated to the contrary, a reference to such clause, sub-clause, paragraph, schedule or annex of this Agreement;

1.2.4 save where otherwise provided in this Agreement, any reference to this Agreement or to any other document shall include any permitted variation, amendment or supplement to such document;

1.2.5 any reference to any enactment, order, regulation, code, guidance or other similar instrument shall be construed as a reference to the enactment, order, regulation, code, guidance or instrument (including any EU instrument) as amended, replaced, consolidated or re-enacted;

1.2.6 references to any documents being "in the agreed form" means such documents have been initialled by or on behalf of each of the parties for the purpose of identification;

1.2.7 a reference to a person includes firms, partnerships and corporations and their successors and permitted assignees or transferees;

1.2.8 headings are for convenience of reference only;

1.2.9 words preceding include, includes, including and included shall be construed without limitation by the words which follow those words;

1.2.10 the Schedules to this Agreement form part of this Agreement;

1.2.11 references to a "party" or "the parties" shall be to a party or the parties to this Agreement; and

1.2.12 where a reference is to a communication being "in writing" the parties agree that such communication may for the purposes of this Agreement be issued via email.

- 1.3 No review, comment or approval by the Council under the provisions of this Agreement shall operate to exclude or limit Barnet Homes' obligations or liabilities under this Agreement (or the Council's rights under this Agreement) unless it is agreed in writing that this is the parties' intention.

2 COMMENCEMENT AND DURATION

- 2.1 This Agreement shall take effect and the parties' rights and obligations shall commence on the date hereof.
- 2.2 The Service Period shall commence on 1 April 2016 and shall terminate on the earlier of:
- 2.2.1 the Expiry Date; and
 - 2.2.2 the Termination Date.
- 2.3 This Agreement shall be terminated if such requirement is imposed pursuant to section 247(2) or 249(2) of the Housing and Regeneration Act 2008. If this Agreement is terminated under this clause 2.3, the Council and Barnet Homes shall make all necessary arrangements for the transfer of the relevant functions from Barnet Homes.
- 2.4 In the event that a proposal to establish a Tenant Management Organisation which would affect any of the Properties is received by the Council during the Service Period the Council shall notify Barnet Homes as soon as reasonably practicable. In the event that a Tenant Management Organisation is established in relation to all of the Properties which are subject to this Agreement, the Council shall be entitled to terminate this Agreement on three months' written notice. In the event that a Tenant Management Organisation is established in relation to some but not all of the Properties which are subject to this Agreement, the Council shall be entitled to vary this Agreement to exclude those Properties from the Services on three months' written notice. The parties shall apply the provisions of clause 12 to determine the consequences of such change to the remainder of the Services. The Council and Barnet Homes shall make all necessary arrangements and provide all reasonable assistance to the relevant Tenant Management Organisation to allow them to comply with their obligations and enable a smooth transfer of management functions in respect of the affected Properties from Barnet Homes to the Tenant Management Organisation.
- 2.5 During the ninth Service Year (2024/2025) the Council will carry out a review of the Services and this Agreement to determine whether it wishes to renew this Agreement for a further period. The Council shall notify Barnet Homes in writing not later than 6 months prior to the Expiry Date whether it wishes to end or renew this Agreement (any renewal being subject to section 27 of the Housing Act 1985).
- 2.6 At any time from commencement of the eighth Service Year (2023/2024), whether or not the outcome of the Council's review under clause 2.5 results in a wish to renew this Agreement for a further period, the Council may notify Barnet Homes that it wishes to extend this Agreement for up to a period of one more Service Year whilst it completes its review of the housing services delivered under this Agreement or decides it wishes to either bring the services back in house or transfer them to an alternative provider.

3 PROVISION OF THE SERVICES

- 3.1 Subject to the terms of this Agreement, Barnet Homes shall provide the Services to the Council in accordance with the terms and conditions of this Agreement for the Service Period.
- 3.2 The Council shall have the right to provide the Services (or any part of the Services) itself, or engage a third party to do so on its behalf in the circumstances set out in clause 14.
- 3.3 Barnet Homes' rights under clause 3.1 shall not apply where agreed or determined to the contrary under clause 12 or as otherwise agreed under this Agreement.
- 3.4 The parties acknowledge and agree that the successful operation of this Agreement will require their long term co-operation to deliver a successful outcome and accordingly each party agrees to conduct their dealings with the other and any relevant third party contractors in good faith and with

the intent that there will be a seamless interface between Barnet Homes' provision of the Services and the performance by the Council of its other operations and services.

4 THE SERVICES

- 4.1 Barnet Homes shall use reasonable endeavours to provide or procure the provision of the Services to the Council in accordance with the Five Year Business Plan, and the terms of this Agreement throughout the Services Period.
- 4.2 Notwithstanding the other provisions of this Agreement, Barnet Homes throughout the Service Period shall:
- 4.2.1 provide the Services in accordance with Good Industry Practice;
 - 4.2.2 provide the Services so as to meet and discharge the Council's statutory, legislative and contractual obligations, the Delegated Functions and any other requirements in relation to housing matters in relation to the Properties;
 - 4.2.3 ensure that in providing the Services it complies with all relevant Consents, Laws (including the Equality Act 2010) and the Services Policies (and shall supply to the Council on request a copy of every Consent obtained and any variation, relaxation or waiver agreed with the Relevant Authority);
 - 4.2.4 warn the Council of any matter of which it is aware and believes is likely to prejudice the quality or purpose of the Services;
 - 4.2.5 ensure that it meets the agreed performance standards for each element of the Services;
 - 4.2.6 use all reasonable endeavours to ensure that in providing the Services it maximises value for money, makes the most efficient use of resources possible and achieves continuous improvement to deliver excellent Services to the Council and individual tenants and leaseholders;
 - 4.2.7 promote innovation and the development of new models of procurement and service delivery in its performance of the Services;
 - 4.2.8 promote equality and diversity;
 - 4.2.9 perform its obligations under and observe and enforce of the provisions of any subcontracts to which it is a party;
 - 4.2.10 perform its obligations in full cooperation with the Council, its contractors, stakeholders and other relevant service users and all persons employed at any premises shared with the Council;
 - 4.2.11 ensure the Services are performed by appropriately qualified and trained personnel;
 - 4.2.12 adopt the National Housing Federation Excellence in Governance Code;
 - 4.2.13 comply with the HCA economic and consumer regulatory standards (and any revised standards in force from time to time throughout the Service Period);
 - 4.2.14 represent the Council's interests at appropriate housing networks, forums, partnerships and working groups both locally, regionally and nationally providing timely reporting back to the Council; and
 - 4.2.15 provide all information detailed in the reporting requirements in Schedule 3 using reasonable but commercially prudent endeavours to supply such information within the timeframes set out in Schedule 3.

- 4.3 Barnet Homes will ensure that any business cases submitted shall follow the Council's framework and include an explanation of the expected benefits realisation to enable effective monitoring and measurement.
- 4.4 Barnet Homes will endeavour to compile an asset register of all HRA-owned non-residential assets during the first Service Year and in accordance with the programme included in the Five Year Business Plan will agree with the Council the most appropriate course of action in respect of the ownership and disposal of each such asset in order to confirm how each such HRA-owned non-residential asset should be operated and managed.

5 BUDGETARY MANAGEMENT AND SERVICE PLANNING

Five Year Business Plan and Annual Delivery and Commitments Plan

- 5.1 Barnet Homes shall taking account of the Council's Corporate Plan and Commissioning Plans prepare and maintain a rolling five year business plan (the **Five Year Business Plan**) and shall under the terms of the Shareholders' Agreement submit the Five Year Business Plan to TBG for inclusion as part of TBG's Consolidated Business Plan which is to be submitted to the Council for approval on or before 31 December in each year of the Service Period save for the 31 December immediately preceding the Expiry Date Provided That in the event the Shareholders' Agreement is terminated and/or TBG ceases to exist during the Service Period, Barnet Homes shall submit the Five Year Business Plan directly to the Council for approval.
- 5.2 No later than 28th February following the date of this Agreement and in each Service Year other than immediately prior to the Expiry Date, Barnet Homes shall liaise with the Council to agree an Annual Delivery and Commitments Plan (the **Annual Delivery and Commitments Plan**) setting out outcomes and targets for the following Service Year. The Annual Delivery and Commitments Plan shall align with the provisions of the Five Year Business Plan.
- 5.3 In the event that Barnet Homes considers it necessary to depart from the Annual Delivery and Commitments Plan Barnet Homes shall notify the Council and request the Council's approval using the Change process in clause 12.

Budget management and control

- 5.4 Subject to compliance with the provisions of this Agreement, Barnet Homes shall be entitled to manage its finances as it sees fit provided that it shall in doing so at all times be compliant with the Five Year Business Plan. Where the Council's approval is required in respect of any policy or plan submitted by Barnet Homes the Council shall act reasonably and in good faith and without unreasonable delay.
- 5.5 On or before 30 June in each Service Year, and in the June immediately following the Expiry Date or Termination Date (as the case may be), Barnet Homes shall supply the Council with copies of its audited accounts for the last complete financial year.
- 5.6 Barnet Homes shall not incur any financial borrowing without the consent of the Council which shall be obtained under the Shareholders' Agreement. For the avoidance of doubt, the Council shall be deemed to be acting reasonably in refusing consent for (i) unsecured loans other than in exceptional and pre-agreed circumstances and (ii) secured loans which would exceed the Gearing Limit.
- 5.7 Any bad debts or write-offs for an individual tenant or leaseholder in any Service Year proposed by Barnet Homes that in aggregate for such an individual tenant or leaseholder that are in excess of:
- 5.7.1 £50 must be approved by the Council through the Delegated Powers Report (or its equivalent from time to time); or
 - 5.7.2 £5,000 must be approved by the Council through the Council's Policy and Resources Committee (or its equivalent from time to time).

- 5.8 Barnet Homes will operate an open book approach to accounting and permit designated Council officers access to its accounts at pre-agreed times.
- 5.9 Barnet Homes shall provide any information reasonably required by the Council's finance team on a timely basis for the purposes of updating the Council's HRA business plan model.
- 5.10 Barnet Homes will ensure it maintains and makes available to the Council financial plans and modelling underpinning its current operations and decision-making in relation to its provision of the Services and any requests to the Council for further resources for its provision of the Services. In developing and maintaining such plans and models Barnet Homes will make any assumptions it has made explicit and will carry out sensitivity testing on such plans and models as and when required to do so by the Council.
- 5.11 Barnet Homes will be expected to use all reasonable endeavours to maximise third party funding opportunities.
- 5.12 Barnet Homes will ensure that in presenting information for decisions to be taken under the Shareholders' Agreement it shall provide evidence of the value for money associated in taking all such decisions.

Changes in Five Year Business Plan

- 5.13 In the event that either party, acting reasonably, considers at any time that an adjustment to the Five Year Business Plan (and/or the corresponding Annual Delivery and Commitments Plan) is required (including during any annual update or preparation of the Five Year Business Plan pursuant to clause 5.1 and/or the Annual Delivery and Commitments Plan pursuant to clause 5.2) that party shall notify the other party in writing (an **Adjustment Notice**) Provided That:
 - 5.13.1 both parties agree that they shall not serve on the other party more than one such Adjustment Notice in any Service Year; and
 - 5.13.2 provided further that both parties agree that any such Adjustment Notice shall only be served by either of them in circumstances where the reason for serving such an Adjustment Notice arises:
 - (a) out of or in connection with any governmental policy, legislation and/or regulations; or
 - (b) in the case of:
 - (i) the Council, is due to a change it requires to; or
 - (ii) Barnet Homes, is due to a change it requires resulting from changes to the scope, volume or standards of performance of the Services resulting from variations in the funding levels that the Council is able to commit to the Services being provided under this Agreement (such change in funding levels being necessitated by the Council's other requirements and obligations to provide other services within the London Borough of Barnet within its then current financial policies, constraints and accounting rules).
- 5.14 If the Council serves an Adjustment Notice pursuant to clause 5.13, Barnet Homes shall provide outline proposals to achieve the required adjustment in the Five Year Business Plan (and/or the corresponding Annual Delivery and Commitments Plan) within 20 Working Days of receipt of the Adjustment Notice. Where the required adjustment reduces the budget or increases the cost of providing the Services in the Five Year Business Plan, Barnet Homes' outline proposal shall seek to address this in the following ways, in descending order of priority:
 - 5.14.1 efficiency gains;
 - 5.14.2 adjustments to and/or reprioritisation of performance indicators and performance levels;

- 5.14.3 relief from compliance with its obligations under this Agreement;
 - 5.14.4 through the allocation by Barnet Homes of any surplus it has generated; and
 - 5.14.5 in the case of increased costs, through a proposed increase to the budget in the Five Year Business Plan.
- 5.15 If Barnet Homes serves an Adjustment Notice pursuant to clause 5.13, it shall include within such Adjustment Notice either:
- 5.15.1 outline proposals to achieve the required adjustment; or
 - 5.15.2 details of the required adjustment,
in the Five Year Business Plan (and/or the corresponding Annual Delivery and Commitments Plan).

Where the required adjustment reduces the budget or increases the cost of providing the Services in the Five Year Business Plan, Barnet Homes' outline proposal shall seek to address this in the ways (in descending order of priority) set out in clauses 5.14.1 to 5.14.5 above. Where the required adjustment is required to enable Barnet Homes to deliver the Services within the Fee, Barnet Homes shall demonstrate why this is necessary notwithstanding the application of the possible approaches listed in clauses 5.14.1, 5.14.2 and 5.14.4 above.

- 5.16 The Council shall respond within 20 Working Days of receipt of Barnet Homes' proposals pursuant to clause 5.14 or clause 5.15 (as the case may be) with its comments and Barnet Homes shall then submit detailed proposals to implement the proposed adjustments (as modified in accordance with the Council's comments) within 20 Working Days of receipt of the Council's comments.
- 5.17 The parties shall work together reasonably and in good faith to finalise the implementation of the proposals including the date for implementation.

Financial surpluses

- 5.18 Any financial surpluses generated by Barnet Homes through its provision of the Services may be applied by Barnet Homes as it sees fit provided such use aligns with Barnet Homes' remit, stated aims and objectives and the Five Year Business Plan.

6 SERVICES PROVIDED BY THE COUNCIL

- 6.1 Barnet Homes acknowledges and agrees that during the Service Period it is obliged to procure from the Council the support services comprised in the following SLAs on the terms set out in the relevant SLA:

Service	Charge per annum
CCTV	£19,206 per annum for 2016/17
Abandoned vehicles	£4,150 per annum for 2015/16
Tree works	£8,000 per annum for 2015/16
Transport	Variable cost per annum 2015/16
Payroll and Ad-Hoc HR	Variable cost per annum based on a range of costs for different services for 2016/17
Customer services	£27,099.58 per annum 2016/17

Service	Charge per annum
Accommodation	£390,077 per annum for 2015/16 subject to rent review and insurance costs
Facilities Management	£211,357 per annum subject to confirmation of final actual charges for 2015/16
Financial Services	£9,380 per annum plus other costs depending on volume for 2015/16
Information Systems	£754,131.40 per annum plus some potential variable charges based on use for 2014/17

- 6.2 Barnet Homes acknowledges and agrees that during the Service Period it is obliged to procure from the Council a Tenancy Fraud service on the terms set out in the relevant SLA and that for the first Service Year (2016/2017) the charge for this service will be £177,000 per annum but rather than charging Barnet Homes for this service the Council agrees that it will deduct the cost of this service direct from the HRA.
- 6.3 Barnet Homes acknowledges and agrees that during the Service Period it is obliged to procure from the Council an Emergency Planning service and a Housing Benefit service on the terms set out in the relevant SLA and the Council agrees that it shall provide these services at no additional cost to Barnet Homes.
- 6.4 Barnet Homes acknowledges and agrees that 2014/15 Grounds Maintenance costs are £483,806, 2015/16 Grounds Maintenance costs are £489,159 and that for the first Service Year (2016/2017) it is obliged to procure from the Council a Grounds Maintenance service on the terms set out in the relevant SLA for the charge of £684,887 per annum (with the HRA Fee having been increased as noted in Clause 11.2A.3 to compensate for this increase in the Grounds Maintenance costs). The parties agree that from and including the second Service Year (2017/2018) and at any time thereafter during the Service Period Barnet Homes may elect at its discretion to procure some or all of its needs in relation to grounds maintenance services from a third party contractor (or if not from a third party by way of self-provision) provided that if Barnet Homes does wish to adopt this strategy it must provide not less than 6 months' notice to the Council of its wish to terminate all or part of the Grounds Maintenance SLA and Barnet Homes acknowledges that if it does so wish to terminate all or part of the Grounds Maintenance SLA that TUPE may apply to staff engaged to provide the ground maintenance services under the Grounds Maintenance SLA. Barnet Homes further acknowledges and agrees that the Council may itself provide to Barnet Homes not less than 12 months' notice, or such shorter period which is sufficient for Barnet Homes to follow a robust procurement process for any replacement of the Grounds Maintenance SLA, that the Council wishes to terminate all or part of the Grounds Maintenance SLA and Barnet Homes acknowledges that if the Council does so wish to terminate all or part of the Grounds Maintenance SLA that TUPE may apply to staff engaged to provide the ground maintenance services under the Grounds Maintenance SLA. Should either Barnet Homes or the Council terminate all or part of the Grounds Maintenance SLA this shall be effected under clause 12 as a Change and for the avoidance of doubt the parties agree that clause 10.7 shall apply.
- 6.5 Barnet Homes acknowledges and agrees that during the Service Period it is obliged to enter into a direct contract with HB Public Law under which Barnet Homes will purchase on an annual basis an agreed minimum volume of legal services from HB Public Law.
- 6.6 The parties acknowledge that SLAs for the services referred to in clauses 6.1, 6.2, 6.3 and 6.4 are incorporated in Schedule 10 and for the avoidance of doubt the Council and Barnet Homes acknowledge and agree that they shall comply with the requirements set out in each of the SLAs.
- 6.7 The parties agree that they shall review each of the SLAs either on an annual basis or as often as stated in the relevant SLA (provided that where a SLA is not the subject of a formal review it shall continue to apply in its most recently agreed form). In undertaking any such review the parties acknowledge that there may need to be changes to the contents of one or more of the SLAs (including but not limited to the services to be provided under any SLA and the costs associated with

the performance of such services) and agree that they shall act reasonably at all times and shall work together in good faith to agree any such amendments that may be necessary to ensure the smooth operation of this Agreement. The termination of an SLA shall only be effected under clause 12 as a Change and for the avoidance of doubt the parties agree that clause 10.7 shall apply.

- 6.8 Where the parties agree acting reasonably that from time to time new services are necessary for the effective operation of the Services the parties shall use their reasonable endeavours to develop and approve such services and respective SLAs including the charge cost of the same to be paid by Barnet Homes to the Council as part of the re-charge applied by the Council in respect of each SLA in force from time to time.
- 6.9 The parties agree that Barnet Homes will be responsible for regular monitoring of performance under each SLA. Where Barnet Homes (acting reasonably) considers that there has been an unacceptable level of performance for an SLA then it will notify the relevant team providing the services to Barnet Homes comprised within the relevant SLA and liaise with them directly in order to agree measures to be put in place to address any such under-performance.
- 6.10 The contents of any notification by Barnet Homes under clause 6.9 shall include the following information:
 - 6.10.1 the SLA in relation to which Barnet Homes considers there has been an unacceptable level of performance;
 - 6.10.2 the matters that Barnet Homes consider constitute an unacceptable level of performance with reference to the requirements set out in the relevant SLA;
 - 6.10.3 evidence set out in reasonably sufficient detail to demonstrate that there has been an unacceptable level of performance in relation to the matters identified;
 - 6.10.4 the impact on Barnet Homes' ability to provide the Services and/or comply with the terms of this Agreement; and
 - 6.10.5 the measures that Barnet Homes has put in place and/or considers needs to be put in place in order to provide the Services and/or comply with the terms of this Agreement.
- 6.11 Following notification pursuant to clause 6.9, should Barnet Homes and the relevant team providing the services to Barnet Homes comprised within the relevant SLA have a difference of opinion or dispute in relation to the relevant teams performance in respect of providing the relevant services to Barnet Homes under such SLA as set out in the relevant notice provided by Barnet Homes under clause 6.7 this difference of opinion or dispute may be escalated by either party for resolution:
 - 6.11.1 to the Contract Manager through the monthly performance review meetings, and if the Contract Manager cannot resolve the difference of opinion or dispute it shall be escalated for resolution;
 - 6.11.2 to the Housing Partnership Board, and if the Housing Partnership Board cannot resolve the difference of opinion or dispute it shall be escalated for resolution;
 - 6.11.3 to the Council's Section 151 Officer (who in reaching any decision is to take soundings as to the final resolution in person, by email and/or telephone from those officers sitting on the Strategic Housing Board), and if the Council's Section 151 Officer cannot resolve the difference of opinion or dispute it shall be escalated for final resolution in accordance with clause 13.5.
- 6.12 Following agreement being reached or a decision being issued under clause 6.11 in relation to a notice issued under clause 6.9, the Council agrees that should such agreement or decision confirm that there has been an unacceptable level of performance under a SLA:

- 6.12.1 Barnet Homes will be granted relief from any non-performance of the Services and/or breach of this Agreement identified in the relevant notice it has issued under clause 6.9; and
- 6.12.2 in circumstances where the Council has itself enforced a financial penalty on one or more of the Council's subcontractors that was in whole or in part responsible for the unacceptable level of performance under the relevant SLA the Council's S151 Officer will consider whether it is appropriate for the net balance (or other proportion) of such financial penalty received by the Council to be paid to Barnet Homes.

7 GOVERNANCE AND OPERATION

Governance arrangements

- 7.1 Barnet Homes shall operate within the legal framework which applies to ALMOs and at all times subject to the arrangements set out in the Shareholders' Agreement (insofar as such Shareholders' Agreement subsists).
- 7.2 Barnet Homes may develop and set its own business strategy for any Non-outsourced Activities which do not form part of the Services. Barnet Homes shall only undertake Non-outsourced Activities where the same are anticipated in the Five Year Business Plan or have been approved by the Council under the Scheme of Delegation. Barnet Homes acknowledges and agrees that it may only carry out Non-outsourced Activities where the performance of such activities does not put the Teckal status of Barnet Homes at risk of being challenged.
- 7.3 Barnet Homes and the Council shall carry out an annual review of the Delegated Functions and any changes to the same shall be effected through clause 12.

Internal controls

- 7.4 Barnet Homes will comply with the Services Policies including the Council's Counter Fraud Framework in place from time to time and shall report all instances of suspected or reported fraud to CAFT as soon as these come to Barnet Homes' attention.
- 7.5 Barnet Homes shall comply with the then current version of the Scheme of Delegation and acknowledges and agrees that the Council may from time to time issue to Barnet Homes a revised Scheme of Delegation. Barnet Homes shall ensure that it maintains its own effective scheme of delegation that is aligned with the Scheme of Delegation in relation to the delivery of the Services.
- 7.6 Without prejudice to the generality of clause 4.2.2, Barnet Homes shall ensure that it complies with the Public Contracts Regulations 2015, EU Directive 2014/24 and any applicable guidance issued by the Cabinet Office or Crown Commercial Service. Barnet Homes shall publish its procurement policy.

Insurance

- 7.7 Barnet Homes shall maintain in place policies of insurance appropriate to the delivery of the Services, including as a minimum:
- 7.7.1 public liability insurance with a level of indemnity of not less than £25,000,000 in respect of each and every claim;
- 7.7.2 employers' liability insurance with a limit of indemnity of not less than £25,000,000 in respect of each and every claim; and
- 7.7.3 professional negligence insurance with a limit of indemnity of not less than £5,000,000 in respect of each and every claim.
- 7.8 The Council shall have the right to inspect the policies of insurance of Barnet Homes at reasonable times and on giving reasonable notice to Barnet Homes.

- 7.9 Barnet Homes shall promptly inform the Council of any change to or cancellation of its policies of insurance.
- 7.10 If on inspecting the policies of insurance of Barnet Homes, the Council reasonably believes the policies of insurance are inadequate, the Council shall be entitled to obtain such additional cover as is required on behalf of Barnet Homes and the Council shall charge Barnet Homes an amount equal to 110% of the reasonable and proper cost of the additional cover in reimbursement of the time spent by the Council.

Audit and inspection

- 7.11 Barnet Homes shall on an annual basis prepare for approval by the Council's Assurance Team an annual audit plan to be carried out by an external auditor in relation to its performance of the Services and compliance with this Agreement. Barnet Homes will provide the Council with a copy of the external auditor's findings following the external auditor's completion of the approved audit exercise within 5 Working Days of such findings having been provided by the external auditor to Barnet Homes.
- 7.12 Notwithstanding the foregoing provisions of clause 7.11:
- 7.12.1 Barnet Homes shall permit the Council to inspect and audit its financial activities and contracts in relation to the delivery of the Services at reasonable times and on reasonable notice and in relation to such audits (which may be carried out by the Council's Assurance Team and/or an external auditor) the parties shall (acting reasonably) agree the terms of reference and costs to be incurred for any such audits; and
- 7.12.2 the Council may, from time to time acting reasonably, require an audit to be carried out at Barnet Homes' cost in respect of any areas of concern the Council may have relating to the whole or part of the Services.
- 7.13 Barnet Homes shall cooperate fully with any inquiry, investigation or inspection which in any way concerns, affects or relates to the Services, or any sum claimed or charged in relation to this Agreement or the Services. Barnet Homes shall ensure that the terms of any sub-contracts shall include equivalent provisions.
- 7.14 Barnet Homes shall provide the Council with all necessary information and shall provide all necessary assistance to enable the Council to comply with its obligations including the provision of housing statistics and other information relating to the Services to any Relevant Authority.

Contract management

- 7.15 Each party shall appoint a Contract Manager, who shall have authority to act on behalf of that party in relation to this Agreement.
- 7.16 Barnet Homes will appoint a suitably qualified and experienced (CCAB) Finance Director prior to the commencement of the Service Period and shall unless agreed otherwise ensure that such post is maintained throughout the Service Period.

Controls and risk management

- 7.17 Barnet Homes will operate a sound system of internal control, including appropriate risk management arrangements that are summarised in a policy that is at least equivalent to the Council's Risk Management Framework.

Emergency and Business Continuity Plan

- 7.18 Barnet Homes will maintain an up-to-date emergency plan and business continuity plan that all staff are familiar with, including a list of key contacts covering key/control staff, partners and suppliers. Barnet Homes will take reasonable steps to ensure both such plans are tested regularly.

Exercise of rights under the Shareholders' Agreement

- 7.19 Save in respect of exercising any of its rights in relation to any of the Reserved Matters (as defined in the Shareholders' Agreement), the Council shall not and shall procure that TBG shall not otherwise use its rights as sole member of Barnet Homes to amend Barnet Homes' articles of association or appoint or remove directors of Barnet Homes (save for TBG's own nominees) or to issue directions to Barnet Homes or its Board unless Barnet Homes fails to comply with the terms of this Agreement such that the Council would be entitled to terminate this Agreement under clause 15 in which case the restriction in this clause 7.19 shall not apply.

8 EQUALITY AND DIVERSITY

- 8.1 Barnet Homes shall operate an equalities strategy which has due regard to the Equality Act 2010 and the provisions of the public sector Equality Duty.
- 8.2 Barnet Homes shall complete Equalities Impact Assessments for all new services proposed as part of the Services and any changes to the Services that affect residents or service users and shall give due regard to the results of such assessments.
- 8.3 Barnet Homes shall comply with the Services Policies in relation to equality and diversity and undertake regular monitoring through data collection on service usage, customer feedback and performance and take account of any findings in planning delivery of the Services.

9 PERFORMANCE MANAGEMENT, BENCHMARKING AND MARKET TESTING

- 9.1 Barnet Homes will develop, operate and maintain a performance management system that sets out how wider performance, including the performance indicators set out in the Performance Management Framework, will be managed with a view to continuously improving delivery of the Services, taking in to account available resources. The performance management system should be reviewed and agreed by the Board annually and be included in the relevant Annual Delivery and Commitments Plan.
- 9.2 Barnet Homes will also:
- 9.2.1 in the Annual Delivery and Commitments Plan include an agreed suite of performance indicators and other outputs for the next financial year; and
 - 9.2.2 respond with corrective actions and timescales to any outputs or matters arising from performance meetings no later than 10 Working Days following any such meeting.
- 9.3 Barnet Homes shall ensure that tenants and leaseholders are provided with the ability to scrutinise performance of the Services and be provided with a forum in which they may hold Barnet Homes and the Council to account in respect of the performance of the Services in accordance with the then prevailing HCA requirements. Barnet Homes shall publish relevant, appropriate and sufficient evidence to demonstrate its compliance with this Agreement and its performance of the Services in its Annual Report.
- 9.4 The Council may at any time monitor or inspect the performance of the Services or request that Barnet Homes makes a change to the delivery of the Services in order to meet the agreed performance standards for the Services.
- 9.5 In the event that the Council believes fraudulent, misleading or erroneous information has been provided in relation to performance it may change or increase its level of performance monitoring of Barnet Homes at its discretion.

Benchmarking and market testing

- 9.6 On or before the commencement of the Service Period Barnet Homes shall confirm to the Council that it is a member of an appropriate benchmarking club. Barnet Homes shall ensure that it remains a member of such a benchmarking club throughout the Service Period.

9.7 Barnet Homes shall carry out a benchmarking review against all key business activities (to the extent reasonably practicable) on an annual basis and at its own cost. Such exercise shall consider the relative quality and competitiveness of the Services against similar housing providers. Barnet Homes shall report to the Council on the outcomes of the benchmarking exercise through the Performance Management Framework and the parties shall acting reasonably agree how to respond to such outcomes through the contents of the relevant Annual Delivery and Commitments Plan.

10 STAFF

10.1 Barnet Homes shall ensure that it has and shall maintain sufficient trained and competent Staff to carry out its obligations under this Agreement. Barnet Homes shall substantially maintain the staffing and skill levels in place at the date of this Agreement unless otherwise agreed with the Council.

10.2 Barnet Homes shall:

10.2.1 where relevant and appropriate to the Services being proposed by particular member of Staff or subcontractors ensure that before any member of Staff begins to perform the Services the results are obtained of a check of the most extensive available kind made with the Disclosure and Barring Service including a check against the barred lists or in accordance with safeguarding legislation and guidance relating to working with children and/or vulnerable adults as appropriate in force from time to time in respect of each such member of Staff and that no member of Staff who is found to have any Convictions following the results of a check with the Disclosure and Barring Service, or who has been placed on a barred list or otherwise identified as being unsuitable to work with vulnerable adults and/or children as appropriate is employed or engaged without the Council's prior written consent;

10.2.2 not discriminate directly or indirectly, by way of victimisation or harassment against any person contrary to the applicable provisions of the Equality Act 2010 and shall provide all reasonable support to the Council to comply with its public sector Equality Duty;

10.2.3 ensure that its employees have appropriate workplace representation, whether through trade unions or otherwise; and

10.2.4 in the event of termination or expiry of this Agreement, comply with the terms of Schedule 6.

10.3 To the extent that any member of Barnet Homes' Staff or a relevant sub-contractor's Staff is an Eligible Employee, Barnet Homes shall procure that it and/or each relevant sub-contractor shall from the Relevant Transfer Date:

10.3.1 afford the Eligible Employee the pension entitlement set out in the Best Value Pensions Direction whilst the Eligible Employee is employed in connection with the Services under this Agreement;

10.3.2 adhere to the Local Government Pension Scheme Regulations and applicable actuarial reporting requirements;

10.3.3 make employer contributions in accordance with actuarial requirements; and

10.3.4 adhere to the Council's requirements as administering authority for the London Borough of Barnet Pension Fund.

10.4 The parties agree that Barnet Homes shall procure that a relevant sub-contractor is responsible for all liability and potential liability in relation to retirement benefits for any Staff.

10.5 The parties agree that liability for the pension entitlement of the employees who have transferred under TUPE from the Council to Barnet Homes is in accordance with the letters annexed at Part 2 of Schedule 6.

- 10.6 The parties agree that a Change may result in a Relevant Transfer between the parties and / or a sub-contractor of Barnet Homes. Prior to any such Relevant Transfer, the parties agree that they shall and Barnet Homes shall procure that any relevant sub-contractor shall:
- 10.6.1 fully cooperate with each other to ensure a smooth transfer of responsibility and transfer of employees to the other;
 - 10.6.2 on receiving a written request from the other party promptly provide in respect of any Transferring Employees full and accurate, Employee Liability Information affecting each of those Transferring Employees;
 - 10.6.3 promptly notify the other party forthwith in writing of any material changes to the Employee Liability Information referred to in clause 10.6.2 as and when such changes arise;
 - 10.6.4 be precluded from making any increase in the remuneration or other change in the terms and conditions of the Transferring Employees other than in the ordinary course of business; and
 - 10.6.5 be precluded from moving any person who would otherwise be a Transferring Employee to another part of its business or moving other employees from elsewhere in its business who have not previously been employed or engaged in providing the relevant service or the relevant part of a service which will transfer to the other party or sub-contractor of Barnet Homes as a result of a Change.
- 10.7 In the event of a Relevant Transfer from Barnet Homes to the Council and/or any Future Service Provider, the provisions of this clause 10.7 shall apply (and the parties further agree that the provisions of this clause 10.7 shall apply mutatis mutandis should a Relevant Transfer take place from the Council to Barnet Homes and/or any sub-contractor).
- 10.7.1 Barnet Homes shall indemnify, and shall keep indemnified in full, the Council and at the Council's request any Future Service Provider against all Direct Losses arising from any claim by any party as a result of Barnet Homes (or its sub-contractor) failing to provide or promptly to provide the Council and/or any Future Service Provider where requested by the Council with Employee Liability Information or to provide full Employee Liability Information or as a result of any material inaccuracy in, or omission, from the Employee Liability Information provided that this indemnity shall not apply in respect of the Employee Liability Information to the extent that such information was originally provided to Barnet Homes by the Council and was materially inaccurate or incomplete when provided;
 - 10.7.2 Barnet Homes shall, or shall procure that, all wages, salaries and other benefits of the Transferring Employees and all PAYE tax deductions and national insurance contributions relating thereto in respect of the employment of the Transferring Employees up to the date of Relevant Transfer are satisfied;
 - 10.7.3 without prejudice to paragraph 10.7.1:
 - (a) Barnet Homes shall remain (and procure that any sub-contractor shall remain) responsible for all Barnet Homes' (or sub-contractor's) employees (other than the Transferring Employees) on or after the date of the Relevant Transfer and shall indemnify the Council and any Future Service Provider against all Direct Losses incurred by the Council or any Future Service Provider resulting from any claim whatsoever, whether arising before on or after the date of the Relevant Transfer by or on behalf of any of Barnet Homes' or sub-contractor's employees who do not constitute the Transferring Employees;
 - (b) the Council shall ensure or shall procure that all wages, salaries and other benefits of the Transferring Employees (who had been engaged in the provision of the Services) and all PAYE tax deductions and national insurance contributions

relating thereto in respect of the employment of the Transferring Employees on and after the date of the Relevant Transfer are satisfied;

- (c) in respect of those employees who constitute Transferring Employees, Barnet Homes shall indemnify the Council and any Future Service Provider against all Direct Losses incurred by the Council or any Future Service Provider resulting from any claim whatsoever by or on behalf of any of the Transferring Employees in respect of their period of employment by Barnet Homes up to and including the date of the Relevant Transfer (whether any such claim, attributable to the period up to and on the date of the Relevant Transfer, arises before, on or after the date of the Relevant Transfer) including but not limited to any failure by Barnet Homes (or any sub-contractor) to comply with its or their obligations under Regulation 13 of TUPE and/or Article 6 of the Directive as if such legislation applied, even if it does not in fact apply save to the extent that any such failure to comply arises as a result of an act or omission of the Council or any Future Service Provider; and
- (d) the Council shall be entitled to assign the benefit of this indemnity to any Future Service Provider.

10.7.4 The Council shall indemnify Barnet Homes (for itself and for the benefit of each relevant sub- contractor) in respect of those employees who constitute Transferring Employees against all Direct Losses incurred by Barnet Homes or any relevant sub-contractor in connection with or as a result of any failure by the Council or any Future Service Provider to comply with its or their obligations under Regulation 13 of TUPE and/or Article 6 of the Directive as if such legislation applied, even if it does not in fact so apply save to the extent that any such failure arises as a result of any act or omission of Barnet Homes or any relevant sub-contractor.

11 PAYMENT

HRA Fee

11.1 In consideration of delivery of the Services in relation to HRA activities and the management services being provided in respect of the capital works programme, Barnet Homes shall be paid the HRA Fee in respect of the Council's tenanted and leasehold properties. The HRA Fee shall be the only payment made to Barnet Homes in respect of its delivery of Services in relation to HRA activities and the management services being provided in respect of the capital works programme unless a Change to the Services is agreed.

11.2 The HRA Fee for the first five Service Years will be:

11.2.1 Service Year 1 (2016/2017) - £26,264,000;

11.2.2 Service Year 2 (2017/2018) - £25,441,000;

11.2.3 Service Year 3 (2018/2019) - £25,022,000;

11.2.4 Service Year 4 (2019/2020) - £24,168,000;

11.2.5 Service Year 5 (2020/2021) - £24,168,000,

subject to review in accordance with clause 11.6 and provided that if the required scope of the Services relating to HRA activities and the management services being provided in respect of the capital works programme changes (including without limitation by reason of a Estate Regeneration Programme Delay) the parties shall review the HRA Fee and may agree a revised amount for one or more Service Years whereby such revised amount may result in an increase or decrease in the HRA Fee or a revised scope of Services. Both parties shall act reasonably and in good faith in any such discussions.

11.2A The parties agree that the HRA Fee:

- 11.2A.1 is net of the cost of tenancy fraud services, which is deducted from the HRA at source;
- 11.2A.2 is net of the cost of the delivery of Assist services to HRA funded tenants; under the terms of this agreement Barnet Homes agrees that it will deliver the services and charge and collect the fees due for these services, save for those services provided to clients funded by Adult Social Care in relation to which Barnet Homes will invoice Adult Social Care directly on an annual basis, with appropriate evidence to support the costs claimed for in any such invoice; and
- 11.2A.3 includes £202,000 per annum for Grounds Maintenance as a result of re-apportionment of costs between the Housing Revenue Account and the General Fund.
- 11.2B The parties agree that Barnet Homes will be responsible for payment of its annual registration fee to the Housing Ombudsman.
- 11.3 On or before 30th September 2020 (in the fifth Service Year), the Council will review the HRA Fee to apply for the remainder of the Service Period based on the number of the Council's tenanted and leasehold properties at that time and projected forward for the remainder of the Service Period and based also on all other relevant factors, in accordance with the provisions of clause 12.
- 11.4 In the event that the Council exercises its option to extend the Service Period pursuant to clause 2.5 the Council will review the HRA Fee on or before 30th September 2024 (Year 9 of the Service Period) to apply for the extended Service Period based on the number of the Council's tenanted and Leasehold properties at that time and projected forward for the extended Service Period and based also on all other relevant factors, in accordance with the provisions of clause 12.
- 11.5 The HRA Fee will be paid by the Council in 12 equal instalments, with any balancing sum applied to the payment due in the twelfth month of the relevant Service Year. Barnet Homes shall submit its invoice on the 15th day of the relevant month or the following Working Day should the 15th not fall on a Working Day. Payment shall be due by the Council within 10 Working Days of receipt of the relevant invoice.
- 11.6 In connection with preparing and agreeing the revised Five Year Business Plan and Annual Delivery and Commitments Plan pursuant to clauses 5.1 and 5.2, the parties shall prior to the commencement of each Service Year review the HRA Fee in the light of relevant factors including:
- 11.6.1 the current Five Year Business Plan and Annual Delivery and Commitments Plan;
- 11.6.2 fees payable under the SLAs;
- 11.6.3 any change in Law affecting the delivery of Services in relation to HRA activities;
- 11.6.4 any change in government policy affecting the delivery of Services in relation to HRA activities; and
- 11.6.5 the prevailing rate of CPI (in relation to the rate of CPI as at September of the preceding Service Year).

The parties agree that:

- (a) the total annual increase to the fees payable under any SLA in percentage terms shall be capped at the percentage increase (if any) in the CPI in respect of the relevant Service Year;
- (b) if there has been a change to the volume, quality and/or standard of service provision under the relevant SLA which the parties agree necessitates a revision of

the fee payable under the relevant SLA then a revised fee for such SLA will be agreed between the parties (both acting reasonably); and

- (c) if the Council proposes an increase to a fee payable under a SLA that exceeds the cap as set out in clause 11.6.5(a) above, then Barnet Homes will consider if this increase may be accommodated within the current HRA Fee and if not Barnet Homes shall submit a request for a Change to the Services under clause 12 so that it may meet the required fee increase for the relevant SLA.

The parties further agree that following the completion of each such review process that the level of the HRA Fee may change as a result of any such review process.

Housing Options Service Fee

- 11.7 In consideration for the delivery of the Housing Options Service the Council shall pay an annual fee of £3,568,986 in respect of each Service Year (less any deductions under the provisions of clause 11.15).
- 11.8 The Housing Options Service constitutes a statutory responsibility of the Council, which will be discharged by Barnet Homes under this Agreement. Being demand led the Housing Options Service is liable to fluctuation and the Council acknowledges and agrees that Barnet Homes may seek changes to the Housing Options Service Fee during any Service Year, via the Change control provisions of clause 12, on presentation of a business case setting out appropriate evidence and justification for the requested Change.
- 11.9 Notwithstanding that the Housing Options Service is demand led, Barnet Homes shall work with the Council to put in place measures in each Service Year to curtail, where possible, any additional expenditure requirements and to reduce the costs of the Housing Options Service.
- 11.10 The Housing Options Service Fee and the scope and level of the Housing Options Service shall be subject to annual review and adjustment as set out in clause 5.13 (which for the avoidance of doubt may form part of the annual preparation and update of the Five Year Business Plan and/or the Annual Delivery and Commitments Plan pursuant to clauses 5.1 and 5.2).
- 11.11 The Housing Options Service Fee shall be paid in 12 equal instalments, with any balancing sum applied to the payment due in the twelfth month of the relevant Service Year. Barnet Homes shall submit its invoice on the 15th day of each month (or the next following Working Day should the 15th not fall on a Working Day). Payment shall be due from the Council within 10 Working Days of its receipt of an invoice from Barnet Homes.

Development

- 11.12 The Council may at its sole discretion undertake development activities, including the development of properties for sale or rent on the open market, with or without the involvement of Barnet Homes. The Council agrees that it will provide Barnet Homes with the opportunity to act as development manager for all new residential developments on Council owned land allocated within the HRA.
- 11.13 Unless agreed otherwise in writing, the Council agrees that Barnet Homes shall also manage the development of all homes for affordable rent within mixed tenure developments where the Council expects to own the affordable rented properties.
- 11.14 The Council will use reasonable endeavours to provide Barnet Homes with the opportunity to act as development manager in respect of a minimum of 400 new homes for affordable rent by 31 March 2025, with a target of 500 such homes.
- 11.15 Subject to scheme viability and the provisions of clause 11.16, BH will procure that BHRP will pay to the Council £2,000 (the **Development Subsidy**) per annum for every affordable home commissioned by the Council where Barnet Homes acts as development manager and the relevant home is owned by BHRP.

- 11.16 The Development Subsidy will off-set the Council's GF costs of providing the Housing Options Service and is applied on the basis that the Council is making land and borrowing capacity available to Barnet Homes to be owned by BHRP. The Development Subsidy will be separate to any on-lending interest or other GF reduction the Council may benefit from over the duration of the Agreement. The parties also confirm that, by mutual agreement, they may decide to vary the amount of the Barnet Homes deduction, or direct the investment to other jointly agreed priorities. The parties agree to revise the Development Subsidy if and to the extent that circumstances change such that the commercial assumptions in Schedule 8 no longer apply and adversely affect the viability of a scheme for which Barnet Homes acts as development manager (taking into account in assessing such viability the obligation to pay the Development Subsidy).
- 11.17 The payment in clause 11.15 shall take effect from the date at which the relevant homes achieve practical completion, in accordance with the programme agreed between the Council and Barnet Homes.
- 11.18 The Council may, at its discretion, provide a loan to Barnet Homes to undertake the development of new affordable homes at a rate compliant with State Aid Regulations.
- 11.19 Barnet Homes acknowledges and agrees to procure that BHRP will be required to set rents for any homes it owns with due regard to the Council's prevailing Rent Policy but subject always to the requirements of the HCA from time to time.
- 11.20 In consideration of the development management services referred to in clauses 11.12 and 11.13, the Council shall pay Barnet Homes the Development Agency Fee. The Development Agency Fee for each development shall be agreed between the parties acting reasonably prior to commencement of the relevant development but shall be between 2% and 4% (inclusive) of the gross development value of the relevant properties. For the avoidance of doubt, the parties agree that the costs of managing stock owned by BHRP will not be included in the Development Agency Fee.
- 11.21 The Council's outline business case in respect of each development will specify whether the properties will be owned by the Council or by BHRP.
- 11.22 When determining whether properties will be owned by the Council or BHRP the Council will take account of:
- 11.22.1 the need to spend Right to Buy receipts in accordance with guidance and/or legislation by the Relevant Authorities;
 - 11.22.2 the available HRA headroom;
 - 11.22.3 General Fund borrowing capacity;
 - 11.22.4 the potential additional contribution that could be made by Barnet Homes or BHRP to mitigating homelessness costs if BHRP were to own the development;
 - 11.22.5 the performance of BHRP; and
 - 11.22.6 any other relevant factors.
- 11.23 Barnet Homes shall be required to purchase building control services through the LBB/Re Partnership. Barnet Homes may procure all other housing development related services on a competitive basis but should include the opportunity for Re to bid for any of these services that it may require from time to time.
- 11.24 The Council may at its sole discretion purchase completed dwellings on the open market, including newly constructed or previously occupied dwellings, with or without the involvement of Barnet Homes. The Council agrees that it will provide Barnet Homes with the opportunity to act as purchasing agent for such acquisitions where such dwellings are to be allocated within the HRA. If and to the extent that the Council chooses to appoint Barnet Homes to act as purchasing agent, the

Council shall pay an additional fee to Barnet Homes the amount of which shall be agreed between the parties acting reasonably.

Capital (major) works

- 11.25 Barnet Homes shall develop and maintain a rolling thirty year asset management strategy (the **30 Year Asset Strategy**) and shall submit this to the Council for approval by not later than 31st December prior to each Service Year. The 30 Year Asset Strategy will set out Barnet Homes' proposed programme of works and budget for approval by the Council's Commissioning Director, Growth and Development and the relevant Council committee. The 30 Year Asset Strategy should be consistent with the budget set out in the relevant Five Year Business Plan. Should there need to be a deviation to the budget agreed in the 30 Year Asset Strategy to enable an increased spend within any Service Year this will need to be approved by the relevant Council committee prior to Barnet Homes being permitted to commit monies to and/or carry out any works the subject of such budgeting deviation. Following approval of the 30 Year Asset Strategy, Barnet Homes shall include a summary programme of works for the relevant Service Year in each Annual Delivery and Commitments Plan provided that approval of the 30 Year Asset Strategy is received from the Council before the 28th or 29th of February (as the case may be) prior to the relevant Service Year (and in circumstances where the Council's approval is provided after such date Barnet Homes shall include as full a summary programme of works for the relevant Service Year as it can within the time available prior to the commencement of the relevant Service Year and shall as soon as possible update such summary programme with a final summary programme of works for the relevant Service Year in the relevant Annual Delivery and Commitments Plan.
- 11.26 Any approved capital works expenditure shall be paid to Barnet Homes by the Council on the basis of equal monthly instalments in advance following submission of an invoice to the Council by Barnet Homes. The payments to be made from month five in any Service Year until the end of the relevant Service Year shall be adjusted to take account of the forecasted spend on capital works predicted in the quarterly performance report to the relevant Council committee. The payments due from month five in any Service Year until the end of the Service Year shall be adjusted such that, if each subsequent payment was for an identical sum, the total amount paid by the Council in that Service Year would equal the forecasted amount set out in the quarterly performance report.
- 11.27 Barnet Homes shall on a quarterly basis within each Service Year carry out a reconciliation of the amount received from the Council in accordance with clause 11.26 to confirm the amount of actual expenditure on capital works in the relevant quarter. Within one month of the end of the relevant quarter Barnet Homes shall submit an invoice in respect of either:
- 11.27.1 the excess expenditure incurred in that quarter, together with evidence of either the costs incurred (and details of the reasons for the excess) or a credit note for the Council's benefit in respect of any excess paid by the Council against the amount of expenditure incurred by Barnet Homes and (in the case of excess expenditure) the Council shall add the amount detailed in Barnet Homes' invoice to the next payment due pursuant to clause 11.26 provided that any excess expenditure in any quarter which would cause the total expenditure in the relevant Service Year to exceed the approved budget for that Service Year shall require the Council's prior approval; or
 - 11.27.2 the under-spend in that Service Year, together with reasons for the under-spend.
- 11.28 Barnet Homes shall maintain evidence of all costs incurred and works carried out in respect of the annual programme of capital works and shall permit the Council to inspect such evidence at reasonable times on reasonable notice. Barnet Homes acknowledges that overruns against forecast expenditure shall be monitored via the Performance Management Framework and reported quarterly to the relevant Council committee.

Right to Buy

- 11.29 The Council shall in consideration for the provision of the part of the Services set out at paragraph 16 of Schedule 1 make the following payments to Barnet Homes:

11.29.1 an annual management fee of £40,000 for each Service Year payable at the commencement of the relevant Service Year; and

11.29.2 £750 per completed Right to Buy sale.

Cost reimbursement

11.30 The following items of expenditure that have been reasonably and properly incurred, suffered or expended are recoverable by Barnet Homes from the Council:

11.30.1 legal, security, removal and other relevant costs (excluding staffing) relating to estate regeneration activity;

11.30.2 landlord cash incentives;

11.30.3 nightly purchases for temporary accommodation;

11.30.4 private sector landlord payments;

11.30.5 home loss and disturbance payments;

11.30.6 legal costs incurred to deliver the Housing Options Service and compensation payments in respect of Properties prior to transfer of those Properties to BHRP;

11.30.7 non-resident landlord tax deduction from the private sector landlord payments.

11.31 Barnet Homes shall request a purchase order from the Council in respect of any costs to be reimbursed under clause 11.30 and shall ensure that all invoices for reimbursement of costs are related to a purchase order. Such invoices shall be submitted together with evidence of payment of the relevant expense by Barnet Homes. For the avoidance of doubt, the amount reimbursed by the Council shall not exceed the amounts evidenced as having been paid by Barnet Homes.

Discretionary funding

11.32 Throughout the Service Period Barnet Homes may apply to the Council for additional funding or the Council may award additional funding in relation to activities and projects identified as supporting the delivery of the Services and which are aligned to Barnet Homes business aims and objectives. Additional funding may be agreed for a Service Year via a Change request as set out in Schedule 7. Barnet Homes is however also expected to use all reasonable endeavours to maximise third party funding opportunities in accordance with clause 5.11.

11.33 The parties agree that as at the date of this Agreement the following are treated as discretionary activities which are wholly reliant on funding being procured:

11.33.1 Working People, Working Places Programme at Burnt Oak;

11.33.2 Universal Credit – providing digital and personal budget support for Universal Credit;

11.33.3 Welfare Reform – administering the benefit cap, providing advice on welfare reforms and supporting people to find work; and

11.33.4 Estate Regeneration – funding of up to £102,650 is available in addition to the HRA Fee for Service Years 1 (2016/17) and 2 (2017/18) only. The Council will engage Barnet Homes to assist with the decanting of approximately 570 households from the Grahame Park estate during these Service Years.

Where the Council procures funding and wishes to engage Barnet Homes to provide these additional discretionary services, a Change will be agreed to include the scope, standards and payments for any such discretionary activity within the Agreement.

- 11.34 Invoices in respect of agreed discretionary funding shall be submitted to the Council's Contract Manager on a monthly or a quarterly basis (as agreed) in arrears within the Service Year together with evidence of eligible expenditure and a monitoring report in a form agreed in advance.
- 11.35 For the avoidance of doubt any discretionary funding awarded to Barnet Homes under clause 11.32 shall be in addition to all other fees awarded to Barnet Homes under this Agreement.

VAT

- 11.36 All payments by either party pursuant to this Agreement shall be exclusive of VAT.

Inflation

- 11.37 The Council agrees that an annual increase will be applied to the HRA Fee and the Housing Options Service Fee in line with the assumptions in the Council's Medium Term Financial Strategy to allow for inflation, if applicable from the second service year (2017/18). It is anticipated that any such increase, will be in line with CPI for all costs save for staff costs which will be in line with the Local Government pay awards. Any revisions to the HRA Fee and/or the Housing Options Service Fee will be recorded as a Change under clause 12.

12 CHANGE CONTROL AND VARIATIONS TO THE MANAGEMENT AGREEMENT

- 12.1 Either party through its Contract Manager may request a Change to the Services and/or the Fee in the following circumstances:
- 12.1.1 where a change in government policy occurs affecting the delivery of the Services;
 - 12.1.2 where a Change in Law occurs affecting the delivery of the Services;
 - 12.1.3 where a substantial change is proposed or envisaged in the delivery of the Services including any re-design of the Services and/or where a Tenant Management Organisation is established in relation to certain Properties;
 - 12.1.4 where a change to the performance standards agreed for the Services is proposed;
 - 12.1.5 where a change in the scope of the Services is proposed; and/or
 - 12.1.6 pursuant to clause 11.37.
- 12.2 Any Change request shall comply with Schedule 7.
- 12.3 For the avoidance of doubt, no Change will be approved which would, in the reasonable opinion of the Contract Manager:
- 12.3.1 require the Services to be provided in any way which infringes any Law;
 - 12.3.2 would cause any Consent to be revoked (or would require a new Consent to implement the relevant Change, which is likely to be unobtainable);
 - 12.3.3 would materially and adversely affect the health and safety of any person; and/or
 - 12.3.4 would materially and adversely affect Barnet Homes' ability to deliver the Services.
- 12.4 The Contract Manager shall consider each and any request for a Change it receives in accordance with Schedule 7 and in doing so will assess the anticipated impact of the requested Change on the Fee and Barnet Homes' performance of the Services. If the anticipated impact is considered by the Contract Manager to be minimal, the Contract Manager shall be entitled to consider the request for a Change. If the anticipated impact is not considered by the Contract Manager to be minimal or if the Contract Manager cannot approve a request for a Change with minimal anticipated impact within 15

Working Days, the Contract Manager shall refer any such request for a Change to the Housing Partnership Board to be considered at their next meeting.

- 12.5 At the first meeting following receipt by the Housing Partnership Board of a request for a Change the Housing Partnership Board shall:
- 12.5.1 approve the Change request;
 - 12.5.2 approve the Change request with amendments (providing its reasoning for any amendments);
 - 12.5.3 reject the Change request (providing its reasoning for any rejection); or
 - 12.5.4 escalate the Change request to the Council's Section 151 Officer on the basis that effecting the Change request would require a material variation to the Agreement in which case clause 12.8 shall apply.
- 12.6 In the event that a Change request is either rejected under clause 12.5.3 or is approved with amendments under clause 12.5.2 but the amendments required are unacceptable to the requesting party, the requesting party may refer the Change request to the Council's Section 151 Officer, stating its reasons for disagreeing with the decision of the Housing Partnership Board.
- 12.7 The Council's Section 151 Officer shall consider any disputed Change request referred to him under clause 12.6 (and in such considerations shall take soundings as to the final resolution in person, by email and/or telephone from those officers sitting on the Housing Partnership Board) and shall respond to both the Council and Barnet Homes with his decision on the matter within 20 Working Days of the date of his receipt of any such referral.
- 12.8 Should the Housing Partnership Board escalate a Change request to the Council's Section 151 Officer under clause 12.5.4, representatives of the parties shall in good faith liaise with the Council's Section 151 Officer to agree the contents of any variation to the Agreement that is necessary to give effect to the matters the subject of the relevant Change request (and the Council's Section 151 Officer shall hold additional meetings with the purpose of agreeing the contents of any such variation). Any agreed variation to the Agreement shall be documented pursuant to clause 17. For the avoidance of doubt, if the representatives of the parties are unable to reach a decision in relation to the content of any variations to the Agreement pursuant to this clause 12.8 the matter shall be determined solely by the Council's Section 151 Officer.
- 12.9 In the event that either party disputes the decision made by the Council's Section 151 Officer under clause 12.7 or clause 12.8, the matter shall be determined in accordance with clause 13.5.

13 DISPUTE RESOLUTION

- 13.1 Where a dispute arises under or in connection with this Agreement either party may notify the other party in writing and the parties' Contract Managers shall seek in good faith to resolve the dispute.
- 13.2 In the event that the dispute or difference cannot be resolved pursuant to clause 13.1 within 15 Working Days of the date of notification of the dispute the matter shall be referred to the Housing Partnership Board to be determined at their next meeting. The Contract Managers shall make such referral jointly, which shall include a summary of the dispute or difference.
- 13.3 The Housing Partnership Board shall work together in good faith to resolve the dispute or difference within 10 Working Days of the meeting at which the dispute or difference is discussed following referral by the Contract Managers.
- 13.4 In the event that the dispute or difference cannot be resolved pursuant to clause 13.3 the Housing Partnership Board shall themselves refer it to the Council's Section 151 Officer, who shall in making his decision take account of the different views expressed by the officers of the Housing Partnership Board and shall issue his decision in relation to the dispute or difference within 10 Working Days of the date of referral by the Housing Partnership Board.

- 13.5 In the event that any dispute or difference cannot be resolved pursuant to clause 13.4 by the Council's Section 151 Officer (or if either party disputes the decision made by the Council's Section 151 Officer), or in the event that clause 6.11.3 or clause 12.9 applies, then:
- 13.5.1 the parties will attempt to settle the dispute or disagreement by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed by the parties, the mediator will be nominated by CEDR;
 - 13.5.2 to initiate the mediation a party must give notice in writing (**ADR notice**) to the other party to the dispute requesting a mediation. A copy of the request should be sent to CEDR; and
 - 13.5.3 the mediation shall start not later than 28 days after the date of the ADR notice.

14 STEP IN

14.1 Without prejudice to any other remedies the Council may have under or in connection with this Agreement:

- 14.1.1 in the event of a breach of this Agreement by Barnet Homes:
 - (a) which causes the Council to incur any financial loss or liability exceeding £250,000 other than where this has been previously agreed in writing between the parties;
 - (b) which results in a failure to meet the relevant service standards set out for each for each of the Services (including a significant decrease in customer satisfaction or other key performance outcome);
 - (c) which causes a material interruption to the provision of the Services which lasts for a continuous period exceeding 90 days;
 - (d) which constitutes a serious health and safety risk and/or is in breach of clause 21;
 - (e) which results in a Conflict of Interest;
 - (f) which constitutes a substantial or repeated Prohibited Act; or
- 14.1.2 Barnet Homes fails to:
 - (a) comply with any direction, judgment or order made by a Relevant Authority or any other body with whose decisions the Council or Barnet Homes is required to comply;
 - (b) comply with any material provision of any Services Policy;
 - (c) discharge any statutory duty;
 - (d) respond adequately (in the reasonable opinion of the Council) to the outcome of any statutory inspection; and/or
 - (e) respond adequately (in the reasonable opinion of the Council) to any notice issued pursuant to clause 15.1;

the Council may exercise its rights set out in the remainder of this clause 14.

14.2 Where clause 14.1 applies the Council may:

- 14.2.1 direct Barnet Homes to take specified actions to address failures in the performance of the Services or any aspect thereof;

- 14.2.2 remove part or parts of the Services from this Agreement and procure their performance by the Council or third parties;
- 14.2.3 withhold parts of the Fee or require reimbursement in respect of any rectification actions required in respect of the Services; and/or
- 14.2.4 claim compensation in respect of any losses, suffered or any expenses or liabilities incurred by the Council as a result of the matters set out in clause 14.1.

15 TERMINATION AND CONSEQUENCES OF TERMINATION AND EXPIRY

- 15.1 In the event that Barnet Homes is in Material Breach of this Agreement for a period of more than 10 Working Days, or the relevant Material Breach has occurred on more than three occasions in the preceding three months, the Council may issue a notice (a **Warning Notice**) to Barnet Homes setting out details of such breach and advising that failure to remedy such breach may result in termination of this Agreement.
- 15.2 If, following service of the Warning Notice the relevant breach continues for more than a further 10 Working Days or occurs on two further occasions in the following three months the Council may serve a further notice (a **Final Warning Notice**). In the event that the relevant breach continues for more than a further 10 Working Days or occurs on two further occasions in the following three months the Council may terminate this Agreement on 180 days' written notice (a **Termination Notice**), the expiry of such notice being the Termination Date.
- 15.3 In the event of the occurrence of the following circumstances, the Council may terminate Barnet Homes' appointment under this Agreement on written notice with immediate effect and the date of such notice shall constitute the Termination Date:
 - 15.3.1 breach of clause 21.1 by Barnet Homes;
 - 15.3.2 occurrence of an Insolvency Event;
 - 15.3.3 the provisions of clause 16.1 apply; and
 - 15.3.4 the provisions of clause 27.6 apply.
- 15.4 The Council shall have no liability to Barnet Homes in respect of any losses, costs, expenses or liabilities it may suffer or incur as a result of termination of Barnet Homes' engagement to deliver the Services pursuant to this Agreement.
- 15.5 In the event of termination for whatever reason Barnet Homes shall procure the transfer to the Council of any rights or title it may have in assets transferred to Barnet Homes by the Council to deliver the Services or used solely for the delivery of the Services. Barnet Homes shall release to the Council all documents, keys, security cards, records, books, data and information (whether electronic or hard copy) to the Council. Barnet Homes shall at the Council's option procure the novation or assignment to the Council of the benefit of any contracts entered into with third parties for the delivery of the Services.
- 15.6 During the final six months of the Service Period prior to Expiry or during the notice period specified in clause 15.2 where a Termination Notice has been served, and for the period of three months following Expiry or the Termination Date (as the case may be) Barnet Homes shall fully cooperate with the Council to ensure a smooth transfer of responsibility to the incoming service provider.
- 15.7 In the event of termination of this Agreement, for whatever reason, Barnet Homes shall comply with the provisions of Schedule 6.

16 FORCE MAJEURE

- 16.1 Neither party shall be liable to the other for any delay in or failure to perform its obligations under the Agreement if such delay or failure results from a Force Majeure event. Notwithstanding the foregoing, each party shall use all reasonable endeavours to continue to perform its obligations under the Agreement (including the exercise of its rights under clause 5.13). If a party is unable to perform its obligations under the Agreement as a result of a Force Majeure event for a period in excess of 6 months (commencing on the date of the notice provided in accordance with clause 16.2), the other party may terminate the Agreement by notice in writing with immediate effect (and the parties agree that should a party exercise its rights under clause 5.13 this shall not act as a waiver by either party of its rights under this clause 16).
- 16.2 If either party becomes aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any such failure or delay on its part it shall notify the other as soon as reasonably possible and shall estimate the period such failure or delay shall continue.

17 VARIATION

- 17.1 No variation to the terms of this Agreement shall be effective unless made in writing and signed by each of the parties and any person who agrees to be bound by this Agreement.

18 REMEDIES AND WAIVERS

- 18.1 No delay by any party in exercising, or failure by any party to exercise, any right, power or remedy provided by law or under this Agreement or any document referred to in it shall:
- 18.1.1 operate as a waiver of that or any other right, power or remedy; or
 - 18.1.2 affect the other terms of this Agreement or any document referred to in it.
- 18.2 The single or partial exercise of any right, power or remedy provided by law or under this Agreement or any document referred to in it shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.
- 18.3 A waiver of any breach of or default under this Agreement or any document referred to in it shall not constitute a waiver of any other breach or default and will not prevent a party from subsequently requiring compliance with the waived obligation.
- 18.4 The rights, powers and remedies provided in this Agreement or any document referred to in it are in addition to and (subject as otherwise provided in this Agreement) not exclusive of any rights, powers and remedies provided by law.

19 CONFIDENTIALITY AND PUBLICITY

Confidentiality

- 19.1 The parties agree that the provisions of this Agreement shall, subject to clause 19.2, not be treated as Confidential Information and may be disclosed without restriction.
- 19.2 Clause 19.1 shall not apply to any provisions of this Agreement agreed between the parties as being commercially sensitive, which shall, subject to clause 19.4 be kept confidential.
- 19.3 The parties shall keep confidential all Confidential Information received by one party from the other party relating to this contract and shall use all reasonable endeavours to prevent their employees and agents from making any disclosure to any person of any such Confidential Information.
- 19.4 Clauses 19.2 and 19.3 shall not apply to:
- 19.4.1 any disclosure of information that is reasonably required by any persons engaged in the performance of their obligations under this Agreement for the performance of those obligations;

- 19.4.2 any matter which a party can demonstrate is already or becomes generally available and in the public domain otherwise than as a result of a breach of this clause 19;
- 19.4.3 any disclosure which is required pursuant to any statutory, legal (including any order of a court of competent jurisdiction) or Parliamentary obligation placed upon the party making the disclosure or the rules of any stock exchange or governmental or regulatory authority having the force of law or if not having the force of law, compliance with which is in accordance with the general practice of persons subject to the stock exchange or governmental or regulatory authority concerned;
- 19.4.4 any disclosure of information which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;
- 19.4.5 any disclosure by the Council of information relating to the design, implementation, performance, operation and maintenance of the Services and Properties and any other information as may be reasonably required for the purpose of conducting a due diligence exercise to:
- (a) any proposed new service provider, its advisers and lenders and subcontractors should the Council decide to retender the provision of the Services;
 - (b) any person in connection with a benchmarking exercise or market testing; or
 - (c) any proposed new provider of all or part of the Services, its advisers, lenders and subcontractors, should the Council wish to enter into another contract for the provision of all or part of the Services upon expiry or early termination of this Agreement (in whole or in part);
- 19.4.6 any registration or recording of the Consents and property registration required;
- 19.4.7 any disclosure of information by the Council to any department, office or agency of the Government or their respective advisers or to any person engaged in providing services to the Council for any purpose related to or ancillary to this Agreement;
- 19.4.8 any disclosure for the purpose of:-
- (a) the examination and certification of the Council's or Barnet Homes' accounts;
 - (b) any examination pursuant to the Local Government Act 1999 of the economy, efficiency and effectiveness with which the Council has performed its functions;
 - (c) complying with a proper request from either party's insurance adviser, or insurer on placing or renewing any insurance policies; or
 - (d) (without prejudice to the generality of clause 19.4.3) compliance with the FOIA and/or the EIR;
- 19.4.9 any disclosure of information to bidders (their advisers, sub-contractors or funders) for future procurements or third party contracts selected under future procurements in relation to future procurements;
- 19.4.10 any disclosure of information to relevant public bodies, stakeholders and partners (including without limitation community forums, the police and the National Health Service) to enable the Council to cooperate with such bodies; and
- 19.4.11 any disclosure of information relating to the Services for the purposes of benchmarking to Chartered Institute of Public Finance Accountants or the London Authorities Performance Systems or other relevant benchmark clubs.

19.5 Where disclosure is permitted under clause 19.4, other than under clauses 19.4.2, 19.4.3, 19.4.4, 19.4.6 and 19.4.8 the party disclosing the information shall procure that the recipient of the information shall be subject to the same obligation of confidentiality as that contained in this Agreement.

19.6 For the purposes of:

19.6.1 the examination and certification of the Council's accounts;

19.6.2 the Local Government Finance Act 1982 (and any other Law relating to the inspection, examination and auditing of the Council's accounts); and

19.6.3 an examination pursuant to the Local Government Act 1999 of the economy, efficiency and effectiveness of which the Council has performed its functions,

the Audit Commission (or other relevant body) and their appointed external auditors may examine such documents as he or it may reasonably require which are owned, held or otherwise within the control of Barnet Homes and any subcontractor and may require Barnet Homes and any subcontractor to produce such oral or written explanations as he or it considers necessary.

19.7 Barnet Homes shall not make use of this Agreement or any information issued or provided by or on behalf of the Council in connection with this Agreement otherwise than for the purpose of this Agreement, except with the written consent of the Council.

19.8 Where Barnet Homes, in carrying out its obligations under this Agreement, is provided with information relating to people/users, Barnet Homes shall not disclose or make use of any such information otherwise than for the purpose for which it was provided, unless Barnet Homes has sought the prior written consent of that person/user and has obtained the prior written consent of the Council.

19.9 The parties acknowledge that the Audit Commission (or other relevant body) has the right to publish details of this Agreement (including commercially sensitive information) in its relevant reports to Parliament.

Publicity

19.10 Barnet Homes may respond to press and media enquiries relating to operational housing activity only. Any matters relating to housing policy or strategy, or which may be considered highly political or sensitive, must be referred to the Council.

19.11 Barnet Homes shall notify the Council of any matters it becomes aware of which may receive significant national or local attention or which are likely to be high profile.

20 DATA PROTECTION

20.1 The parties shall comply with the Data Protection Act 1998 at all times when carrying out their obligations pursuant to this Agreement.

20.2 The parties acknowledge that the Council is the Data Controller and that Barnet Homes is a Data Processor in respect of any Personal Data processed under this contract, including without limitation all Personal Data regarding tenants or leaseholders. In so far as Barnet Homes processes any Personal Data on behalf of the Council, Barnet Homes shall:

20.2.1 process the Personal Data only on behalf of the Council, only for the purposes of performing this Agreement, only in accordance with the Council's Information Sharing Policy and only in accordance with instructions contained in this contract or received from the Council from time to time;

- 20.2.2 not otherwise modify, amend or alter the contents of the Personal Data or disclose or permit the disclosure of any of the Personal Data to any third party unless specifically authorised in writing by the Council;
- 20.2.3 at all times comply with the provisions of the Seventh Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 and, in so doing, provide a written description of the technical and organisational methods employed by Barnet Homes for processing Personal Data (within the timescales required by the Council) and implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure;
- 20.2.4 take reasonable steps to ensure the reliability of any of Barnet Homes' personnel who have access to the Personal Data;
- 20.2.5 obtain prior written consent from the Council before transferring the Personal Data to any subcontractors in connection with the provision of the Services;
- 20.2.6 ensure that only those of Barnet Homes' personnel who need to have access to the Personal Data are granted access to such data and only for the purposes of the performance of the Services;
- 20.2.7 ensure that none of Barnet Homes' personnel publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Council;
- 20.2.8 ensure that all of Barnet Homes' personnel required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause 20;
- 20.2.9 not publish, disclose or divulge any of the Personal Data to any third party (including for the avoidance of doubt the Data Subject itself) unless directed to do so in writing by the Council;
- 20.2.10 notify the Council (within 5 Working Days) if it receives:
- (a) a request from a Data Subject to have access to that person's Personal Data; or
 - (b) a complaint or request relating to the Council's obligations under the Data Protection Law; or
 - (c) any other communication relating directly or indirectly to the processing of any Personal Data in connection with this Agreement;
- 20.2.11 provide the Council with full co-operation and assistance in relation to any complaint or request made in respect of any Personal Data, including by:
- (a) providing the Council with full details of the complaint or request;
 - (b) complying with a data access request within the relevant timescales set out in the Data Protection Law but strictly in accordance with the Council's instructions;
 - (c) providing the Council with any Personal Data it holds in relation to a Data Subject making a complaint or request within the timescales required by the Council; and
 - (d) providing the Council with any information requested by the Council;
- 20.2.12 permit the Council or its external advisers (subject to reasonable and appropriate confidentiality undertakings) to inspect and audit Barnet Homes' data processing activities and those of its agents, subsidiaries and sub-contractors and comply with all reasonable

requests or directions by the Council to enable the Council to verify and procure that Barnet Homes is in full compliance with its obligations under this contract; and

20.2.13 not transfer Personal Data outside the European Economic Area without the prior written consent of the Council and, where the Council consents to such transfer, to comply with:

- (a) the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 by providing an adequate level of protection to any Personal Data that is transferred; and
- (b) any reasonable instructions notified to it by the Council.

20.3 The Council acknowledges that Barnet Homes is reliant on the Council alone for direction as to the extent Barnet Homes is entitled to use and process the Personal Data. Consequently, Barnet Homes shall be entitled to relief from liability in circumstances where a Data Subject makes a claim or complaint with regards to Barnet Homes' actions to the extent that such actions directly result from instructions received from the Council.

20.4 The parties shall, and Barnet Homes shall procure that any subcontractors shall, comply at all times with the Data Protection Law and shall not perform their obligations under this contract in such a way as to cause either party to breach any of its obligations under the Data Protection Law. Barnet Homes shall immediately notify the Council in the event that it becomes aware of any breach of the Data Protection Law by Barnet Homes or any subcontractors in connection with this Agreement.

20.5 Immediately following termination or expiry of this contract all data, including without limitation Personal Data, documents and records (whether stored electronically or otherwise) relating in whole or in part to the Services, including without limitation relating to tenants, and all other items provided on loan or otherwise to Barnet Homes by the Council shall be delivered by Barnet Homes to the Council provided that Barnet Homes shall be entitled to keep copies thereof to the extent that the information contained therein does not relate solely to the Services or to the extent that Barnet Homes is required by law to maintain copies thereof or to the extent that Barnet Homes was in possession of such data, documents and records prior to the date of this contract.

20.6 Barnet Homes shall retain all data relating to the provision of the Services that are not transferred pursuant to clause 20.5 for the period of 12 years after the date of the termination or expiry of the contract.

20.7 Barnet Homes shall, at all times during and after the Service Period, indemnify the Council and keep the Council indemnified against all losses, damages, costs or expenses and other liabilities (including legal fees) incurred by, awarded against or agreed to be paid by the Council arising from any breach of Barnet Homes' obligations under this clause 20 except and to the extent that such liabilities have resulted directly from the Council's instructions.

21 HEALTH, SAFETY AND WELFARE

21.1 Barnet Homes shall:

21.1.1 take all reasonably practicable steps to ensure the health and safety of its employees and any other person who may come into contact with, or be affected by, its activities and ensure the provision of welfare and first aid facilities for its employees;

21.1.2 comply with the requirements of all Laws and codes of practice relating to health, safety and fire, which may apply to employees and other persons in the performance of its obligations under the Agreement;

21.1.3 carry out all necessary statutory tests and inspections as required in any way whatsoever to provide the Services, maintain records of such tests and inspections and shall provide the Contract Manager with details on request;

- 21.1.4 employ, or have arrangements for access to, competent health and safety advice and shall notify the Contract Manager of these arrangements. Barnet Homes shall also nominate a representative to liaise with the Contract Manager on all health and safety matters;
- 21.1.5 have a written health and safety policy which must be at least equivalent to the Council's equivalent policy in scope and effectiveness and Barnet Homes shall ensure that employees are aware of and comply with this health and safety policy;
- 21.1.6 have in place health and safety management systems that comply with the guidance contained in HSG 65, or equivalent, to include assessing and controlling risk for any activity that may affect its Staff or any other person who may come into contact with those activities. Barnet Homes shall also produce method statements for high risk activities, as requested by the Contract Manager, and provide that information to the Contract Manager on request;
- 21.1.7 have in place procedures and arrangements for emergencies and notify the Contract Manager of these on request;
- 21.1.8 be responsible for managing and reporting on its sub-contractors, and any changes to those sub-contracts;
- 21.1.9 keep its health and safety policies, procedures and risk assessments under review and comply with any changes, amendments or further lawful instructions reasonably requested or issued by the Council in connection with Barnet Homes' health and safety policies, procedures or working methods. Barnet Homes shall notify the Council of any changes made;
- 21.1.10 ensure that all equipment is installed, used and maintained to meet statutory requirements, appropriate British, European or International standards and manufacturers' recommendations;
- 21.1.11 ensure that any equipment supplied or loaned to them by the Council is properly maintained and that users of this equipment are competent in its use;
- 21.1.12 promptly notify the Council of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement. The Council shall notify Barnet Homes of any health and safety hazards which may exist or arise and which may affect Barnet Homes in the performance of its obligations under the Agreement;
- 21.1.13 ensure that all its employees are notified and adhere to all health and safety rules, including emergency procedures and means of escape, when working on Council premises;
- 21.1.14 inform the Contract Manager immediately of any fatality and, within twenty four (24) hours, of any major injury, reportable disease or reportable dangerous occurrence that occurs in the performance of its obligations under this Agreement;
- 21.1.15 in all instances, Barnet Homes shall ensure the Contract Manager or their representative, have reasonable access to Barnet Homes' premises, sites and activities and co-operate and provide such reasonable assistance as may be necessary to facilitate monitoring;
- 21.1.16 provide the Contract Manager with an annual report to include Barnet Homes' health and safety performance during the preceding twelve (12) months (as contained in Barnet Homes' annual accounts) and where there are any recommendations made or performance targets set by Barnet Homes' health and safety committee for the subsequent twelve (12) month period, information relating to the same. Such report may also include any further information as agreed between Barnet Homes and the Contract Manager; and

21.1.17 provide to the Contract Manager upon request such other health and safety performance reports or additional health and safety performance indicators as may be required depending on the nature and level of risk (in the reasonable opinion of the Contract Manager) and/or Barnet Homes' previous health and safety performance which is pertinent and relevant to Barnet Homes' ability to deliver the Services.

21.2 The Contract Manager, or their representative, may periodically undertake spot checks to ensure that Barnet Homes is complying with its health and safety obligations under this Agreement and Barnet Homes shall co-operate fully, at its own cost, with the Council.

21.3 The Council may step-in and suspend the provision of the Services by Barnet Homes in the event of non-compliance by Barnet Homes with the health and safety requirements of this Agreement or for breaches of health and safety Laws or its health and safety policies in accordance with the provisions of clause 14 (Step-In).

21.4 Barnet Homes shall ensure the provision of health and safety training to its subcontractors to ensure they are competent, and remain competent throughout their employment, to safely carry out their role and undertake any health and safety responsibilities or functions given to them under this Agreement.

22 ASSIGNMENT AND SUBCONTRACTING

22.1 Save as provided in clause 22.2, Barnet Homes may not assign, underlet, charge, sell, bargain or otherwise deal in any way with the benefit of this Agreement in whole or in part other than with the prior written consent of the Council.

22.2 Notwithstanding clause 22.1 but subject to compliance with the Public Contracts Regulations 2015, Barnet Homes may procure the provision of services forming part of the Services from a suitable and appropriately qualified and competent subcontractors of sound economic and financial standing.

23 FURTHER ASSURANCE

23.1 Each party shall at its own cost and expense, on being required to do so by another party now or at any time in the future, do or procure the doing of all such acts and things and/or execute or procure the execution of all such deeds and documents in a form satisfactory to such other party which such other party may reasonably consider necessary for giving effect to this Agreement.

24 ENTIRE AGREEMENT

Except where expressly provided in this Agreement, this Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of this Agreement.

25 SEVERANCE

25.1 If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect.

25.2 Without prejudice to the generality of clause 25.1, if any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be unenforceable against or by Barnet Homes, the Council shall procure that the provision is nevertheless put into effect to the greatest extent possible.

25.3 If any provision of this Agreement is found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such deletions as may be necessary to make it valid or enforceable.

25.4 The parties agree, in the circumstances referred to in clause 25.1 and if clause 25.3 does not apply, to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision

which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision but for such invalidity or unenforceability.

26 FREEDOM OF INFORMATION

- 26.1 The Council and Barnet Homes acknowledge that the Council and Barnet Homes are subject to the requirements of the FOIA and the EIR and the Council and Barnet Homes shall, where reasonable, assist and co-operate (at their own expense) with the other for information to enable the other to comply with their information disclosure obligations.
- 26.2 Where Barnet Homes receives a request for information under either the FOIA or the EIR in relation to information which it is holding on behalf of the Council it shall respond to the request for information as soon as practicable after receipt within the time for compliance set out in the FOIA or the EIR.
- 26.3 Where the Council receives a request under FOIA or EIR which relates to the operations of Barnet Homes, it shall notify Barnet Homes and afford them an opportunity to make any comments or representations in respect of the disclosure of the information sought. Barnet Homes shall respond within five Working Days of receipt of this notification. The Council shall take into account any such comments or representations in so doing and shall not respond to the request until the 5 day response period referred to above has passed.

27 PREVENTION OF BRIBERY

- 27.1 Barnet Homes:
- 27.1.1 shall not, and shall procure that any Director, officer, employee, adviser or representative of Barnet Homes shall not, in connection with this Agreement commit a Prohibited Act;
- 27.1.2 warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Council, or that an agreement has been reached to that effect, in connection with the execution of this Agreement, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Agreement.
- 27.2 Barnet Homes shall:
- 27.2.1 if requested, provide the Council with any reasonable assistance, at the Council's reasonable cost, to enable the Council to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;
- 27.2.2 within five (5) Working Days of the date of this Agreement, and annually thereafter, certify to the Council in writing (such certification to be signed by an officer of Barnet Homes) compliance with this clause 27 by Barnet Homes and all persons associated with it or other persons who are supplying goods or services in connection with this Agreement. Barnet Homes shall provide such supporting evidence of compliance as the Council may reasonably request.
- 27.3 Barnet Homes shall have an anti-bribery policy (which shall be disclosed to the Council) to prevent any Director, officer, employee, adviser or representative of Barnet Homes from committing a Prohibited Act and shall enforce it where appropriate.
- 27.4 If any breach of clause 27.1 is suspected or known, Barnet Homes must notify the Council immediately.
- 27.5 If Barnet Homes notifies the Council that it suspects or knows that there may be a breach of clause 27.1, Barnet Homes must respond promptly to the Council's enquiries, co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation.

- 27.6 The Council may terminate this Agreement by written notice with immediate effect if Barnet Homes, Director, officer, employee, adviser or representative of Barnet Homes (in all cases whether or not acting with Barnet Homes' knowledge) breaches clause 27.1.
- 27.7 Any notice of termination under clause 27.6 must specify:
- 27.7.1 the nature of the Prohibited Act;
 - 27.7.2 the identity of the party whom the Council believes has committed the Prohibited Act; and
 - 27.7.3 the date on which this Agreement will terminate.
- 27.8 Any dispute relating to:
- 27.8.1 the interpretation of clause 27.1; or
 - 27.8.2 the amount or value of any gift, consideration or commission;
- shall be determined by the Council and its decision shall be final and conclusive.
- 27.9 Any termination under clause 27.6 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

28 QUALITY MANAGEMENT

- 28.1 Barnet Homes will be responsible for ensuring the quality of the Services and is expected to appoint suitably qualified personnel to undertake this role, where appropriate. Any key issues relating to quality management and assurance should be highlighted through the monthly performance review meeting and monitored through the performance management framework.

29 INQUIRIES, INVESTIGATIONS AND INSPECTIONS

- 29.1 Barnet Homes will fully operate with any inquiry, investigation or inspection which in any way concerns, affects or relates to the Services, or any sum claimed or charged in relation to the Agreement. The terms of any sub-contracts entered into by Barnet Homes after the date of this Agreement relating to the Services must include a provision which gives effect to this clause 29.

30 SAFEGUARDING CHILDREN AND VULNERABLE ADULTS

- 30.1 Barnet Homes warrants that at all times for the purposes of this Agreement it has no reason to believe that any person who is or will be employed or engaged by Barnet Homes in the provision of the Services is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.
- 30.2 Barnet Homes shall immediately notify the Council of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 30 have been met.
- 30.3 On receipt of a request from the Council's Contract Manager, Barnet Homes shall attend and form part of:
- 30.3.1 a child protection conference meeting;
 - 30.3.2 a team around the child;
 - 30.3.3 a core group meeting of professionals to support the child; and/or
 - 30.3.4 a child in need review meeting.

- 30.4 Barnet Homes shall refer information to the Barnet Multi-Agency Safeguarding Hub (the “**MASH**”) where Barnet Homes has any child protection concerns and/or where Barnet Homes has any concern for the welfare of a child. The MASH can be contacted on 020 8359 4066. The relevant commissioner should also be informed of any referral relating to the welfare of a child.
- 30.5 Barnet Homes shall refer information about any person carrying out the Services to the DBS where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out the Services) because, in its opinion, such person has harmed or poses a risk of harm to children and/or vulnerable adults.

31 NOTICES

- 31.1 Any notice required to be given by the Parties under this Agreement shall be in writing and may be served:
- 31.1.1 by delivering the notice by hand to the recipient's Contract Manager in which case the notice shall be deemed to have been served at the time it is so delivered provided a receipt is obtained; or
- 31.1.2 by posting the notice in a pre-paid enveloped sent recorded delivery addressed to the relevant party and marked clearly for the attention of the recipient's Contract Manager, in which case the notice shall be deemed to have been duly served when a signature acknowledging its receipt has been obtained; or
- 31.1.3 if sent by email, such email shall be deemed to have been served forty eight (48) hours after the time of sending,

provided that either party may change its nominated representative or address by prior written notice to the other party.

32 COSTS AND EXPENSES

- 32.1 Each party shall bear its own costs and expenses in relation to the negotiation, preparation, execution and carrying into effect of this Agreement and all other documents referred to in it.

33 SET OFF

- 33.1 All amounts falling due under this Agreement shall be paid in full without any set-off or counterclaim.

34 NO PARTNERSHIP OR AGENCY

- 34.1 Nothing in this Agreement is intended to or shall operate to create a partnership between the parties or any of them, or to authorise any party to act as agent for any other party, and no party shall have authority to act in the name or on behalf of or otherwise to bind any other party in any way.

35 COUNTERPARTS

- 35.1 This Agreement may be executed in any number of counterparts, and by the parties on separate counterparts, but shall not be effective until each person who is a party at the date hereof has executed at least one counterpart.
- 35.2 Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

36 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- 36.1 The parties to this Agreement do not intend that any of its terms should be enforceable, by virtue of the Contracts (Rights of Third Parties) Act 1999, by any person who is not a party to this Agreement.

37 GOVERNING LAW AND JURISDICTION

- 37.1 This Agreement is governed by and shall be construed in accordance with the laws of England and each party submits to the exclusive jurisdiction of the courts of England for all purposes relating to this Agreement.
- 37.2 Each party irrevocably consents to any process in any legal action or proceedings arising out of or in connection with this Agreement being served on it in accordance with the provisions of clause 20. Nothing contained in this Agreement shall affect the right to serve process in any other manner permitted by law.

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

SCHEDULE 1 – THE SERVICES

1 OVERVIEW OF SERVICES TO BE PROVIDED BY BARNET HOMES

- 1.1 Barnet Homes will provide the following housing and housing related services for the Council's 15,000 tenanted and leasehold properties (as at 2015) to support the Council's Housing and Tenancy Strategies in accordance with the terms of this Agreement:
- 1.1.1 Housing Options (Statutory Council Duty) – homelessness advice, prevention, supply and housing solutions, including management of temporary and emergency accommodation and privately leased homes, allocations and lettings;
 - 1.1.2 Aids and Adaptations in Council owned homes;
 - 1.1.3 Tenancy Management including income collection (rents and arrears) and anti-social behaviour;
 - 1.1.4 Neighbourhood and Estate Management including the management of the decanting of secure and non-secure tenants and other occupants to support the Council's regeneration plans;
 - 1.1.5 Leasehold, Freehold and Shared Ownership Management;
 - 1.1.6 Voids and Empty Property Management;
 - 1.1.7 Asset Management including cyclical and major works;
 - 1.1.8 Repairs and Maintenance;
 - 1.1.9 Community Development and Resident Engagement;
 - 1.1.10 Sheltered and Older People's Housing;
 - 1.1.11 Floating Support;
 - 1.1.12 Assist Scheme;
 - 1.1.13 Leading and responding to Welfare Reform and Universal Credit implementation;
 - 1.1.14 Management of other housing assets: Garages and other buildings on housing estates, estate offices, tenant resource facilities, meeting rooms, un-adopted roads, paths, playgrounds, gardens and amenity areas on HRA land;
 - 1.1.15 Right to Buy (RTB) Sales;
 - 1.1.16 Housing Development;
 - 1.1.17 Housing Strategies; and
 - 1.1.18 Customer Care, Complaints, Member Enquiries, Environmental Information Regulations and Freedom of Information requests.
- 1.2 This paragraph 1 is intended to be a summary only and the parties acknowledge that Barnet Homes' operative obligations are set out in paragraphs 2 to 19 (inclusive) below.

2 HOUSING OPTIONS

- 2.1 The Council has a statutory responsibility to provide housing advice and assistance to residents who are threatened with homelessness and to those who have a recognised housing need through the Council's Allocations Policy.
- 2.2 The Council has opted to commission the services set out in paragraph 2.1 above through Barnet Homes as set out in paragraph 2.3.
- 2.3 Barnet Homes will at all times:
- 2.3.1 Maintain a supply and demand model to enable forecasting;
 - 2.3.2 Provide housing advice/options on homelessness prevention and housing solutions, signposting and referrals to other services;
 - 2.3.3 Make and issue full written decisions for all applications made under the Housing Act 1996 part VI and VII;
 - 2.3.4 Provide an on call emergency out of hours advice and assistance service to those who are homeless or threatened with immediate homelessness;
 - 2.3.5 Provide housing advice and assistance to residents who are threatened with homelessness due to domestic violence;
 - 2.3.6 Create, in conjunction with the Council and implement an Allocations Scheme and provide access to accommodation to eligible customers under this scheme;
 - 2.3.7 Take account of an applicant's medical circumstances when making decisions about what, if any, housing duties are owed and what constitutes a reasonable housing offer;
 - 2.3.8 Identify and work with the Council to procure available accommodation for customers owed a duty under Part VI and VII of the Housing Act 1996;
 - 2.3.9 Identify and work with the Council to procure available accommodation under discretionary powers, where no statutory duty is owed;
 - 2.3.10 Conduct statutory reviews and appeals;
 - 2.3.11 Assess and administer Discretionary Housing Payments. Liaise with Council's Housing Benefit team to maximise budget draw down;
 - 2.3.12 Manage a homelessness prevention fund;
 - 2.3.13 Provide a signposting and referral service to Outreach Barnet, adult social care, MASH and other key partners in the Borough;
 - 2.3.14 Provide a Sanctuary Scheme for victims of domestic violence;
 - 2.3.15 Support the prevention of youth homelessness and provide support to young people to remain in their families;
 - 2.3.16 Provide a youth mediation service;
 - 2.3.17 Identify and work with the Council to procure temporary accommodation and manage such accommodation, including private sector rental and leasing portfolios, housing association direct lettings, nightly purchased and hostels;

- 2.3.18 Provide a Private Sector Leasing service (**PSL**) with a full management service for private sector landlords and registered providers and properties secured through the Hardship Acquisition Buyback Scheme, delivered and maintained (if resources permit) to a published set of standards;
- 2.3.19 Identify and work with the Council to procure emergency and interim temporary accommodation to meet daily demand including the management and administration of such accommodation;
- 2.3.20 Provide and manage a private lettings service (Let2Barnet) to enable households to access private rented sector properties;
- 2.3.21 Collect rental income and maximise housing benefit contributions;
- 2.3.22 Implement robust plans to reduce the use of temporary accommodation and costs to the Council's General Fund;
- 2.3.23 Ensure that Barnet Homes' safeguarding responsibilities are fully met;
- 2.3.24 Manage and implement a scheme to address under occupation of council homes within the Borough of Barnet;
- 2.3.25 Manage and implement a range of housing mobility schemes including mutual exchange, Home Finder, Home Moves and Seaside and Country, or their successors over the period of this Agreement;
- 2.3.26 Develop and agree with the Council an annual Homelessness Strategy;
- 2.3.27 Provide, in conjunction with the Adults and Communities team specialist housing advice and support to vulnerable customers moving out of supported accommodation and residential care;
- 2.3.28 Undertake appropriate administration, including 'Tell us Once and Notify';
- 2.3.29 Manage specific support services, such as furniture storage;
- 2.3.30 Manage the private landlords forum and landlord accreditation to improve private rented sector standards;
- 2.3.31 Support the Council's Safer Communities Strategy including exercising discretion under homelessness legislation to provide emergency accommodation for high risk offenders;
- 2.3.32 Work with the Council's Environmental Health Service to help bring empty properties back in to use and assist the Council in managing the provision of low cost temporary accommodation in the borough; and
- 2.3.33 Monitor and work to minimise the number of rough sleepers in the Borough of Barnet.

3 AIDS AND ADAPTATIONS

3.1 Barnet Homes will at all times:

- 3.1.1 Provide an aids and adaptations service in Council homes to tenants who are eligible;
- 3.1.2 Support residents to remain in their home living independent lives though adapting housing when appropriate to do so;

- 3.1.3 Use the opportunity of completing the adaptations to undertake other minor works that will better ensure a 'life-time' home when funds permit;
- 3.1.4 Adequately manage the housing stock in a legally compliant manner giving due regard for all relevant legislation;
- 3.1.5 Ensure the Council receives value for money by utilising the synergies that the adaptations service has with the rest of Barnet Homes to provide increased levels of performance without any increasing expenditure;
- 3.1.6 Ensure the components installed are of good quality to ensure that on-going maintenance is minimised and affordable;
- 3.1.7 Minimise the removal of adaptations from properties;
- 3.1.8 Work with the Council to optimise the housing stock to create more accessible homes through development and property extensions/loft conversions, subject to funding provisions agreed pursuant to this Agreement;
- 3.1.9 Maintain a register of adapted properties;
- 3.1.10 Manage the performance of all external contractors employed to provide aids and adaptations effectively, to ensure that they provide an excellent standard of care to residents and value for money to the Council; and
- 3.1.11 Provide customers with an excellent standard of customer care and be responsive to their individual needs, to ensure that the currently high levels of customer satisfaction are maintained.

4 TENANCY MANAGEMENT

- 4.1 Barnet Homes will at all times:
 - 4.1.1 Follow the Council's Tenancy Strategy and ensure that tenants are fully aware of their rights and responsibilities as part of their Tenancy Agreement;
 - 4.1.2 Develop and implement a Tenancy Sustainment Strategy;
 - 4.1.3 Develop and implement a range of published policies, procedures and service standards setting out the approach to tenancy management to help ensure tenancies are well managed and tenants receive high standards of service;
 - 4.1.4 Arrange and carry out new tenant visits within a maximum period of eight weeks after sign up to ensure new tenants are aware of their obligations and rent responsibilities and to promote and support sustainable tenancies;
 - 4.1.5 Manage introductory tenancies, to ensure tenancy conditions are kept throughout the introductory period, appropriate action is taken when required and the tenancy agreement is updated at the end of the successful introductory period;.
 - 4.1.6 Manage change of tenancy including joint tenancies, sub-letting, succession and assignment of tenancies;
 - 4.1.7 Manage flexible tenancies, ensuring tenancy conditions are kept throughout the introductory and fixed term periods, appropriate enforcement action is taken when required and carry out the review and renewal processes. Encourage and support flexible tenants to prepare for independence in order for them to move on to other housing options;

- 4.1.8 Develop strategies to deal with hard to let properties including carrying out exit surveys for departing tenants, following up refusals, local lettings plans, stock rationalisation plans and initiatives to tackle anti-social behaviour;
- 4.1.9 Take action to investigate all reports of tenancy misuse, including pre-tenancy checks on mutual exchanges, reporting any suspected cases of tenancy fraud to the Council's CAFT team and working with them to take enforcement action where required;
- 4.1.10 Work with partners and Council colleagues to support complex families and vulnerable people, with due regard to safeguarding frameworks and policies, ensuring appropriate signposting and referral;
- 4.1.11 Promote tenancy sustainability and prevent homelessness, whenever possible;
- 4.1.12 Support the Council in the calculation and administration of changes to rent and other charges. Undertake rent administration on behalf of all Council tenancies, notifying tenants of any changes within an agreed timetable;
- 4.1.13 Provide clear information to tenants on how rents and other charges are set and changes to payments or charges, when necessary. Provide regular rent statements on request;
- 4.1.14 Provide a variety of methods for payment of rent and other charges to maximise rent and service charge collection;
- 4.1.15 Collect rents and all other charges, such as, communal heating, garage rents and service charges and carry out arrears recovery, taking legal action when required;
- 4.1.16 Ensure tenants are provided with advice and assistance in relation to welfare benefits, including housing benefit verification, assistance with completing housing benefit forms. Promote specialist money advice and support, liaising with specialist agencies as appropriate;
- 4.1.17 Provide realistic payment plans to tenants in arrears and monitor compliance with these;
- 4.1.18 Tackle anti-social behaviour and promote a culture of respect and consideration for others across all tenures. Make full and appropriate use of available tools and powers, adopting a positive, pro-active and partnership based approach, taking firm action and supporting people experiencing harassment, domestic violence or neighbourhood nuisance;
- 4.1.19 Publish an anti-social behaviour policy setting out the standards tenants can expect in relation to anti-social behaviour and how Barnet Homes goes about meeting these;
- 4.1.20 Meet with anti-social and hate crime complainants in a timely manner in accordance with published standards. Develop a tailored action plan for each case outlining investigation and remedial actions, keeping complainants informed throughout and setting clear and agreed timescales with a named contact officer;
- 4.1.21 Make appropriate use of mediation where this may be the best way to resolve neighbour problems;
- 4.1.22 Where appropriate, work with other agencies to ensure that appropriate support is provided to perpetrators to help them to change their behaviour;
- 4.1.23 Work closely with police, Council officers and other partner agencies to take a collaborative and co-ordinated approach to prevention and enforcement and to tackle the underlying causes of crime and anti-social behaviour;

- 4.1.24 Take legal action regarding injunctions, evictions and repossessions with due regard to relevant law and good practice;
- 4.1.25 Seek feedback and satisfaction with closed anti-social behaviour cases and follow up where a complainant is not satisfied with the resolution, monitoring overall performance and related service improvements; and
- 4.1.26 Publish an annual report on actions taken to tackle anti-social behaviour, hate crime, domestic abuse and safeguarding with numerical data relating to number of cases, actions taken and outcomes and a narrative on where improvement is needed and how this will be achieved.

5 NEIGHBOURHOOD AND ESTATE MANAGEMENT

5.1 Barnet Homes will at all times:

- 5.1.1 Work in partnership with other agencies, where appropriate, to provide an integrated neighbourhood management service irrespective of tenure, ensuring neighbourhoods are kept clean and safe, as practicable as possible and neighbourhood problems are identified and dealt with in a timely and effective manner and in accordance with all relevant performance outcomes. This will include working on developing common standards and joint approaches to solving local issues, supporting regeneration and improving the quality of life and life chances for local people;
- 5.1.2 Ensure, wherever possible, that local people are involved and engaged in identifying and resolving problems in their area, including carrying out estate walkabouts and ensuring actions and outcomes from these are monitored, dealt with in a timely manner and fed back to residents;
- 5.1.3 Undertake regular estate inspections, adopting a 'see it, own it' culture as part of their daily work, reporting neighbourhood management issues and referring on where these do not relate to their own areas of responsibility;
- 5.1.4 Manage a grounds maintenance service to ensure, as reasonably practicable, that housing land is kept neat, tidy, free of litter and debris and in a usable condition and trees are both maintained and protected to appropriate standards;
- 5.1.5 Take appropriate action with regard to tenants and leaseholders who do not look after their gardens or who otherwise spoil the appearance of estates and take enforcement action where necessary;
- 5.1.6 Deliver an estates works programme: Ensure, so far as is reasonably practicable that external communal areas of properties are well managed, clean, tidy and free from hazards, including the maintenance and replacement, when necessary of fencing, gates, pathways, boundary treatments, furniture, trees and planting;
- 5.1.7 Ensure, where reasonably practicable, that properties with communal area are kept safe and secure including ensuring the effective operation of lighting, secure door entry systems (where installed), and CCTV (where installed) and relevant signage in place, undertaking effective related servicing, repairs and replacement;
- 5.1.8 Provide and/or procure cleaning and caretaking services to properties with communal areas in accordance with published standards;
- 5.1.9 Provide and/or procure the provision of adequate facilities for the removal of domestic and bulky refuse and ensure bin rooms, chutes and hoppers are well managed, clean and tidy;

- 5.1.10 Provide and/or procure the removal of graffiti and prioritise the removal of hate and offensive graffiti;
- 5.1.11 Resolve pest control issues to internal and external communal areas;
- 5.1.12 Work with residents and partner organisations to deal with parking issues and problems, ensuring action is taken to resolve disputes, wherever possible, in cases of unauthorised parking and abandoned vehicles: Manage estate based controlled parking schemes;
- 5.1.13 Manage garages, including any waiting lists and undertake repairs and maintenance and collection of garage rents;
- 5.1.14 Undertake regular customer satisfaction monitoring of neighbourhood and environmental management;
- 5.1.15 Contribute to and support the Council's regeneration plans, managing agreed decant and rehousing plans: Ensure records are maintained of costs incurred through staffing, home loss payments, resident removal costs, attendance at regeneration meetings and any other associated costs and can be accounted for separately from general housing management works for ease of monitoring and evaluation; and
- 5.1.16 Barnet Homes will also work with the Council to:
 - 5.16.1 to recycle, reuse or compost 50% of all household waste by 2020, and meet further targets agreed beyond 2020;
 - 5.16.2 to minimise the amount of municipal waste sent for disposal;
 - 5.16.3 to provide a waste collection service that is accessible and easy to use, that encourages residents to recycle their waste effectively; and
 - 5.16.4 to maintain high performing services, retaining good levels of satisfaction, whilst reducing unit costs

and Barnet Homes agrees that this will include:

 - supporting the Council's work to optimise the balance of service provision between refuse disposal and recycling
 - supporting the Council's implementation of food waste recycling services; and
 - supporting the Council's communications to engage residents in making maximum use of recycling and composting services.

6 LEASEHOLD, FREEHOLD AND SHARED OWNERSHIP MANAGEMENT

- 6.1 Barnet Homes will at all times:
 - 6.1.1 Assist and advise the Council to comply with all landlord obligations in relation to management and management of blocks;
 - 6.1.2 Help ensure leaseholders adhere to their lease conditions, taking enforcement action as required;
 - 6.1.3 Undertake statutory section 20 consultation for works in excess of £250 in compliance with all legal requirements relating to the same;

- 6.1.4 Produce will accurate and timely annual service charge bills and statements for all leaseholders and shared ownership properties, for both day to day maintenance and major works and deal with all resulting enquiries;
- 6.1.5 Administer extended payment options scheme;
- 6.1.6 Produce and collect estate management service charges from freeholders, where applicable;
- 6.1.7 Collect and undertake arrears recovery relating to service charge bills, debt advice referrals, financial interviews and when applicable, take legal action where required;
- 6.1.8 Respond and deal with Deed of Variation and consent for alterations, lease extensions, enfranchisement and land purchase requests;
- 6.1.9 Prepare and issue pre-assignment packs for open market sales;
- 6.1.10 Deal with matters relating to breaches of lease, including site visits, correspondence and legal referrals, when necessary;
- 6.1.11 Carry out new leaseholder interviews;
- 6.1.12 Ensure appropriate fee structure is in place for commercial services to leaseholders, including Let2Barnet, repairs and gas servicing;
- 6.1.13 Arrange payment advice surgeries for major works, and service charge surgeries to take place when the actual statements are submitted each September; and
- 6.1.14 Prepare cases and represent the Council at Mediations, First Tier Tribunals, Upper Tier Tribunals and in court, as required.

7 VOIDS AND EMPTY PROPERTY MANAGEMENT

- 7.1 Barnet Homes will at all times:
 - 7.1.1 Take all practical steps to ensure properties are empty for the minimum amount of time by identifying voids at the earliest opportunity and inspecting in a timely manner;
 - 7.1.2 Carry out re-let works including repairs, maintenance and major works, if necessary;
 - 7.1.3 Develop and maintain a consistent void and lettings standard to maintain high levels of customer satisfaction;
 - 7.1.4 Take all practical steps to minimise financial loss arising from deliberate damages by ensuring that outgoing tenants are aware of the recharging policy;
 - 7.1.5 Re-charge works where they are found to be in excess of regular wear and tear to departed tenants, where possible;
 - 7.1.6 Keep external areas, including gardens tidy, as is reasonably practicable;
 - 7.1.7 Ensure gas and electric safety checks are completed before any new tenancy commences;
 - 7.1.8 Ensure an Energy Performance Certificate (**EPC**) is available for prospective tenants; Maintain a database of EPCs;
 - 7.1.9 Undertake post works inspections for quality assurance;

- 7.1.10 Take all practical steps to keep void properties safe and secure by most appropriate and cost effective means;
- 7.1.11 Manage and rectify any security breaches, when they arise: Deal promptly with incidents of vandalism, squatting and illegal occupation, taking legal action, as necessary;
- 7.1.12 Advertise properties for re-letting, drawing up viewing short lists, carrying out pre-let viewings and offering void properties to rehousing applicants during the re-let period, where feasible;
- 7.1.13 Sign up new tenants and provide an information welcome pack;
- 7.1.14 Minimise the number of abandoned properties by enforcing the requirements of tenancy agreements and encouraging tenants to comply with notice periods;
- 7.1.15 Monitor the key stages of the overall void process to ensure top quartile performance;
- 7.1.16 Comply with the DCLG's requirements to provide statistical information on new lets and tenants under CORE (**Continuous Recording**); and
- 7.1.17 Undertake a customer satisfaction survey on completion of lettings: Monitor levels of satisfaction to identify and where appropriate investigate, areas of concern and drive service improvements.

8 REPAIRS AND MAINTENANCE

- 8.1 Barnet Homes will at all times:
 - 8.1.1 Manage repairs service with a view to ensuring broadly, in line with good practice, a ratio of 70/30% planned to reactive repairs;
 - 8.1.2 Carry out inspections on properties to diagnose repairs;
 - 8.1.3 Deliver a responsive repairs service, including emergency and out of hours, with the aim of achieving 'a right first time fix' and in accordance with agreed performance targets;
 - 8.1.4 Effectively procure and manage contractors to achieve best value for money, undertaking an annual contract review process a monthly performance review and a quarterly strategic review of delivery;
 - 8.1.5 Put in place appropriate arrangements to ensure all repair and maintenance operatives are suitably trained and qualified and where applicable, accredited by the relevant industry body;
 - 8.1.6 Ensure appropriate arrangements in place to enable tenants and leaseholders to easily report repairs, with a choice of reporting mechanisms and have work done at a convenient time, safely and to a good standard;
 - 8.1.7 Offer an appointment system in accordance with published service standards;
 - 8.1.8 Undertake a programme of post repair inspections to ensure quality assurance;
 - 8.1.9 Manage and monitor any rechargeable repairs and recover costs;
 - 8.1.10 Manage the right to improve and any tenant alteration requests;

- 8.1.11 Effectively manage legal disrepair cases, including acting on behalf of the Council (through settlement or defending, as determined by Barnet Homes with appropriate legal advice);
- 8.1.12 Ensure Landlord Gas Safety Record servicing is carried out in accordance with relevant legislation, industry standards and good practice and repairs or replacement are effectively carried, as necessary to maintain 100% compliance of Barnet's housing stock;
- 8.1.13 Ensure all servicing is carried out in accordance with relevant legislation, industry standards and good practice and repairs or replacement are effectively carried;
- 8.1.14 Manage no access (gas repair) referrals and take appropriate legal action, if required;
- 8.1.15 Undertake periodic testing and servicing of equipment and installed adaptations;
- 8.1.16 Manage and maintain communal heating and hot water systems (including Grahame Park): Ensure appropriate payment, billing and collection processes are in place;
- 8.1.17 Ensure emergency rotas and out of hours cover is in place;
- 8.1.18 Manage public liability and any other insurance claims to a satisfactory conclusion;
- 8.1.19 Undertake a customer satisfaction survey on completion of repair: Monitor levels of satisfaction to identify and where appropriate investigate, areas of concern and drive service improvements;

Risk & Compliance

- 8.1.20 Maintain an asbestos register and an asbestos management plan;
- 8.1.21 Undertake fire risk assessments to communal areas and carry out actions arising from them;

Mechanical & Electrical

- 8.1.22 Test and service Fire/Smoke Alarms, detection systems, emergency lighting installations, smoke vents and the like to communal areas, sheltered blocks and hostels (where fitted);
- 8.1.23 Test and service fire and smoke alarms to domestic dwellings (Tenanted units only) where fitted;
- 8.1.24 Test and service Lifts and carry out all repairs. Attend to entrapments;
- 8.1.25 Inspect and test fixed wiring within communal areas and to tenanted units only;
- 8.1.26 Inspect lightning protection systems (where fitted);
- 8.1.27 Inspect and carry out testing of water services when applicable;
- 8.1.28 Carry out Legionella testing;
- 8.1.29 Maintain Service ducts; and
- 8.1.30 Maintain communal integrated reception systems where installed.

9 ASSET MANAGEMENT

- 9.1 Barnet Homes will at all times:

- 9.1.1 Maintain a prioritised asset management strategy including cyclical maintenance and lifecycle replacement works, with input from residents, for continuous rolling 30 year period, updated annually and agreed with the Council;
- 9.1.2 Undertake surveys to determine scope of works, engaging with residents about proposed works and policies, offering choices, where appropriate and advising of a named liaison officer at least two weeks before the start of the works;
- 9.1.3 Plan and package works to minimise disruption, utilise access arrangements most effectively and provide maximum value for money;
- 9.1.4 Procure and contract manage works in line with applicable public procurement legislation, ensuring an appropriate inspection regime to ensure quality;
- 9.1.5 Utilise local contractors and suppliers when feasible, setting employment and training targets for employment for apprentices and young people;
- 9.1.6 Project manage work on site;
- 9.1.7 Where practicable make use of energy efficiency materials and undertake planned works in a manner to assist residents in lowering fuel costs and lowering communal fuel costs when applicable;
- 9.1.8 Maximise energy efficiency materials and measures to help reduce fuel poverty;
- 9.1.9 Ensure, as far as is practicable that spending reflects tenants' priorities and they are made aware of how value for money has been secured and tested;
- 9.1.10 Undertake customer satisfaction survey on completion of works and use to identify further service improvements;
- 9.1.11 Maintain an appropriate asset management database with accurate stock condition data;
- 9.1.12 Maintain all retained properties to minimum Decent Homes Standard and in a safe condition, addressing health and safety defects as a priority and preventing homes falling into disrepair;
- 9.1.13 Submit an annual asset management and expenditure plan;
- 9.1.14 Undertake a review of stock viability modelling and NPV analysis at least twice during the period of the Agreement, to make best use of assets and propose potential development to the Council;
- 9.1.15 Provide a monthly budget and performance report by the 15th of each month;
- 9.1.16 Provide annual progress statement by 30th June for the preceding year against the overarching asset management strategy;
- 9.1.17 Comply with all statutory maintenance, risk and health and safety obligations; and
- 9.1.18 Maintain an asset register relating to all HRA properties, land and other assets.

10 COMMUNITY DEVELOPMENT / RESIDENT ENGAGEMENT

10.1 Barnet Homes will at all times:

- 10.1.1 Provide tenants, leaseholders and other residents (where appropriate) opportunities for consultation and involvement across the housing service;

- 10.1.2 Encourage tenants, leaseholders, residents (where applicable) and users of the Housing Options service to give feedback and help improve the services, using a range of accessible and innovative methods;
- 10.1.3 Adhere to the HCA consumer standards and help ensure tenants and leaseholders are able to participate in, influence and scrutinise strategic and operational decision making and performance: Publish an annual report on the outcomes from resident scrutiny;
- 10.1.4 Develop and maintain an accessible Community Development Strategy, including a tenant and leaseholder engagement plan and a communications plan for estate regeneration activities;
- 10.1.5 Undertake activities in accordance with the Community Development Strategy aimed at improving outcomes for tenants, promoting the sustainability of tenancies, or reducing rent arrears;
- 10.1.6 Establish, develop and support groups to take a lead in making improvements in their community;
- 10.1.7 Maximise the use of community assets;
- 10.1.8 Identify external funding and grant income to support community development and agreed priorities;
- 10.1.9 Encourage and co-ordinate training and employment support;
- 10.1.10 Ensure effective mechanisms for understanding tenants' needs and priorities to inform service developments and improvements;
- 10.1.11 Ensure robust consultation and communication, that meets statutory requirements, where applicable, is undertaken in relation to all significant organisational changes and works programmes, keeping ward members informed;
- 10.1.12 Provide support to tenants and residents groups and other relevant consultation groups, panels and forums, encouraging the formation of new groups, where appropriate;
- 10.1.13 Undertake a range of activities to measure customer satisfaction including, but not limited to exit interviews, mystery shopping and questionnaires or surveys following receipt of a service;
- 10.1.14 Undertake a recognised (STAR or similar) biennial survey of tenant opinion and use to inform development and improvement plans, and other outputs;
- 10.1.15 Publish an Annual Report for tenants and leaseholders no later than six months after each financial year end;
- 10.1.16 Develop and maintain an up to date website that is accessible to all members of the community;
- 10.1.17 Ensure effective plans are in place to encourage participation and feedback from those parts of the community that are underrepresented or harder to reach;
- 10.1.18 Develop and maintain a customer profile database including diversity information such as language, disability, cultural needs and language to enable monitoring;
- 10.1.19 Promote equality and diversity, challenging discrimination and ensuring tenants, leaseholders and residents are treated with respect and dignity;

- 10.1.20 Carry out Equality Impact Assessments on significant service changes and new policies to ensure the needs of all service users have been considered and to prevent discrimination;
- 10.1.21 Seek at all times to increase overall levels of customer satisfaction; and
- 10.1.22 Ensure under section under 27B of the Housing Act 1985 arrangements are in place for dealing effectively with any proposals from tenant groups to form a Tenants Management Organisation.

11 SHELTERED AND OLDER PEOPLE'S HOUSING

11.1 Barnet Homes will at all times:

- 11.1.1 Deliver a comprehensive Sheltered Housing Service with support options to meet a growing demand for an increasingly elderly population;
- 11.1.2 Review sheltered housing provision in line with the Council's Commissioning Strategy for Older People to ensure fit for purpose and delivered as efficiently and effectively as possible;
- 11.1.3 Work with the Council to help provide a 'home for life' in secure communities of Sheltered, ShelteredPlus or Extra Care housing for older people, offering flexible support that enables service users to lead improved and more independent lives for longer, including the use of assistive technology;
- 11.1.4 Monitor and understand the demand versus supply of specialist housing stock;
- 11.1.5 Ensure that all Sheltered Housing Staff are Dementia Friends;
- 11.1.6 Support the integration of the Care and Support Bill, and (resources permitting) helping to implement them;
- 11.1.7 Helping to ensure the early recognition and treatment of illness with a view to preventing the need for hospital admissions or shorter hospital stays;
- 11.1.8 Combat loneliness and social isolation by using communal lounges and gardens, providing opportunities and activities for residents to easily and safely interact socially;
- 11.1.9 Provide clear information to tenants regarding any changes or developments which may affect them and keep them updated and involved local activities and events Understand housing's role in health and wellbeing of the growing older population by working in partnership with agencies such as AgeUK Barnet, Community Barnet, local voluntary and community groups, Barnet CAB, GP's and local Mental Health;
- 11.1.10 Manage the provision of a Sheltered PLUS service at Gadsbury Close and intensive enhanced housing management to these properties including premises control, general and individualised risk assessment and effective management; and
- 11.1.11 Provide health and safety checks, including FRA and Legionella, on all sheltered sites.

12 FLOATING SUPPORT

12.1 Barnet Homes will at all times:

- 12.1.1 Provide a comprehensive and flexible service through a clear understanding of vulnerable client's needs to help them sustain their tenancies and live independently. This will include working directly and with a range of agencies, advice centres and support groups

to help people achieve a better level of health and wellbeing; gain training, employment or volunteering opportunities; increase independence; maintain their home; maximise their income and the benefits that may be available to them and any other issues that support the aims and objectives of the service;

- 12.1.2 Deliver the services within an integrated housing health and social environment;
- 12.1.3 Help and empower vulnerable clients to sustain tenancies and prevent homelessness, whenever possible, increasing opportunities for meaningful contributions to the community: Support them to achieve agreed, realistic and achievable goals and targets as part of planned, holistic, individual assessments and a support plan with a named contact officer;
- 12.1.4 Work with partners and the Council to support complex families and vulnerable people, with due regard to safeguarding frameworks and policies, ensuring appropriate support, signposting and referral;
- 12.1.5 Support residents to settle back at home after a long period of hospitalisation; and
- 12.1.6 Work with colleagues and other agencies to ensure that appropriate support is provided both to people experiencing harassment or neighbourhood nuisance and to the perpetrators of anti-social behaviour to help them to change their behaviour.

13 ASSIST SCHEME

13.1 Barnet Homes will at all times:

- 13.1.1 Manage the provision of the community alarm centre;
- 13.1.2 Purchase, provide and install, stage 1 Telecare equipment;
- 13.1.3 Manage the decommissioning and recycling of stage 1 Telecare equipment;
- 13.1.4 Ensure reactive repairs are maintained in line with the agreed targets;
- 13.1.5 Provide a preventative maintenance service in line with agreed targets;
- 13.1.6 Manage the 24/7 emergency and non-emergency call services to ensure call answering targets are met;
- 13.1.7 Provide a key safe installation service;
- 13.1.8 Manage the 24/7 emergency mobile response service to provide basic first aid, welfare checks and access for the emergency services for registered providers and individuals and (if practicable) meet agreed targets;
- 13.1.9 Manage the floating support and scheme cover for registered providers requiring daily visits for vulnerable service users;
- 13.1.10 Provide a carer's emergency plan service to provide a safety net for carers;
- 13.1.11 Provide 24/7 lone worker monitoring service;
- 13.1.12 Develop and maintain industry standard policies and procedures;
- 13.1.13 Notify the Council of any material health and safety incidents;
- 13.1.14 Ensure accurate billing and full service charge recovery;

- 13.1.15 Work in partnership with other professionals to ensure that the Council's enablement strategy is promoted;
- 13.1.16 Work in partnership with emergency services to provide support for vulnerable tenants; and
- 13.1.17 Ensure Assist Staff are aware of their responsibility for safeguarding, including signposting and referral.

14 LEADING AND RESPONDING TO WELFARE REFORM AND UNIVERSAL CREDIT IMPLEMENTATION

14.1 Barnet Homes will at all times:

14.1.1 Provide assistance and advice in relation to:

- (a) Claiming relevant benefits;
- (b) Digital inclusion;
- (c) Personal budgeting and signposting to debt support;
- (d) Making effective claims for Discretionary Housing Payments (DHP) and other relevant discretionary funds (Crisis Fund and Council Tax Discretionary Relief) and use of these funds to support behaviour change where possible;
- (e) DLA/PIP assessments and appeals;
- (f) Employment and training advice, linking to other provision in the Borough of Barnet;
- (g) Benefit and employment support for young tenants (under 25s), and any other groups (single parents, struggling families) that may be disproportionately affected by reforms: and
- (h) Supporting residents and tenants impacted by welfare reform to move to more affordable accommodation.

14.1.2 To fulfil these obligations Barnet Homes will work effectively with key partners and agencies such as, the Council's Housing Benefit Service, Job Centre Plus, voluntary organisations and Citizens Advice Bureau. Barnet Homes will also ensure that their staff are trained and briefed on how to offer assistance and advice as listed above.

14.2 Barnet Homes will act flexibly to support the Council on Welfare Reform and Employment initiatives where additional funding is available:

14.2.1 Provide digital and personal budget support to residents impacted by the introduction of Universal Credit – dependent on funding from DWP via the Delivery Partnership Agreement (funding level to be agreed annually);

14.2.2 Lead Welfare Reform Taskforce, administering the benefit cap, providing advice on welfare reforms and supporting people to find work to minimise homelessness – dependent on funding (funding level to be agreed annually); and

14.2.3 Deliver the Work People, Working Places Programme in Burnt Oak and other unemployment hotspots – dependent on funding (fundraising and delivery approach to be agreed annually with the Council).

15 MANAGEMENT OF OTHER HOUSING ASSETS

15.1 Barnet Homes will at all times:

15.1.1 Garages

- (a) Manage and maintain the garage stock;
- (b) Manage the letting policy and tenancy conditions, i.e. what the garages can be used to store;
- (c) Manage and maintain the waiting list for garages;
- (d) Administer the lettings and tenancies of the garages Implement garage rent charge policy as set by the Council, ensuring effective billing and rent recovery; and
- (e) Undertake a regular review of garage sites, particularly where demand is low, to ascertain if better use could be made of the amenity.

15.1.2 Grahame Park estate office

- (a) Manage and maintain the Grahame Park estate office until such time as the building is demolished for the regeneration programme;
- (b) Seek revenue making opportunities through hiring out space to local partners and community groups; and
- (c) Ensure the HRA public realm is maintained for visitors;

15.1.3 Community Centres

(The Concourse, Grahame Park, Marsh Drive, West Hendon, Cheshire Hall, Hendon, and such new centres as may from time to time be agreed between the Council and Barnet Homes)

- (a) Manage the hire of these facilities to individuals, community groups and others as appropriate and monitor condition following a hire period;
- (b) Collect hire charges and discounts as set by the Council; and
- (c) Carry out Health and Safety checks.

15.1.4 Playgrounds

- (a) Annually assess the condition and safety of playgrounds on HRA land; and
- (b) Carry out and/or procure the carrying out of necessary repairs and maintenance to ensure they are safe and in good working condition.

15.1.5 Un-adopted roads and areas

Roads/paths/car parks and lamp columns which are within the curtilage of HRA land are Barnet Homes' responsibility to repair and maintain. Barnet Homes will engage with the Council's Highways department to ascertain ownership if the land ownership is unclear.

16 RIGHT TO BUY SALES

16.1 Barnet Homes will at all times:

- 16.1.1 Respond to and deal with RTB enquiries within statutory timescales;
- 16.1.2 Process applications within the statutory deadlines;
- 16.1.3 Determine entitlement and work with CAFT to prevent the fraudulent loss of housing stock;
- 16.1.4 Obtain valuations for the property and prepare and serve S125 offer notices packs;
- 16.1.5 Appropriately manage and where relevant refer property valuation challenges – District Valuer determinations;
- 16.1.6 Manage appeals, when necessary, including at the First Tier Tribunal, from the Housing Ombudsman and from the Secretary of State via the DCLG;
- 16.1.7 Administer and calculate discount through the relevant provider, i.e. the Sequel Servicer database;
- 16.1.8 Carry out pre-sales interviews;
- 16.1.9 Prepare packs for legal advisors for conveyancing and deal with administration of the sale in conjunction with the tenant's solicitor and Barnet Homes legal advisors;
- 16.1.10 Make decisions in relation to areas where discretion can be applied within the statutory process i.e. extending S140 and S141 periods, allowing slippage in relation to the completion date where the situations demands;
- 16.1.11 Provide an annual return (numerical, financial, property type, age, number of bedrooms) relating to properties purchased under Right to Buy; and
- 16.1.12 Manage the sales process.

17 HOUSING DEVELOPMENT MANAGEMENT SERVICES (INCLUDING SHARED OWNERSHIP)

17.1 Barnet Homes will at all times:

- 17.1.1 Prepare business cases for the development of sites, in accordance with the Council's business case model or such other model as may be agreed between Barnet Homes and the Council;
- 17.1.2 Programme manage development sites, including identifying the key outputs, performance targets and standards;
- 17.1.3 Identify suitable development opportunities on HRA land;
- 17.1.4 Appraise development opportunities to establish their suitability for housing development;
- 17.1.5 Undertake a thorough financial analysis of development opportunities on HRA land and existing housing stock including the use of Net Present Value;
- 17.1.6 Appoint legal advisors to prepare title reports and undertake due diligence on development sites;
- 17.1.7 Oversee the preparation of planning applications to secure planning approval;

- 17.1.8 Appoint consultants to provide effective contracts administration and site supervision to ensure cost, quality and programme targets are met;
- 17.1.9 Engage with statutory bodies to ensure deliverability and viability;
- 17.1.10 Financially appraise projects and prepare project budgets;
- 17.1.11 Bid for grant funding to support development opportunities, if and when appropriate;
- 17.1.12 Prepare reports, including Committee reports, for the Council's approval in an agreed format;
- 17.1.13 Appoint and manage the design team and a wider professional team as necessary;
- 17.1.14 Manage the design process including compliance with internal procedures (e.g. design guide), GLA requirements and the London Design Guide and appropriate agreed best practice in the delivery of specialist housing, such as extra care;
- 17.1.15 Establish and continually review a design brief for housing for social rent and shared ownership to ensure high quality developments are delivered;
- 17.1.16 Undertake resident and stakeholder consultation;
- 17.1.17 Manage the planning process;
- 17.1.18 Manage the procurement process, seeking to achieve best value;
- 17.1.19 Ensure financial management of the development programme;
- 17.1.20 Work in collaboration with the Council within agreed governance structures, to deliver the development programme including risk management and key financial outputs such as RTB expenditure;
- 17.1.21 Manage the handover and defects liability period;
- 17.1.22 Manage local, Member, statutory and VIP consultation;
- 17.1.23 Manage site publicity and communications;
- 17.1.24 Act as the client on all shared ownership properties developed by the Council; and
- 17.1.25 Assess the suitability of sites for shared ownership, producing financial appraisals and assessing affordability levels, producing design briefs and acting as the client during the development and construction process.

18 HOUSING STRATEGIES

- 18.1 Barnet Homes will at all times:
 - 18.1.1 Provide timely input into LLB's housing related strategies, making recommendations for change, as appropriate, including but not limited to, but not limited to: Corporate Plan; Commissioning Plans; Housing Strategy; Tenancy Strategy; Local Plan (including affordable housing supplementary planning document);
 - 18.1.2 Contribute to the Housing Allocations Scheme and Placement Policy in accordance with the process agreed in 2015/16;

- 18.1.3 Ownership of relevant objectives and outcomes with annual report to Commissioning Director, Growth and Development or such other relevant Chief Officer as requested by the Council on progress and interventions within two months of the end of the financial year;
- 18.1.4 Maintain an evidence base to support the overarching Housing Strategy;
- 18.1.5 Support the Council's Commissioning Directors, Commercial Director, or such other relevant Chief Officers as requested by the Council, and their teams in delivering the Council's corporate objectives; and
- 18.1.6 Identify issues and opportunities in the services managed and draft responses to national and regional government consultations for agreement with the Council.

19 CUSTOMER CARE, COMPLAINTS, MEMBER ENQUIRIES, ENVIRONMENTAL INFORMATION REGULATIONS AND FREEDOM OF INFORMATION REQUESTS

- 19.1 Barnet Homes will at all times:
 - 19.1.1 Publish and deliver against a set of customer service standards for reporting through the Performance Management Framework and the Annual Report;
 - 19.1.2 Provide access to and keep tenants and leaseholders informed about the services it provides, providing high quality and 'tenant friendly' communications;
 - 19.1.3 Resolve enquiries across the full range of services at the first point of contact, where possible or will agree an extended deadline where queries cannot be resolved immediately, aiming to minimise the number of 'avoidable contacts';
 - 19.1.4 Publish a complaints policy and information on how to make a complaint, in line with the Council's response timescales and escalation process;
 - 19.1.5 Adhere to the Council's timescales for responding to Complaints, Member Enquiries and Freedom of Information requests and information under the Environmental Information Regulations;
 - 19.1.6 Respond to complaints in accordance with published timescales;
 - 19.1.7 Deal with enquiries and complaints through the Ombudsman within prescribes timescales;
 - 19.1.8 Maintain a complaints 'learning log' to demonstrate improvements and changes are made as a consequence of complaints;
 - 19.1.9 Respond to petitions on time; and
 - 19.1.10 Deal with members (VIP) enquiries in a timely fashion.

SCHEDULE 2 – PERFORMANCE MANAGEMENT FRAMEWORK

Barnet Homes confirms that it will comply with the following performance management process in its provision of the Services in accordance with the Agreement:

Council Governance

	Attendees	Frequency	Nature	Escalation / Reporting Route
Performance and Contract Management Committee	<p>Members: http://barnet.moderngov.co.uk/mgCommitteeDetails.aspx?ID=693</p> <p>Barnet Homes: Senior representative (as requested)</p> <p>Council: Chief Operating Officer Customer Services and Commercial Director</p>	<i>Quarterly</i>	Public scrutiny of the performance of the Council with opportunity to discuss performance challenges with relevant directors (as required)	Referrals to other committees, including Housing and Policy and Resources (as required)
Challenge Session	<p>Members: Chair and Deputy Chair of committee</p> <p>Barnet Homes: Senior representative (as requested)</p>	<i>Quarterly</i>	Detailed scrutiny of Barnet Homes performance ahead of Performance and Contract Management Committee	None
Delivery Board	<p>Barnet Homes: Senior representative</p> <p>Council: Chief Operating Officer and other Delivery Unit Directors</p>	<i>Quarterly</i>	Council wide scrutiny	Intervention levels are agreed by this Board. This will include potential for special measures.

Contract Governance

	Attendees	Frequency	Nature	Escalation / Reporting Route
Performance Review meetings	<p>Barnet Homes: Operations and Finance Managers</p> <p>Council: Contract Manager CSG Finance Manager Strategic Lead Housing</p>	<i>Monthly</i>	Scrutiny of performance against management agreement and budgets	Commercial Director Performance and Contract Monitoring Committee Housing Partnership Board

	Attendees	Frequency	Nature	Escalation / Reporting Route
Housing Partnership Board	<p>Barnet Homes: Senior management</p> <p>Council: Commissioning Director Contract Manager Commissioning and Strategic Housing Leads</p> <p>Re/CSG: Finance and Housing Leads</p>	<i>Bi-monthly</i>	<p>Reviews overall objectives, priorities, outcomes and performance</p> <p>Agrees change control requests and variations</p> <p>Resolves disagreements</p>	<p>Commercial Director</p> <p>Strategic Housing Board</p>
Strategic Housing Board	<p>The Barnet Group: Chair</p> <p>Barnet Homes: Executive Officers</p> <p>Council: Chair of Housing Committee Strategic Director Commercial Director/ Partnership Relationship Manager Commissioning Directors Head of Finance</p> <p>Re/CSG: Senior management as required</p>	<i>Bi-Annually</i>	<p>Agree key objectives and strategic direction</p> <p>Considers growth and new opportunities</p> <p>Reviews progress against Five Year Business Plan</p> <p>Resolves strategic disputes</p>	<p>Housing Committee</p> <p>Strategic Commissioning Board</p>

Additional Governance

	Attendees	Frequency	Nature	Escalation / Reporting Route
Barnet Homes Scrutiny	The Barnet Group Board and Barnet Homes Performance Advisory Group	Monthly or as required	Internal and external scrutiny of performance and budgets.	Council nominated board members
Estate Regeneration Programmes	Development Pipeline Programme Board. Barnet Homes Development Team	Monthly or as required	Performance review of individual development sites and projects	As per programme governance

SCHEDULE 3 – REPORTING REQUIREMENTS

Frequency	Report
Monthly	<p>1. Breakdown of cash received as per Integra control account within 5 working days of the end of the month.</p> <p>2. Breakdown of rents charged and other debits during the month with cumulative balance outstanding within 5 working days of the end of the month.</p> <p>3. Aged debtors report consistent with cumulative position advised in (1) and (2) within 5 working days of the end of the month.</p> <p>4. Forecasts of revenue expenditure to contribute to the forecast submission as per the Council's monitoring timetable.</p> <p>5. Actuals & forecasts of capital expenditure to contribute to the forecast submission as per the Council's monitoring timetable.</p> <p>6. Invoice for temporary accommodation, capital funding and any other items over the Fee to be received with supporting documentation at least 10 working days before the due date.</p> <p>7. Performance outcomes against the Annual Delivery Plan, Commitments Plan and other contractual and or regulatory requirements (e.g. Care Quality Commission) relating to services commissioned by the Council.</p> <p>8. Schedule of intercompany income, expenditure, debtors and creditors with a reconciliation to the Council's figures by the end of the following month (e.g. transactions and reconciliation to the end of April to be received by end of May).</p>
Quarterly	<p>9. Schedule of Right to Buy sales within 5 working days of the end of the quarter.</p> <p>10. Narrative for quarterly performance report within 5 working days of the end of the quarter.</p> <p>11. Profile of decants within 10 working days of the end of the quarter.</p>

Frequency	Report
	<p>12. Schedule of bad debts write offs in excess of £50 and up to and including £5,000 together with a draft DPR for authorisation by the Council's Chief Operating Officer by the end of the month following the quarter end.</p> <p>13. Schedule of bad debt write offs in excess of £5,000 for authorisation by the Policy and Resources Committee (or its replacement) within 5 working days before the publication date for the first Policy & Resources Committee to be held after the end of quarter.</p> <p>14. Schedule of completions within 5 working days of the end of the quarter.</p>
Annually	<p>15. Financial Plan for all key business activities funded by both HRA and GF with clear lines of income and expenditure.</p> <p>16. Stock numbers, average rents and estimated costs to contribute to producing HRA budgets as per the Council's budget timetable.</p> <p>17. Breakdown of capital expenditure for financial year including a detailed listing of accruals as per the Council's closing timetable.</p> <p>18. Delivery report and reconciliation against asset management strategy with revised timetable and financial plan if required.</p> <p>19. Annual Delivery and Commitments Plan by 28th February.</p> <p>20. Set of draft accounts for Barnet Homes, Your Choice Barnet and The Barnet Group by 1st week of May.</p> <p>21. Set of audited accounts for Barnet Homes, Your Choice Barnet and The Barnet Group by 30th June.</p> <p>22. Summary of TA expenditure for the quarter within 10 days of the end of the quarter.</p> <p>23. Capital Bids in line with dates advised in the budget timetable.</p>
Ad hoc	<p>24. Number/value of Right to Buy applications and completions for HRA model forecasting.</p> <p>25. Provide supporting information in response to audit requests e.g. sample transactions within 24 hours of receiving the request.</p>

Frequency	Report
	<p>26. Business cases for review and agreement by the development pipeline board.</p> <p>27. Committee reports for clearance to be provided at least 5 working days prior to publication.</p> <p>28. Provide information required by the Council to update the HRA Business Plan including stock movement, capital requirements and rent increases.</p> <p>29. Complete Capital Bids required for Council budgeting purposes within the deadlines set by the Council.</p>

SCHEDULE 4 – DELEGATED FUNCTIONS

Term	Description
Council	Means that the Council is responsible for this task
Barnet Homes	Means that Barnet Homes is responsible for this task
Shared	Means that the responsibility for this task is shared between the Council and Barnet Homes with either the Council or Barnet Homes leading in terms of responsibility where stated below

Function	Council	Barnet Homes	Shared
Allocations Policy			X (Council lead)
Allocation of Housing		X	
Annual Report for Tenant and Leaseholders		X	
Anti-Social Behaviour (ASB) and ASB orders		X	
Appointment of TBG/Barnet Homes Chair	X	X	
Appointment of TBG/Barnet Homes Board Members and CEO		X (Council ratification required)	
Asset management database with accurate stock condition data		X	
Asset Management Strategy		X (Council approval required)	
Asset register for all HRA and GF properties, land and other assets owned by the Council	X		
Asset register for all HRA properties, land and other assets owned and/or managed by Barnet Homes or its subsidiaries (including BHRP)		X	
Assist service (Sheltered call centres (Lifeline)) (Barnet Group Assist Service)		X	
Biennial survey of tenant opinion		X	
Caretaking		X	
Changes to TBG group structure, mergers and acquisitions			X (Council decision)
Clearance of homes			X (Council decision)

Function	Council	Barnet Homes	Shared
Community Development Strategy			X
Complaints Policy and complaints handling		X	
Compliance with HCA regulatory standards		X	
Compliance with relevant European and British Standards, building regulations, good industry practice and health and safety legislation			X (delegated responsibility to Barnet Homes for all landlord related obligations)
Compliance with statutory, legislative and contractual obligations in relation to housing			X (delegated responsibility to Barnet Homes for all landlord related obligations)
Corporate Governance Framework		X	
Customer profile database		X	
Decanting		X	
Development of new affordable housing			X
DFG / Adaptations (Council Homes)		X	
Disposal of homes			X (Council decision)
Emergency planning and business continuity			X
Enforcement of tenancy conditions		X	
Environmental services (on housing land)		X	
Equalities and Diversity Policy		X	
Equalities Impact Assessments		X	
Evictions and court action		X (Barnet Homes lead, consulting Council on costs)	
Financial management		X	
Financial returns to CLG		X	
Five year business and financial plans		X (Council approval required only if Shareholders' Agreement is terminated)	
Floating Support		X	
Freehold management		X	

Function	Council	Barnet Homes	Shared
Freedom of Information requests		X	
Garages		X	
Grounds maintenance (on housing land)		X	
Home Energy Conservation Acts and Energy Efficiency	X (Private Sector Housing - Re)	X (HRA and applicable GF properties)	
Housing advice, assessment, prevention and solutions		X	
Housing fraud			X (Council lead through CAFT)
Housing land and other assets	X		
Housing needs survey and assessments	X		
Housing Strategy and related functions			X (Council lead)
HRA 30 Year Business Plan			X (Council lead)
HRA Business Plan Model	X (with input from BH)		
Information to tenants and leaseholders		X	
Inspection and repair of empty homes	X (Private Sector Housing - Re)	X (HRA and applicable GF properties)	
Leasehold management		X	
Making best use of the housing stock			X
Major and cyclical works improvements		X	
Mechanical and electrical works		X	
Member (VIP) enquiries		X	
Mobility schemes	X		
Mutual exchange		X	
Neighbourhood and estate management		X	
Private sector housing and related functions	X		
Procurement and management of contracts		X	
Procurement policy		X	
Public liability and other		X	

Function	Council	Barnet Homes	Shared
insurance claims			
Public relations and publicity - housing policy and strategy	X		
Public Relations and publicity - operational housing matters		X	
Recovery of arrears and other charges		X	
Redevelopment, regeneration and renewal			X (Council lead)
Refuges			X
Registration of Houses in Multiple Occupation	X (Re)		
Regulation of Private Rented Sector	X (Re)		
Relationship with Registered Providers	X (Re)		
Rent collection		X	
Rent policy	X		
Responsive repairs		X	
Right to buy administration and approvals		X (unless any exemption applies)	
Right to buy valuations	X (CSG)		
Safeguarding			X (Council lead)
Shared ownership staircasing and sales		X	
Sheltered housing		X	
Stock condition (including house condition surveys)	X (Private Sector Housing- Re)	X (HRA and applicable GF properties)	
Successions		X	
Supported housing schemes			X
Temporary accommodation (including hostels and emergency accommodation)		X	
Tenancy management		X	
Tenancy Strategy			X
Tenancy sustainment		X	
Tenant and Leasehold engagement and consultation			X
Tenant association		X	

Function	Council	Barnet Homes	Shared
development			
Tenant management Organisation (TMO) proposals		X	
Transfer requests		X	
Treasury management		X	
Treasury management strategy			X (Council approval)
Void and empty property management		X	
Website TBG/Barnet Homes		X	
Welfare Reform /Universal Credit implementation		X	
Welfare Reform/Universal Credit strategic response and policy	X		
Write offs / Bad debts			X (Council decision)

SCHEDULE 5 – SERVICES POLICIES

In providing the services Barnet Homes shall comply with such and any of the Services Policies as may be notified to Barnet Homes from time to time and notwithstanding the generality of the foregoing Barnet Homes shall at all times comply with the following policies save that in circumstances where Barnet Homes has adopted its own internal policy covering the same matters as the relevant Service Policy, reference to such Service Policy for the purposes of this Agreement shall be to Barnet Homes' own internal policy only provided that Barnet Homes' own internal policy is of no lesser a standard than the relevant Service Policy:

- 1 Corporate Plan
- 2 Local Plan
- 3 Housing Plan
- 4 Housing Committee Commissioning Strategy
- 5 Rent policy
- 6 Tenancy Strategy
- 7 Housing Allocations Scheme and Placement policy
- 8 The Council's Assurance Protocol
- 9 Scheme of Delegation
- 10 Community Development Strategy
- 11 Enablement Strategy
- 12 Commissioning Strategy for Older People
- 13 Safer Communities Strategy
- 14 Garage rent charge policy
- 15 Health and safety policy
- 16 Safeguarding policy
- 17 Equalities policy
- 18 Data Protection policy
- 19 Information security policy
- 20 Corporate Health and Safety Policy and Arrangements
- 21 Lone Working Policy and Risk Assessment
- 22 Data Quality
- 23 Data Transfer
- 24 Security and Data Protection Incident Management
- 25 Information Sharing

- 26 IT Access
- 27 Information Management
- 28 Password
- 29 Records Retention and Disposal
- 30 Counter Fraud Framework
- 31 Working Protocol with Adult Social Care

SCHEDULE 6 – TUPE AND PENSIONS

Part 1 – TUPE

1 RETENDERING

- 1.1 Barnet Homes shall (and shall procure that any sub-contractor shall) within the period of twelve (12) months immediately preceding the Termination Date or as a consequence of the Council notifying Barnet Homes of its intention to retender this Agreement:
- 1.1.1 on receiving a written request from the Council provide in respect of any person engaged or employed by Barnet Homes or any sub-contractor in the provision of the Services (the “**Assigned Employees**”) full and accurate details regarding the identity, number, age, sex, length of service, job title, grade and terms and conditions of employment of and other matters affecting each of those Assigned Employees who it is expected, if they remain in the employment of Barnet Homes (or of any sub-contractor) until immediately before the Termination Date, would be Returning Employees (the “**Retendering Information**”);
 - 1.1.2 provide the Retendering Information promptly and at no cost to the Council;
 - 1.1.3 notify the Council forthwith in writing of any material changes to the Retendering Information promptly as and when such changes arise;
 - 1.1.4 be precluded from making any material increase or decrease in the numbers of Assigned Employees other than in the ordinary course of business and with the Council's prior written consent (such consent not to be unreasonably withheld or delayed);
 - 1.1.5 be precluded from making any increase in the remuneration or other change in the terms and conditions of the Assigned Employees other than in the ordinary course of business and with the Council's prior written consent (such consent not to be unreasonably withheld or delayed); and
 - 1.1.6 be precluded from transferring any of the Assigned Employees to another part of its business or moving other employees from elsewhere in its or their business who have not previously been employed or engaged in providing the Services to provide the Services save with the Council's prior written consent (such consent not to be unreasonably withheld or delayed).
- 1.2 Barnet Homes shall, and shall keep indemnified in full, the Council against all Direct Losses arising from any claim by any party as a result of Barnet Homes (or sub-contractor) failing to provide or promptly to provide the Council with any Retendering Information and/or Employee Liability Information or to provide full Retendering Information and/or Employee Liability Information or as a result of any material inaccuracy in, or omission, from the Retendering Information provided that this indemnity shall not apply in respect of the Retendering Information to the extent that such information was originally provided to Barnet Homes by the Council and was materially inaccurate or incomplete when provided.

2 TERMINATION OF AGREEMENT

- 2.1 On the Termination Date, the Council and Barnet Homes agree that it is their intention that TUPE shall apply in respect of the provision thereafter of any service equivalent to any of the Services but the position shall be determined in accordance with the law at the Termination Date and this paragraph 2.1 is without prejudice to such determination.
- 2.2 For the purposes of this Schedule 6 “**Returning Employees**” shall mean those employees wholly or mainly engaged in the provision of the Services as the case may be as immediately before the Termination Date whose employment transfers to the Council or a Future Service Provider pursuant to TUPE. Upon Termination Date for whatever reason (such date being termed the “**Return Date**”), the provisions of this paragraph 2.2 will apply:

2.2.1 Barnet Homes shall, or shall procure that, all wages, salaries and other benefits of the Returning Employees and other employees or former employees of Barnet Homes or any sub-contractor who had been engaged in the provision of the Services and all PAYE tax deductions and national insurance contributions relating thereto in respect of the employment of the Returning Employees and such other employees or former employees of Barnet Homes (or sub-contractor) up to the Return Date are satisfied;

2.2.2 without prejudice to paragraph 2.2.1:

- (a) Barnet Homes shall remain (and procure that any sub-contractor shall remain) responsible for all Barnet Homes's (or sub-contractor's) employees (other than the Returning Employees) on or after the Termination Date and shall indemnify the Council and any Future Service Provider against all Direct Losses incurred by the Council or any Future Service Provider resulting from any claim whatsoever, whether arising before on or after the Return Date by or on behalf of any of Barnet Homes' or sub-contractor's employees who do not constitute the Returning Employees
- (b) the Council shall ensure or shall procure that all wages, salaries and other benefits of the Returning Employees (who had been engaged in the provision of the Services) and all PAYE tax deductions and national insurance contributions relating thereto in respect of the employment of the Returning Employees on and after the Return Date are satisfied;
- (c) in respect of those employees who constitute Returning Employees, Barnet Homes shall indemnify the Council and any Future Service Provider against all Direct Losses incurred by the Council or any Future Service Provider resulting from any claim whatsoever by or on behalf of any of the Returning Employees in respect of the period after the Relevant Service Transfer Date but on or before the Return Date (whether any such claim, attributable to the period up to and on the Return Date, arises before, on or after the Return Date) including but not limited to any failure by Barnet Homes (or any sub-contractor) to comply with its or their obligations under Regulation 13 of TUPE and/or Article 6 of the Directive as if such legislation applied, even if it does not in fact apply save to the extent that any such failure to comply arises as a result of an act or omission of the Council or any Future Service Provider;
- (d) the Council shall be entitled to assign the benefit of this indemnity to any Future Service Provider.

2.3 The Council shall indemnify Barnet Homes (for itself and for the benefit of each relevant sub-contractor) in respect of those employees who constitute Returning Employees against all Direct Losses incurred by Barnet Homes or any relevant sub-contractor in connection with or as a result of any failure by the Council or any Future Service Provider to comply with its or their obligations under Regulation 13 of TUPE and/or Article 6 of the Directive as if such legislation applied, even if it does not in fact so apply save to the extent that any such failure arises as a result of any act or omission of Barnet Homes or any relevant sub-contractor.

3 SUB-CONTRACTORS

In the event that Barnet Homes enters into any subcontract in connection with this Agreement, it shall impose obligations on its sub-contractors in the same terms as those imposed on it pursuant to paragraph 2 of this Part 1 of Schedule 6 and shall procure that the sub-contractor complies with such terms. Barnet Homes shall indemnify and keep the Council indemnified in full against all losses, claims, expenses and liabilities, incurred by the Council or any Future Service Provider as a result of, or in connection with, any failure on the part of Barnet Homes to comply with such terms.

Part 2 – Pensions letters of comfort

Copies of letters from the Council to Barnet Homes dated 25 September 2006 and 12 March 2012

SCHEDULE 7 – CHANGE PROTOCOL

Part 1 – Process

1 Principles

- 1.1 Until such time as a Change is approved by either the Housing Partnership Board or the Council's Section 151 Officer, or determined in accordance with clause 13.5, the Council and Barnet Homes shall continue to perform this Agreement in compliance with its terms.
- 1.2 Any discussions which may take place between the Council and Barnet Homes in connection with a request or recommendation before the authorisation of a resultant Change shall be without prejudice to the rights of either party.
- 1.3 Any work undertaken by Barnet Homes which has not been authorised in advance by a Change shall be undertaken entirely at the expense and liability of Barnet Homes.

2 Procedures

- 2.1 Discussion between the Council and Barnet Homes concerning a Change shall result in any one of the following:
 - 2.1.1 no further action being taken; or
 - 2.1.2 a request to change this Agreement by the Council; or
 - 2.1.3 a request to change this Agreement by Barnet Homes.
- 2.2 For the avoidance of doubt the relevant party's Contract Manager shall be responsible for submitting a Change request to the other party under clause 12.
- 2.3 Where a written request for a Change is received from the Council's Contract Manager, Barnet Homes shall, unless otherwise agreed, within 10 Working Days of the date of the request submit a note of such Change request in the form annexed to Part 2 of this Schedule 7 (a **Change Control Note**) to the Housing Partnership Board and at the same time submit a further copy of such Change Control Note to the Council's Contract Manager.
- 2.4 A request to for a Change by Barnet Homes shall be effected by Barnet Homes' Contract Manager submitting a Change Control Note to the Council's Contract Manager and at the same time submitting a further copy of such Change Control Note to the Housing Partnership Board.
- 2.5 Each Change Control Note shall contain:
 - 2.5.1 the title of the Change;
 - 2.5.2 the originator and date of the request or recommendation for the Change;
 - 2.5.3 the reason for the Change;
 - 2.5.4 full details of the Change, including any change of scope and/or performance standards for the Services;
 - 2.5.5 the impact, if any, of the Change on the Fee;
 - 2.5.6 a timetable for implementation, together with any proposals for acceptance of the Change;
 - 2.5.7 details of the likely impact, if any, of the Change on other aspects of this Agreement including:

- (a) the timetable for the provision of the Change;
- (b) the personnel to be provided;
- (c) the documentation to be provided;
- (d) the training to be provided;
- (e) working arrangements; and
- (f) other contractual issues;

2.5.8 the date of expiry of validity of the Change Control Note; and

2.5.9 provision for signature by the Council and Barnet Homes.

2.6 Subject to clauses 12.7, 12.8 and 12.9, a Change Control Note approved by either the Housing Partnership Board or the Council's Section 151 Officer and signed by the Council and by Barnet Homes shall constitute an amendment to this Agreement.

2.7 Barnet Homes shall, in relation to all proposed Changes, whether approved or rejected, maintain a record of all such Change Control Notes on a Change control register.

Part 2 – Change Control Notice

Barnet Homes
Barnet Council – Change Notice
The top part of the form is completed by the Council Contract Manager and sent to Barnet Homes who will complete the bottom part.

Barnet Council to Complete	Barnet Council			
	Change #:	Date:	Change Notice originated by:	Urgency:
	Assign a unique number to each Change Notice	Date that the change is submitted	Who has originated the change	When is change to be implemented?
	Has this been covered by a DPR / Committee report?			
	Insert hyperlink to DPR / Report			
	Description of Change Request:			
	What is the change? Describe what in the Management Agreement needs to change.			
	Reason for the Change:			
	What is the reason for the change? Will the commissioned outcomes benefit from the change? Has this Change Request been raised following an intervention or escalation arising from a performance review? How does the change affect outcomes and priorities?			
	Financial Implications:			
Is there any effect on the revenue or capital budgets? If so what is the estimated addition / reduction in the budget? Are additional resources required? Are these temporary staff and if so for how long?				
Approval to Proceed				
Lead Commissioner/Contract Manager:	Name:	Date:	Signed:	
Barnet Homes to Complete	Barnet Homes Acknowledgement			
	Impact on Scope:	Does the Change Notice have an effect on Barnet Homes ability to deliver elsewhere?		
	Impact on Risk:	Is there any impact to the risk profile? If the change introduces a new risk indicate what needs to be done to reduce the risk or consequences?		
	Impact on Budget:	Provide a firm assessment of the effect on the budget.		
	Approach to Implement the Change:	Provide a plan to implement the change? What is the timescale to implement and when is the benefit impact expected?		
	Other:	Indicate any other impacts of the proposed change		
	Change Notice Acknowledged and Implemented			
Name:	Date:	Signed:		

SCHEDULE 8 – DEVELOPED HOMES ASSUMPTIONS

The parties agree to revise the quantum of the Development Subsidy if circumstances change such that the original commercial assumptions of the scheme in which the affordable homes are comprised (the **Scheme**) no longer apply and/or the Scheme is no longer viable (taking into account in assessing such viability the obligation to pay the Development Subsidy). In revising the Development Subsidy in accordance with this Schedule 8, the parties agree to consider:

1. rental income streams;
2. tenancy terms;
3. interest rates;
4. land value;
5. non-residential assets; and
6. such other factors which the parties agree (acting reasonably) may affect a Scheme's viability.

Delivery in relation to the Scheme will be in accordance with the following schedule:

Phase	Number of Units	Scheduled completion date
Phase 1	170	March 2018
Phase 2	150	March 2020
Phase 3	TBC (Target 180)	March 2022

SCHEDULE 9 – SCHEME OF DELEGATION

Commissioning Director for Growth and Development Scheme of Delegation including Statutory & Regulatory Duties and Powers

SCHEDULE 10 – SLAS

SCHEDULE 11 – ESTATE REGENERATION PROGRAMME

The Estate Regeneration Programme is the estate regeneration programme directed by the Council's Development Pipeline Board.

Delivery under the Estate Regeneration Programme will be in accordance with the following schedule:

Phase	Number of Units	Scheduled completion date
Phase 1	170	April 2018
Phase 2	150	April 2019
Phase 3	180	April 2020

Signature page

Executed as a deed by affixing
the common seal of
LONDON BOROUGH OF BARNET

) Seal



in the presence of

[Signature]

Authorised signatory
HEAD OF GOVERNANCE ANDREW CHALLWOOD

[Signature]

ASSISTANCE ASSISTANT DIRECTOR
CLAIR GREEN

Executed as a deed by
BARNET HOMES LIMITED
acting by a director and a director/
Secretary

[Signature]
) Director
[Signature]
) Director/Secretary