

Appendix 1

JOINT FRAMEWORK AGREEMENT

London Borough of Hammersmith and Fulham

and

The Royal Borough of Kensington and Chelsea

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FRAMEWORK AGREEMENT

THIS AGREEMENT is made this day of.....2008

BETWEEN

1. THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF HAMMERSMITH AND FULHAM of Town Hall, King Street, London W6 9JU and of THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA of Town Hall, Hornton Street W8 7NX (The "Principal Contracting Authorities")

and
2. [] whose registered company number is []
and whose registered office is situate at
("the Service Provider").

WHEREAS:

- (A) The Principal Contracting Authorities ("PCAs") issued an Invitation to Tender on [] for the Services.
- (B) The Service Provider submitted a Tender in response to the Invitation to Tender offering to provide the Services to the PCAs.
- (C) The parties hereby agree that the Service Provider shall provide the relevant Services to the PCAs in accordance with the terms and conditions of this Framework Agreement.

1. DEFINITIONS

- 1.1 In this Framework Agreement, wherever the following words and expressions are used they shall, except where the context requires otherwise, have the meanings hereby assigned to them:
 - 1.1.1 "Access Agreement" means the access agreement entered into between any Secondary Contracting Authority ("SCA") and the Service Provider.
 - 1.1.2 Commencement Date" means 14th April 2008.
 - 1.1.3 "Contract Conditions" means the contract conditions to the Service Contracts of the PCAs annexed hereto.
 - 1.1.4 "Framework Agreement" means this framework agreement and its Schedules.
 - 1.1.5 "Party" means the Service Provider or the PCA (as the case may be).
 - 1.1.6 "Principal Contracting Authority" and "PCA" means either the London Borough of Hammersmith and Fulham or the Royal Borough of Kensington and Chelsea.

- 1.1.7 "Principal Contracting Authorities" and "PCAs" means both the London Borough of Hammersmith and Fulham and the Royal Borough of Kensington and Chelsea.
- 1.1.8 "Protocol" means the agreement in relation to the interpretation and administration of the Framework Agreement as agreed between the PCAs.
- 1.1.9 "Schedule" means a schedule attached to and forming part of this Framework Agreement.
- 1.1.10 "Secondary Contracting Authority" and "SCA" means either the London Borough of Ealing or the London Borough of Harrow who in accordance with this Framework Agreement enter into an Access Agreement with the Service Provider.
- 1.1.11 "Services" means the services set out in the Specification which are the subject matter of this Framework Agreement.
- 1.1.12 "Service Contract" means the Supporting People Steady State Contract (including schedules) between either of the PCAs and the Service Provider.
- 1.1.13 "Service Contract Commencement Date" means the date on which a Service Contract starts.
- 1.1.14 "Special Conditions" means the special conditions to a Service Contract agreed between the Service Provider and any Secondary Contracting Authority and which shall form part of the relevant Access Agreement.
- 1.1.15 "Tender" means the Service Provider's successful tender for the Services.
- 1.2 The headings in this Framework Agreement shall not be deemed to be part of this contract or be taken into consideration in the interpretation or construction of this contract.
- 1.3 Words denoting the singular shall include the plural and vice versa, words denoting the masculine gender shall include the feminine gender and vice versa and words importing persons or parties shall include partnerships, corporations and any organisations having legal capacity.
- 1.4 References to any statutory provisions are to be construed as references to the statutory provision as for the time being amended or modified or to any statutory provision for the time being replacing or amending the same (which shall include any orders or regulations under such provisions).
- 1.5 References to personnel, staff and managers of the Service Provider shall include references to all persons engaged by the Service Provider in the performance of the Service and shall (if the context so permits) include references to the personnel and managers of any sub-Service Providers of the Service Provider.

- 1.6 Reference to any contract or documents include a reference to the contract or document as amended, supplemented, substituted, novated or assigned.
- 1.7 References to clauses and schedules (except where the context requires otherwise) are to the clauses of and schedules to this Framework Agreement.
- 1.8 In the case of any conflict, the clauses of this Framework Agreement shall take precedence over the Schedules.
- 1.9 Words in this Framework Agreement shall bear their natural meaning unless the Framework Agreement otherwise requires.

2. DURATION

- 2.1 This Framework Agreement shall commence on April 14th 2008 and subject to the provisions for earlier termination set out herein shall continue in force until March 31st 2012, unless terminated earlier in accordance with the terms set out herein.
- 2.2 The duration of each Service Contract let under this Framework Agreement will be specified in that contract and will be unaffected by any termination.

3. CONTRACTUAL OBLIGATIONS

- 3.1 The Service Provider shall deliver the Services in accordance with the terms and conditions of this Framework Agreement.
- 3.2 The Councils shall pay the Service Provider in accordance with the terms and conditions of this Framework Agreement, in particular the Pricing Schedule.
- 3.3 Each party shall appoint a representative and notify the other of his/her name and contact details and any authorised deputies by the commencement date of the Service Contract. These representatives shall be responsible for liaising with each other on all matters arising out of this Framework Agreement.

4. ACCESS TO THE FRAMEWORK AGREEMENT

- 4.1 Any Secondary Contracting Authority shall be entitled to enter into a Service Contract with the Service Provider for the provision of the Services by the Service Provider in accordance with the Framework Agreement by executing an Access Agreement PROVIDED THAT the Principal Contracting Authorities authorise such Access Agreement by providing written confirmation of authorisation to the Service Provider and the relevant SCA.
- 4.2 Each Access Agreement shall include (this list is not exhaustive):-
 - 4.2.1 any Special Conditions agreed between the relevant SCA and the Service Provider; and
 - 4.2.2 details of the SCA's name and address and the identity of the relevant Authorised Officer and Account Manager (as defined in the Service Contract;) and the commencement date of the Service Contract.

- 4.3 From the date of the relevant Access Agreement the relevant local authority shall become an SCA for the purposes of this Framework Agreement and may then call-off Services from the Service Provider pursuant to this Framework Agreement.
- 4.4 In the event that an SCA exercises its discretion to call-off services in accordance with the Framework Agreement, the Service Provider shall not be obliged to accept.
- 4.5 Special Conditions agreed between the Service Provider and the relevant SCA will be set out in the relevant Access Agreement.
- 4.6 In the event that the Access Agreement between any SCA and the Service Provider is terminated, such termination shall not affect any other Access Agreement between any other SCAs and the Service Provider.

5. PARTICIPATION

- 5.1 The PCAs and Service Provider hereby agree that the Service Provider is not granted by virtue of this Framework Agreement an exclusive right to provide the Services to the PCAs and or the SCAs.
- 5.2 The individual PCAs may call off Services pursuant to this Framework Agreement at their absolute discretion.
- 5.3 In the event that either PCA calls-off Services in accordance in the Framework Agreement the Service Provider shall be subject to carry out the Services in accordance with the Contract Documents.
- 5.4 The PCAs and SCAs do not guarantee any maximum or minimum spend pursuant to this Framework Agreement.
- 5.5 Under the Contracts (Rights of Third Parties) Act 1999, the PCAs and SCAs shall be able to enforce the terms of this Framework Agreement against the Service Provider PROVIDED THAT nothing in this Framework Agreement shall make any PCA or SCA liable for the obligations of another PCA or SCA hereunder.

6. LIABILITY AND INDEMNITY

- 6.1 The PCAs shall not be liable for, and the Service Provider shall fully indemnify and hold harmless the PCAs (individually or collectively, as the case may be) against all direct actions, claims, direct costs, expenses and damages brought against or suffered by the PCAs (whether individually or collectively) arising out of this Framework Agreement except where such actions, claims, costs, expenses and damages brought against or suffered by the PCAs (whether individually or collectively as the case may be) are due to the negligence of the PCAs .

7. DISPUTES

- 7.1 In the event of a dispute between the PCAs over the interpretation or administration of the Framework Agreement, such a dispute shall be resolved in accordance with the Protocol (as may be amended from time to time).

8. CONTRACT MONITORING

- 8.1 The Service Provider shall comply with the monitoring provisions set out in the Service Contract.
- 8.2 The Service Provider hereby agrees to provide any additional information or documentation as and when reasonably requested by the PCA within 10 working days of receipt of such request.

9. TUPE

- 9.1 The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE Regulations) may apply to the services that are called off under the Framework Agreement.
- 9.2 Where a PCA or SCA considers that TUPE is likely to apply it will require the incumbent service provider to supply employee liability information pursuant to the TUPE Regulations. For the avoidance of doubt as and when services are called off by the PCA or SCA (as the case may be) the Service Provider will be required to resubmit its tender price to take account of TUPE.
- 9.3 As and when services are called off the Service Provider must satisfy itself as to whether or not the TUPE Regulations will apply. Service Providers are advised to seek independent legal advice with respect to the application or otherwise of the TUPE Regulations. The PCAs and the SCAs make no assurances or representations about the applicability or effect of the TUPE Regulations.
- 9.4 The Service Provider shall provide to the Council (within a reasonable period of time to be specified by the Council) information the Council requires for the purposes of the TUPE Regulations which may include (without limitation): the numbers of staff, including supervisory and administrative staff employed by the Service Provider and any sub-Service Provider engaged in the Service; and the terms and conditions of employment of those staff.

10. NOTICES

- 10.1 All notices shall be in English and made in writing and unless delivered personally shall be sent by first class pre-paid post or fax to the parties at their addresses shown at the head of this Framework Agreement.
- 10.2 A notice served personally shall be deemed served immediately.
- 10.3 A notice posted in Great Britain to an address in Great Britain shall be deemed to have been served at 10.00 a.m. on the second working day after the date of posting unless proved otherwise.
- 10.4 A notice sent by fax shall be deemed to have been served two hours after dispatch, if dispatched on a working day before 15.00 PM; or in any other case, at 10.00 a.m. on the working day after the date of dispatch.

11. VARIATION

- 11.1 A variation to this Framework Agreement and its Schedules shall be effective only if the PCAs and the Service Provider agree such variation in writing.
- 11.2 The PCA shall ensure that each Access Agreement contains a provision that any variation to this Framework Agreement (made in accordance with clause 11.1 above) shall also apply to any Service Contract with an SCA.
- 11.3 Any ambiguities or discrepancies in this Framework Agreement shall be resolved by the PCAs who shall issue to the Service Provider an appropriate instruction in writing and the Service Provider shall carry out and be bound by such instruction.
- 11.4 In the event that any changes to government policy or regulations materially impacting on the arrangements in this agreement both the Council and the Service Provider shall agree appropriate variations to the agreement in writing.

12 COPYRIGHT

- 12.1 Copyright in this Framework Agreement shall vest in the PCAs though the Service Provider may make, at its own expense, any further copies required for use by the Service Provider solely in the performance of the Service.

13 TERMINATION

- 13.1 Either PCA shall be entitled to terminate this Framework Agreement for any reason and at its sole discretion by giving the Service Provider six months written notice of termination.
- 13.2 In the event that one of the PCAs terminates its participation in this Framework Agreement in accordance with clause 13.1 the Framework Agreement shall remain in full force and effect as between the remaining PCA and the Service Provider.
- 13.3 Where the PCAs jointly decide to terminate this Framework Agreement the Service Provider and any of the other SCAs may decide that the Service Provider shall continue to provide the Services to the relevant SCA provided that the PCAs are excluded (as far as is permitted in law) from and against any and all liability (including though not limited to breach of contract and tort) howsoever arising from or in connection with this Framework Agreement.
- 13.4 The PCAs by joint decision shall be entitled to terminate this Framework Agreement for any reason and at its sole discretion by giving the Service Provider six months written notice of termination.
- 13.5 Where any SCA and the Service Provider agree to continue the provision of the Service in accordance with clause 13.3 above the Service Provider hereby agrees to indemnify the PCAs (as the case may be) for all actions, claims, direct costs, expenses and damages brought against or suffered by the PCAs (whether individually or collectively).

13.6 The duration of each Service Contract let under this Framework Agreement will be specified in that contract and will be unaffected by any termination.

14. ASSIGNMENT AND SUBCONTRACTING

14.1 The PCAs reserve the right to assign its rights and obligations under this Framework Agreement, upon giving reasonable notice to the Service Provider without the prior written consent of the Service Provider.

IN WITNESS whereof the parties have executed this Framework Agreement the day and year first before written:

As a Deed

THE COMMON SEAL OF THE MAYOR)
AND BURGESSES OF THE LONDON)
BOROUGH OF HAMMERSMITH AND FULHAM)

was hereunto affixed and delivered in the presence of: -

Signed.....

Name of Authorised Signatory.....

Position held

Signed.....

Name of Authorised Signatory.....

Position held

By Hand

Signed by [Name]

Duly authorized for and on behalf of the

ROYAL BOROUGH OF KENSINGTON AND CHELSEA

Signed

Name of Authorised Signatory.....

Position held

Signed as a Deed by [Service Provider]..... (Name of Company)

Registered Office

Acting by A Director and its Secretary or two Directors:

DIRECTOR

(Name)

DIRECTOR/SECRETARY

(Name)

SCHEDULE 1 – SERVICE SPECIFICATION

PART B - Service Specifications

SCHEDULE 2 - SERVICE CONTRACT

(The Steady State Contract of Hammersmith and Fulham
and The Steady State Contract of Kensington and Chelsea)

In accordance with the attachments as sent out in the original tender documents, adjustments will need to be made to the inflation clause (as detailed in the original tender documents) which are as follows:

- 1.9.3 There will be no inflationary increases to the prices submitted by the providers for the service categories during the term of the framework agreement. There will be a annual mechanism for performance bonuses which will be based on a matrix consisting of achieving the requirements of the West London Performance Framework, the outcomes specified in the core and supplementary specifications and achieving high QAF standards. The performance bonus will be awarded on the basis of service categories and will be at the sole discretion of the authority awarding the contract.
- 1.9.4 The performance bonus will be awarded as 1% of the contract sum for achieving the requirements specified. This performance bonus will be awarded each year if these requirements continue to be achieved and will not be awarded on a cumulative basis. In addition, after the first year, there will be stretched targets which if achieved will result in a further bonus of 1% of the contract sum. The authorities reserve the right to review the level of the performance award.
- 1.9.5 A review of the pricing and performance framework will be undertaken in the 3rd year of the Framework. This review will consider the length of individual Service Contracts beyond the planned end date of the Framework.

HAMMERSMITH AND FULHAM – STEADY STATE CONTRACT (ANNEX B)

**ROYAL BOROUGH OF KENSINGTON AND CHELSEA – STEADY STATE
CONTRACT (ANNEX C)**

SCHEDULE 3 - Method Statement & Pricing Schedule

Part C – Floating Support Services

Part D – Accommodation Based Services

SCHEDULE 4 - ACCESS AGREEMENT

DATED

2007

(1)

(2)

ACCESS AGREEMENT FOR THE PROVISION OF SUPPORT SERVICES

THIS AGREEMENT is made this day of 2007

BETWEEN

- (1) [] of [] (the "Secondary Contracting Authority "); and
- (2) The Provider whose registered address (the "Service Provider").

WHEREAS:

- (1) On the [] day of [] 2007 the Mayor and Burgesses of the London Borough of Hammersmith and Fulham and of the Royal Borough of Kensington and Chelsea (the "PCAs") entered into a Framework Agreement with the Service Provider for the provision of support services ("the Framework Agreement").
- (2) The Framework Agreement includes provision for the SCA by means of an Access Agreement) to enter into a contract with the Service Provider on the terms and conditions of the Service Contract (as may be varied by Special Conditions).
- (3) This Agreement is an Access Agreement for the purposes of the Framework Agreement.

IT IS HEREBY AGREED:

1 CONTRACTUAL OBLIGATIONS

- 1.1 This Access Agreement is supplemental to the Framework Agreement. Any terms which are not separately defined herein shall be construed in accordance with the definitions set out in the Framework Agreement.
- 1.2 Except where otherwise stated, references to clauses and schedules are to clauses of and schedules to this Access Agreement.
- 1.3 The Service Provider shall provide the Services to the SCA and shall be bound by the rights and obligations of the Service Provider in accordance with the term and conditions contained in the Framework Agreement.
- 1.4 The SCA shall pay the Service Provider in consideration for the Service Provider providing the Services. Such payment shall be made in accordance with the Framework Agreement and the SCA shall accept and be bound by the rights and obligations of the PCA as set out in the Framework Agreement as if it were the "PCA".
- 1.5 The SCA and the Service Provider agree that the terms and conditions set out in the Framework Agreement may be varied as set out in Clause 4 herein. For the avoidance of doubt, these variations shall apply only to the terms and conditions of the Service Contract and shall not apply to any other provision of the Framework Agreement.
- 1.6 The SCA entering into a Service Contract pursuant to the Framework Agreement will not be obliged to call off services under the Framework Agreement and reserves the right to place a Service Contract with any other service providers.

2. THE COUNCILS' INDEMNITY

- 2.1 The SCA and the Service Provider acknowledge and agree to fully indemnify the PCAs (individually or collectively as the case may be) against all actions, claims, direct costs, expenses and damages brought against PCAs (individually or collectively as the case may be) or suffered by the PCAs (individually or collectively, as the case may be) arising out of this Access Agreement and or Service Contract except where such actions, claims, costs, expenses and damages are brought against or suffered due to the negligence of the PCAs.
- 2.2 The SCA and the Service Provider agree and acknowledge that where the PCAs (individually or collectively, as the case may be) are found liable for any actions, claims, direct costs, expenses and damages brought against or suffered by it that arise in part due to negligence, default, fraud, or breach of contract by the actions of any of the SCAs or Service Provider then the relevant SCA and Service Provider shall fully indemnify the PCAs (individually or collectively, as the case may be) in respect of that part of the actions, claims, costs, expenses and damages for which it is responsible.

3. TERMINATION

- 3.1 The SCA or Service Provider may terminate this Access Agreement in accordance with the terms of the Service Contract upon giving the other party six months written notice (the "Notice Period").
- 3.2 During the Notice Period negotiations shall take place between the Service Provider and the relevant SCA and both parties are obliged to keep the PCA informed and updated upon the progress of the negotiations so that if necessarily the PCA can arrange a mutually satisfactory withdrawal from the obligations set out in the relevant Service Contract and Framework Agreement. The SCA and Service Provider shall act in good faith at all times during such negotiations.
- 3.3 Where the PCA either individually or collectively terminates the Framework Agreement and the Service Provider and the SCA decide that the Service Provider should continue to provide the Services, the Service Provider and the relevant SCA shall indemnify the PCA (individually or collectively, as the case may be) against any liability in respect of the Services arising from or in connection with this Access Agreement and or Service Contract from the date of the termination of the Framework Agreement.

4. THE SCHEDULE AND THE SPECIAL CONDITIONS

- 4.1 The name, contact details (and other relevant details) of the SCA and the Special Conditions to the Service Contract made between the parties hereto are set out in the Schedule.
- 4.2 The SCA and Service Provider agree that for the purposes of this Access Agreement, the Service Contract between the PCA and the Service Provider may be replaced in its entirety with such other Service Contract terms and conditions as may be agreed between the SCA and Service Provider. For the avoidance of doubt where such alternative terms and conditions are agreed between the SCA and the Service Provider it shall

take the precedence over the Service Contract between the PCAs and the Service Provider.

IN WITNESS whereof the parties have executed this Agreement as a Deed the day and year first before written:

THE COMMON SEAL OF [])

was hereunto affixed)

in the presence of: -)

Signed as a Deed by [INSERT SERVICE PROVIDER'S NAME]

Acting by:

DIRECTOR

DIRECTOR/SECRETARY

THE SCHEDULE

CONTACTS

Name of SCA: London Borough of Ealing

Address of SCA:

Contact Details for Authorised Officer:

Contact Details for Account Manager:

Sites:

Service Contract Commencement Date:

Name of SCA: London Borough of Harrow

Address of SCA:

Contact Details for Authorised Officer:

Contact Details for Account Manager:

Sites:

Service Contract Commencement Date:

SPECIAL CONDITIONS

SCHEDULE 5 - CORRESPONDENCE