

# **Stratford-on-Avon District Council**

## **Framework Agreement**

### Hotel and Guest House Accommodation

#### **Stratford-on-Avon District Council**

Elizabeth House  
Church Street  
Stratford-upon-Avon  
Warwickshire  
CV37 6HX  
(Ref 022506)

## Contents

1. Term of the Framework Agreement .....	5
2. Due diligence and Provider's warranty.....	5
3. Scope of the Framework Agreement .....	6
4. Call-off Contract Award Procedure .....	6
5. Call-off Contract Performance and Precedence of Documents.....	9
6. Prices for Services.....	9
7. Provision of Services under the Framework Agreement .....	10
8. Services Standards .....	10
9. Compliance and health and safety.....	10
10. Conflicts of interest.....	11
11. Safeguarding.....	11
12. Data Protection – see clause 4 of Schedule 9 .....	12
13. Freedom of Information – see clause 5 of Schedule 9 .....	12
14. Confidential Information - see clause 3 of Schedule 9 .....	12
15. Supply of Information and Audit – see clause 6 of Schedule 9 .....	12
16. Indemnity.....	12
17. Insurance .....	12
18. Authorised Representatives.....	13
19. Performance Monitoring and Reporting .....	13
20. Dispute Resolution .....	13
21. Acceptance and Rejection of Services.....	14
22. Suspension of Provider's Appointment under the Framework Agreement .....	14
23. Termination of the Framework Agreement.....	14
24. Consequences of Expiry or Termination of the Framework Agreement .....	15
25. Sub-Contracting and Assignment – see clause 1 of Schedule 9 .....	16
26. Prevention of Bribery – see clause 2 of Schedule 9.....	16
27. Force Majeure – see clause 7 of Schedule 9.....	16
28. Publicity - see clause 8 of Schedule 9 .....	16
29. Variations to Framework Agreement – see clause 9 of Schedule 9 .....	16
30. Waiver - see clause 10 of Schedule 9.....	16
31. Rights and Remedies - see clause 11 of Schedule 9.....	16
32. Severability – see clause 12 of Schedule 9 .....	16
33. Partnership or Agency - see clause 13 of Schedule 9.....	16
34. Joint and several liability - see clause 14 of Schedule 9 .....	16
35. Third Party Rights - see clause 15 of Schedule 9 .....	16
36. Notices - see clause 16 of Schedule 9.....	16
37. Entire Agreement - see clause 17 of Schedule 9 .....	16
38. Governing Law - see clause 18 of Schedule 9.....	16
39. Counterparts - see clause 19 of Schedule 9 .....	16
40. Interpretation - see clause 20 of Schedule 9.....	16
Schedule 1: Call-off Terms and Conditions.....	18
1. Call-off Contract .....	18
2. Duration.....	18

3. The Services .....	18
4. Provider's obligations .....	18
5, 6, 7 and 8 NOT USED .....	19
9. Warranties .....	19
10. Payment .....	19
11. Equipment, Tools and Materials .....	21
12. Safeguarding .....	21
13. Not used .....	21
14. Provider's Staff .....	21
15. Health and Safety .....	21
16. Confidentiality – see clause 3 of Schedule 9 .....	22
17. Sub-Contracting – see clause 1 of Schedule 9 .....	22
18. Status of the Provider .....	22
19. Termination .....	22
20. Consequences of Expiry or Termination .....	24
21. Indemnity .....	24
22. Force Majeure – see clause 7 of Schedule 9 .....	24
23. Publicity - see clause 8 of Schedule 9 .....	24
24. Variations to Framework Agreement – see clause 9 of Schedule 9 .....	24
25. Waiver - see clause 10 of Schedule 9 .....	24
26. Rights and Remedies - see clause 11 of Schedule 9 .....	24
27. Severability – see clause 12 of Schedule 9 .....	24
28. Partnership or Agency - see clause 13 of Schedule 9 .....	24
29. Joint and several liability - see clause 14 of Schedule 9 .....	24
30. Subcontracting and assignment - see clause 1 of Schedule 9 .....	24
31. Third Party Rights - see clause 15 of Schedule 9 .....	24
32. Notices - see clause 16 of Schedule 9 .....	24
33. Entire Agreement - see clause 17 of Schedule 9 .....	24
34. Governing Law - see clause 18 of Schedule 9 .....	24
35. Counterparts - see clause 19 of Schedule 9 .....	24
36. Interpretation - see clause 20 of Schedule 9 .....	24
Schedule 2: Call off Order Confirmation Form .....	25
Schedule 3: Invitation to Tender .....	27
Schedule 4: Lots .....	28
Schedule 5: Provider's Tender (including Pricing Schedules) .....	29
Schedule 6: Clarifications .....	30
Schedule 7: Framework Agreement and Call-off Contract Variation Procedure .....	31
Schedule 8: Definitions .....	33
Schedule 9: Standard clauses .....	39
1. Subcontracting and assignment .....	39
2. Prevention of Bribery .....	39
3. Confidential Information .....	40
4. Data Protection .....	40
5. Freedom of Information .....	41

6. Supply of Information and Audit.....	41
7. Force Majeure .....	42
8. Publicity .....	42
9. Variations to Framework Agreement.....	43
10. Waiver .....	43
11. Rights and Remedies .....	43
12. Severability.....	43
13. Partnership or Agency .....	43
14. Joint and several liability.....	43
15. Third Party Rights.....	44
16. Notices .....	44
17. Entire Agreement.....	44
18. Governing Law .....	44
19. Counterparts.....	45
20. Interpretation .....	45
Schedule 10: General obligations .....	46
Schedule 11: Data processing agreement .....	47

**This Framework Agreement** is executed as a deed on

.....

between:

1. **STRATFORD-ON-AVON DISTRICT COUNCIL** of Elizabeth House, Church Street, Stratford upon Avon, Warwickshire CV37 6HX ("the Council"); and
2. **[ESTABLISHMENT NAME] [PROPRIETOR'S NAME] [OF [ADDRESS]] [COMPANY NAME]** (Company Number:        ) [whose registered office is at **[ADDRESS]**] ("the Provider")

## **BACKGROUND**

- A. The Council sought proposals for the provision of the Services by means of a public tender exercise. The Council placed a Framework Agreement notice [REFERENCE] on [DATE] on its website, the Find a Tender Service and Contract Finder seeking expressions of interest from potential providers for the provision of the Services (divided into Lots).
- B. The Council has, through a competitive process, selected the Provider to provide the Services within the Provider's Lots to the Council (where requested) and the Provider is willing and able to provide the Services in accordance with the terms and conditions of this Framework Agreement and any Call-Off Contracts entered into.

## **The Parties have agreed as follows:**

### **1. Term of the Framework Agreement**

- 1.1. The Framework Agreement shall start on the Start Date and continue for the Term of four years, unless terminated earlier in accordance with the terms of this Framework Agreement. In particular, the Council may terminate this Framework Agreement on the second and third anniversary of its Start Date.

### **2. Due diligence and Provider's warranty**

- 2.1 The Provider acknowledges and confirms that:
  - a) it has had an opportunity to carry out a thorough due diligence exercise in relation to the Services and has asked the Council all the questions it considers to be relevant for the purpose of establishing whether it is able to provide the Services in accordance with the terms of this Framework Agreement;
  - b) it has received all information requested by it from the Council to enable it to decide whether it is able to provide the Services in accordance with the terms of this Framework Agreement;
  - c) it has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of the Council;
  - d) it has raised all relevant due diligence questions with the Council before the Start Date;
  - e) it has entered into this Framework Agreement in reliance on its own due diligence;

and  
f) it has no conflicts of interest.

2.2 No representations, warranties or conditions are given by the Council in respect of any information which is given to the Provider by the Council and any such representations, warranties or conditions form no part of this Framework Agreement, so far as the Law allows.

2.3 The Provider:

a) as at the Start Date, warrants and represents that all information contained in the Provider's Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Council prior to the execution of this Framework Agreement; and

b) shall promptly notify the Council in writing if it becomes aware during the performance of this Framework Agreement of any inaccuracies in any information provided to it by the Council as part of its due diligence which materially and adversely affects its ability to perform the Services.

2.4 The Provider shall only be entitled to recover any additional costs from the Council, or be relieved from any of its obligations, where such additional costs or adverse effect on performance have been caused by fundamentally misleading information given to it by the Council and the Provider could not reasonably have known that the information was incorrect or misleading at the time that information was provided. If this exception applies, the Provider shall be entitled to recover such reasonable additional costs from the Council or shall be relieved from performance of certain obligations as shall be determined in accordance with clause 24 (Consequences of Expiry or Termination of the Framework Agreement).

2.5 Nothing in this clause 2 shall limit or exclude the liability of the Council for fraud or fraudulent misrepresentation.

### **3. Scope of the Framework Agreement**

3.1 This Framework Agreement governs the relationship between the Council and the Provider in respect of the provision of the Services by the Provider to the Council.

3.2 The Council appoints the Provider under this Framework Agreement to provide the Services within the Provider's Lots to the Council under Call-off Contracts when requested in accordance with the terms of this Framework Agreement.

3.3 The Provider acknowledges that, in entering into this Framework Agreement, the Council has not granted any form of exclusivity or volume guarantee for the Services and that the Council is at all times entitled to enter into other contracts and arrangements with other Providers for the provision of any or all services which are the same as or similar to the Services.

3.4 Where the Provider is providing Services under pre-existing arrangements at the time the Framework Agreement is completed, the Services shall continue as if they had been called off under the Framework Agreement and shall be subject to the terms of the Framework Agreement. These Services shall continue at their current rates or the relevant rates stated in the Framework Agreement, whichever are lower.

### **4. Call-off Contract Award Procedure**

4.1 If the Council decides to source Services through the Framework Agreement, then it may:

- a) award a Call-off Contract in accordance with clause 4.2 without re-opening competition if the Services can be priced from the Pricing Schedules ("**Standard Orders**"); or
- b) award a Call-off Contract following a mini-competition conducted in accordance with the requirements of clause 4.66 "**Competed Orders**").

### **Standard Orders - awards without re-opening competition**

4.2 If the Council wishes to make a Standard Order under the Framework Agreement, the Council shall, subject to clause 4.3 below:

- a) identify the relevant Lot into which the Standard Order falls with block booking under Lot 1 considered where this would meet the Council's projected requirements based on the household's needs better than spot purchasing under Lot 2;
- b) contact the Provider it considers to be most suitable by telephone to confirm availability;
- c) shall accept the Provider's confirmation of availability if given immediately by telephone as an offer to fulfil the Order at which point the Order is placed and the Call-off Contract on the terms contained in Schedule 1 is formed;
- d) the Council may also use a Provider's online booking facilities to place an Order and the Order is placed and the Call-off Contract on the terms contained in Schedule 1 is formed on completion of the online booking process unless the Provider immediately contacts the Council to refuse the Order;
- e) attempt to contact by telephone the Provider it considers the next most suitable, if:
  - i. the first Provider is not able to provide the Services;
  - ii. the Council has been unable to reach the first Provider by telephone; or
  - iii. an online booking has been immediately refused;
- f) repeat the process set out in clause 4.2 e) until the Order is placed or there are no further Providers the Council considers suitable left. In the latter case, the Council may repeat the procedure in clause 4.2b)-d) as many times as needed to place an Order; and
- g) email the Provider with a completed version of the Call-off Order Confirmation Form at Schedule 2 as soon as practicable to confirm the specific terms on which an Order has been placed.

4.3 In considering suitability, the Council may take into account the following special considerations, which take precedence over the Pricing Schedules, when seeking to place a Household with a Provider:

- a) the individual circumstances of the Household to assess whether it is reasonable to place them in a specific hotel or guest house or area;
- b) any risks to the Household or other people and how they can be mitigated when considering the suitability of a hotel or guest house placement;
- c) any community concerns and reported adverse street activity or anti-social behaviour when considering hotel or guest house placements;
- d) the numbers of existing Household placements and their proximity to each other when considering hotel or guest house placements;

- e) the Provider's record of accepting or refusing of Orders; and
- f) the Provider's record of submitting timely invoices in accordance with the payment provisions in clause 10 of Schedule 1.

4.4 The Standard Order procedure is structured in this way to allow the Household to be placed into accommodation as quickly as possible and with the most appropriate Service Provider for that Household. Although the needs of the Household will be the priority, the Council will endeavour to treat all Providers fairly and be transparent in the reasons for individuals being placed with the applicable Provider.

### **Modifications to Orders**

- 4.5 If the Provider modifies or imposes conditions on the fulfilment of an Order, then the Council may either:
- a) accept the modifications or conditions; or
  - b) treat the Provider's response as notification of its inability to fulfil the Order and the provisions of clause 4.2 d) - e) shall apply for Standard Orders and of clause 4.8 for Competed Orders.

### **Competed Orders - awards following mini-competition**

- 4.6 If the Council wishes to make a Competed Order under the Framework Agreement, the Council shall:
- a) identify the relevant Lot the Competed Order falls into;
  - b) identify the Providers capable of performing the Call-Off Contract for the Competed Order;
  - c) supplement and refine the Call-off Terms and Conditions only to the extent permitted by and in accordance with the requirements of the Regulations and Guidance;
  - d) invite tenders by conducting a mini-competition for its requirements for the Services in accordance with the Regulations and Guidance and in particular:
    - i. consult in writing (usually via email) with the Providers the Council considers suitable to perform the proposed Call-off Contract for the Services and invite them within a specified time limit to submit a Supplemental Tender;
    - ii. set a time limit for the receipt of the Supplemental Tenders (usually 24 hours) which takes into account factors such as the complexity of the subject matter of the proposed Call-off Contract and the time needed to submit tenders; and
    - iii. keep each Supplemental Tender confidential until the expiry of the time limit for the receipt by it of the Supplemental Tenders;
  - e) apply the Award Criteria to any compliant Supplemental Tenders submitted through the mini-competition;
  - f) subject to clause 4.10 place an Order with the successful Provider; and
  - g) email the Provider with a completed version of the Call-off Order Confirmation Form at Schedule 2 as soon as practicable to confirm the specific terms on which an Order has been placed.
- 4.7 Where an Order under Lot 1 (block bookings) is awarded to a Provider already providing



Services under existing Orders for Lot 2 (spot purchases) or under spot purchases predating this Framework Agreement, the Council may stipulate if any of the rooms comprised in those existing Lot 2 Orders will automatically become part of the Lot 1 Order.

### **Awards of Competed Orders**

- 4.8 The Provider agrees that all Supplemental Tenders submitted by the Provider in relation to a mini-competition held pursuant to clause 4.6 shall remain open for acceptance for 30 days (or such other period specified in the invitation to tender issued by the Council in accordance with clause 4.6).
- 4.9 If the successful Provider is unable to provide the Services, the Council shall consider the remaining Supplemental Tenders and place an Order with the next ranked Provider that can provide the Services.
- 4.10 Notwithstanding the fact that the Council has followed the procedure set out above for Competed Orders, the Council may cancel, postpone, delay or end the procedure without placing an Order for Services or awarding a Call-off Contract.

### **General**

- 4.11 Nothing in this Framework Agreement shall oblige the Council to place any Order for Services.

## **5. Call-off Contract Performance and Precedence of Documents**

- 5.1 The Provider shall perform all Call-off Contracts entered into with the Council in accordance with:
- a) the requirements of this Framework Agreement;
  - b) the Invitation to Tender (including the Specification and Outcomes);
  - c) the Provider's Tender and any applicable Supplemental Tender;
  - d) the Call-Off Terms and Conditions; and
  - e) the Call-off Order Confirmation Form.
- 5.2 In the event of any conflict or inconsistency between the terms and conditions of this Framework Agreement and the terms and conditions of a Call-off Contract, such conflict or inconsistency shall be resolved according to the following order of priority:
- a) the Call-off Order Confirmation Form (excluding any Supplemental Tender);
  - b) the terms of this Framework Agreement and the Schedules to this Framework Agreement (excluding the Provider's Tender and any Supplemental Tender);
  - c) the Call-off Contract Terms and Conditions;
  - d) any other document referred to in the clauses of the Call-off Terms and Conditions;
  - e) the Invitation to Tender; and
  - f) the Provider's Tender and any applicable Supplemental Tender.

## **6. Prices for Services**

- 6.1 The prices offered by the Provider for Standard Orders supplied under each Call-off Contract shall be equal to or less than the prices set out in the Pricing Schedule.
- 6.2 The prices offered by the Provider for Competed Orders shall be based on the prices set out in the Pricing Schedule and/or the Supplemental Tenders provided under the mini-competition in accordance with clause 4.6.

## **7. Provision of Services under the Framework Agreement**

- 7.1 The Provider shall during the Term provide the Services to the Council in accordance with the provisions of this Framework Agreement.
- 7.2 In the event that the Provider does not comply with the provisions of clause 7.1 of this Framework Agreement in any way, the Council may serve the Provider with a notice in writing setting out the details of the Provider's default (a "Default Notice").
- 7.3 Where expressly stated, time shall be of the essence in the performance of the Provider's obligations under this Framework Agreement and any Call-off Contract.
- 7.4 The Provider shall be expected to develop a good working relationship with the Council and shall attend meetings called at the Council's reasonable request to discuss provision of the Services, including:
  - a) the Council's concerns about the Provider's reasons for refusal of Orders;
  - b) the Council's concerns about delivery of the Services; and
  - c) overrun of households' placements in rooms booked under Lot 1 (block bookings).
- 7.5 The Provider shall allow reasonable access to the Premises to enable the Council to carry out inspections of the Premises.
- 7.6 The Provider may not cancel the rooms booked under an Order or require a Household to leave earlier than provided for in a Call-off Contract to accommodate private bookings.

## **8. Services Standards**

- 8.1 The Provider shall ensure the Services under any Call-off Contract are provided:
  - a) with reasonable skill and care and in accordance with the best practice prevailing in the relevant industry;
  - b) in all respects in accordance with the Specification and the Council's policies as provided from time to time; and
  - c) in accordance with all applicable Law.

## **9. Compliance and health and safety**

- 9.1 The Provider shall ensure that all Necessary Consents are in place to provide the Services and the Council shall not (unless otherwise agreed) incur any additional costs associated with obtaining, maintaining or complying with the same.
- 9.2 Where there is any conflict or inconsistency between the provisions of this Framework Agreement and the requirements of a Necessary Consent, then the latter shall prevail, provided that the Provider has made all reasonable attempts to obtain a Necessary Consent in line with the requirements of the Services.
- 9.3 The Provider shall perform its obligations under this Framework Agreement (including those in relation to the Services) in accordance with:
  - a) all applicable Law regarding health and safety, in particular requirements relating to fire, gas and electrical safety; and
  - b) shall ensure the Premises are maintained in a safe, habitable condition.

- 9.4. The Provider shall notify the Council as soon as practicable of any health and safety incidents or hazards of which it becomes aware and which relate to or arise in connection with the performance of this Framework Agreement. The Provider shall instruct the Provider's Staff to adopt any necessary associated safety measures in order to manage any such material health and safety hazards.

## **10. Conflicts of interest**

- 10.1 The Provider shall take appropriate steps to ensure that neither the Provider nor any of the Provider's Staff are placed in a position where (in the reasonable opinion of the Council), there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Provider or of the Provider's Staff and the duties owed to the Council under the provisions of the Framework Agreement or any Call-off Contract.
- 10.2 The Provider shall promptly notify the Council (and provide full particulars to the Council) if any conflict referred to in clause 10.1 above arises or is reasonably foreseeable.
- 10.3 The Council reserves the right to terminate the Framework Agreement immediately by giving notice in writing to the Provider and/or to take such other steps it deems necessary where, in the reasonable opinion of the Council, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Provider and the duties owed to the Council under the Framework Agreement or any Call-off Contract. The actions of the Council under this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Council.

## **11. Safeguarding**

- 11.1 The Provider:
- a) shall ensure that all Provider's Staff including the Provider (where an individual) engaged in providing the Services are subject to a valid basic disclosure check through the Disclosure and Barring Service ("DBS Check") to be updated annually; and
  - b) shall not employ or use the services of any person who is barred from, or whose previous conduct or records (including an adverse DBS check) indicate that they would not be suitable to be involved in, providing the Services or who may otherwise present a risk to Households.
- 11.2 The Provider, where an individual, shall disclose to the Council their own DBS Check or where the Provider is a company, DBS checks for directors engaged in managing the Provider's business shall be disclosed to the Council annually.
- 11.3 The Provider warrants that it has no reason to believe that any of its Staff are unsuitable to be engaged in providing the Services or present a risk to Households.
- 11.4 If the Provider (where an individual) or a member of the Provider's Staff is found to have a conviction, caution, pending prosecution, binding over order or other criminal record ('conviction') or refuses to complete a DBS check, the Council may in its absolute discretion immediately remove the Provider from this Framework Agreement and/or terminate any current Orders.
- 11.5 The Provider must inform the Council of any convictions or cautions received during the course of this Agreement.

11.6 The Provider must operate in accordance with the safeguarding policies, procedures and other requirements set out in the Specification.

**12. Data Protection – see clause 4 of Schedule 9**

**13. Freedom of Information – see clause 5 of Schedule 9**

**14. Confidential Information - see clause 3 of Schedule 9**

**15. Supply of Information and Audit – see clause 6 of Schedule 9**

**16. Indemnity**

16.1 The Provider shall indemnify and keep indemnified the Council against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever whether arising in tort (including negligence) default or breach of this Framework Agreement and any other agreements entered into as part of this Framework Agreement, to the extent that any such loss or claim is due to the breach of the Framework Agreement or any other agreements entered into as part of this Framework Agreement, negligence, wilful default or fraud of itself or of its employees or of any of its representatives or sub-contractors save to the extent that the same is directly caused by or directly arises from the negligence, breach of this Framework Agreement or applicable law by the Council or its representatives (excluding any Provider's Staff).

16.2 The provisions of this clause 16 shall survive expiry or termination of this Framework Agreement however arising.

**17. Insurance**

17.1 The Provider shall at its own cost effect and maintain with a reputable insurance company a policy or policies of insurance providing, as a minimum the following levels of cover:

- a) public liability insurance with a limit of indemnity of not less than £5,000,000 in relation to any one claim or series of claims in the period of insurance; and
- b) employer's liability insurance with a limit of indemnity of not less than £5,000,000 in relation to any one claim or series of claims in the period of insurance;

(the **Insurances**) in respect of all risks which may be incurred by the Provider, arising out of the Provider's performance of this Framework Agreement or any Call-off Contract, including death or personal injury, loss of or damage to property or any other loss.

17.2 The Provider shall give the Council, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the Required Insurances are in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

17.3 If, for whatever reason, the Provider fails to give effect to and maintain the Insurances, the Council may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Provider.

17.4 The Provider shall notify the Council as soon as practicable when it becomes aware of any fact, circumstance or matter which has or might permit any insurer to cancel, rescind, suspend or void any insurance or claim in whole or in part.

17.5 The terms of any insurance or the amount of cover shall not relieve the Provider of any liabilities under this Framework Agreement.

- 17.6 The Provider shall hold and maintain the Insurances for a minimum of six years following the expiration or earlier termination of the Framework Agreement or any Call-off Contract (whichever terminates or expires last).
- 17.7 The Provider shall notify the Council as soon as reasonably practicable of any significant claim or proceedings brought against the Provider which may be subject to a relevant indemnity or insurance claim.

## **18. Authorised Representatives**

- 18.1 The function of the relevant Housing Manager shall be to liaise with and give instructions to the Provider and the Provider's Staff, agents or sub-contractors in relation to all matters concerning the performance of the Provider of its obligations under this Framework Agreement and to determine any matters or issue any notices as may be the function of the Authorised Representative under this Framework Agreement.
- 18.2 The function of the Council's Housing Advice Team is to liaise with and give instructions to the Provider and the Provider's Staff, agents or sub-contractors in relation to the performance of the Provider's obligations under the Call-off Contract.
- 18.3 The Provider's Authorised Representative shall have power on behalf of the Provider in connection with any matter relating to the performance of the Framework Agreement and any Call-off Contract to exercise the rights, functions and obligations of the Provider under this Framework Agreement and any Call-off Contract.
- 18.4 To the extent it is reasonably possible the Provider shall not change the identity of the Provider's Representative without first discussing the matter with the Council and having reasonable regard to the views of the Council in relation to any proposed replacement.

## **19. Performance Monitoring and Reporting**

- 19.1 The Provider shall meet the targets set out in the Outcomes in respect of the delivery of the Services under Call-off Contracts for the duration of the Framework Agreement.
- 19.2 The Provider shall comply with any monitoring and reporting requirements set out in the ITT and Outcomes or, in relation to any Call-off Contract, as specified in any Call-off Order Confirmation Form.
- 19.3 The Provider shall assist with reasonable requests for performance information and agrees to work in good faith with the Council's representatives engaged in direct monitoring of this Framework Agreement (whether in respect of meeting the Outcomes or otherwise).

## **20. Dispute Resolution**

- 20.1 If a dispute arises out of or in connection with this Framework Agreement and/or any Call-off Contract or the performance, validity or enforceability of either agreement (**Dispute**) then the parties shall follow the procedure set out in this clause:
- a) 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 documents. On service of the Dispute Notice, the Council's Authorised Representative and the Provider's Authorised Representative shall attempt in good faith to resolve the Dispute;
  - b) if the Council's Authorised Representative and the Provider's Authorised Representative are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to a senior officer of the Council and senior officer of the Provider who shall attempt in good faith to resolve it.

In the absence of a resolution to the Dispute, the Parties may commence or continue court proceedings as they consider appropriate.

## **21. Acceptance and Rejection of Services**

- 21.1 If any Services do not comply with any of the terms of the Framework Agreement and/or any Call-off Contract, the Council may (without prejudice to any other right or remedy it may have):
- a) suspend performance of the Services pending resolution of the non-compliance to the Council's satisfaction, without liability to the Provider; or
  - b) at the Council's option, require the Provider to take such steps, at the Provider's cost, as are reasonably required by the Council to remedy any Services and carry out any other work necessary to ensure that the terms of the Framework Agreement and/or any Call-off Contract are complied with or to provide a refund to the Council in respect of applicable Services.

## **22. Suspension of Provider's Appointment under the Framework Agreement**

- 22.1 Without prejudice to the Council's rights to terminate this Framework Agreement under clause 23, if:
- a) a right to terminate this Framework Agreement arises in accordance with clause 23;
  - b) the Provider fails to meet one or more of the Outcomes or Essential Requirements and does not remedy its failure within 14 days of the Council's request to do so;
  - c) the Provider consistently refuses Orders for Households for reasons the Council considers unacceptable; or
  - d) the Provider fails to provide invoices in accordance with the payment provisions in clause 10 of Schedule 1,

the Council may suspend the Provider's right to be considered as a Provider by giving notice in writing to the Provider. If the Council provides notice to the Provider in accordance with this clause 22.1, the Provider's appointment shall be suspended for the period set out in the notice or such other period notified to the Provider by the Council in writing from time to time.

## **23. Termination of the Framework Agreement**

- 23.1 The Council may terminate this Framework Agreement in whole or part with immediate effect by the service of written notice on the Provider in the following circumstances:
- a) if the Provider is in breach of any material obligation under this Framework Agreement and that breach is not capable of remedy;
  - b) if the Provider is in breach of any material obligation under this Framework Agreement and that breach is capable of remedy and the Provider has failed to remedy such breach within 28 days of receipt of a Default Notice;
  - c) if there is an Insolvency Event;
  - d) if there is a change of control of the Provider within the meaning of section 1124 of the Corporation Tax Act 2010; or

- 23.2 If the Provider is an individual (without prejudice to the provisions of clause 23.1), the Council may terminate this Framework Agreement in whole or part with immediate effect by the service of written notice on the Provider if the Provider:
- a) commits any gross misconduct affecting the Council; or
  - b) is convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed); or
  - c) is in the reasonable opinion of the Council negligent or incompetent in the performance of the Services; or
  - d) is incapacitated (including by reason of illness or accident) from complying with its obligations under this Framework Agreement; or
  - e) commits any fraud or dishonesty or acts in any manner which in the opinion of the Council brings or is likely to bring the Provider or the Council into disrepute or is materially adverse to the interests of the Council.
- 23.3 The Council may terminate this Framework Agreement in accordance with the provisions of clause 10.3 (conflict of interest) or clause **Error! Reference source not found.** (bribery) of Schedule 9 of this Framework Agreement.
- 23.4 If this Framework Agreement is terminated by the Council for cause under clause 23.1 of this Framework Agreement such termination shall be at no loss or cost to the Council and the Provider hereby indemnifies the Council against any such losses or costs which the Council may suffer as a result of any such termination for cause.
- 23.5 The Council may also terminate this Framework Agreement on the second and third anniversaries of the Start Date by serving at least one month's written notice before the relevant anniversary.

## **24. Consequences of Expiry or Termination of the Framework Agreement**

- 24.1 Unless expressly stated to the contrary, termination and/or expiry of this Framework Agreement shall not cause automatic termination of any Call-off Contract made under the Framework Agreement, which shall remain in force until expiry or termination under its own terms.
- 24.2 Within 30 Working Days of the date of termination or expiry of this Framework Agreement, the Provider shall return or destroy at the request of the Council any information in its possession relating to the Council or its Staff or Confidential Information belonging to the Council, and any other information owned by the Council. The Provider may keep one copy of this information for as long as is necessary for it to comply with its obligations under this Framework Agreement.
- 24.3 Termination or expiry of this Framework Agreement shall be without prejudice to any rights, remedies or obligations of either Party accrued under this Framework Agreement before termination or expiry.

- 25. **Sub-Contracting and Assignment – see clause 1 of Schedule 9**
- 26. **Prevention of Bribery – see clause 2 of Schedule 9**
- 27. **Force Majeure – see clause 7 of Schedule 9**
- 28. **Publicity - see clause 8 of Schedule 9**
- 29. **Variations to Framework Agreement – see clause 9 of Schedule 9**
- 30. **Waiver - see clause 10 of Schedule 9**
- 31. **Rights and Remedies - see clause 11 of Schedule 9**
- 32. **Severability – see clause 12 of Schedule 9**
- 33. **Partnership or Agency - see clause 13 of Schedule 9**
- 34. **Joint and several liability - see clause 14 of Schedule 9**
- 35. **Third Party Rights - see clause 15 of Schedule 9**
- 36. **Notices - see clause 16 of Schedule 9**
- 37. **Entire Agreement - see clause 17 of Schedule 9**
- 38. **Governing Law - see clause 18 of Schedule 9**
- 39. **Counterparts - see clause 19 of Schedule 9**
- 40. **Interpretation - see clause 20 of Schedule 9**

**IN WITNESS** whereof this Deed has been duly executed and delivered as a Deed the day and year first above written

**EXECUTED** as a **DEED** by affixing the **COMMON SEAL** of **STRATFORD ON AVON DISTRICT COUNCIL** in the presence of:

Authorised Signatory:

**SIGNED** as a **DEED** by **[NAME]** and witnessed by:

.....  
 [NAME]  
 [POSITION]

.....  
 [NAME OF WITNESS]  
  
 [ADDRESS OF WITNESS]  
  
 [OCCUPATION OF WITNESS]

OR

**EXECUTED** as a **DEED** by **[NAME OF COMPANY]** acting by:

.....



[NAME OF DIRECTOR]  
Director

.....  
[NAME OF DIRECTOR/SECRETARY]  
Director/Secretary

OR

**EXECUTED** as a **DEED** by **[NAME OF COMPANY]**  
acting by:

.....  
[NAME OF DIRECTOR]  
Director

.....  
[NAME OF WITNESS]

[ADDRESS OF WITNESS]

[OCCUPATION OF WITNESS]

## **Schedule 1: Call-off Terms and Conditions**

### **1. Call-off Contract**

- 1.1 The Council engages the Provider under the terms of the Framework Agreement to provide the Services as set out in the Call-off Order Confirmation Form and the Provider agrees to provide such Services upon the terms and conditions set out in these Call-off Terms and Conditions and the Framework Agreement.
- 1.2 The definitions within Schedule 9 shall apply to the Call-off Contract.

### **2. Duration**

- 2.1 The Call-off Contract shall take effect on the Service Commencement Date and shall expire automatically on the completion of the Services unless it is otherwise terminated in accordance with the provisions of the Call-off Contract (or the Framework Agreement).

### **3. The Services**

- 3.1 The Provider shall supply the Services in accordance with the Council's requirements (and pursuant to these Call-off Contract Terms and Conditions) in consideration for the payment of the Charges. The Council may inspect and examine the manner in which the Provider supplies the Services at the Premises during normal business hours on reasonable notice.
- 3.2 The Provider acknowledges that it has made its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by the Council before submitting its Supplemental Tender (where applicable) so as to be satisfied in relation to all matters connected with the performance of its obligations under the Call-off Contract.
- 3.3 Unless otherwise agreed by the Council, timely delivery and/or supply of the Services shall be of the essence of the Call-off Contract, including in relation to commencing the supply of the Services within the time agreed or on a specified date.

### **4. Provider's obligations**

- 4.1 The Provider shall:
  - (a) provide the Services with all due care, skill and ability and use its best endeavours to promote the interests of the Council;
  - (b) promptly give to the Council all such information and reports as it may reasonably require in connection with matters relating to the provision of the Services;
  - (c) comply with the terms of the Call-off Contract and the Framework Agreement;
  - (d) at all times perform its obligations under the Call-off Contract in accordance with the Law and Good Industry Practice;
  - (e) ensure that the Provider's Staff supplying the Services shall do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services.
- 4.2 The Provider shall use reasonable endeavours to ensure that the Provider is available at all times on reasonable notice to provide such assistance or information as the Council may require.

- 4.3 Unless it has been specifically authorised to do so by the Council in writing, the Provider shall not:
- (a) have any authority to incur any expenditure in the name of or for the account of the Council; or
  - (b) hold itself out as having authority to bind the Council.
- 4.4 The Provider shall hold the Insurances in accordance with clause 19 of the Framework Agreement.

## **5, 6, 7 and 8 NOT USED**

### **9. Warranties**

The Provider warrants and represents that:

- 9.1 it has full capacity and authority and all necessary consents to enter into and perform its obligations under the Call-off Contract;
- 9.2 in entering the Call-off Contract it has not committed any Prohibited Act;
- 9.3 as at the Service Commencement Date, all information, statements and representations contained in the Provider's Tender and (if applicable) the Supplemental Tender for the Services are true, accurate and not misleading except as may have been specifically disclosed in writing to the Council before the Service Commencement Date and it will advise the Council of any fact, matter or circumstance of which it may become aware during the duration of the Call-off Contract which would render any such information, statement or representation to be false or misleading;
- 9.4 no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or its assets which will or might affect its ability to perform its obligations under the Call-off Contract;
- 9.5 it is not subject to any contractual obligation, compliance with which is likely to have an adverse effect on its ability to perform its obligations under the Call-off Contract;
- 9.6 no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Provider or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Provider's assets or revenue.

### **10. Payment**

- 10.1 In consideration of the provision of the Services by the Provider in accordance with this Call-off Contract, the Council shall pay the Charges to the Provider.
- 10.2 The Provider, unless otherwise agreed in writing with the Council, shall invoice the Council on a monthly basis by the 7<sup>th</sup> day of each month for payment of the Charges for the previous month (in arrears) for Lot 2 (spot purchasing) or for the following month (in advance) for Lot 1 (block bookings) and shall include all appropriate references and detailed breakdown of the Services supplied to the relevant Council officers as required in the Specification for the appropriate Lot. All invoices shall be directed to [creditors@stratford-dc.gov.uk](mailto:creditors@stratford-dc.gov.uk). Where payments are made in advance for Lot 1 bookings, the Provider will also be required

[to submit a monthly statement providing a breakdown of who has occupied the accommodation as required in the Specification.](#)

- 10.3 Where the Provider submits an invoice to the Council, the Council will use its reasonable endeavours to consider and verify invoices in a timely manner with a view to ascertaining whether it is valid or disputed.
- 10.4 The Council shall pay the Provider any sums due under such an invoice no later than a period of 30 days from the date on which the Council has determined that the invoice is valid and undisputed.
- 10.5 Where the Provider enters into a Sub-Contract, the Provider shall include in that Sub-Contract:
- 10.5.1. provisions having the same effect as clause 10.2 to clause 10.4 of this Call-off Contract; and
- 10.5.2. a provision requiring the counterparty to that Sub-Contract to include in any Sub-Contract which it awards provisions having the same effect as clause 10.2 to clause 10.4 of this Call-off Contract.
- 10.7 Where any party disputes any sum to be paid by it then a payment equal to the sum not in dispute shall be paid. Provided that the sum has been disputed in good faith, interest due on any sums in dispute shall not accrue until 14 days after resolution of the dispute between the parties.
- 10.8 Where the Council has serious concerns about the delivery of the Services, it may in its absolute discretion suspend all payments to the Provider due under any Call-off Contract under the Framework Agreement. The Provider will be required to attend a meeting to discuss the Council's concerns and resolve the situation. If the meeting does not resolve the Council's concerns, the Dispute Resolution procedure in clause 20 of the Framework will be engaged. If the Dispute is not resolved, the Council may continue to suspend payment.
- 10.9 Subject to clauses 10.7 and 10.8 of this Call-off Contract, interest shall be payable on the late payment of any undisputed Charges properly invoiced under this Call-off Contract at a rate per annum equivalent to 2% above the Bank of England base rate current on the date upon which such Charges first become overdue. The Provider shall not suspend the supply of the Services if any payment is overdue.
- 10.10 The Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Council following delivery of a valid VAT invoice. The Provider shall indemnify the Council against any liability (including any interest, penalties or costs incurred) which is levied, demanded or assessed on the Council at any time in respect of the Provider's failure to account for, or to pay, any VAT relating to payments made to the Provider under this Call-off Contract.
- 10.11 The Provider shall maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to the Council pursuant to this Call-off Contract. Such records shall be retained for inspection by the Council for 6 years from the commencement of this Call-off Contract.

- 10.12 The Council may retain or set off any sums owed to it by the Provider which have fallen due and payable against any sums due to the Provider under this Call-off Contract, any other Call-off Contract or any other agreement pursuant to which the Provider or any connected company of the Provider provides services to the Council.
- 10.13 If the Council wishes to set off any amount owed by the Provider to the Council against any amount due to the Provider pursuant to clause 10.12 of this Call-off Contract it shall give notice to the Provider within 30 days of receipt of the relevant invoice, setting out the Council's reasons for withholding or retaining the relevant Charges.
- 10.14 The Provider shall make any payments due to the Council without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise, unless the Provider has a valid court order requiring an amount equal to such deduction to be paid by the Council to the Provider.
- 10.15 In the event of the termination of the Call-off Contract, payment of the Charges under this clause shall be calculated on a pro rata basis by reference to Services provided up to the date of termination. In the event of termination under clause 18 of the Call-off Terms and Conditions, the Council reserves the right not to pay the Charges (as calculated under this clause or otherwise) where it deems it appropriate in its sole discretion. Any payment made under this clause shall be made 28 days following the date of termination of the Call-off Contract.
- 10.16 Where the Council pays the Provider in accordance with this Call-off Contract and subsequently discovers that the Services were not provided, the Provider will at the Council's request immediately repay the Charges in respect of the whole (or part of those Services at the Council's discretion) that were not provided.
- 10.17 The Provider shall bear its own expenses incurred in the course of providing the Services.

## **11. Equipment, Tools and Materials**

- 11.1 The Provider shall provide its own working materials and equipment for the supply of the Services.

## **12. Safeguarding**

- 12.1 The Provider shall comply with the provisions of clause 11 of the Framework Agreement relating to Safeguarding.

## **13. Not used**

## **14. Provider's Staff**

- 14.1 The Provider warrants that it shall not employ or engage any person in the provision of the Services who is barred from, or whose previous conduct or records indicate that they would not be suitable to carry out the Services.

## **15. Health and Safety**

- 15.1 The Provider shall comply with the health and safety requirements set out in clause 9.4 of the Framework Agreement.

**16. Confidentiality – see clause 3 of Schedule 9**

**17. Sub-Contracting – see clause 1 of Schedule 9**

**18. Status of the Provider**

18.1 The relationship of the Provider to the Council will be that of independent contractor and nothing in these Call-off Terms and Conditions shall create a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and, accordingly, neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party except as expressly permitted by the terms of the Call-off Contract.

18.2 The Call-off Contract constitutes a contract for the provision of services and not a contract of employment and accordingly the Provider shall be wholly responsible for and shall indemnify the Council for and in respect of any liability arising from any employment related claim including claims relating to income tax, national insurance and social security contributions except where these arise out of the Council's negligence or wilful default.

18.3 The Council may at its option satisfy such indemnity (in whole or in part) by way of deduction from any payments due to the Provider in accordance with the terms of clause 10.12.

**19. Termination**

19.1. The Council may terminate the Call-off Contract with immediate effect with no liability to make any further payment to the Provider (other than in respect of amounts accrued before the date of termination) by the service of written notice on the Provider in the following circumstances:

- (a) in the case of Lot 1 (block bookings) call-offs, where the Provider has unreasonably refused the placement of Households in block booked rooms;
- (b) if the Provider is in breach of any material obligation under the Call-off Contract or the Framework Agreement and that breach is not capable of remedy;
- (c) if the Provider is in breach of any material obligation under the Call-off Contract or the Framework Agreement and that breach is capable of remedy and the Provider has failed to remedy such breach within 28 days of receipt of a Default Notice;
- (d) if there is an Insolvency Event;
- (e) if there is a change of control of the Provider within the meaning of section 1124 of the Corporation Tax Act 2010; or
- (f) if any of the provisions of Regulation 73(1) of the Public Contracts Regulations 2015 apply.

19.2 If the Provider is an individual (without prejudice to the provisions of clause 19.1 of these Call-off Terms and Conditions), the Council may terminate the Call-off Contract with immediate effect with no liability to make any further payment to the Provider (other than in respect of amounts accrued before the date of termination) by the service of written notice on the Provider if at any time the Provider:

- (a) commits any gross misconduct affecting the Council;
- (b) is convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed);

- (c) is in the reasonable opinion of the Council negligent or incompetent in the performance of the Services;
- (d) is incapacitated (including by reason of illness or accident) from providing the Services; or
- (e) commits any fraud or dishonesty or acts in any manner which in the opinion of the Council brings or is likely to bring the Provider or the Council into disrepute or is materially adverse to the interests of the Council.

19.3. If the Call-off Contract is terminated by the Council for cause under clause 19.1 or 19.2 of these Call-off Terms and Conditions such termination shall be at no loss or cost to the Council and the Provider hereby indemnifies the Council against any such losses or costs which the Council may suffer as a result of any such termination for cause.

19.4 The Council may terminate the Call-off Contract immediately in the event that the Framework Agreement is terminated.

#### Termination – Lot 1

19.5 The Council may terminate a Lot 1 Order (block booking) under this Call-Off Contract at any time by giving 1 month's written notice to the Provider. Where a notice to terminate is given during office hours, the Provider must respond to the notice of termination on the day the notice is given. The Council may terminate a Lot 1 Order in whole or in part as it determines in its discretion.

19.6 The Council may terminate the placement of a Household in a Lot 1 room(s) (block booking) verbally or in writing at any time without notice. The Provider will terminate that Household's occupation of the room(s) in accordance with the notice period given by the Council. If the room(s) continues to be occupied by the Household or their belongings beyond the end of the notice period, the Council may reduce the Charges payable to take account of the nights that the room(s) were not available for the Council to use for alternative placements. Any such reduction in Charges may be dealt with by way of deduction from any payments due to the Provider in accordance with the terms of clause 10.12 of this Call-off Contract.

19.7 Termination of a Household's placement does not affect the duration of a Lot 1 Order.

#### Termination – Lot 2 (spot purchases)

19.8 The Council may terminate Lot 2 Orders under this Call-Off Contract at any time verbally or in writing and termination comes into effect on the day notice is given or such date as is stipulated by the Council. Where a notice to terminate is given during office hours, the Provider must respond to the notice of termination on the day the notice is given. Where notice of termination is given before 11 a.m. the Council shall not incur any Charges for that day unless the household leaves after the Provider's last check-out time and the room cannot be filled by another booking on that day only. In this case, the Provider may impose a late checkout charge for that day only.

19.9 Subject to clause 19.8, the Council will not be liable for any Charges in respect of subsequent occupation by a Household or their belongings after Lot 1 and Lot 2 Orders have been terminated.

19.10 The rights of the Council under clause 19.1 and 19.2 of these Call-off Terms and Conditions are without prejudice to any other rights that it might have at law or otherwise under the Framework Agreement to terminate the Call-off Contract. Any delay by the Council in exercising its rights to terminate shall not constitute a waiver of these rights.

19.11 The Council will confirm the termination of this Call-off Contract and/or the ending of a Household's placement by email substantially in the form set out in the Call-off Order Termination/Ending of Placement Form at Schedule 2.

**20. Consequences of Expiry or Termination**

20.1 Termination or expiry of the Call-off Contract shall be without prejudice to any rights, remedies or obligations of either Party accrued under the Call-off Contract before termination or expiry.

**21. Indemnity**

21.1 The Provider shall indemnify and keep indemnified the Council against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever whether arising in tort (including negligence) default or breach of the Call-off Contract, to the extent that any such loss or claim is due to the breach of the Call-off Contract, negligence, wilful default or fraud of itself or of its employees or of any of its Representatives or sub-contractors save to the extent that the same is directly caused by or directly arises from the negligence, breach of the Call-off Contract or applicable law by the Council or its Representatives (excluding any Provider's Staff).

**22. Force Majeure – see clause 7 of Schedule 9**

**23. Publicity - see clause 8 of Schedule 9**

**24. Variations to Framework Agreement – see clause 9 of Schedule 9**

**25. Waiver - see clause 10 of Schedule 9**

**26. Rights and Remedies - see clause 11 of Schedule 9**

**27. Severability – see clause 12 of Schedule 9**

**28. Partnership or Agency - see clause 13 of Schedule 9**

**29. Joint and several liability - see clause 14 of Schedule 9**

**30. Subcontracting and assignment - see clause 1 of Schedule 9**

**31. Third Party Rights - see clause 15 of Schedule 9**

**32. Notices - see clause 16 of Schedule 9**

**33. Entire Agreement - see clause 17 of Schedule 9**

**34. Governing Law - see clause 18 of Schedule 9**

**35. Counterparts - see clause 19 of Schedule 9**

**36. Interpretation - see clause 20 of Schedule 9**



## Schedule 2: Call off Order Confirmation Form

### TEMPORARY ACCOMMODATION

#### CALL-OFF ORDER CONFIRMATION FORM

This Call-off Order Confirmation Form is made pursuant to the Framework Agreement between Stratford on Avon District Council and the Provider detailed below. The Call-off Terms and Conditions (as set out in the Framework Agreement) are incorporated into this Call-off Order Confirmation Form by reference.

<b>Framework Agreement:</b>	Hotel and Guesthouse Accommodation Framework Agreement
<b>Spot purchasing or block booking:</b>	
<b>Date of booking:</b>	
<b>Provider:</b>	
<b>Form completed by:</b>	
<b>1. REQUIREMENTS</b>	
<b>Household's name(s):</b>	
<b>Type of accommodation including room size:</b>	
<b>Booking Commencement Date:</b>	
<b>Booking end date/ongoing basis:</b>	
<b>Location(s) at which the Services are to be provided:</b>	
<b>Room(s) booked:</b>	
<b>2. PRICE</b>	
Price payable by Council: £[XXX] per night/block booking	
<b>3. DATA PROTECTION</b>	
The parties acknowledge that for the purposes of the Data Protection Legislation, the Council is the data controller and the Provider the processor of shared personal information.	

#### Appendix to the Call-off Order Confirmation Form: Supplemental Tender (for Competed Orders only)

*[Provider's Supplemental Tender supplied in response to a brief from the Council to be attached here]*

## TEMPORARY **ACCOMMODATION**

### **TERMINATION of SPOT PURCHASING FOR HOUSEHOLDS/ TERMINATION OF PLACEMENT/ TERMINATION OF BLOCK BOOKING FORM**

This Call-off Order Termination/Ending of Placement Form is made pursuant to the Framework Agreement between Stratford on Avon District Council and the Provider detailed below.

<b>Framework Agreement:</b>	Hotel and Guesthouse Accommodation Framework Agreement
<b>Provider:</b>	
<b>Booking commencement date:</b>	
<b>Location(s) at which the Services are provided:</b>	
<b>Household's name(s) if ending placement:</b>	
<b>Room(s) booked:</b>	
<b>Placement/Booking end date:</b>	

## **Schedule 3: Invitation to Tender**

## Schedule 4: Lots

*[Following award, insert the Providers appointed to each Lot]*

<b>Name of Lot</b>	<b>Providers</b>
Lot 1 – Block booking hotel or guest house nightly rooms for a specified period in the district	1. [Provider] 2. [Provider] 3. [Provider]
Lot 2 – Spot purchase hotel or guest house nightly rooms in the district	1. [Provider] 2. [Provider] 3. [Provider]

**Schedule 5: Provider's Tender (including Pricing Schedules)**

*[Following award, insert the Provider's Tender]*

## **Schedule 6: Clarifications**

*[Following award, insert any clarifications]*

## **Schedule 7: Framework Agreement and Call-off Contract Variation Procedure**

### **1. Introduction**

- 1.1. This Schedule 7 details the scope of the variations permitted and the process to be followed where the Council proposes a variation to the Framework Agreement or a Call-off Contract.
- 1.2. The Council may propose a variation to the Framework Agreement under this Schedule 7 only where the variation does not amount to a material change in the Framework Agreement or the Services.

### **2. Procedure for proposing a variation**

- 2.1. In order to propose a variation, the Council shall serve each Provider with written notice of the proposal to vary the Framework Agreement (**the Notice**).
- 2.2. The Notice shall:
  - 2.2.1. contain details of the proposed variation providing sufficient information to allow each Provider to assess the variation and consider whether any changes to the prices set out in its Pricing Schedule are necessary; and
  - 2.2.2. require each Provider to notify the Council within 30 days of any proposed changes to the prices set out in its Pricing Schedule.
- 2.3. On receipt of the Notice, each Provider has 30 days to respond in writing with any objections to the variation.
- 2.4. Where the Council does not receive any written objections to the variation within 30 days, the Council may then serve each Provider with a written agreement detailing the variation which the Provider must sign and return within 14 days of receipt.
- 2.5. On receipt of a signed agreement from each Provider, the Council shall notify all Providers in writing of the commencement date of the variation.

### **3. Objections to a variation**

- 3.1. In the event that the Council receives one or more written objections to a variation, the Council may:
  - 3.1.1. withdraw the proposed variation; or
  - 3.1.2. propose an amendment to the variation.

### **4. Changes to the Pricing Schedule**

- 4.1. Where a Provider can demonstrate that a variation would result in a change to the prices set out in its Pricing Schedule, the Council may require further evidence from the Provider that any additional costs to the Provider will be kept to a minimum.
- 4.2. The Council may require the Provider to meet and discuss any proposed changes to the Pricing Schedule that would result from a variation.
- 4.3. Where a change to a Provider's Pricing Schedule is agreed by the Council, the Council shall notify its acceptance of the change to the Provider in writing.

4.4. In the event that the Council and the Provider cannot agree to the changes to the Pricing Schedule, the Council may:

4.4.1. withdraw the variation; or

4.4.2. propose an amendment to the variation.

## **5. Changes to a Call-off Contract**

5.1. Changes (including prices) to a Call-off Contract may be made on an ad hoc basis but only with the Council's agreement in writing.



## Schedule 8: Definitions

The following terms in the Framework Agreement and Call-off Contract shall have the following meanings:

<b>Term</b>	<b>Definition</b>
Authorised Representatives	Means the persons respectively designated as such by the Council and the Provider. The Authorised Representatives for the Council in relation to this Framework Agreement are the Homelessness Reduction Manager and the Housing Options Manager. The Authorised Representative for the Council in relation to the Call-off Contract is the Housing Advice Assistant. The Authorised Representative for the Provider in relation to this Framework Agreement is [INSERT NAME AND JOB TITLE].
Award Criteria	Means the award criteria to be applied by the Council for the award of Completed Orders for Services as set out in the Invitation to Tender. Unless otherwise set out in the Invitation to Tender, the award criteria shall be based on (1) the ability to meet the requirements of the Competed Order (including in relation to timeframes) (2) price.
Bribery Act	Means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation
Call-off Contract	Means a legally binding contract (made pursuant to the provisions of the Framework Agreement) entered into between the Provider and the Council for the supply of the Services under the Call-off Terms and Conditions (as may be amended pursuant to clause 24 of the Call-off Terms and Conditions)
Call-off Order Confirmation Form	Means a document setting out details of an Order in the form set out in Schedule 2
Charges	Means the charges which shall become due and payable by the Council to the Provider in respect of the Services in accordance with the provisions of any Call-off Contract as determined by the Pricing Schedule and as set out in the Call-off Order Confirmation Form.
Clarifications	Means any clarifications, questions and answers relating to the tender for the Services and where appropriate attached at Schedule
Commercially Sensitive Information	Means information of a commercially sensitive nature relating to the Provider, its intellectual property rights or its business or which the Provider has indicated to the Council and/or Council that, if disclosed by the respective party, would cause the Provider significant commercial disadvantage or material financial loss
Competed Orders	Has the meaning given to it in clause b) of the Framework Agreement
Confidential Information	Means any information which has been designated as confidential by either Party in writing (including in the Call-off Order Confirmation Form) or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including trade secrets, intellectual property rights, know-how of either Party and all personal data and sensitive data within the meaning of the Data Protection Legislation
Control	Has the same meaning as in Section 1124 of the Corporation Tax Act 2010 and 'Controls' and 'Controlled' shall be interpreted accordingly
Council	Means Stratford-on-Avon District Council or any committee, sub-committee officer thereof to whom functions in relation to the Framework Agreement or any Call-off Contract have been delegated

Council Assets	Means any materials, plant or equipment owned or held by the Council and provided by the Council for use in providing the Services
Council Materials	Means any documents, designs, photographs, recordings, drawings, logos, information, items and materials in any form (whether owned by the Council or a third party), which are provided by the Council to the Provider in connection with the provision of the Services
Data Protection Legislation	Means all applicable data protection and privacy legislation in force from time to time in the UK including the Data Protection Act 2018, the UK General Data Protection Regulation, the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and any national implementing laws, regulations, and secondary legislation and other Acts of Parliament relating to data protection, as amended or updated from time to time
Data Subject	Shall have the same meaning as set out in the Data Protection Legislation
Default Notice	Shall have the meaning given to it in clause 7.2 of the Framework Agreement
EIRs	Means the Environmental Information Regulations 2004 (SI 2004/3391) together with any guidance and/or codes of practice issued by the Information Council or relevant government department in relation to such regulations
End Date	Means the date on which this Framework Agreement expires, which shall be [Insert date ] unless terminated earlier under clause 23 of the Framework Agreement
FOIA	Means the Freedom of Information Act 2000, and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Council or relevant government department in relation to such legislation
Force Majeure	Means any cause affecting the performance by a party of its obligations under the Framework Agreement or Call-off Contract arising from acts, events, omissions or non-events beyond its reasonable control, including acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding any industrial dispute relating to the Provider, the Provider's Staff or any other failure in the Provider's supply chain
Framework Agreement	Means this complete agreement entered into between the Council and the Provider incorporating all Schedules and appendices
Framework Agreement Variation Procedure	Means the procedure set out in Schedule 7
Good Industry Practice	Standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances.
Households	Individuals or groups of individuals to whom the Services are provided
Housing Advice Team	The Housing Advice Team at the Council.

Information	Shall have the meaning given under section 84 of FOIA
Insolvency Event	<p>Means where the Provider is a company or limited liability partnership:</p> <p>(a) the Provider suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;</p> <p>(b) the Provider commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of the Provider with one or more other companies or the solvent reconstruction of that other party;</p> <p>(c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;</p> <p>(d) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Provider;</p> <p>(e) the holder of a qualifying floating charge over the assets of the Provider has become entitled to appoint or has appointed an administrative receiver;</p> <p>(f) a person becomes entitled to appoint a receiver over the assets of the Provider or a receiver is appointed over the assets of the Provider;</p> <p>(g) a creditor or encumbrancer of the Provider attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;</p> <p>(h) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in (a) to (g) (inclusive);</p> <p>(i) the Provider suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.</p> <p>Means where the Provider is a partnership:</p> <p>(j) has any partner to whom any of the foregoing apply; or</p> <p>(k) the Provider suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.</p> <p>Means where the Provider is an individual:</p> <p>(l) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of</p>

	<p>section 268 of the Insolvency Act 1986;</p> <p>(m) the Provider is the subject of a bankruptcy petition or order;</p> <p>(n) the Provider suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or</p> <p>(o) the Provider dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.</p>
Invitation to Tender/ITT	Means the Council's invitation to Providers for formal offers to supply it with the Services under this Framework Agreement, as set out in Schedule 3
Outcomes and Essential Requirements	The performance requirements set out in section 5 of the Specification (under "Quality/Performance Management") against which the Provider's performance of the Services will be measured and the essential requirements set out in section 3.11 of the Specification
Law	Means any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Provider is bound to comply
Lots	Means the Services divided into lots as set out in Schedule 4 and further described in the Invitation to Tender
Necessary Consents	Means all approvals, certificates, authorisations, permissions, licences, permits, regulations and consents necessary from time to time for the performance of the Services including without limitation any specified in the Specification or the Call-off Order Confirmation Form
Order	means an order for Services sent by the Council to the Provider in accordance with the award procedures in clause 4 of the Framework Agreement
Parties	Means the parties to this Framework Agreement
Premises	The location where the Services are to be provided for any Call-off Contract, as set out in the Call-off Order Confirmation Form
Personal Data	Shall have the same meaning as set out in the Data Protection Legislation
Premises	The premises where the Services are provided
Prevent Duty	The duty under section 26 of the Counter-Terrorism and Security Act 2015 to have due regard to the need to prevent people from being drawn into terrorism or such other duty it may be replaced with from time to time
Pricing Schedule(s)	Means the schedule of prices for the Services submitted by the Provider in the Provider's Tender, subject to any further revisions in accordance with the terms of the Framework Agreement
Prohibited Act	<p>The following constitute Prohibited Acts:</p> <p>(a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to:</p> <p>(i) induce that person to perform improperly a relevant function or activity; or</p>

	<p>(ii) reward that person for improper performance of a relevant function or activity;</p> <p>(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Framework Agreement or any Call-off Contract;</p> <p>(c) committing any offence:</p> <p>(i) under the Bribery Act;</p> <p>(ii) under legislation or common law concerning fraudulent acts;</p> <p>(iii) defrauding, attempting to defraud or conspiring to defraud the Council.</p> <p>(d) any activity, practice or conduct which would constitute one of the offences listed under paragraph (c), if such activity, practice or conduct had been carried out in the UK</p>
Providers	Means the Provider and other Providers appointed as framework providers under this Framework Agreement
Provider's Lots	Means the Lots to which the Provider has been appointed under the Framework Agreement, as indicated in Schedule 4
Provider's Staff	Means all employees, staff, other workers, agents and consultants of the Provider who are engaged in the provision of the Services from time to time (including the Provider where the Provider is an individual)
Provider's Tender	Means the document(s) attached at Schedule 5 submitted by the Provider to the Council in response to the Council's Invitation to Tender
Regulatory Body	Any government departments and regulatory, statutory and other entities, committees, ombudsmen 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 Framework Agreement or Call-off Contract or any other affairs of the Provider
Request for Information	Means a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the EIRs
Required Insurances	Means the minimum level of insurance cover required in accordance with clause 17 of the Framework Agreement
Services	Means either a) the scope of services that the Council may procure from Providers under the Framework Agreement, as generally described in the Specification, or b) the specific services to be provided by the Provider under any Call-off Contract as detailed in the Call-off Order Confirmation Form, the Specification, the Provider's Tender and (if applicable) the Supplemental Tender, as appropriate for the context
Service Commencement Date	Means the service commencement date set out in the Call-off Order Confirmation Form
Specification	Means the general description of the Services to be provided under the Framework Agreement as detailed in the Invitation to Tender
Standard Clauses	Those clauses applicable to the Framework Agreement and the Call-off Contract set out at Schedule 9
Standard Orders	Has the meaning given to it in clause a) of the Framework Agreement

Start Date	Means the date on which the Framework Agreement commences, being [insert date]
Sub-Contract	Means any contract between the Provider and a third party pursuant to which the Provider agrees to source the provision of any of the Services from that third party (which includes contracts at any stage of remoteness from the Council in the Provider's subcontracting chain).
Sub-Contractor	Means the contractors or Providers that enter into a Sub-Contract with the Provider
Supplemental Tender	Means the document(s) submitted to the Council by the Provider in response to the Council's invitation to Providers for formal offers to supply it with Services under a Competed Order
Term	Means the period commencing on the Start Date and ending on the fourth anniversary of the Start Date
VAT	Means value added tax in accordance with the provisions of the Value Added Tax Act 1994 or any subsequent legislation
Working Day	Means Monday to Friday, excluding any public holidays in England and Wales

## Schedule 9: Standard clauses

### 1. Subcontracting and assignment

- 1.1. The Provider shall not assign, novate or otherwise dispose of any or all of its rights and obligations under the Framework Agreement or Call-off Contract without the prior written consent of the Council, neither may the Provider sub-contract the whole or any part of its obligations under the Framework Agreement or Call-off Contract except with the express prior written consent of the Council, such consent not to be unreasonably withheld.
- 1.2. In the event that the Provider enters into any Sub-Contract in connection with the Framework Agreement or Call-off Contract it shall remain responsible to the Council for the performance of its obligations under the Framework Agreement or Call-off Contract notwithstanding the appointment of any Sub-Contractor and be responsible for the acts, omissions and neglects of its Sub-Contractors.
- 1.3. The Council shall be entitled to novate the Framework Agreement or Call-off Contract to any other body.

### 2. Prevention of Bribery

- 2.1 The Provider represents and warrants that neither it, nor to the best of its knowledge any of the Provider's Staff, have at any time prior to the Start Date committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act.
- 2.2 The Provider shall not during the Term:
  - 2.2.1 commit a Prohibited Act; and/or
  - 2.2.2 do or suffer anything to be done which would cause the Council or any of the Council's employees, consultants, contractors, sub-contractors or agents to commit a Prohibited Act.
- 2.3 The Provider shall immediately notify the Council in writing if it becomes aware of any breach of clauses **Error! Reference source not found.** and/or clause **Error! Reference source not found.** in this Schedule 9 or has reason to believe that it has or any of the Provider's Staff have:
  - 2.3.1 been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
  - 2.3.2 received a request or demand for any undue financial or other advantage of any kind in connection with the performance of the Framework Agreement or Call-off Contract or otherwise suspects that any person or Party directly or indirectly connected with the Framework Agreement or Call-off Contract has committed or attempted to commit a Prohibited Act.
- 2.4 If the Provider makes a notification to the Council pursuant to clause 2.3 of this Schedule 9, the Provider shall respond promptly to the Council's enquiries, co-operate with any investigation, and allow the Council to audit any books, records and/or any other relevant documentation in accordance with clause 17 of the Framework Agreement.
- 2.5 If the Provider is in default under clause **Error! Reference source not found.** and/or clause **Error! Reference source not found.** of this Schedule 9, the Council may by notice:

- 2.5.1 require the Provider to remove from performance of the Framework Agreement or Call-off Contract any of the Provider's Staff whose acts or omissions have caused the default; or
  - 2.5.2 immediately terminate the Framework Agreement and any existing Call-off Contract.
- 2.6 Any notice served by the Council under clause **Error! Reference source not found.**5 of this Schedule 9 shall specify the nature of the Prohibited Act, the identity of the party who the Council believes has committed the Prohibited Act and the action that the Council has elected to take (including, where relevant, the date on which the Framework Agreement and Call-off Contract shall terminate).

### 3. Confidential Information

- 3.1. Subject to clause **Error! Reference source not found.** of this Schedule 9, the parties shall keep confidential all matters relating to the Framework Agreement or Call-off Contract and shall use all reasonable endeavours to prevent their representatives from making any disclosure to any person of any matters relating hereto.
- 3.2. Clause **Error! Reference source not found.** of this Schedule 9 shall not apply to any disclosure of information:
  - 3.2.1. required by any applicable law, a court of competent jurisdiction or any governmental or Regulatory Body provided that clause **Error! Reference source not found.** of this Framework Agreement shall apply to any disclosures required under the FOIA or the EIRs;
  - 3.2.2. that is reasonably required by persons engaged by a party in the performance of such party's obligations under this Framework Agreement;
  - 3.2.3. where a party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause **Error! Reference source not found.** of this Framework Agreement;
  - 3.2.4. by the Council of any document to which it is a party and which the Council and Provider have agreed contains no Commercially Sensitive Information;
  - 3.2.5. to enable a determination to be made under clause 21 of this Framework Agreement;
  - 3.2.6. which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;
  - 3.2.7. by the Council to any other department, office or agency of the Government; and
  - 3.2.8. by the Council relating to this Framework Agreement and in respect of which the Provider has given its prior written consent to disclosure.
- 3.3. On or before the expiry or termination of any Call-off Contract, the Provider shall ensure that all documents and/or computer records in its possession, custody or control which relate to personal information of the Council's employees, rate-payers or service users, are delivered up to the Council or securely destroyed unless required for the Provider's lawful purposes.

### 4. Data Protection



- 4.1 The Parties acknowledge the Council is the controller in relation to personal information shared under the Framework Agreement or any Call-off Contract and that the Provider is acting as the Council's processor. The Parties are therefore entering into the Data Processing Agreement at Schedule 11. The Data Processing Agreement shall be coterminous with this Framework Agreement.
- 4.2 For the avoidance of doubt, the provisions of the Data Processing Agreement shall apply during the Term and indefinitely after its expiry.

## 5. Freedom of Information

- 5.1 The Provider acknowledges that the Council is subject to the requirements of the FOIA (Freedom of Information Act 2000) and the EIRs (Environmental Information Regulations 2004). The Provider shall (and shall procure that any of the Provider's Staff involved in the provision of the Services shall):
  - 5.1.1 provide all necessary assistance and cooperation as reasonably requested by the Council to enable the Council to comply with its obligations under the FOIA and EIRs;
  - 5.1.2 transfer to the Council all Requests for Information relating to this Framework Agreement and any Call-off Contract (including the Services) that it receives as soon as practicable and in any event within 2 Working Days of receipt;
  - 5.1.3 provide the Council with a copy of all Information belonging to the Council requested in the Request For Information which is in its possession or control in the form that the Council requires within 5 Working Days (or such other period as the Council may reasonably specify) of the Council's request for such Information;
  - 5.1.4 not respond directly to a Request For Information unless authorised in writing to do so by the Council; and
  - 5.1.5 indemnify the Council against all claims, demands, actions, costs, expenses (including legal costs and disbursements), losses and damages arising from or incurred by reason of any breach of this clause **Error! Reference source not found.** by the Provider except to the extent that they have been caused by or contributed to by the Council's acts or omissions.
- 5.2 The Provider acknowledges that the Council may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Provider. The Council shall take reasonable steps to notify the Provider of a Request For Information to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Framework Agreement) the Council shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

## 6. Supply of Information and Audit

- 6.1 The Provider shall (at its own cost) take such steps as may be reasonable and practicable to afford the Council access to information which is reasonably required by the Council in connection with any of its statutory duties and audit responsibilities and for any purposes connected with its rights and obligations under this Framework Agreement or to enable the Council to prepare the necessary documentation to appoint another person to provide the Services. Such records may include (but are not limited to):
  - 6.1.1 any copies of records relating to the Provider's Staff who are involved in the supply of the Services; and

- 6.1.2 any policies of the Provider that are relevant to the provision of the Services.
- 6.2 The Provider must inform the Council within seven days (of a decision being made or of the Provider becoming aware, whichever is the earlier) if:
- 6.2.1 It undergoes a change of Control;
  - 6.2.2 It merges with another organisation;
  - 6.2.3 It transfers any of its business to another organisation;
  - 6.2.4 There is any change in the management of the organisation or part of the organisation providing the Services; or
  - 6.2.5 A Regulatory Body directs an inquiry into or makes an order of any kind in relation to its affairs including requirements identified from an inspection; and
  - 6.2.6 Any registration or accreditation which it must maintain in order to provide the Services is withdrawn or cancelled or is threatened to be withdrawn or cancelled.
- 6.3 The Provider shall at all reasonable times (including following expiry or termination of this Framework Agreement) afford to any auditor conducting an internal audit or inspection for or in relation to the Council access to any records, information and data in the possession or control of the Provider which have been used in connection with the provision of the Services including (but without limitation) Council data and information stored on a computer system operated by the Provider. This shall include permission to copy and remove any copies and remove the originals of such documents.
- 6.4 Where applicable to the Services, the Provider hereby authorises the Council to request and obtain information about the Provider (including inspection reports) from the applicable Regulatory Body and other local authorities which may be relevant to the performance of the Services.
- 6.5 Without prejudice to any other provision in this clause 6 of schedule 9 at the reasonable request of the Council or other competent body the Provider shall at its own cost comply with any inspection, audit or other regulatory intervention in respect of or in connection with the delivery of the Services both during the Term and after the Framework Agreement has expired or terminated.

## **7. Force Majeure**

- 7.1 Neither the Council nor the Provider shall be liable to the other Party for any delay in or failure to perform its obligations under the Framework Agreement (other than a payment of money) if such delay or failure results from a Force Majeure event. Notwithstanding this, each party shall use all reasonable endeavours to continue to perform its obligations hereunder for the duration of such Force Majeure event.
- 7.2 Any failure or delay by the Provider in performing its obligations under the Framework Agreement which results from any failure or delay by an agent, sub-contractor or Provider shall be regarded as due to Force Majeure only if that agent, sub-contractor or Provider is itself impeded by Force Majeure from complying with an obligation to the Provider.

## **8. Publicity**

- 8.1 Without prejudice to any other legal obligation of the Provider or other provision of the Framework Agreement or Call-off Contract, the text of any press release or other

communication to be published by, or in the media concerning the Framework Agreement or Call-off Contract shall require prior written approval of the Council.

- 8.2 The Provider shall promote this work with the Council in a positive manner and not make public comments that could adversely affect the Council's reputation or public perception of Households.

## **9. Variations to Framework Agreement**

- 9.1 Any variations to the Framework Agreement or Call-off Contract must be made only in accordance with the Framework Agreement Variation Procedure set out in Schedule 7.

## **10. Waiver**

- 10.1 No failure or delay by a party to exercise any right or remedy provided under the Framework Agreement or Call-off Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

## **11. Rights and Remedies**

- 11.1 The rights and remedies provided under the Framework Agreement or Call-off Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

## **12. Severability**

- 12.1 If any provision or part-provision of the Framework Agreement or Call-off Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Framework Agreement or Call-off Contract.
- 12.2 If one party gives notice to the other of the possibility that any provision or part-provision of the Framework Agreement or Call-off Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

## **13. Partnership or Agency**

- 13.1 Nothing in the Framework Agreement or Call-off Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 13.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

## **14. Joint and several liability**

- 14.1 This clause 14 of Schedule 9 shall apply where the Provider comprises more than one legal person or entity. Each individual legal person or entity that comprises the Provider shall be jointly and severally liable for their obligations under the Framework Agreement and

any Call-off Contract and the Council may or may not take action against either or both at its discretion.

## **15. Third Party Rights**

15.1 A person who is not a party to the Framework Agreement or Call-off Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Framework Agreement or Call-off Contract.

## **16. Notices**

16.1 Any notice given to a party under or in connection with the Framework Agreement or any Call-off Contract shall be in writing marked for the attention of the party's Authorised Representative and shall be:

16.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

16.1.2 sent by email.

16.2 Any notice shall be deemed to have been received:

16.2.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;

16.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Working Day after posting or at the time recorded by the delivery service; or

16.2.3 if sent by email on the day at the time indicated on the sender's email account unless the recipient can show the email was not received for technical reasons.

16.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

## **17. Entire Agreement**

17.1 The Framework Agreement or Call-off Contract, the Schedules and the documents annexed to them or otherwise referred to in them constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

17.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Framework Agreement or Call-off Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Framework Agreement or Call-off Contract.

17.3 In the event of and only to the extent of any conflict between the Call-off Order Confirmation Form, the clauses of the Call-off Terms and Conditions and any document referred to in those clauses, the conflict shall be resolved in accordance with the order of precedence set out in the Framework Agreement.

## **18. Governing Law**

18.1 The Framework Agreement or Call-off Contract and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law and subject to the jurisdiction of the English courts.

## **19. Counterparts**

19.1 The Framework Agreement or Call-off Contract may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

## **20. Interpretation**

20.1 In the Framework Agreement or Call-off Contract, capitalised terms shall have the meanings given to them in Schedule 9 and as defined within the body of the Framework Agreement.

20.2 References to any statutory provision, enactment, order, regulation or other similar instrument shall be construed as a reference to the statutory provision, enactment, order, regulation or instrument (including any EU instrument) as amended, replaced, consolidated or re-enacted from time to time and shall include any orders, regulations, codes of practice, instruments or other subordinate legislation made under it.

20.3 Words importing the singular meaning include where the context so admits the plural meaning and vice versa.

20.4 Reference to a clause is a reference to the whole of that clause unless stated otherwise.

20.5 Words importing the masculine include the feminine and the neuter.

20.6 Reference to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees.

20.7 The words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation".

20.8 Where the context permits, an obligation on the Provider shall be construed to include an obligation on the Provider's Staff.

20.9 A reference to "writing" or "written" includes faxes and e-mail.

20.10 Any obligation in the Framework Agreement or Call-off Contract on a person not to do something includes an obligation not to agree or allow that thing to be done.

20.11 A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of the Framework Agreement or Call-off Contract) at any time.

## **Schedule 10: General obligations**

1. Without limiting the general obligation set out in clause 8.1(c) of the Framework Agreement, the Provider shall (and shall ensure that the Provider's Staff shall) perform its obligations under this Framework Agreement (including those under any Call-off Contract and in relation to the Services) in accordance with:
  - a) all applicable equality law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);
  - b) the Council's equality and diversity policy as provided to the Provider from time to time; and
  - c) any other requirements and instructions which the Council reasonably imposes in connection with any equality obligations imposed on the Council at any time under applicable equality law.
  - d) not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise).
  - e) take all necessary steps, and inform the Council of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).
  - f) at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Framework Agreement. The Provider shall also undertake, or refrain from undertaking, such acts as the Council requests so as to enable the Council to comply with its obligations under the Human Rights Act 1998.
  - g) perform its obligations under this Framework Agreement and any Call-off Contract (including those in relation to the supply of Services) in accordance with any directions or instructions of any relevant Regulatory Body;
  - h) comply with the Modern Slavery Act 2015; and
  - i) comply with the Counter-Terrorism and Security Act 2015 and have due regard for the Council's Prevent Duty in performing its obligations under this Contract, including (where appropriate) providing training to Provider's Staff to ensure that they are aware of the Prevent Duty. The Provider shall raise any concerns regarding extremism or terrorism with the Council.

## Schedule 11: Data processing agreement

<b>HOTELS AND GUESTS HOUSES (1)</b>  <b>AND</b>  <b>STRATFORD-ON-AVON DISTRICT COUNCIL (2)</b>
<b>DATA PROCESSING AGREEMENT</b>  In relation to electoral registration purposes, the Electoral Registration Officer may inspect any data records held by the local authority that appointed them.

### Amendment History

Version	Date	Amendment History
0.1	27/06/2023	First draft

### Reviewers

Name	Title / Responsibility	Date	Version

### Approval

This document must be approved by the following:

Name	Title / Responsibility	Date	Version
Pav	Information Governance Manager	16 October 2020	0.3



<b>THIS AGREEMENT</b> is made on		2023
<b>1</b>	<b>Between:</b> 1) [Hotels/Guest House name] of [address] (“the Provider”) 2) <b>STRATFORD-ON-AVON DISTRICT COUNCIL</b> of Elizabeth House, Church Street Stratford-upon-Avon CV37 6HX (“the Council”)	
<b>2</b>	<b>Purpose, objectives of the information sharing:</b> There are six main objectives of sharing information under this agreement: <ul style="list-style-type: none"><li>• To enable hotel and guest houses to be used to fulfil the Council’s obligations under homelessness legislations (powers and duties) where other temporary accommodation is not available</li><li>• To ensure data is supplied by the Council and Provider to comply with contractual agreements under the call-off agreement/ bookings and for invoicing purposes.</li><li>• To ensure necessary information is provided in statements to enable people to claim Housing Benefit to recover some of the costs of hotel and guest house placements</li><li>• To safeguard the households placed and other people and to review and mitigate risks</li><li>• To enable the provider to supply information to the Council where they have concerns about people not occupying the accommodation, not complying with guest house rules and to assess, review, and inform conversations and decisions regarding homeless placements. Information can also be used by the Council to review with the person their personal housing plan, any referrals and whether it is appropriate to liaise with other agencies including around needs assessments and support planning and preventing and relieving homelessness.</li><li>• For the prevention and detection of crime</li></ul> <p>The Council has statutory duties and discretionary powers to accommodate households experiencing homelessness under homelessness legislation. The Council will be using a Framework Agreement to govern the relationship between the Council and approved providers of guest houses and hotels to meet these homelessness obligations. Providers approved to go onto the framework will be asked to enter into Call-off Contracts in accordance with the terms of the Framework Agreement. This will allow the Council to use rooms in hotel and guest houses flexibly, where other temporary accommodation is not available. If there are no approved providers available, then hotel and guest house accommodation may be booked outside of the Framework Agreement.</p> <p>Some basic information is required when the Provider enters into a Call-off Contract/ bookings with the Council, so the Provider is aware of who the Council wishes to place or which placement they wish to terminate. Information is also needed from the Provider for invoices and statements including to ensure that Housing Benefit has all the relevant information to process claims to reduce costs to the Council.</p>	



	<p>The applicant(s) placed will be asked to sign and abide by the Guest House Rules. The applicant(s) will be informed that if they are breaching the house rules or if the Provider has other concerns about their placement, the Provider will be required to inform the Council. The Provider may request that the Council terminates the placement if there is a serious breach of house rules.</p> <p>The purpose of this information being exchanged is to safeguard the household or other people, establish whether the people are occupying the accommodation, and inform whether the Council decide to continue to exercise a discretionary power or if there are grounds to discharge a statutory duty under homelessness legislation. It helps the Council to work with the Provider to provide interventions to address behaviour and prevent a placement breaking down.</p> <p>It can also help inform conversations with people about potential consequences of continued negative behaviour, failure to cooperate/ engage, or refusing a suitable offer of accommodation. New information may assist the Council to review placements and risk assessments to mitigate risks. It also enables the Council to review personal housing plans with homeless people and assess if referrals are needed or if it is appropriate to liaise with other agencies (where there is consent) regarding needs assessments and support planning.</p> <p>Any information that is disclosed to the Provider will not be shared with third parties and they will be compliant with the Data Protection Act 2018 which incorporates GDPR. Any phone, email, written documentation, or photographs shared by the Provider under this agreement will be secured securely by the Provider. The Council will comply with their data protection policies. Information will be stored securely on emails, or on CRM notes on Abritas. Some information may be attached as part of the homeless file.</p>
<p><b>3</b></p>	<p><b>Data Protection Impact Assessment (DPIA)</b></p> <p><i>attached as an appendix.</i></p>
<p><b>4</b></p>	<p><b>Legal powers for processing the data/information</b></p> <p>The Council’s lawful basis for processing this personal data is that processing is necessary for the Council to perform a task in the public interest or for their official functions, and the task or function has a clear basis in law. The Housing Act 1996 and the Homelessness Reduction Act 2017 impose duties on local authorities to try and prevent and relieve homelessness including duties to provide advisory services, assessments, and plans.</p> <p>Local data sets are available to local authorities under their existing powers provided by part 7 the Housing Act 1996 (the primary legislation), the Homelessness Act 2002 and Homelessness Reduction Act 2017. The Homeless Code of Guidance provides guidance on how local authorities should exercise their homelessness functions.</p> <p>Where special category and criminal offence data is processed, the lawful basis for will be that processing is necessary for the provision of social care or the management of social care systems and services.</p>
<p><b>5</b></p>	<p><b>Data Controller and Processor</b></p>

For the above processes, the Council is the data controller. The Provider is the Council's data processor for the purposes of the Framework Agreement. The parties agree to remain up-to-date with and abide by all relevant data protection legislation, including the General Data Protection Regulations (GDPR) and Data Protection Act 2018 (DPA 2018). This includes informing the other party immediately in the event of a suspected data breach.

The Provider will ensure it:

- processes the personal data only on documented instructions from the Council, including with regard to transfers of personal data to a third country or an international organisation, unless required to do so by law to which the Provider is subject; in such a case, the Provider shall inform the Council of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest;
- ensures that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- takes all measures required pursuant to GDPR Article 32;
- respects the conditions referred to in paragraphs 2 and 4 for engaging another processor;
- takes into account the nature of the processing, assists the Council by using appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Council's obligation to respond to requests for exercising the data subject's rights laid down in Chapter 3 of Part 3 of the DPA 2018;
- assists the Council in ensuring compliance with the obligations pursuant to Articles 32 to 36 taking into account the nature of processing and the information available to the processor;
- at the choice of the Council, delete or return all the personal data to the Council after the end of the provision of services relating to processing, and deletes existing copies unless law requires storage of the personal data;
- make available to the Council all information necessary to demonstrate compliance with the obligations laid down in this section and allow for and contribute to audits, including inspections, conducted by the Council or another auditor mandated by the Council. The Provider shall immediately inform the Council if, in its opinion, an instruction infringes data protection legislation.

**Data items to be processed**

6

This may include:

- The name of the homeless applicant and members of their household
- The applicant(s) telephone number and email address if appropriate (so the Provider can contact them)
- The period and number of nights each household occupies the accommodation during the calendar month (arrival and departure dates)
- The address of the premises for each placement and nightly rate
- The type of agreement/ booking

	<ul style="list-style-type: none"> <li>• Information relating to invoicing including information required by Housing Benefit</li> <li>• Information relating to a person or a member of their household not occupying accommodation</li> <li>• Information relating to issues with the condition of premises and health and safety</li> <li>• Information relating to breach of house rules/behaviour, visitors,</li> <li>• Information relating to safeguarding issues, risks or any other matters of concern including health and alleged criminal offences.</li> <li>• Providing the Council with regular updates of the issues in the accommodation which could lead to people being asked to leave</li> <li>• Information about removing people from the accommodation, returning keys or removing possessions</li> </ul> <p>It is possible that there will be other data fields required by Housing Services, to meet the Council's obligations under homelessness legislations</p> <p>Any amendments to the above list will be in agreement with Housing Services, Stratford-on-Avon District Council and recorded as an amendment to this Data-Sharing Agreement.</p>
7	<p><b>When and how will the data sharing be carried out?</b></p> <p>Data processing will take place when a call off agreement or booking is made with a hotel or guest house.</p> <p>Prior to the Council providing information to the Provider, the Council will ensure that only the agreed information will be provided to the Provider.</p> <p>The Provider will provide any information to the Council via telephone, by email or occasionally in writing. Any information supplied by the Provider to the Council will be supplied for the purposes outlined in this agreement and the specification. The Council will store any information securely on emails or will record information on the notes on the CRM section of Abris. Some information may be attached to their electronic homeless file.</p> <p>The data will only be processed by members of the Housing Advice Team, as part of the normal course of their duties in facilitating the processes identified in this data-sharing agreement.</p> <p>Abris is the electronic system used to administer our choice based lettings scheme Home Choice Plus and Homelessness applications. The system covers Stratford-on-Avon District and two other partnership agencies Bromsgrove District and Wyre Forest. The Council and housing associations who are involved in processing data for nominations have signed up to a data sharing agreement. This defines how organisations access and use the data. Organisations will have access to the CRM notes for all applicants. In Stratford-on-Avon district, the Council (departments with access include the Housing Advice Team and customer services) and Orbit Housing have access to the system. Only the Housing Advice Team are able to access attachments on the homelessness module of the system.</p>
8	<p><b>Data Protection Officer or other responsible person</b></p> <p>The Council's data protection officer is Pavanjit Mann at pavanjit.Mann@stratford-dc.gov.uk</p>

	The Provider's person responsible for data protection is [name] at [contact details]
<b>9</b>	<p><b>Data Retention</b></p> <p>Once the purpose for obtaining the personal data sets from Stratford-on-Avon District Council, as described above, have expired, Housing Services will securely destroy the data sets received. Data will be retained and destroyed in accordance with the Council's Data Retention and Destruction Policy.</p>

## Information Sharing Agreement

### Signatures

Signed for and on behalf of <b>[Provider's name]</b>	
Signature .....	
<b>Name</b>	
<b>Position</b>	
<b>Address</b>	
<b>Date</b>	

Signed for and on behalf of Stratford-on-Avon District Council	
Signature .....	
<b>Name</b>	
<b>Position</b>	
<b>Address</b>	Elizabeth House, Church Street Stratford-upon-Avon CV37 6HX
<b>Date</b>	

## Appendix

### Data Protection Impact Assessment

# DPIA



This template is an example of how you can record your DPIA process and outcome. It follows the process set out in our DPIA guidance, and should be read alongside that guidance and the [Criteria for an acceptable DPIA](#) set out in European guidelines on DPIAs.

You should start to fill out the template at the start of any major project involving the use of personal data, or if you are making a significant change to an existing process. The final outcomes should be integrated back into your project plan.

### Submitting controller details

Name of controller	Stratford-on-Avon District Council
Subject/title of DPO	Hotel and Guest House Framework
Name of controller contact /DPO (delete as appropriate)	Homelessness Reduction Manager

### Step 1: Identify the need for a DPIA

Explain broadly what the project aims to achieve and what type of processing it involves. You may find it helpful to refer or link to other documents, such as a project proposal. Summarise why you identified the need for a DPIA.

The Council is subject to homelessness obligations and has discretionary powers in relation to accommodation of homeless persons under the Housing Acts. The Council has some temporary accommodation to use for households experiencing homelessness but where this is not available households need to be accommodated in hotels and guest houses to ensure the Council complies with its homelessness obligations and exercises discretionary powers reasonably. The Council is undertaking a procurement process to create a framework so that hotel and guest house bookings can be called off in compliance with procurement regulations. The framework will be in two lots, spot purchases and block bookings. This will allow the Council to source hotel and guest house rooms without reopening competition as the rooms will be priced from the pricing schedules within the framework. The framework will allow the immediate award of call-off contracts or the ability to hold mini-competitions to seek more favourable pricing. If there is no availability for hotels and guest houses approved on the framework, then rooms in other available hotels and guest houses may be booked on granting of appropriate exemptions.

The Council also may receive sensitive and personal information from the hotels and guest houses regarding people placed in the accommodation. Information may be disclosed relating to whether they are complying with the guest house rules (including the state of the room, visitors, drug use, behaviour). There may be concerns that they are not occupying the accommodation. In addition, there may be concerns about their wellbeing including around safeguarding concerns.

When information is received by the Council, data protection principles need to be applied including in relation to how personal information is used, the person's right to access it, that it is stored securely and disposed of appropriately. The legal basis of holding information relates to the Council's obligations under homelessness legislation. Also, there may be obligations to safeguard people, including risk assessment procedures and safeguarding policies and procedures.

**Describe the nature of the processing:** how will you collect, use, store and delete data? What is the source of the data? Will you be sharing data with anyone? You might find it useful to refer to a flow diagram or other way of describing data flows. What types of processing identified as likely high risk are involved?

Information will be collected on the homelessness application/ personal housing plan. The officer will complete this with the person via telephone or face to face. Before the start of the homeless application process the person is informed about the Council's privacy notice and where to access it.

This information will be collected by the Council to assess, investigate, and process the person's homelessness application. There may be duties in relation to preventing and relieving homelessness as well as discretionary powers to accommodate. Where there is a duty to accommodate hotel and guest house accommodation may be used where no other accommodation is available.

For people to be provided with a room, the Council will need to phone the Provider and disclose the person's name (and the names of other members of the same household to be accommodated together). The Council will need to provide the hotel or guest house with the person's contact details (email address/telephone number) to process the booking. Persons applying for assistance will be provided with a privacy notice as above.

The person will sign guest house rules. The placement is dependent on the person occupying the accommodation and the person complying with house rules.

This means information may be provided to the Council including in relation to their occupation, behaviour, visitors or concerns about their wellbeing.

This information will normally be provided to the Housing Advice Assistant (who is the central point of contact for hotels and guest house placements) or directly to the homeless case officer or other members of the Housing Advice Team who are dealing with the case.

The information may stay within the homelessness file or in the homelessness email inbox. Information may be recorded on the CRM notes on Abrisas. Abrisas is the electronic system used to administer our choice based lettings scheme Home Choice Plus and Homelessness applications. The system covers Stratford-on-Avon District and two other partnership agencies Bromsgrove District and Wyre Forest. The district Councils and housing associations (who are involved in processing data for nominations), have signed up to a data sharing agreement for the system. This defines how organisations access and use the data in strict accordance with data protection principles. Organisations will have access to the CRM notes for all applicants. In Stratford-on-Avon district, the Council (departments with access include the Housing Advice Team and customer services) and Orbit Housing have access to the system. Some information may be attached to the homeless module on Abrisas but only the Housing Advice Team has access to this. The Council's retention period for the information is six years from the end of the booking period.

As part of the homelessness duties, there is a housing needs assessment to assess the person's housing needs, in addition to the homelessness assessment where the Council assesses, investigates and makes decisions on homelessness duties owed or powers available. A risk assessment will also be completed before someone is placed in hotel or guest house accommodation.

Information disclosed to the Council, may lead to conversations with the person and other referrals, for example, for support or safeguarding referral.

## Step 2: Describe the processing

**Describe the scope of the processing:** what is the nature of the data, and does it include special category or criminal offence data? How much data will you be collecting and using? How often? How long will you keep it? How many individuals are affected? What geographical area does it cover?

The Council would not disclose any special or criminal offence data to the Provider. We do not anticipate the Provider will share any special or criminal offence data the person discloses to them, but it is possible the Provider may share information with the Council relating to drug use or violence which occurs in the property.

Data items to be processed would include:

- The name of the homeless person and members of their household
- The applicant(s) telephone number and email address if appropriate (so the Provider can contact them)

#### Information from Provider

- The period and number of nights each household occupies the accommodation during the calendar month (arrival and departure dates)
- The address of the premises for each placement and nightly rate
- The type of agreement/ booking
- Information relating to invoicing including information required by Housing Benefit
- Information relating to the person or a member of their household not occupying accommodation.
- Information relating to issues with the condition of premises and health and safety affecting the person and their household
- Information relating to breach of house rules/behaviour, visitors,
- Information relating to safeguarding issues, risks or any other matters of concern.
- Providing the Council with regular updates of the issues in the accommodation which could lead to people being asked to leave
- Information about removing people from the accommodation, returning keys or removing possessions

**Describe the context of the processing:** what is the nature of your relationship with the individuals? How much control will they have? Would they expect you to use their data in this way? Do they include children or other vulnerable groups? Are there prior concerns over this type of processing or security flaws? Is it novel in any way? What is the current state of technology in this area? Are there any current issues of public concern that you should factor in? Are you signed up to any approved code of conduct or certification scheme (once any have been approved)?

The context of the processing relates to statutory powers and duties under homelessness legislation. The Council has obligations under homelessness legislation to provide accommodation and the personal information that is the subject of this DPIA belongs to people applying for this accommodation. If people do not provide their information or impose unreasonable terms on its use, the Council would not be able to provide accommodation.

The person would expect the Council to use the information for the purpose of their homelessness application and preventing and relieving homelessness. They will have signed up to house rules for hotels and guest houses before being placed in accommodation and their attention has been drawn to the information that could be shared by the Provider with the Council if the house rules are breached.

Hotels and guest houses on the framework have agreed to the terms of the framework and the specification and will have signed the prescribed data processing agreement. There are more risks for hotels and guests houses which are booked outside the framework when there is no availability for temporary accommodation or approved Providers. This is because the



bookings are in line with their own internal policies and procedures and have not been tailored to the Council's requirements through a formal procurement process.

The Council has no control over the systems off-framework hotel or guest houses use, apart from requiring them to comply with data protection/ GDPR, confidentiality and safeguarding requirements.

People placed are likely to include vulnerable groups and potentially children.

**Describe the purposes of the processing:** what do you want to achieve? What is the intended effect on individuals? What are the benefits of the processing – for you, and more broadly?

What we want to achieve for processing the information is:

- To enable hotel and guest houses to be used to fulfil the Council's obligations under homelessness legislation (powers and duties) where other temporary accommodation is not available
- To ensure relevant information is supplied by the Council and Provider to comply with contractual agreements under the call-off arrangements and for invoicing purposes.
- To ensure necessary information is provided in statements to enable people to claim Housing Benefit to recover some of the costs of hotel and guest house placements
- To safeguard the people placed and other people and to review and mitigate risks
- To enable the Provider to supply information to the Council where they have concerns about people not occupying the accommodation, not complying with guest house rules and to assess, review, and inform conversations and decisions regarding homeless placements. Information can also assist the Council to review with the person their personal housing plan, any referrals and whether it is appropriate to liaise with other agencies including around needs assessments and support planning and preventing and relieving homelessness.
- For the prevention and detection of crime (including fraud)

### Step 3: Consultation process

**Consider how to consult with relevant stakeholders:** describe when and how you will seek individuals' views – or justify why it's not appropriate to do so. Who else do you need to involve within your organisation? Do you need to ask your processors to assist? Do you plan to consult information security experts, or any other experts?

We have reviewed the best way to procure this type of accommodation in order to be compliant with procurement regulations.

It is not necessary to consult further as we need to use hotels and guest houses where no other accommodation is available to be legally compliant in fulfilling homelessness statutory duties. The information processed is the minimum required for the Council to fulfil its legal obligations as necessary in a fair and reasonable manner to all parties concerned.

### Step 4: Assess necessity and proportionality

**Describe compliance and proportionality measures, in particular:** what is your lawful basis for processing? Does the processing actually achieve your purpose? Is there another way to achieve the same outcome? How will you prevent function creep? How will you ensure data quality and data minimisation? What information will you give individuals? How will you help to support their rights? What measures do you take to ensure processors comply? How do you safeguard any international transfers?

Our lawful basis for processing relates to the local authorities' legal obligations under homelessness legislation.

It is essential that information is disclosed to the hotel or guest house to enable people to be placed in accommodation where there is a discretionary power or duty to accommodate.

The Council has a duty of care and will risk assess for hotel and guest house placements. It is therefore necessary for relevant personal information to be processed by the Council so it can protect, and safeguard households placed in hotel and guest house accommodation and also protect and safeguard hotel and guest house proprietors and their staff.

As we have duties to assess housing needs and assess duties under homelessness legislation and discharge duties as appropriate, it is necessary and proportionate that we request that the hotel and guest house shares information with us.

'Function creep' will be prevented by clearly setting out requirements in the framework agreement and specification. Data quality and minimisation will be ensured by careful recording of personal information in the first instance and only information necessary for assessing provision of accommodation will be collected.

When people apply for accommodation, they will be referred to the Council's housing and homelessness privacy notice, which is available on the Council's website. The privacy notice will specify exactly how information will be used and who it will be shared with. The privacy notice also sets out the data protection rights of individuals. The Council will help to support people's rights by having in place measures and staff training to avoid data breaches, unlawful sharing and ensure compliant responses to subject access requests and other requests under the data protection legislation. Providers will be processors under the terms of the framework agreement and are required to sign up to a specific data processing agreement to ensure compliance. The data processing agreement also contains provisions safeguarding international transfers.

The Council has a policy in relation to data retention and destruction.

## **Step 5: Identify and assess risks**

<b>Describe source of risk and nature of potential impact on individuals.</b> Include associated compliance and corporate risks as necessary.	<b>Likelihood of harm</b>	<b>Severity of harm</b>	<b>Overall risk</b>
<p>The homeless person disclosed sensitive information to the Provider and they disclose the information to a third party. The severity of harm will depend on the nature of information disclosed and how the third party uses the information. For example, a perpetrator of domestic abuse may use the information to identify the victim’s location and to cause harm. Risks relate to a lack of compliance relating to data protection principles from the hotel or guest house.</p> <p>Risks relating to information not being disclosed quickly, safely, or securely to other agencies such as the police, safeguarding, community safety, the Housing Advice Team, for example, in relation to county lines risks in the accommodation.</p> <p>Information disclosed to the Council for the purpose of assessing homelessness applications used for slightly different purposes, for example, by Orbit in relation to housing nomination.</p>	<p>Remote, possible or probable</p> <p>Remote</p> <p>Remote</p> <p>Possible</p>	<p>Minimal, significant or severe</p> <p>Significant</p> <p>Significant</p> <p>Minimal</p>	<p>Low, medium or high</p> <p>Medium</p> <p>Medium</p> <p>Low</p>


## Step 6: Identify measures to reduce risk

**Identify additional measures you could take to reduce or eliminate risks identified as medium or high risk in step 5**

<b>Risk</b>	<b>Options to reduce or eliminate risk</b>	<b>Effect on risk</b>	<b>Residual risk</b>	<b>Measure approved</b>
		Eliminated reduced accepted	Low medium high	Yes/no  Yes
Risks of hotel or guest house disclosing information from homeless person to third party	Requirements in relation to data protection outlined in framework agreement/ specification.  New Providers can be sent information on Data Protection Act/ GDPR to try and ensure they are aware of their responsibilities.	Reduced	Low	
Risk of other organizations using information disclosed for other purposes	Ensure that sensitive information attached to a homelessness file is not on CRM. Data under Home Choice plus covered by data sharing agreement.	Eliminated		Yes
Information not disclosed quickly and safely	To encourage Providers to contact the police if required if they have concerns about the prevention or detection of crime. The specification details the importance of information being disclosed quickly to the Council also, for example, regarding the breach of house rules.  The specification refers to Providers following	Reduced	Low	

	<p>relevant safeguarding procedures.</p> <p>The Council will always review risk assessments where new information is received, where required to mitigate risks to the homeless person and other people.</p>			
--	--	--	--	--

### Step 7: Sign off and record outcomes

Item	Name/position/date	Notes
Measures approved by:	<p>Head of service –</p> <p>Senior Information Risk Owner –</p>	Integrate actions back into project plan, with date and responsibility for completion
Residual risks approved by:	<p>Head of service –</p> <p>Senior information risk owner –</p>	If accepting any residual high risk, consult the ICO before going ahead
DPO advice provided:	Pavanjit Mann – 17/11/2023	DPO should advise on compliance, step 6 measures and whether processing can proceed
Summary of DPO advice:		
DPO advice accepted by:		If overruled, you must explain your reasons

Comments:		
Consultation responses reviewed by:		If your decision departs from individuals' views, you must explain your reasons
Comments:		
This DPIA will kept under review by:		The DPO should also review ongoing compliance with DPIA

Signed by SIRO-*M Eccleston*- 1<sup>st</sup> November 2023