



NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL (1)

and

NORTHERN HOUSING CONSORTIUM LIMITED (2)

**AGREEMENT RELATING TO THE SUPPLY OF SERVICES UNDER THE
SIMPLE TENANTS CONTENTS INSURANCE FRAMEWORK**

NORTHERN HOUSING CONSORTIUM

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THIS AGREEMENT is made

BETWEEN:

- (1) **NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL** a company incorporated in England whose registered office is at Council Offices, Whitwick Road, Coalville, Leicestershire, LE67 3FJ (“**the Purchasing Member**”); and
- (2) **NORTHERN HOUSING CONSORTIUM LIMITED** a company registered in England and Wales with registered number 04361009 whose registered office is at Loftus House, Colima Avenue, Sunderland Enterprise Park, Sunderland, SR5 3XB (“**the Consortium**”).

WHEREAS

- a) The Consortium is a Central Purchasing Body of which the Purchasing Member is a Member. The Consortium provides procurement, tendering and contract management services to its Members. The Consortium has run a tender under the Public Procurement Rules for the provision of Services to its Members (“**the Tender**”)
- b) The Supplier (Royal & Sun Alliance Insurance plc (RSA) with registered number 93792 and whose registered office is at St Marks Court, Chart Way, Horsham, West Sussex, RH12 1XL) has successfully bid under the Tender to supply the Services in accordance with Public Procurement Rules to Members of the Consortium, for whom the Consortium, in conjunction with Marsh Ltd, shall manage the purchasing process and relationship with the Supplier.
- c) The Parties have agreed that in return for the Consortium’s management of the purchasing process and the relationship with the Supplier, it shall be entitled to Remuneration from the Supplier.
- d) The Purchasing Member and the Consortium now wish to enter into an agreement regulating their relationship in respect of the Supplier and the Tender as more fully described in this Agreement.

IT IS AGREED AS FOLLOWS:

1 INTERPRETATION

1.1 In this Agreement the following words shall have the following meanings:

Agreement means this Member Agreement and the Schedules (entered into pursuant to the provisions of the Framework Agreement).

Authorised Signatory means the person(s) deemed to be legally authorised to sign and thus accept this Agreement on behalf of the Party that they represent.

Central Purchasing Body has the meaning given to it in the Public Contracts Regulations 2015

Consortium means Northern Housing Consortium of Loftus House, Colima Avenue, Sunderland Enterprise Park, Sunderland, SR5 3XB, and a “Central Purchasing Body” as defined in the Public Contracts Regulations 2015.

Effective Date means the 6th April 2017.

End Date means the date(s) the Agreement expires, or, if earlier, terminates.

Extension Period means a period of 12 months, with the total duration of the Term not exceeding 24 months in total.

Framework Agreement means the framework agreement entered into on 1st April 2017 between the Consortium and the Supplier to establish the terms upon which the Purchasing Member may from time to time require provision of the Services by the Supplier.

Initial Term means a period of 12 months from the Effective Date.

Members means the purchasing organisations who are members of the Consortium who purchase Services

Party means either the Consortium or the Purchasing Member and “Parties” means both the Consortium and Purchasing Member in any context.

Placement Authorisation Form means the agreement (made pursuant to the provisions of the Framework Agreement) for the provision of the Services to be used between the Supplier, Marsh Ltd and each Purchasing Member

Public Procurement Rules means the Public Contracts Regulations 2015, and any other related UK and European legislation, and Government guidance issued in connection therewith, as amended from time to time.

Purchasing Member means the member of the Consortium who is purchasing services under this Framework Agreement.

Remuneration means a percentage of the price of the Services supplied to the Purchasing Member which is to be paid by the Supplier to the Consortium under the terms of the Tender as set out in the invitation to tender.

Services means the types and specifications of services to be performed as specified in the Tender to be provided by the Supplier in accordance with the Framework Agreement and as originally specified in the Tender and more specifically set out in the Specification.

Supplier means RSA and other suppliers (e.g. Direct Group) of the Services subsequently appointed by the Consortium under the terms of the Tender

Tender means the tender response received from the Supplier in response to the tender process establishing the Framework Agreement.

Term means the Initial Term together with any Extension Period, unless this Agreement is terminated earlier in accordance with Clause 7 (Termination).

1.2 In this Agreement:

1.2.1 references to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced;

1.2.2 references to the masculine include the feminine and the neuter and to the singular include the plural and vice versa as the context admits or requires;

1.2.3 headings will not affect the construction of this Agreement;

2 TERM

2.1 Subject to the provisions of Clause 7, the Term commences on the Effective Date and shall remain in force for the Initial Term of 12 months and shall expire at the end thereof unless extended in accordance with Clause 2.2.

2.2 Subject to agreement by both Parties, an option of extending the Agreement by the Extension Period of 12 month periods will be considered. The Parties will confirm agreement of the option to extend in writing not less than three (3) months before the End Date.

2.3 For the avoidance of doubt, the Purchasing Member is not by entering into this Agreement committing to any form of exclusive arrangement with the Consortium. The Purchasing Member is at all times entitled to enter into other contracts and arrangements with other suppliers for the provision of any or all the services which are similar to the Services.

3 PURCHASING MEMBER'S OBLIGATIONS

3.1 The Purchasing Member agrees that it shall only be entitled to purchase Services under the Framework Agreement for so long as this Agreement remains in force and the Purchasing Member remains a paid member of the Consortium.

3.2 The Purchasing Member agrees with the Consortium that it will enter into a written agreement with the Supplier from which it wishes to purchase Services under the Tender substantially in the form of the Placement Authorisation Form.

3.3 The Purchasing Member hereby indemnifies the Consortium in full, and holds it so indemnified, against all costs, expenses and losses that the Consortium incurs in dealing with any claim brought against the Consortium which arises as a result of the Purchasing Member breaching any such agreement with the Supplier.

- 3.4 The Purchasing Member expressly agrees that the Consortium may enforce the provisions of such agreements against the Supplier on behalf of the Purchasing Member and its other members, should it choose to do so.
- 3.5 The Purchasing Member warrants that it has and agrees that it shall at all times act in good faith toward the Consortium in respect of the Tender process and its dealings with the Supplier.
- 3.6 The Purchasing Member warrants that it has not colluded with any Supplier or other bidding party to rig or set prices or to otherwise affect the fairness of, distort, or deviate from the Tender process.
- 3.7 The Purchasing Member agrees that it will not vary, try to discount, undercut or negotiate alternative deals with the Supplier which does not properly follow the Tender.
- 3.8 The Purchasing Member acknowledges that any such acts would be very damaging for the Consortium as a Central Consortium Body and for its other members and could affect the legal status of the Tender within the Public Procurement Rules, leaving it open to challenge at a substantial cost to all concerned, as well as affecting the reputation of the Consortium.
- 3.9 The Purchasing Member shall provide the Consortium with such information and assistance as is requested by the Consortium to assist the defence pursuant to Clause 3.3 and/or Clause 4.2 of any claim or challenge made to the validity of the Framework Agreement.

4 CONSORTIUM'S OBLIGATIONS

- 4.1 The Consortium has for the benefit of its members, including the Purchasing Member, conducted the Tender and publicised its results to enable the Purchasing Member to purchase the Services from the Supplier in accordance with the Public Procurement Rules, and the Consortium warrants that the Tender has been conducted in accordance with the Public Procurement Rules.
- 4.2 The Consortium shall indemnify the Purchasing Member in full against all costs, claims, expenses and losses that may arise as a result of any breach of the Public Procurement Rules by the Consortium provided always that such costs, claims, expenses and losses are not as a result of the action or omission of the Purchasing Member or the Supplier including but not limited to a breach of this Agreement or breach of the Public Procurement Rules and that the Purchasing Member allows the Consortium to take conduct of the claim and to defend and respond to any allegation of breach of the Public Procurement Rules.
- 4.3 The Consortium will keep arrangements between the Supplier and the Purchasing Member under review and take reasonable commercial steps to facilitate such relationships where possible.

5 PREVENTION OF CORRUPTION

- 5.1 The Purchasing Members shall not do, and warrants and represents that in entering this Agreement it has not done any of the following ("**the Prohibited Acts**"):

- 5.1.1 received, offered, given or agreed to give to any person any gift or consideration of any kind as an inducement or reward:
- (a) for doing or not doing (or for having done or not having done) any act in relation to the award, obtaining, performance, monitoring of this Agreement or any other contract with the Consortium; or
 - (b) for showing or not showing favour, or disfavour to any person in relation to this Agreement or any other contract with the Consortium;
- 5.1.2 entered into this Agreement or any other contract with the Consortium in connection with which commission has been paid or has been agreed to be paid by it or on its behalf, or to its knowledge, unless before this Agreement is made particulars of any such commission and the terms and conditions of any such agreement for the payment therefore have been disclosed in writing to the Consortium.
- 5.2 If a director or directors (or equivalent) of the Purchasing Member or its company secretary or with his or their agreement, connivance, prior knowledge or assistance, the Purchasing Member's employees, agent or sub-contractors or anyone acting on its behalf does any of the Prohibited Acts or commits any offence under the Bribery Act 2010 or other related legislation ("**an Offence**") in relation to this Agreement or any other contract with the Consortium, the Consortium shall be entitled:
- 5.2.1 to recover from the Purchasing Member the amount or value of any such gift, consideration or commission received by the Purchasing Member; and
 - 5.2.2 to recover from the Purchasing Member any other loss sustained in consequence of any breach of this Clause 5.2, whether or not this Agreement has been terminated.
- 5.3 If a director or directors (or equivalent) of the Purchasing Member or its company secretary commits any Offence in relation to this Agreement or any other contract with the Consortium, the Consortium shall in addition to the remedies set out in Clause 5.2 be entitled to terminate this Agreement and recover from the Purchasing Member on an indemnity basis the amount of any loss resulting from the termination, without prejudice to any other remedies that it may have.
- 5.4 The Purchasing Member and all its employees shall at all times adhere to the Bribery Act 2010.
- 5.5 It is acknowledged that where an Offence is committed by an employee, agent or sub-contractor it would be considered to be gross-misconduct and the Purchasing Member shall take all reasonable disciplinary steps against such employee, agent or sub-contractor.
- 5.6 The Purchasing Member shall immediately inform the Consortium of any Offence of which it has any knowledge.
- 6 LIMITATION OF LIABILITY**
- 6.1 The Consortium's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated

performance of this Agreement shall be limited in so far as is lawful to the sum of one pound (£1.00). Save that this limitation shall not apply to any liability for death or personal injury caused by the negligence of the Consortium.

6.2 Neither party shall be liable to the other party for:

6.2.1 any loss of profit, whether direct or indirect;

6.2.2 any indirect or consequential loss or damage;

6.2.3 any loss of business, depletion of good-will or otherwise;

6.2.4 any costs, expenses or other claims for consequential compensation;

whatsoever and howsoever caused which arises out of or in connection with this Agreement.

6.3 Subject to clause 6.2 the Purchasing Members maximum aggregate liability arising out of or in connection with this Agreement, whether in contract, tort, misrepresentation, restitution, under statute or otherwise, howsoever caused including by negligence and also including any liability arising from a breach of or a failure to perform or defect or delay in performance of any of the Purchasing Members obligations under this Agreement will be limited to £5 million.

7 TERMINATION

7.1 Subject to Clause 7.2, this Agreement shall commence upon the Effective Date and shall continue in force for the Term, plus any Extension Periods.

7.2 The Consortium shall be entitled at its sole discretion to terminate this Agreement instantly upon written notice to the Purchasing Member in the event that:

7.2.1 an order is made or a resolution is passed for the winding up of the Purchasing Member or circumstances arise which entitle a Court of competent jurisdiction to make a winding-up order of the Purchasing Member; or an order is made for the appointment of an administrator to manage the affairs, business and property of the Purchasing Member or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the Purchasing Member or notice of intention to appoint an administrator is given by the Purchasing Member or its directors or by a qualifying floating charges holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act (1986)); or

7.2.2 a receiver is appointed of any of the Purchasing Member's assets or undertaking or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the Purchasing Member or if any other person takes possession of or sells the other party's assets; or

7.2.3 the Purchasing Member makes any arrangement or composition with its creditors or makes an application to a Court of competent jurisdiction for the protection of its creditors in any way; or

- 7.2.4 the Purchasing Member is, or is reasonably considered to be unable to pay its debts when they fall due as defined in Section 123 of the Insolvency Act 1986; or
- 7.2.5 any distraint is levied against the other party or its property by any Purchasing Member; or
- 7.2.6 the Purchasing Member ceases, or threatens to cease, to carry on business; or
- 7.2.7 any action or occurrence analogous to the provisions of Clauses 7.2.1 to 7.2.6 occurs in respect of the Purchasing Member in any jurisdiction; or
- 7.2.8 the Purchasing Member is in material breach of this Agreement and such breach is not remedied within 14 (fourteen) days of issue of a written notice to the Purchasing Member specifying the breach and requiring remedy or repeatedly commits a breach of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement.
- 7.2.9 the Purchasing Member ceases to be a paid member of the Consortium

8 CONFIDENTIALITY

- 8.1 Subject to the remaining provisions of this Clause 8 the parties mutually undertake and agree with the other at all times hereafter (including, for the avoidance of doubt, for 3 years following the termination of this Agreement) to keep all information which is of a confidential or secret nature including without limitation information relating to forecasts, prices, discounts, handling costs, sales statistics, markets, inventory information, customers, personnel and technical, operational and administrative systems (the "**Confidential Information**") of the other and the other's customers which they may learn in connection with the performance of this Agreement in strict confidence and secrecy and not to use or disclose the Confidential Information of the other or other's customers to any other person firm or company outside the parties respective group of companies and their respective professional advisers except only as may be necessary and bona fide in connection with its obligations under this Agreement.
- 8.2 Both parties shall procure that any member of its respective group or any adviser, agent, representative contractor, or sub-contractor to it to whom any part of the Confidential Information is disclosed complies with the provisions of this Clause 8 as if it were a party to this Agreement.
- 8.3 Clauses 8.1 and 8.2 shall not apply to any Confidential Information to the extent that:
 - 8.3.1 it is or becomes generally available to the public other than by breach of this Agreement; or
 - 8.3.2 which either party is obliged to disclose by a court of law; or
 - 8.3.3 which either party is obliged to disclose pursuant to a statutory, legal or parliamentary obligation, including any requirements for disclosure under the Freedom of Information Act 2000 or the Environmental Information Regulations.

- 8.4 In the event that either party is subject to a statutory request relating to the other party's Confidential Information under the Freedom of Information Act 2000 or related legislation, the party subject to such request agrees within the constraints of such legislation to promptly consult with the other in relation to such statutory request.

9 GENERAL

- 9.1 Neither party shall be entitled to assign, novate, sub-contract or otherwise transfer this Agreement or any part of it without the prior written consent of the other.
- 9.2 Each right or remedy of either party under this Agreement is without prejudice to any other right or remedy of either party whether under this Agreement or not.
- 9.3 If any wording in any provision of this Agreement is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining wording of such provision and the remaining provision of this Agreement shall continue in full force and effect.
- 9.4 Failure or delay by either party in enforcing or partially enforcing any provision of this Agreement will not be construed as a waiver of any of its rights under this Agreement.
- 9.5 Any waiver by either party of any breach of, or any default under, any provision of this Agreement by the other will not be deemed a waiver of any subsequent breach of default and will in no way affect the other terms of this Agreement.
- 9.6 The formation, existence, construction, performance, validity and all aspects of this Agreement shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

10 DISPUTE RESOLUTION

- 10.1 In the event of a dispute between the parties out of or in connection with this Agreement or the performance, validity or enforceability of it ("**Dispute**") then, except as expressly provided in this Agreement, the parties shall follow the dispute resolution procedure set out in this clause:
- 10.1.1 either party shall give to the other written notice of the Dispute, setting out its nature and full particulars ("**Dispute Notice**"), together with relevant supporting documentation. On service of the Dispute Notice, a representative of each party shall attempt in good faith to resolve the Dispute;
- 10.1.2 if the representatives are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing ("**ADR Notice**") to the other party requesting mediation. A copy of the ADR Notice should be sent to CEDR Solve. The mediation will start not later than 21 days after

the date of the ADR Notice. Unless otherwise agreed by the parties the place of mediation shall be nominated by the mediator.

- 10.2 No party may commence any court proceedings in relation to any dispute arising out of this Agreement until 30 days after the appointment of a mediator, provided that the right to issue proceedings is not prejudiced by a delay.

11 THIRD PARTY RIGHTS

- 11.1 A person who is not a party to this Agreement has no right under the Contracts (Right of Third Parties) Act 1999 to enforce any term of this Agreement but this shall not affect any right or remedy of a third party which exists or is available apart from the Act.

SCHEDULE 1 – LETTER OF APPOINTMENT

Yvonne Leonard
Procurement & Contracts Support Officer
Loftus House
Colima Avenue
Sunderland Enterprise Park
Sunderland
SR5 3XB

28th February 2017

Dear Yvonne,

Simple Tenants Contents Insurance Scheme (2016-2020)

I am pleased to confirm that following the acceptance of the insurance premium quotations for North West Leicestershire District Council, via the Northern Housing Consortiums Simple Tenants Contents Insurance framework we wish to award the contract to:

Royal and Sun Alliance Insurance

Please arrange for the contractual documentation to be prepared using North West Leicestershire District Council information as below:

Registered Company Name:	North West Leicestershire District Council
Registered Company Address:	Council Offices, Whitwick Road, Coalville, Leicestershire LE67 3FJ
Company Registration Number (if applicable):	
Contract start date:	6 th April 2017
Contract Term:	
<ul style="list-style-type: none"> Initial Term 	1 Years
<ul style="list-style-type: none"> Optional Extension 	1 Year

Please issue the contractual documentation to the following individual, who will arrange for signature and witnessing:

Name:	Louis Sebastian
Job Title:	Principle Solicitor – Contracts and Commercial
Email Address:	Louis.sebastian@nwleicestershire.gov.uk
Telephone:	01530 454770
Signed:	by hand

Yours sincerely,



SIGNATURES

AS WITNESS the hands of the parties the day and year first above written.

SIGNED for and on behalf of)
NORTH WEST LEICESTERSHIRE)
DISTRICT)
COUNCIL)

.....
 Authorised Signatory

.....

.....
 Print Name

SIGNED by)
 for and on behalf of)
NORTHERN HOUSING CONSORTIUM LIMITED)
 in the presence of:)

.....
 Authorised Signature

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