

# **New Supply Shared Equity Scheme**

## **Administrative Procedures**

**July 2014**  
**Updated October 2014**

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## Introduction

These administrative procedures provide detailed operational guidance for Registered Social Landlords and grant providers<sup>1</sup> on the New Supply Shared Equity scheme. They contain information on the following:

- the New Supply Shared Equity scheme (section one);
- advice on the local targeting and publicising of the scheme, establishing affordability and conducting means testing (section two);
- the grant administration procedures (section three);
- the arrangements for monitoring who is housed (section four);
- the procedures to be followed when an owner wishes to increase their equity stake in their property (section five);
- Owners wishing to remortgage their property (section six);
- Owners wishing to sell their property (section seven); and
- the procedures to be applied when adding or removing a person from the shared equity legal documentation (section eight);
- information on buybacks and resales where there is a golden share in operation (section nine);
- Post Sales duties for Registered Social Landlords (section ten)
- the Scottish Government's Area Housing Supply Teams (section eleven).

These procedures also contain:

- the legal documentation for the New Supply Shared Equity scheme (Annexe A);
- the application form which Registered Social Landlords **must** ask individuals to complete when they are applying to the New Supply Shared Equity scheme (Annexe B);
- individual case studies for establishing affordability and conducting means testing (Annexe C);
- financial appraisal examples (Annexe D) for approvals under the Affordable Housing Supply Programme Approvals

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<sup>1</sup> The grant provider means the Scottish Ministers or a local authority, whichever has responsibility for managing development funding in an individual local authority area. Where however the grant provider is the local authority the registered social landlord will still have various obligations to the Scottish Ministers including payment of all sums received under the Shared Equity Agreement.

- the standard style of grant offer that Registered Social Landlords **must** enter into with grant providers (Annexe E) for approvals under the Affordable Housing Supply Programme Approvals
- a copy of the form that Registered Social Landlords **must** complete each time a property is sold (Annexe F);
- a copy of the form that Registered Social Landlords **must** complete each time an owner increases their equity stake in a property (Annexe G);
- an illustration of how a financial reconciliation **must** be calculated each time an owner increases their equity stake in a property (Annexe H);
- a copy of the form that Registered Social Landlords **must** complete each time a property is sold on the open market (Annexe I); and
- a copy of the form that Registered Social Landlords **must** complete each time a property with a golden share is bought back and re-sold (Annexe J).

Please note that throughout these procedures the term ‘Registered Social Landlord’ should be taken to include wholly-owned subsidiaries where they are the chosen vehicle for providing New Supply Shared Equity properties. In addition, any reference to rights and obligations contained in documentation is purely for convenience and regard can only be had to the documentation itself upon which appropriate legal advice should be taken.

Any queries regarding these procedures should be referred in the first instance to the relevant Scottish Government Area Housing Investment Team. Details are in section eight.

When reference is made within this document to Scottish Government Solicitors, this means Harper Macleod LLP, The Ca’d’oro Building, 45 Gordon Street, Glasgow, G1 3PE.

# Section One

## The New Supply Shared Equity scheme

### An introduction

1.1 **The New Supply Shared Equity scheme is part of the range of assistance from the Scottish Government under the Low-Cost Initiative for First Time Buyers ('LIFT'). It aims to help people on low to moderate incomes access home ownership and to buy a new build home from a Registered Social Landlord.**

1.2 The methodology for providing New Supply Shared Equity is set out in these procedures. In summary, grants are provided to Registered Social Landlords to enable them to develop or purchase properties which are sold at a proportion of market value. In return, owners enter into shared equity agreements with the Scottish Ministers which are secured by an appropriately ranked standard security.

1.3 Accordingly, Registered Social Landlords are – in certain cases – acting as principals (in relation to the procuring of developments) and in other cases (for example in all aspects of the Shared Equity arrangements with a purchaser) acting as agents for the Scottish Ministers. In all circumstances, however, Registered Social Landlords **must** follow these administrative procedures and have due regard to the interests of the Scottish Ministers. They must also ensure that all duties of care owed to them by their advisors and contractors (including valuers) are properly extended to the Scottish Ministers.

1.4 The New Supply Shared Equity scheme aims to help all first-time buyers, and must be promoted actively to social renters, i.e. people who currently rent from either a Registered Social Landlord or a local authority, serving members of the armed forces, veterans who have left the armed forces within the past two years, and widows, widowers and other partners of service personnel who have been killed recently whilst serving in the armed forces. Practical advice to assist with the local targeting of the scheme, and further information on some of the target groups to be housed, can be found in section 2.

1.5 People buying a New Supply Shared Equity property from a Registered Social Landlord must generally take an equity stake of between 60 and 80 per cent of the market value of the property, as set by the District Valuer. The grant provider may however agree to reduce the minimum equity stake to 51 per cent. This is likely to apply where a housing market is particularly pressured, or where people with particular housing needs have identifiable additional housing costs (see section 2.33).

1.6 The grant provider may waive the minimum equity stake requirement for existing owner occupiers whose homes are scheduled for demolition. They would be expected to invest, as a minimum, the value of their existing property in an equity stake of the new property. If there is any likelihood of the equity stake being funded purely from the value of the existing property with no lending from an external source it is important that the relevant Scottish Government Area Housing Supply Team is advised at as early a stage as possible. In all cases, the maximum initial equity stake that any purchaser can take is 80 per cent of the market value of a property.

1.7 The level of equity stake that the Scottish Ministers will have in a property depends on the level of equity stake taken by a purchaser. For example, if a purchaser has an equity stake amounting to 60 per cent of the market value of a property, the Scottish Ministers would have a 40 per cent equity stake in the market value of that property.

1.8 Registered Social Landlords must inform applicants that they are expected to make payment of all sums due under the New Supply Shared Equity Scheme when they sell their home. Registered Social Landlords should note that one of the main changes to the shared equity legal documentation which is being introduced in these March 2014 administrative procedures is that the shared equity arrangements between Scottish Ministers and individual shared equity owners will run indefinitely and that owners will not be required to grant a replacement standard security in the nineteenth year after their purchase of their property in order to address the legal implications of the “20 year security rule”. Scottish Government proposes to make an amendment to the 20 year security rule as part of the Housing Bill which was introduced to the Scottish Parliament on 21 November 2013. The amendment aims to remove the right to redeem securities after 20 years for those participating in designated schemes including the New Supply Shared Equity scheme. The style of legal offer to sell which is set out in Annexe A has therefore been amended to include a clause bringing this matter to the attention of purchasers and their solicitors.

1.9 With the exception of existing owner occupiers whose homes are scheduled for demolition, people buying a New Supply Shared Equity property must be means tested in order to establish eligibility (see section 2).

### **The responsibilities associated with buying a home under the scheme:**

1.10 An applicant will be responsible for their own legal and valuation costs incurred in relation to the purchase, and for all tax and registration costs. Unlike shared ownership, an owner will have full title to the property and will not make occupancy payments.

1.11 An owner is expected to occupy the property as their only residence and they will be responsible for keeping the property in a good and habitable state of repair. As well as making mortgage repayments and paying tax to their local authority, an owner must also insure their property. An owner is responsible for all maintenance, repair and insurance costs and not just a percentage, and if the property has common and shared areas they will be responsible for paying any common maintenance or service charges.

1.12. In so far as practicable, Registered Social Landlords should provide applicants information on common maintenance and/or service charges, and the Homes Buyers Warranty at an early stage as well as reliable and realistic information about when the construction of the property may be finished and other matters referred to in the Consumer Code for Home Builders (see below).

1.13 Registered Social Landlords are expected to follow the Factoring Guidance published by the Scottish Federation of Housing Association. More information can be found at <http://www.sfha.co.uk/sfha/publications/factoring-guidance-booklet>

1.14 An owner is not allowed to let or sub-let the property or any part of it without the Scottish Ministers' prior written consent. (As noted in section 1.3 above, Registered Social Landlords will act for the Scottish Ministers in this regard.) If consent is granted, this will be time-limited to no longer than a 12 month period if the property is to be let given that an owner is expected to occupy the property as their sole residence. This allows an owner to retain the property, for example when working away from home, without compromising the principles of the scheme. In either case, no rental proceeds will be due to the Scottish Ministers. If required, under the terms of their mortgage, an owner is expected to inform their lender that they wish to let or sub-let the property. If at the end of the 12 month period, an owner is seeking an extension to sub-let the property, further consent will need to be sought.

1.15 Save in very limited circumstances all private landlords must register with their local authority to ensure that they are a "fit and proper person" to let property. It is an offence to let any house without being registered. Further information on the registration process is located on the Scottish Government website at <http://www.scotland.gov.uk/Topics/Built-Environment/Housing/privaterent/landlords/registration>).

1.16 Any consent to sub-let a property will be conditional on appropriate certification on registration; length and nature of tenancy and other consents including that of the Primary Lender. Further details including relevant correspondence are set out in the After Sale Shared Equity Procedures ("ASSEP Procedures") A copy of the ASSEP Procedures can be found on the Scottish Government website at [www.scotland.gov.uk/LIFT](http://www.scotland.gov.uk/LIFT).

1.17 Registered Social Landlords should make sure that applicants are made aware of these obligations (and the associated financial responsibilities) when they apply for a New Supply Shared Equity property and recommend that they fully discuss these and all other costs and restrictions – whether arising from the shared equity documentation, the primary lender's documentation or otherwise – with their financial and legal advisers.



## **Property disposals**

1.18 Section 107 of the Housing (Scotland) Act 2010 states that Registered Social Landlords must obtain written consent from the Scottish Housing Regulator for certain disposals of land or property. New Supply Shared Equity properties are covered however by the General Consent issued by the Scottish Housing Regulator dated 2<sup>nd</sup> April 2012. As a result, disposals under the New Supply Shared Equity scheme do not require the specific written permission of the Scottish Ministers.

## **Processing legal documentation – projects approved after 12 May 2009**

1.19 Annexe A contains the standard styles of legal documentation to be used when operating the New Supply Shared Equity scheme. A central conveyancing contract has been established under the Scottish Government Framework Agreement for the provision of legal services for the New Supply Shared Equity scheme for all projects entered into after 12 May 2009. Scottish Government Solicitors have been appointed to carry out this work and they will liaise closely with the Registered Social Landlord and their solicitors. Harper Macleod are currently the solicitors appointed by Scottish Government to carry out this work.

1.20 In essence Scottish Government Solicitors will deal with the shared equity agreement, standard security and ranking agreement between the Scottish Ministers, the purchaser and the primary lender. Everything else including acquisition, title examination, burdens/deed of conditions/development management scheme/disposition of individual houses, searches etc will be dealt with by the Registered Social Landlord's own solicitor.

1.21 This will ensure that lines of responsibility to both the Registered Social Landlord and the Scottish Ministers are clear and avoids any duplication of title work or additional costs.

1.22 Annexe A also contains a standard style of offer to sell and draft disposition with provisions which solicitors should complete subject to any amendments and all additions which they and the Registered Social Landlord deem necessary and/ or desirable in accordance with good market practice and the nature of the development as well as the principles underpinning the Consumer Code for Home Builders (referred to below). This will include inserting plan(s) and conveyancing descriptions in order to ensure uniformity across the site and may include a draft Deed of Conditions or development management scheme.

1.23 Once agreed, the Registered Social Landlord's solicitors should make a formal offer to sell to the solicitors acting for the purchaser.

1.24 If accepted the Registered Social Landlord's solicitors will progress the sale of the plot in the normal manner in accordance with their duty of care whilst Scottish Government Solicitors will deal with the shared equity documentation shown in Annexe A.

## **Processing legal documentation – projects approved before 12 May 2009**

1.25 Where the project was approved before 12 May 2009 solicitors acting for the Registered Social Landlord shall continue to act for the Scottish Ministers in accordance with this section and the terms of the relevant Grant Agreement signed at the time the project was entered into.

1.26 **Authorised officials of the Scottish Government Housing, Regeneration and Welfare Directorate must sign every Minute of Agreement and Ranking Agreement on behalf of the Scottish Ministers their contact details can be found in section eight<sup>2</sup>.**

1.27 Where the project is approved **before 12 May 2009** Registered Social Landlords must therefore ensure that this legal documentation is sent to the relevant Scottish Government Area Housing Supply Team for signing before completing a transaction. Solicitors acting for Registered Social Landlords must build in sufficient time to allow for the documentation to be signed and returned when agreeing settlement dates.

**The following standard certification must accompany the legal documentation when it is submitted for signing:**

*I/ We enclose for signature the Minute of Agreement and Ranking Agreement relating to the following transaction:*

*The RESOURCE system reference number:*

*Original scheme name:*

*Property address:*

*Date of settlement:*

*I/ We certify on behalf of [insert name of Registered Social Landlord] that the legal documentation presented for signature is in strict accordance with current guidance for Scottish Government Shared Equity schemes.*

1.28 The solicitors should also complete the standard style of offer to sell and draft disposition and any Deed of Conditions/Development Management Scheme and make a formal offer to sell to the solicitors acting for the purchaser in accordance with Clauses 1.17 to 1.20. If accepted the Registered Social Landlord's solicitors will progress the sale of the plot and the completion of the shared equity documentation in the normal manner in accordance with their duty of care.

1.29 Registered Social Landlords must also ensure that they have all appropriate licences and authorisations for consumer credit purposes in relation to their role in the administration of NSSE transactions. As a consequence of responsibility for the

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<sup>2</sup> Registered social landlords will be notified of any future amendments to the structure of the Housing, Regeneration, and Welfare Directorate.

regulation of consumer credit being transferred from the OFT to the Financial Conduct Authority (FCA) with effect from 1<sup>st</sup> April 2014, any applications for authorisation after that date must be made to the FCA. While Scottish Government cannot provide Registered Social Landlords with advice on which FCA authorisations may be required, the detailed regulations on which activities are regulated by the FCA were amended with effect from 27 June 2014 to provide that “credit broking” is not a regulated activity for which FCA authorisation is required where the broking relates to a secured loan provided by either the Scottish Ministers or a registered social landlord, which means that Registered Social Landlords should not require authorisation for “credit-broking” in relation to NSSE. It is possible, however, that authorisation may still be required for Category F (debt collecting) and/or Category G (debt administration). Registered Social Landlords may wish to consider guidance that has been provided to them by the Scottish Federation of Housing Associations on this particular issue.

1.30 Registered Social Landlords should comply with all relevant Guidance Notes related to the Affordable Housing Supply Programme and New Supply Shared Equity Scheme. A copy of all guidance notes is located at <http://www.scotland.gov.uk/Topics/Built-Environment/Housing/investment/guidancenotes>

## Section Two

### Targeting and publicising the scheme, establishing affordability and conducting means testing

#### Scheme targeting

2.1 The New Supply Shared Equity scheme is targeted at three types of project:

**Type 1** – Projects which grant fund Registered Social Landlords to build new properties for sale on a Shared Equity basis.

**Type 2** – Projects which grant fund Registered Social Landlords to purchase properties at an appropriate discount from private developers for onward sale to Shared Equity purchasers.

**Type 3** – Projects which grant fund Registered Social Landlords to develop new properties for sale on a Shared Equity basis to existing owner occupiers whose homes are scheduled for demolition and who wish to participate in an agreed area redevelopment plan.

#### Type 1 and Type 2 projects

2.2 The majority of funding under the New Supply Shared Equity scheme is directed towards increasing the supply of affordable housing in and around pressured housing markets<sup>3</sup>. There is a recognised need however for flexibility in developing local responses to local housing market circumstances. As a result, the scheme can also be an option in other areas where there is an identifiable local need.

2.3 The following sections provide advice for grant providers and Registered Social Landlords on the local targeting of Type 1 and Type 2 projects. They also set out the criteria which Registered Social Landlords must use when means testing potential purchasers. Where the project is a Type 3 the Scottish Government must be advised at an early stage whether or not there will be a primary lender (see section 1.6) and also whether the project will be carried out by the Registered Social Landlord or a subsidiary.

#### The approach to targeting

2.4 In establishing key target groups and developing a programme that is responsive to local circumstances the following stages should be followed when targeting the New Supply Shared Equity scheme:

- establish the strategic and local housing market context;
- identify the target group(s) to be housed;

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<sup>3</sup> A 'pressured market' is an area where demand for housing outstrips supply, pushing prices beyond an affordable level for large numbers of people. These areas are identified in local authority Local Housing Strategies. They should not be restricted to 'pressured market area' status for the purposes of Right to Buy.

- identify the appropriate location, type and purchase price of new development; and
- establish affordability and conduct means testing.

### **Delivering better places**

2.5 The Scottish Centre for Regeneration, the Royal Institution of Chartered Surveyors Scotland and Architecture and Design Scotland have worked with the University of Glasgow to create a good practice guide entitled '*Delivering Better Places in Scotland: A Guide to learning from broader experience*'. The aim of the guide is to help public, private, and community stakeholders identify good practice and improve their understanding of delivering better places. A copy of the guide can be found on the Scottish Government's website

<http://www.scotland.gov.uk/Publications/2010/12/31110906/0>.

Section 11: Creating better places: case study profiles and reports

<http://www.scotland.gov.uk/Publications/2010/12/31110906/11> details case studies from a number of European countries chosen as development exemplars at both greenfield and brownfield locations.

### **Establishing the strategic and local housing market context**

2.6 Priorities for affordable housing should be set out clearly in strategy documents such as Local Housing Strategies (LHSs) and associated Strategic Housing Investment Plans (SHIPs), as well as local authority affordable housing policies. The following questions should be considered when establishing the strategic and local housing market context for New Supply Shared Equity projects:

#### **Questions to consider:**

- What are the housing priorities in the local area?
- What are the main regeneration priorities in the area?
- Where are the local pressured housing markets?
- What are the investment priorities in relation to the supply of affordable housing?
- What groups are in particular housing need?
- Are there opportunities for identified needs to be met without the need for subsidy?
- Who can New Supply Shared Equity help, both directly and indirectly?

### **Likely information sources will include:**

- Local Housing Strategy
- Local Strategic Housing Investment Plan
- Affordable Housing Policy
- Local housing market studies and needs assessments

### **Identify the target group(s) to be housed**

2.7 While there should be flexibility in defining the target group(s) to be housed, target group(s) must fit the national objective of supporting households on low to moderate incomes who cannot buy a home without assistance from the scheme. There should be a particular focus on first-time buyers, social renters, and people in the Armed Forces and veterans who have left the forces in the past two years being given priority access to the scheme.

2.8 New Supply Shared Equity may also be used to provide affordable home ownership for:

- those currently living in the social rented sector who aspire to home ownership;
- existing or previous home owners unable to sustain or move back into home ownership due to a significant change in household circumstances; and
- those with particular needs unable to purchase a house suitable for their needs.

2.9 Registered Social Landlords must make sure that duties under the (a) Statutory Code of Practice on the Duty to Promote Race Equality in Scotland, (b) Statutory Code of Practice on Racial Equality in Housing: Scotland, and (c) Duty to Promote: Statutory Code of Practice Disability Equality Duty – Statutory Code of Practice: Scotland are met when targeting the New Supply Shared Equity scheme.

2.10 Non-United Kingdom nationals are eligible for assistance under the New Supply Shared Equity scheme so long as they do not have a home elsewhere and meet any other eligibility criteria set for the scheme.

2.11 In addition to the strategic information contained within the LHS and SHIP, grant providers and Registered Social Landlords will have to consider detailed information on current market prices and local income levels. This information is available from a range of sources including recent needs assessments, periodic reports from lenders, and from data sources such as the Registers of Scotland.

2.12 Care should be taken in considering the types of housing required. Whilst the primary focus of New Supply Shared Equity is to meet the needs of first-time buyers, this does not necessarily mean the need is solely for 'starter homes'.

2.13 Grant providers and Registered Social Landlords must be satisfied that the target client group(s) cannot reasonably meet their needs within the locality through buying on the open market without subsidy.

**Questions to consider:**

- What are the typical prices in identified local pressured markets for houses of various size/type?
- Can reasonable 'average' prices be established locally?
- What income levels are required to purchase in these markets?
- In unexceptional circumstances what income levels would be too low to participate in New Supply Shared Equity?
- Can reasonable 'average' income levels be established locally?
- Are there types/ sizes of housing in particular demand?
- What types of household are excluded from buying on the open market?
- Are there identifiable groups of people excluded from purchasing?

## **Likely information sources:**

### *Housing market prices:*

- Local housing needs assessments (existing or commissioned)
- Periodic reports from lenders (available online)
- Local advertising
- Registers of Scotland – Sasine data

### *Local income levels:*

- Local housing needs assessments (existing or commissioned)
- Salary indicators (such as CACI Paycheck)

## **Identify the appropriate type, purchase price and location of the development**

2.14 With a clear view established on the groups of people that New Supply Shared Equity should benefit locally, developing Registered Social Landlords – in partnership with local authorities – should consider first the type of housing needed, then the appropriate price of housing to be developed, and finally where that development should be located.

### ***Type***

2.15 New housing developed for New Supply Shared Equity must meet the basic standard Housing for Varying Needs requirements, on the same basis as other grant-aided projects. In some cases the need to provide a higher standard of accessibility will need to be considered.

2.16 Purchasers are not allowed to buy a house which is more than two bed spaces larger than their current need, unless there are exceptional reasons – for example due to disability or family breakdown. In the case of someone with particular housing needs arising from a disability, professional advice should be sought to determine any need for larger accommodation over and above this limit. In the case of family breakdown, the number of people in the household **may** include children who only spend part of the time in the property due to parental shared access. Evidence would need to be provided however to demonstrate the need for larger accommodation in such cases.

### ***Price***

2.17 Projects should be developed which produce housing at a value appropriate to the income level of the client group(s). The income level of the target group(s) and hence the purchase price that can be afforded with grant support will be an important factor in determining where New Supply Shared Equity takes place.



## ***Location***

2.18 The housing developed should be both within the means of the target group(s) and in the appropriate location, taking into account factors such as travel to work times and proximity to schools and community amenities.

2.19 As noted previously, New Supply Shared Equity primarily aims to increase affordable housing 'in and around' pressured housing markets. Where there is tension between the cost of development within a particular area and providing affordable prices for the intended group, grant providers and Registered Social Landlords will have to make a judgement about developing outside the area – in a location that is still appropriate for the intended group(s). In all cases, location should also reflect LHS and SHIP priority areas for investment.

### **Questions to consider:**

#### *Type:*

- What size and type of housing is needed for the identified target group(s)?
- Does the project meet the basic Housing for Varying Needs standards and does an enhanced level of accessibility need to be provided?
- Are the proposed homes suitably flexible/ adaptable for future use?

#### *Price:*

- Given the income levels of the identified groups, what price of house can each group afford?

#### *Location:*

- Where are the LHS and SHIP priority areas for investment?
- Could the target group(s) reasonably meet their housing needs by buying without the need for subsidy – or for less subsidy – in a nearby area that is still convenient for travel to work, school, community facilities etc?

### **Likely information sources:**

- Local Housing Strategy
- Local Strategic Housing Investment Plan
- Local housing needs assessments (income levels of target group(s))
- Local house prices
- Development costs – current land costs, building costs etc.
- Housing for Varying Needs guidance

### **Publicity**

2.20 Registered Social Landlords should ensure that any publicity material they produce for projects meets all statutory requirements and is discussed in advance with their advisers and the trading standards department of the relevant local authority.

## **Establish affordability and conduct means testing**

2.21 Whilst the market assessment will provide information on the broad income levels of those households who are unable to enter the home ownership market as a result of market pressures being experienced locally, Registered Social Landlords **must** undertake a detailed financial assessment of individual household circumstances using the criteria set out below. This information will be obtained from the standard application form which Registered Social Landlords **must** ask prospective purchasers of properties in Type 1 and Type 2 projects to complete when they are applying to the scheme (Annexe B). (In the case of Type 3 projects, Registered Social Landlords should note that existing owner occupiers whose homes are scheduled for demolition do not need to complete the standard application form in order to demonstrate eligibility.)

2.22 The underlying principle of this is that the applicant purchases the maximum amount of equity that they can reasonably afford, taking account of other financial commitments and the associated costs of home ownership. Grant providers and local authorities may provide guidelines on the maximum income levels of applicants which Registered Social Landlords may, in turn, publish as part of their eligibility criteria. Care should be taken to ensure that these take account of applicants with particular needs (see section 2.33).

2.23 The maximum level of mortgage that the applicant is capable of funding and any other personal contribution they are able to make will be based on the following criteria.

### **Income assessment**

An applicant should provide the Registered Social Landlord with details of all sources of finance when formally applying to the scheme (see Annexe B). This information will be used by the Registered Social Landlord to determine the anticipated value of mortgage finance, and the value of any other personal contributions. A household income will be considered to be the total of:

- gross earnings, per single person or couple, as appropriate;
- any other income, comprising sickness benefits, unemployment benefit, bank interest, superannuation or pension from previous employment, working families tax credit, widow's pension and shareholder's profits; and
- personal contributions comprising savings, gifts or other financial contributions. The definition of personal savings includes: cash; Premium Bonds; stocks and shares; unit trusts; bank or building society accounts and fixed-term investments; the surrender value of any endowment policies; property; redundancy payments; and pension lump sum payments.

An applicant may retain £5,000 of any personal contributions held. Above this amount, 90 per cent of the balance will be treated as a contribution towards the purchase of a property.

2.24 A 'rule of thumb' for the estimated maximum mortgage for an applicant in employment would be as follows:

- individual application – individual salary x 3.0 = estimated maximum; or
- joint application – joint salary x 2.5 = estimated maximum.

2.25 In the event that it is a joint application but only one applicant works then the individual application rule would apply.

2.26 Registered Social Landlords should note that the 'rule of thumb' will not be appropriate in the case of applicants who are self employed. Normally lenders will require sight of a minimum number of years' accounts before providing a mortgage quote although some allow self employed people to self certify their income.

2.27 An applicant should provide details of the anticipated level of mortgage finance available. Applicants are normally required to provide quotes from three different lenders. Where this is not possible, there should be clear justification of the reasons. Applicants should be able to obtain quotes that do not involve a credit search. Searches can leave 'footprints' on the applicant's credit history which may affect the applicant's ability to obtain credit. An applicant should therefore be made aware of the need to confirm with the lender whether a quote will include any form of credit search. If a quote does require a credit search the lender should explain to an applicant any potential consequences. The lender should also obtain the applicant's consent before carrying out the search.

2.28 The 'rule of thumb' should be used to compare the quotes provided by the three mortgage lenders approached by an applicant. In the event that the level achieved by an applicant is less than the rule of thumb, an applicant must provide justification. If the level achieved by an applicant is more than the rule of thumb, an applicant must provide evidence that they have taken independent financial advice, reference to which is made in section 2.29 below.

2.29 The issue of how any debts incurred by applicants are treated will require to be considered by Registered Social Landlords. Secondary loans incurred for housing purposes, essential transport costs, or to meet care and support costs may be taken into account. However, Registered Social Landlords may also decide to consider other loans.

2.30 Where an applicant with particular needs will be using their benefit entitlement to support a mortgage, a multiplier will be an inappropriate measure. The assessment should therefore be conducted using knowledge of the benefit entitlements of disabled people, reference to which is made in section 2.33 below.

2.31 Having satisfied the Registered Social Landlord of the maximum level of funds the applicant can raise, it becomes self evident whether they satisfy entry into the scheme financially and the maximum level of equity they can afford to purchase.

2.32 It is also essential that applicants are fully aware of their housing related costs and the financial responsibilities that come with home ownership. At a local level this should be done through:

- Registered Social Landlords encouraging applicants to seek independent legal and financial advice on all housing related costs at the earliest possible stage;
- ensuring well designed servitudes and burdens/deeds of condition are produced at an early stage particularly in the case of properties with common and shared parts and considering the introduction of development management schemes (as set out in the Title Conditions (Scotland) Act 2003); and

2.33 In promoting the scheme, it needs to be made clear that applicants must purchase the maximum level of equity they can reasonably afford, taking into account other financial commitments and the associated costs of home ownership.

2.34 Where households have, of necessity, exceptional housing and living costs which can be evidenced, greater flexibility will be required in the operation of the New Supply Shared Equity scheme. This may result in provision having to be considered in locations that would otherwise not be considered (as a result of support networks, employment or other factors) or accommodation requiring to be purpose designed resulting in additional costs. These factors, together with the additional living costs that such households face, may result in lower levels of equity stake requiring to be considered (to a minimum of 51 per cent). *In addition, in exceptional cases an applicant with a severe disability may have received a compensation payment as a result of an injury. Where the applicant provides evidence that they need to keep funds aside to meet additional living costs (e.g. the cost of employing a carer), such compensation payments should not affect a buyer's eligibility for the scheme and the applicant may not need to meet the standard requirement to put 90% of their savings over £5,000 towards the purchase of a property.*

2.35 There are no set formulae for identifying additional costs but they should be capable of being evidenced by professional supporters or other sources. A means test and affordability exercise consistent with that for other applicants should be undertaken.

2.36 The complexity of mortgages repaid solely through benefits and the issues raised in section 2.27 mean that a Registered Social Landlord should consider the need to employ specialist assistance from an organisation experienced in the issues facing people with particular needs when buying a home.

2.37 Illustrative case studies on establishing affordability and conducting means testing are provided in Annexe C.

## **Section Three**

### **Grant administration procedures**

#### **Making applications for grant funding**

3.1 Registered Social Landlords will receive confirmation of the projects which can be supported in the form of a Grant Offer from the grant provider.

#### **Third party warranties**

3.2 Third party warranty premiums will be eligible for grant funding. Third party warranties are a mandatory grant requirement for Type 1, Type 2 and Type 3 projects.

3.3 The grant provider will accept NHBC Buildmark, Zurich and Premier Guarantee third party warranty schemes cover; or such other third party warranty scheme as may be acceptable in terms of the Council of Mortgage Lenders' Handbook for Scotland.

3.4 In situations where the Registered Social Landlord owns the land which is to be developed for New Supply Shared Equity, NHBC Buildmark and Premiere Guarantee each require the land owner and builder to be registered under their respective warranty so that effectively a double registration premium is required. A second registration premium will be eligible for grant funding only where it can be demonstrated that this provides value for money.

#### **Grant payments**

3.5 Registered Social Landlords should refer to the terms of the Grant Offer Letter to determine when Grant payments will be made.

#### **Post-completion procedures**

The following sections will apply to all relevant projects approved under the Affordable Housing Supply Programme.

3.6 Part 5.2 of the HAG Procedures Guide describes the post completion procedures for HAG funded projects. These procedures also apply to the administration of New Supply Shared Equity projects.

3.7 Registered Social Landlords should therefore make a Form HAG/Completion submission to the grant provider within one month of the date of sale of the last house in the project or within three months of practical completion (as defined in sections 3.15 and 3.16 below), whichever is the earlier.

3.8 Type 1 and Type 3 projects reach practical completion when:

- the properties are certified as such by the project architect/ supervising officer; and
- they have been approved by the local authority for occupation.

3.9 For Type 2 projects, practical completion is the date on which grant was paid by the grant provider.

3.10 Where property sales have not been completed within these timescales, the Form HAG/Completion submitted three months after practical completion will be treated as an interim submission. Updated HAG/Completion forms should be submitted at three monthly intervals thereafter until all properties have been sold.

The following sections will apply to all relevant projects approved under the Affordable Housing Supply Programme. They will not apply to the Innovation and Investment Fund.

3.11 There are four scenarios where a reassessment of grant may be required at completion stage. These are:

- where unavoidable and unforeseen increases in capital costs have occurred;
- where the housing or tenure mix has changed since tender submission or approval;
- where for justifiable reason sales receipts differ from projected levels; and
- where a substantial reduction in capital costs has occurred.

3.12 Detailed guidance on the reassessment of grant as a result of such circumstances is provided in Part 5.1 of the HAG Procedures Guide. HAG/Completion stage will be used for all projects to assess whether any of these circumstances apply and whether, as a result, any reassessment of the grant limit calculated at tender stage is needed. If this is the case, the information contained in the HAG/Completion form will be used to determine the revised grant limit.

3.13 Annexe D (example 4) illustrates how a re-assessment of grant at completion stage could work in practice for a Type 1 property. In this example, less grant was required at completion stage than had been approved at tender stage. The difference between these two sums must therefore be returned to the grant provider. The principles set out in this example would apply equally to a Type 2 or Type 3 project.

The following sections will apply to all relevant projects approved under the Affordable Housing Supply Programme

## Consumer Code for Home Builders

3.14 Documentation in connection with sales of the new build property under the shared equity arrangement are set out in Annex A. Although the established view is that the Consumer Code (“Code”) for Home Builders ([www.consumercodeforhomebuilders.com](http://www.consumercodeforhomebuilders.com)) does not apply to a sale of this nature, Scottish Ministers take the view that Registered Social Landlords should abide by the spirit of and principles underpinning the Code and that is reflected in the offer.

3.15 Registered Social Landlords should discuss the terms of the Code with their solicitors and adapt to the development as appropriate. Without prejudice to that Registered Social Landlord and their solicitors should note the following:

- If there is a reservation fee payable in advance of formal offer there should be a written Reservation Agreement in terms of and subject to Condition 2 (Information – pre-contract) of the Code
- If there is either no reservation fee or the reservation fee is only payable after conclusion of missives it has been decided that a Reservation Agreement will not be required. Registered Social Landlords should, however, set out clear details of the estimated cost and nature of any management services the Home Buyer must pay for. The offer accordingly requires the solicitor acting for the Home Buyer to confirm as part of his acceptance that this has been done.
- A similar issue arises with the terms of the home warranty where the Home Buyer’s solicitor again agrees on their behalf that the terms of cover have been explained to them
- The covering letter sent to the Home Buyer’s solicitor along with the offer should draw these matters to their attention.
- Registered Social Landlords should as a matter of course provide bespoke advice in relation to Health & Safety precautions and information on:
  - Layout appearance and plot position of the home;
  - List of home’s contents;
  - The standards to which the home is being built.
  - Contact person or personnel

3.16 Once the sale is effected the Registered Social Landlord must be aware that it requires to provide:

- An appropriate after sales service;
- Advice on health & safety precautions when living in a development where building work takes place; and



- An appropriate system and procedures for receiving, handling and resolving buyers service calls and complaints as well as advice on dispute resolution.
- Explanation of the arrangements to complete any work outstanding at hand over.

all in accordance with the Code together with any other matters which may be required in order to comply with the spirit of and principles underpinning the Code.

## Section Four

### Monitoring who is housed

4.1 The Scottish Government monitors who is housed in properties funded by the New Supply Shared Equity Scheme. Registered Social Landlords must return a completed purchase log form (see Annexe F) to the Scottish Government along with a copy of the Grant Payment Form. No grant will be paid by the Scottish Government unless they are in receipt of a completed purchase log form.

4.2 The sales log form is in three parts. The first part (Part A) relates to details of the property that has been bought and is completed by the Registered Social Landlord. The second part (Part B) gives details about the household which has bought the property and is completed by one of the names purchasers. And the third part (Part C) records information about the named purchasers of the property and is completed by **each** named purchaser.

4.3 The Registered Social Landlord must forward Parts B and C of the sales log form to the applicant's solicitor for completion. The applicant's solicitor must ensure that these parts of the form are completed and returned to the Registered Social Landlord before they submit their grant claim to the Scottish Government. The Registered Social Landlord must then complete Part A of the form before submitting both parts of the form to the relevant Scottish Government Area Housing Supply Team.

4.4 Registered Social Landlords should note that the sales log form relates only to the initial sale of properties.

## Section Five

### Owners wishing to increase their equity stake

5.1 In the majority of cases, an owner will have the option of increasing their equity stake after the initial purchase to 100 per cent. In certain circumstances however, such as in areas where there is a constrained supply of affordable housing and limited scope for this supply to be increased, the Scottish Ministers may be allowed to retain a 20 per cent equity stake in the property, known as a 'golden share'. The golden share will generally be used in areas where there are fewest opportunities for supply to be increased - in particular some rural areas.

5.2 The Scottish Government will agree any areas for operation of the golden share with each local authority. The retention of a golden share is secured through the Shared Equity Agreement as provided for in Annexe A.

5.3 At any time after **an owner has moved into a property, an owner can increase their equity stake in that property up to 100 per cent (or up to 80 per cent if there is a golden share). Each equity increase must be for a minimum 5 per cent equity stake.** The table below illustrates how this could work in practice. It uses two examples: one where the Scottish Ministers retain a golden share; the other where there is no golden share.

	<b>Example 1</b> <b>The Scottish Ministers retain a 'golden share'</b>	<b>Example 2</b> <b>The Scottish Ministers have no 'golden share'</b>
Initial equity stake taken by an owner.	65%	65%
Permitted (at least 5 per cent) equity stake increase (to no more than 80 per cent where there is a 'golden share') and allowable at any time after the owner has moved into the property	75%	85%
Further permitted (at least 5 per cent) equity stake increase (to no more than 80 per cent where there is a 'golden share') at any time after the first equity stake increase	80%	95%
Further permitted (at least 5 per cent) equity stake increase (to no more than 80 per cent where there is a 'golden share') at any time after the second equity stake increase	Not applicable	100%

5.4 An owner can increase their equity stake regardless of whether the open market value of their property has increased or decreased. The open market value of the property will be determined by the District Valuer or such other professionally

qualified valuer as agreed between the Scottish Ministers and an owner. The valuation will reflect any improvements carried out to the property by an owner but will disregard matters such as lack of vacant possession, any breach of an owner's obligations, any security or other encumbrance, and any reduction in value caused by adaptations carried out to meet the needs of a disabled person.

5.5 There will be no means testing of owners following the initial purchase. Registered Social Landlords must therefore recommend to owners that they take independent financial advice before increasing their stake in a property.

5.6 An owner will be responsible for meeting all costs (including those incurred by the Registered Social Landlord) when increasing their equity stake.

5.7 Annex H illustrates how a financial reconciliation would work when an owner increases their equity stake from an initial 65 per cent to 85 per cent and then from 85 per cent to 95 per cent and then from 95 per cent to 100 per cent. Although this example uses a property in a Type 1 project, the principles set out therein would apply equally to other types of project.

5.8 Full details of how this increase may be effected together with relevant correspondence are more fully set out in the ASSEP Procedures [www.scotland.gov.uk/LIFT](http://www.scotland.gov.uk/LIFT).

## **Section Six**

### **Owners wishing to Remortgage their property**

6.1 An owner may wish to remortgage and possibly move from one lender to another. Registered Social Landlords administering the scheme will need to establish if there is any element of additional borrowing.

6.2 An owner will be responsible for meeting all costs (including those incurred by the Registered Social Landlord and Scottish Ministers) when remortgaging their home. Registered Social Landlords must provide information on costs to the owner as soon as possible.

6.3 The Scottish Government has prepared ASSEP Procedures for use by Registered Social Landlords administering the Scottish Government's LIFT Scheme. The document contains sample emails and correspondence to be used when a property is remortgaged. A copy of the ASSEP Procedures can be found on the Scottish Government website at [www.scotland.gov.uk/LIFT](http://www.scotland.gov.uk/LIFT).

## **Section Seven**

### **Owners wishing to sell their property**

7.1 If an owner wishes to move from their property and the Scottish Ministers do not have a golden share, the owner can sell the property.

7.2 An owner will be responsible for meeting all costs (including those incurred by the Registered Social Landlord and Scottish Ministers) when selling their home. Registered Social Landlords must provide information on costs to the owner as soon as possible.

7.3 The Scottish Government has prepared ASSEP Procedures for use by Registered Social Landlords administering the Scottish Government's LIFT Scheme. The document contains sample emails and correspondence to be used when a property is sold. A copy of the ASSEP Procedures can be found on the Scottish Government website at [www.scotland.gov.uk/LIFT](http://www.scotland.gov.uk/LIFT).

## **Section Eight**

### **Adding or removing a person to the shared equity documentation**

8.1 An existing shared equity owner may seek to add a person who will assume liability under the shared equity documentation. Alternatively, an existing shared equity owner may seek to remove a person from any liability under the shared equity documentation. In either case, the following procedures must be followed.

8.2 The shared equity owner will be responsible for meeting all costs (including those incurred by the Registered Social Landlord and Scottish Ministers) when adding or removing a person to the shared equity documentation. The Registered Social Landlord must provide an estimate of proposed costs to the owner as soon as possible.

8.3 The Scottish Government has prepared ASSEP Procedures for use by Registered Social Landlords administering the Scottish Government's LIFT Scheme. The document contains sample emails and correspondence to be used when a person adds or removes a person to the shared equity documentation. A copy of the ASSEP Procedures can be found on the Scottish Government website at [www.scotland.gov.uk/LIFT](http://www.scotland.gov.uk/LIFT).

## Section Nine

### Buy back and re-sales – where there is a golden share

9.1 A copy Guidance Note setting out operational guidance for Registered Social Landlords dealing with 'Golden Share' Buy-Backs and re-sales can be found **here**. It is important that these procedures are followed and where the RSL has not been involved with these before or is in any way unsure, they should seek guidance at an early stage.



## **Section Ten**

### **Post Sale Duties for Registered Social Landlords**

10.1 As noted, the Scottish Government has prepared Guidance in relation to information on After Sales Shared Equity Procedures ('ASSEP') for use by Registered Social Landlords. A copy can be found on the Scottish Government website at [www.scotland.gov.uk/lift](http://www.scotland.gov.uk/lift)

10.2 Every five years after settlement of a shared equity transaction, for as long as Scottish Government retains an equity stake in a property, Registered Social Landlords should send a copy letter (the content of which is set out in the ASSEP Procedures ) to a shared equity owner which will advise them to consider purchasing additional equity.

## Section Eleven

### Further information

11.1 For further information, please contact your local grant provider.

#### **For Aberdeen City, Aberdeenshire and Moray Council areas:**

The Scottish Government  
Housing Supply Division  
Housing and Regeneration, Culture and  
the Commonwealth Games Directorate  
Johnstone House (2<sup>nd</sup> Floor – Suite A)  
50 – 54 Rose Street  
**ABERDEEN**  
AB10 1UD  
Tel: 0300 244 9444

#### **For North, South and East Ayrshire, Council areas:**

The Scottish Government  
Housing Supply Division  
Housing and Regeneration, Culture and  
the Commonwealth Games Directorate  
Russell House, King Street  
**AYR**  
KA8 0BG  
Tel: 08457 741 741 (Central Enquiry  
Unit)

#### **For the City of Edinburgh<sup>4</sup>, East Lothian, Fife, Mid Lothian, the Scottish Borders and West Lothian Council areas:**

The Scottish Government  
Housing Supply Division  
Housing and Regeneration, Culture and  
the Commonwealth Games Directorate  
Thistle House (1st Floor)  
91 Haymarket Terrace  
**EDINBURGH**  
EH12 5HE  
Tel: 08457 741 741 (Central Enquiry  
Unit)

#### **For North and South Lanarkshire and Dumfries and Galloway Council areas:**

The Scottish Government  
Housing Supply Division  
Housing and Regeneration, Culture and  
the Commonwealth Games Directorate  
Rex House  
75 Bothwell Road  
**HAMILTON**  
ML3 ODW  
Tel: 01698 420042

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<sup>4</sup> The City of Edinburgh Council is the grant provider for projects in Edinburgh. Authorised officials of the Scottish Government Housing and Regeneration Directorate must however sign EVERY Minute of Agreement and Ranking Agreement on behalf of the Scottish Ministers.

**For Argyll & Bute, Inverclyde,  
Renfrewshire, West Dunbartonshire,  
East Dunbartonshire and East  
Renfrewshire Council areas:**

The Scottish Government  
Housing Supply Division  
Housing and Regeneration, Culture and  
the Commonwealth Games Directorate  
Highlander House  
58 Waterloo Street  
**GLASGOW**  
G2 7DA  
Tel: 08457 741 741 (Central Enquiry  
Unit)

**For the City of Edinburgh Council  
area:**

The City of Edinburgh Council  
Investment Team  
Business Centre 3  
Waverley Court  
4 East Market Street  
**EDINBURGH**  
EH8 8BG  
Tel: 0131 529 7945 or 0131 529 7418

**For Glasgow City<sup>5</sup>, Council areas:**

The Scottish Government  
Housing Supply Division  
Housing and Regeneration, Culture and  
the Commonwealth Games Directorate  
Highlander House  
58 Waterloo Street  
Glasgow  
G2 7DA  
Tel: 08457 741 741 (Central Enquiry Unit)

**For Glasgow City Council area:**

Glasgow City Council  
Development and Regeneration Services  
Exchange House  
229 George Street  
**GLASGOW**  
G1 1QU  
Tel: 0141 287 8555

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<sup>5</sup> Glasgow City Council is the grant provider for projects in Glasgow. Authorised officials of the Scottish Government Housing and Regeneration Directorate must however sign EVERY Minute of Agreement and Ranking Agreement on behalf of the Scottish Ministers.

# Annex A

## Legal Documentation

Dear Sirs

On behalf of and as instructed by our clients ( *insert details*) ("**the Seller**") we hereby offer to sell to your client (*insert details*) ("**the Purchaser**") Plot # (*insert details*) and the house built or to be built thereon (all hereinafter referred to as "the House") on the following terms and conditions:

### 1. Price

- 1.1 The price ("the price") shall be POUNDS (£) STERLING (being % of the current open market value of the House which is (£ ) ( "the Market Value"). If applicable and not already paid, [*a reservation fee and/or*] deposit amounting to (*insert amount*) in total is to be paid by the Purchaser within 7 days of conclusion of the missives of which this offer is part ("**the Missives**") failing which the Seller shall be entitled to resile from the Missives;
- 1.2 On or before 2.30pm on the Due Date
  - 1.2.1. the price together with the costs of the Advance Notice for the Disposition (referred to in Condition 4.2) and the Legal Report (referred to in Condition 6) and any other sums due in terms of the Missives under deduction of the [*reservation fee and/or*] deposit actually paid (all referred to as the "**Acquisition Amount**") shall be paid and
  - 1.2.2. the terms of Condition 8 will have been implemented
- 1.3 Until such time as the terms of both Condition 1.2.1 and 1.2.2 have been purified and payment is made of any sums due pursuant to the Missives the Seller will (a) not be required to give vacant possession and (b) be entitled to payment from the Purchaser at the Seller's option, of one (but not both) of:
  - 1.3.1. ordinary damages in respect of all proper and reasonable losses arising out of such failure to purify (which will include Wasted Expenditure); or
  - 1.3.2. interest shall be payable on the Acquisition Amount outstanding at the Prescribed Rate from the Due Date until the date when payment is made.
- 1.4 If the terms of both Condition 1.2.1 and 1.2.2 have not been purified at any time more than two weeks after the Due Date, the Seller will be entitled to rescind the Missives, and to payment from the Purchaser, at the Seller's option, of one (but not both) of:
  - 1.4.1. ordinary damages in respect of all proper and reasonable losses (which will, without prejudice thereto, include Wasted Expenditure); or

- 1.4.2. liquidated damages, payable on the End Date, calculated as the amount of interest which would have run on the amount of the Acquisition Amount outstanding at the Prescribed Rate from the Due Date until the End Date (under deduction of any amount by which the price obtained by the Seller on a resale of the House - exceeds the Acquisition Amount after making due and proper allowance for any shared equity arrangements applying to the Missives and/or any such re-sale of the House.
- 1.5 The deposit will be held to account of any claim by the Seller under this Condition. The Seller will not be entitled to exercise the above remedies if, but only so long as, any material obligations under the Missives which require to be implemented by someone other than the Purchaser cannot be implemented for a reason other than the act, default or delay of the Purchaser or the Purchaser's agents.
- 1.6 Subject always to the terms of Clause 3.2 (i) delivery of the actual Completion or Occupation Certificate (ii) completion of roads and pavements to local authority standard and (iii) any routine snaggings are not material obligations on the Seller under the Missives.
- 1.7 In this offer:
- 1.7.1. "**Due Date**" means whichever is the later of:
- 1.7.1.1. the Date of Entry; and
  - 1.7.1.2. the date on which payment of the Price was due having regard to the circumstances of the case including any entitlement to withhold payment owing to non-performance by the Seller
- 1.7.2. "**End Date**" means whichever is the earlier of:
- 1.7.2.1. the date falling 12 months after the Due Date; and
  - 1.7.2.2. where the House is re-sold following rescission, the date of entry under the contract of re-sale.
- 1.7.3. "**Missives**" means the missives of which this offer forms part.
- 1.7.4. "**Prescribed Rate**" means the rate of 4% above The Royal Bank of Scotland plc base rate from time to time in force.
- 1.7.5. "**Wasted Expenditure**" means the aggregate of:
- 1.7.5.1. any capital loss sustained on the resale of the House being the difference between the price under the Missives and the resale price under any such resale adjusted to make due and proper allowance for any shared equity

arrangements applying to the Missives and/or any such re-sale of the House;

- 1.7.5.2. any estate agency, marketing and other advertising expenses properly incurred in connection with the resale;
- 1.7.5.3. any legal expenses properly incurred in connection with the resale;
- 1.7.5.4. any common charges, insurance premiums or other charges in respect of the House; and

any additional financing costs incurred by the Seller as a result of not being able to make a partial redemption of funding taken in respect of the House or larger development of which the House forms part.

## 2. Extras/Common Charges

- 2.1 The cost of agreed additions, variations or extras is payable by the Purchaser on demand failing which interest will run on the outstanding sum at the Prescribed Rate.
- 2.2 If a Proprietors' Association has been formed, or a factor appointed, the Purchaser undertakes to pay to the Seller on the date of settlement the proportion of any annual charges due for the period from the date of settlement and/or a reasonable sum as a float towards future expenditure.
- 2.3 By your acceptance hereof you shall be deemed to have confirmed on behalf of the Purchaser that the Purchaser has received an estimate for these charges.

## 3. Date of Entry

- 3.1 The date of entry ("Date of Entry") when, subject to the terms of the Missives, entry and possession will be given to the Purchaser will be either:
  - 3.1.1. ten working days from the latest of (i) the date of Building Completion; and (ii) the date on which either the cover note has been issued in terms of the National House Building Council's/ Premier Guarantee's Registration Scheme ("**the Registration Scheme**") confirming that a final inspection has been carried out by them and that a new home warranty for the House will be provided or the Architect's Certificate has been issued
  - 3.1.2. such other date as is mutually agreed between the parties in writing.
- 3.2 In this Condition, "**Building Completion**" means the House has been passed by the Local Authority Department of Building Control with confirmation that a Completion or Occupation Certificate will be issued by them and the Seller has certified the same to the Purchaser.

- 3.3 The Seller anticipates that Building Completion will occur by ~~•~~("the **Anticipated Date of Entry**")
- 3.4 If Completion has not occurred within [X] months of the Anticipated Date of Entry ("**the Longstop Date**") then the Purchaser is entitled but not bound to terminate the Missives by serving written notice on the Seller's solicitors by recorded delivery in terms of Condition 10 (Notices) setting out the reason for the termination and to the return of the deposit and any reservation fee without deduction.
- 3.5 "**Completion**" means the date of entry or, if later, the date when the purchase price is paid and the purchase of the House is completed in terms of the Missives.

*[Note: [X] months should be a maximum of six months for houses or twelve months for flats if Missives concluded before roof is complete and building weatherproof. If contract concluded at advance stage of construction then maximum two months for houses and four months for flats.]*

#### **4. Title**

- 4.1 In this offer "**Advance Notice**" means an advance notice as defined in Section 56 of the 2012 Act and "**2012 Act**" means the Land Registration etc (Scotland) Act 2012.
- 4.2 The Seller will apply to the Keeper for an Advance Notice for the Disposition, in the form adjusted with the Purchaser to be either (i) entered on the application record for the House or (ii) recorded in the Register of Sasines not earlier than [five] Working Days prior to the date of entry. The cost of the Advance Notice for the Disposition will be met by the Purchaser at Completion.
- 4.3 The Seller consents to the Purchaser applying to the Keeper for Advance Notices, for any deeds, which the Purchaser intends to grant in relation to the House. The cost of any Advance Notices which the Purchaser applied for will be met by the Purchaser.
- 4.4 If the Seller rescinds the Missives in the circumstances set out in clause 3 the Purchaser consents to the discharge of the Advance Notice for the Disposition and the Purchaser confirms that it will immediately discharge at its own cost any Advance Notice submitted by it if requested to do so by the Seller.
- 4.5 If Completion is likely to occur after the date of entry, the Seller, if requested to do so by the Purchaser, will apply for a further Advance Notice for the Disposition, in the form adjusted with the Purchaser, and the cost of any additional Advance Notices will be met:

- 4.5.1 by the Seller, if the delay in the settlement is due to any failure or breach by or on behalf of the Seller to implement its obligations under the Missives on time; or
  - 4.5.2 by the Purchaser, if the delay in settlement is due to any failure or breach by or on behalf of the Purchaser to implement its obligations under the Missives on time.
- 5.
- 5.1 The Seller's solicitors will not provide any letter of obligation undertaking to clear the records of any deed, decree or diligence.
  - 5.2 Subject to Clause 5.3 the Seller will deliver to the Purchaser, on demand from time to time and at the Seller's expense, such documents and evidence as the Keeper may require to enable the Keeper to update or create (as the case may be) the Title Sheet of the House to disclose the Purchaser as the registered proprietor of the whole of the House. Such documents will include (unless the House comprises part only of a building) a plan or bounding description sufficient to enable the House to be identified on the cadastral map.
  - 5.3 After Completion, the Seller will be obliged to deliver such documents and evidence as are specified in Clause 5.2 only if the Disposition is presented for registration not later than 14 days after Completion.
6. The Seller will exhibit a Legal Report brought down to a date as near as reasonably practicable to Completion which Report will show:
- 6.1 no entries adverse to the Seller's interest in the House;
  - 6.2 the Advance Notice for the Disposition;
  - 6.3 no other Advance Notices other than those submitted by the Purchaser;
  - 6.4 the cost of the Legal Report will be met by the Purchaser at Completion
- 7.
- 7.1 Provided that the Disposition is presented for registration prior to the earlier of (a) 14 days after Completion and (b) the date of expiry of the last Advance Notice registered in relation to the Disposition in terms of Clause 4, the updated or newly created Title Sheet will contain no exclusion or limitation of warranty in terms of Section 75 of the 2012 Act and will disclose no entry, deed or diligence (including any notice of potential liability for costs registered under the Tenements (Scotland) Act 2004 or the Title Conditions (Scotland) Act 2003) prejudicial to the interest of the Purchaser other than such as are created by or against the Purchaser or have been disclosed to and accepted in writing by the Purchaser prior to Completion.



7.2 The title to the House will be a Disposition (“**the Disposition**”) and will be subject to the Seller's standard conditions (to which the Purchaser agrees to adhere) and which will include some or all of the following:

- (a) The House shall be used solely as a private dwelling House with garden ground and shall not be occupied by more than one family at any time and the garage (if any) shall be used only as a private garage and the garden ground shall be used only as a garden.
- (b) No additional buildings, outhouses or fences shall be erected or alterations made without the Seller's consent.
- (c) There shall be no change to the colours of the external paintwork without the Seller's consent.
- (d) The parking in the open of any caravan, trailer, commercial vehicle, taxi, marine craft or boat is prohibited.
- (e) No animals shall be kept other than domestic pets (the numbers of which may be restricted) and the breeding of animals is prohibited.
- (f) The Purchaser will be liable for a fair share of the upkeep of all common parts and common ground (as determined by the Seller) and the Purchaser may be granted a common right of ownership in and to the common parts and common ground.
- (g) When instigated or approved by the Seller, a Proprietors' Association may be formed, or a factor may be appointed, to manage the common parts, the common ground and all other areas of mutual responsibility and the Purchaser shall be responsible for the charges that may arise, which charges may be subject to review and may in the case of flats include a charge for building insurance.
- (h) The garden ground of the House may be burdened with necessary rights of access exercisable by other proprietors and the Seller may designate part of the garden ground as a service strip which shall be kept clear of surface or underground obstructions.
- (i) No aerial or satellite dish may be erected on the front elevation and radio aerials may only be erected with the Seller's consent.
- (j) Existing trees shall not be removed or cut down except with the Seller's prior consent.
- (k) The Purchaser shall keep the buildings insured index-linked for the greater of (i) full reinstatement value and (ii) the full open market value of the House from time to time.
- (l) The Seller reserves the right to alter or even depart entirely from the layout plan of the remainder of the estate.

[As an alternative to the foregoing detailed arrangements, and where appropriate, insert reference to a Deed of Conditions/Development Management Scheme which is to apply to the development]

- 7.3 The minerals are included only in so far as belonging to the Seller.
- 7.4 No search in the Registry of Friendly Societies, the Register of Charges or Company file of the Seller will be exhibited.

8.

**8.1 New Supply Shared Equity - Alternative 1 - Project approved Post 12 May 2009**

The House is being sold under and in accordance with Scottish Government New Supply Shared Equity Scheme the administrative procedures ("Procedures") for which are published on the Scottish Government website under (insert reference) and the Purchaser shall procure that all requirements of the Procedures - including without prejudice correspondence - as set out in Annexe A of the Procedures is complied with in such manner as Scottish Ministers or their agents may reasonably require.

**8.2 New Supply Shared Equity - Alternative 2 - Project approved Pre 12 May 2009**

The Purchaser undertakes to deliver to the Seller on the date of settlement (a) a properly executed Minute of Agreement, Ranking Agreement and Standard Security ("Shared Equity Documents") in terms of the drafts annexed and signed as relative to this offer (b) a cheque for the registration or recording dues of the Shared Equity Documents and any other sums due to be paid thereunder (c) a clear Search in the Personal Registers against the Purchaser for a period of five years and (d) if appropriate a duly sworn or affirmed Affidavit by the Purchaser or a duly executed Consent by the Purchaser's spouse in respect of the said Standard Security all in terms of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 as amended and (e) letter of obligation by the Purchaser's solicitors in such form as the Seller's solicitors may reasonably request in order to ensure that the disposition, Standard Security and Ranking Agreement are timeously registered and that the Standard Security is not adversely affected by any other deed or other diligence which is prejudicial to the interest of Scottish Ministers save for standard security in favour of the primary lender referred to in the Ranking Agreement.

**8.3 Section 11 of the Land Tenure Reform (Scotland) Act 1974**

It is a condition of the Purchaser receiving financial support from Scottish Ministers under the LIFT Scheme for the purchase of the House that the Purchaser must grant in favour of Scottish Ministers a Standard Security over the House. Because the financial support given by Scottish Ministers will

subsist for an indeterminate period of time, the Standard Security to be granted by the Purchaser in favour of the Scottish Ministers is potentially capable of being redeemed by the Purchaser pursuant to section 11 of the Land Tenure Reform (Scotland) Act 1974 (the "20-year security rule").

The Scottish Government plans to make an amendment to the 20 year security rule pursuant to the Housing (Scotland) Act 2014. The amendment will aim to remove the right to redeem securities after 20 years for those participating in designated schemes including the New Supply Shared Equity scheme. On conclusion of the Missives, the Purchaser will be held to have been made aware of this and to have acknowledged that the Purchaser is not entering into the present transaction on the assumption that, after 20 years, the Purchaser will be able to rely on section 11 of the 1974 Act as that section currently applies.

The Purchaser's solicitor will deliver to the Purchaser prior to the Date of Entry a copy of the pro forma notice which is annexed and signed as relative to this offer.

## **9 Completion of the House**

- 9.1 The House will be completed in accordance with the relevant Planning Permissions and Building Warrants (copies of which will if requested by the Purchaser be exhibited at the Seller's offices). A copy of the Occupation Certificate and/or Completion Certificate will be delivered to the Purchaser or the Purchaser's solicitors within a reasonable period of being received from the Local Authority.
- 9.2 The cost of construction of roads and pavements is included in the price and once completed the Purchaser shall be responsible for the appropriate share of their maintenance until, if appropriate, they are taken over by the Local Authority which the Purchaser understands is not guaranteed by the Seller. A copy of the road bond in respect of completion of the roads will be exhibited where relevant. The Purchaser undertakes to pay the cost of any repairs required to roads or pavements where, either prior to their completion or prior to their adoption as public, damage has been caused thereto by the Purchaser or those for whom the Purchaser is responsible.
- 9.3.1 Subject to condition 9.3.2 if it becomes necessary the Seller may vary the materials used in construction of the House without affecting the Price but any alternative materials used shall be of a similar standard to those originally proposed
- 9.3.2 If after the Missives are concluded, the Seller proposes to make a change to the design, construction or materials to be used in the House that would significantly alter the House's size, appearance or value, the Seller must first obtain the Purchaser's written consent to such change by serving written notice of such change on the Purchaser in terms of Condition 13. If the Purchaser does not respond to such notice within 14 days of the date when it is deemed to have been served in terms of

Condition 13 then the Purchaser's consent to the change will be deemed to have been given. If acting reasonably the Purchaser does not consider the proposed change to be acceptable the Purchaser will be entitled to terminate the Missives by serving written notice on the Seller's solicitors by recorded delivery in terms of Condition 13 setting out the reason for the termination and to the return of the deposit and reservation fee without deduction

- 9.4 Where relevant, the Purchaser will select particular fittings or materials within fourteen days of being requested to do so by the Seller (time being of the essence) failing which the Seller will be entitled to install such fittings or use such materials as the Seller considers appropriate (acting reasonably).
- 9.5 The Seller will provide appropriate National House Building Council, or Premier Guarantee third party warranty schemes cover for the House or such other third party warranty scheme as may be acceptable in terms of the Council of Mortgage Lenders' Handbook for Scotland.

## **10. Remedial Work**

Without prejudice to the Seller's rights under Clause 1.7, provided that the House has been passed by the Local Authority Building Control Department as fit for occupation, settlement of the transaction shall not be delayed by the Purchaser on account of any outstanding routine snaggings or remedial work being required to the House which snaggings or remedial work will be carried out within a reasonable period following the date of settlement in terms of the NHBC or other third party warranty scheme provided in respect of the House and the Purchaser will provide reasonable access to the Seller during usual working hours for the carrying out of such work.

## **11. Passing of Risk**

The risk of damage to or destruction of the House shall not pass to the Purchaser until the price has been paid.

## **12. Enforceability**

If any term of the Missives is for whatever reason held as unenforceable in whole or in part the Missives shall continue in full force and effect to the extent of the other terms of the Missives and the remainder of any partially unenforceable term of the Missives.

## **13. Notices**

All notices and other communications under the Missives shall be in writing and shall be deemed to be duly given if delivered by hand or served either by facsimile transmission or by letter sent pre-paid recorded delivery mail addressed, in the case of the Seller, to the Seller's Solicitors and, in the case of the Purchaser, to the Purchaser's Solicitors or to such other person and at such other address as either party may specify from time to time by written

notice to the other party. Any communication so given by letter sent by recorded delivery mail shall be deemed to be given on the second Working Day after the day of posting and any communication so delivered or given by facsimile transmission shall be deemed to be given at the actual time of transmission, except where such delivery or transmission is made on a day which is not a Working Day or is made after 1700 hours on a Working Day, in which event the communication shall be deemed to have been given at 0900 hours on the next Working Day following such delivery or transmission. For the purposes of this Condition 13, "Working Day" means a day, other than Saturday or Sunday, or 2 January on which banks are open for the transaction of normal banking business in [ [ ] ] and] London.

**14. Entire Agreement**

The Missives [and any Reservation Agreement already signed by the Seller and the Purchaser] set out the entire agreement and understanding between the Seller and the Purchaser in relation to the House and shall supersede all previous proposals, agreements and other communications whether written, oral or otherwise in relation thereto save for any set out in the Schedule. By your acceptance hereof the Purchaser confirms that in entering into the Missives the Purchaser is not relying on any verbal statements made by the Seller or any of its agents, employees or representatives.

**15. Joint and Several Obligation**

The obligations of the Purchaser (where more than one) are undertaken jointly and severally.

**16. Clause Headings**

The Clause headings in this offer are illustrative only and do not bind the Seller in any way.

**17. Time Limits**

This Offer unless previously withdrawn shall be open for acceptance for fourteen days from the date hereof whereafter, failing acceptance, it shall lapse.

Yours faithfully

*This is the pro forma notice referred to in the foregoing Offer*

**NOTICE RELATING TO SECTION 11 OF THE LAND TENURE REFORM  
(SCOTLAND) ACT 1974**

To be addressed to the Purchaser

Dear [Insert name(s) of Purchaser]

**Scottish Government LIFT Scheme  
Purchase of [Insert address of the House]  
Section 11 of the Land Tenure Reform (Scotland) Act 1974**

It is a condition of the Purchaser receiving financial support from Scottish Ministers under the LIFT Scheme for the purchase of the House that the Purchaser must grant in favour of Scottish Ministers a Standard Security over the House. Because the financial support given by Scottish Ministers will subsist for an indeterminate period of time, the Standard Security to be granted by the Purchaser in favour of the Scottish Ministers is potentially capable of being redeemed by the Purchaser pursuant to section 11 of the Land Tenure Reform (Scotland) Act 1974 (often referred to as the "20-year security rule").

The Scottish Government plans to make an amendment to the 20 year security rule pursuant to the Housing (Scotland) Act 2014. The amendment will aim to remove the right to redeem securities after 20 years for those participating in designated schemes including the LIFT shared equity scheme. Accordingly, the purpose of this letter is to make the Purchaser aware of this and to make clear that the Purchaser should not enter into the shared equity documentation on the assumption that, after 20 years, the Purchaser will be able to rely on section 11 of the 1974 Act as that section currently applies.

Yours faithfully

[To be signed by Purchaser's solicitors]

## Draft disposition

WE, registered under the Industrial and Provident Societies Act 1965 (Registered Number #R(S)), registered under the Housing (Scotland) Act 2001 (registered number #), *being a recognised Scottish Charity (Charity Number SC#)*, and having their Registered Office at #, *[or insert as appropriate for Company]* proprietors of the subjects and others hereinafter disposed IN CONSIDERATION of the sum of #POUNDS (£#) STERLING (on which sum no Value Added Tax is payable) paid to us by # (the "Purchaser") together with the entire obligations, liabilities and others due to the Scottish Ministers under Minute of Agreement between the Purchaser and the Scottish Ministers relative to the subjects hereinafter disposed executed by the Purchaser on or about the date hereof have sold and Do Hereby DISPONE to and in favour of # the Purchaser and to their successors and assignees whomsoever heritably and irredeemably ALL and WHOLE *[insert description]*; Together with (First) free ish and access from and to the subjects hereby disposed; (Second) the part, privileges and pertinents thereof; (Third) the whole other rights, common, mutual or otherwise pertaining thereto; (Fourth) our whole right, title and interest, present and future in and to the subjects hereby disposed; and [(Fifth) the servitude rights and burdens specified in the Schedule annexed and executed as relative hereto ("the Schedule"); *[ Alternatively provide Deed of Conditions / Development Management Scheme as appropriate to the Development ]* WITH ENTRY and VACANT POSSESSION as at the # notwithstanding the date or dates hereof; And we grant warrandice; IN WITNESS WHEREOF

This is the Schedule of real burdens referred to in the foregoing Disposition by # in favour of #

## Part I: Interpretation

In this Schedule:

“the Benefited Property” means ALL and WHOLE subjects described in #;

“the Burdened Property” means ALL and WHOLE the subjects comprising ALL and WHOLE that plot or area of ground situated #;

"the Purchaser" means # and its successors as proprietors of the Burdened Property as hereinafter defined; and

"the Seller" means # Limited, registered under the *Industrial and Provident Societies Act 1965/Companies Acts* (Registered Number #), registered with the Scottish Housing Regulator under the Housing (Scotland) Act 2001 (registered number #), *being a recognised Scottish Charity (Charity Number SC#)* and having their Registered Office at #, and its successors as owners of the Benefited Property hereinafter defined.



## Part II: Servitudes

## Part III: Burdens

The following burdens are imposed on the Benefited Property in favour of the Burdened Property:

#

**DISPOSITION**

**by**

**#**

in favour of

**#**

**Subjects: Subjects at #**

**AGREEMENT**

**between**

**THE SCOTTISH MINISTERS**

**and**

**# [Shared Equity owner]**

**NO GOLDEN SHARE**

## **CLAUSES**

- 1. Definitions**
- 2. Obligation to Pay**
- 3. Tranching Up**
- 4. Expenses**
- 5. Certificates and Determinations**
- 6. Interest and Losses**
- 7. Land Tenure Reform (Scotland) Act 1974**
- 8. Transfer**
- 9. Notices**
- 10. Separate Provisions**
- 11. Governing Law**
- 12. Consent to Registration**

## MINUTE OF AGREEMENT

between

THE SCOTTISH MINISTERS (“Scottish Ministers”) ON THE ONE PART

and

# residing at # (hereinafter referred to as the “Shared Equity Owner”) ON THE OTHER PART

WHEREAS:

(One) [*Insert name of RSL selling property*] (“the RSL”) has sold to the Shared Equity Owner the dwellinghouse known as # at the price of # (£#) (being [#] per cent of the current value of the Property as agreed between the Parties);

(Two) Funding in respect of the dwellinghouse has partly been provided by Scottish Ministers on condition that the Shared Equity Owner enters into this Agreement with Scottish Ministers and grants a standard security over the Property for the Shared Equity Owner’s obligations hereunder;

NOW THEREFORE the Parties have agreed and do hereby agree as follows:

### 1. Definitions

1.1 In this Minute of Agreement where the context so admits:

1.1.1 the following words and phrases shall have the following meanings:

“Actual Open Market Value”	means the highest sum offered by a third party in an Open Market Sale;
“Agreement”	means this agreement;

<p>“Date of Entry”</p>	<p>means <i>[here insert the date of entry under the contract for sale]</i>;</p>
<p>“Deemed Open Market Value”</p>	<p>means the open market value of the Property as determined by the Valuer making the Open Market Value Assumptions and having regard to such other matters as he may in his professional judgement deem appropriate;</p>
<p>“Encumbrance”</p>	<p>means a standard security; any inhibition, adjudication or other matter which may competently be registered in the personal registers; or any other encumbrance which may affect the Property including without prejudice any order relating to property transfer or confiscation;</p>
<p>“Home Report”</p>	<p>means the documents referred to in the Housing (Scotland) Act 2006 (Prescribed Documents) Regulations 2008 being survey report, information on energy efficiency and property questionnaire in the form set out in the schedules to those regulations</p>
<p>“New Proportion”</p>	<p>has the meaning ascribed to it in clause 3;</p>
<p>“New Security”</p>	<p>means any standard security over the Property or any part thereof other than  (1) the Standard Security and    (2) any standard security specifically referred to in the Ranking Agreement;</p>

<p>“Open Market Conditions”</p>	<p>means the following conditions (i) the Shared Equity Owner has taken all reasonable steps to ensure that the price at which the Property is to be sold is the best that can be reasonably obtained which will include, without prejudice, Scottish Ministers being satisfied with the nature and level of advertising, the Home Report , the marketing of the Property and the terms of sale; and (ii) the sum offered by the third party has not been adversely affected by any of the Open Market Value Assumptions not being the case in fact;</p>
<p>“Open Market Sale”</p>	<p>a sale of the whole of the Property <del>in</del><u>on</u> the open market to a third party in circumstances where Scottish Ministers, acting reasonably, are and remain satisfied that the Open Market Conditions have been met;</p>
<p>“Open Market Value Assumptions”</p>	<p>means the following assumptions:</p> <ol style="list-style-type: none"> <li>1. that the Property is being sold by a willing seller to a willing purchaser in the open market on an arm’s length basis;</li> <li>2. that vacant possession of the Property is available;</li> <li>3. that the Shared Equity Owner has duly complied with, performed and</li> </ol>

	<p>discharged all of the obligations incumbent upon him in terms of this Agreement;</p> <p>4. that the Shared Equity Owner has complied with the obligations incumbent upon him in terms of the Standard Security;</p> <p>5. that there is no Encumbrance affecting the Property;</p> <p>6. that any increase in value arising from any additions or improvements carried out to the Property is to be reflected in the open market value; and</p> <p>7. that any diminution in value arising from adaptations which have been carried out to meet the needs of a disabled person is to be disregarded from the open market value;</p>
<p>“Parties”</p>	<p>means the parties to this Agreement;</p>
<p>“Payment Event”</p>	<p>means any one or more of the following events:</p> <p>(a) an Open Market Sale other than to a Spouse;</p> <p>(b) any transfer or transmission of the Property or part of the Property</p>



	<p>whether by sale or gift or succession or in any other way to a third party other than a Spouse which is not an Open Market Sale;</p> <p>(c) the failure on the part of a Spouse to assume the obligations of the Shared Equity Owner in terms satisfactory to Scottish Ministers within six months of the transfer or transmission of the Property or part of the Property to the Spouse whether by sale or gift or succession or in any other way;</p> <p>(d) (If the Shared Equity Owner is one individual and dies without a surviving Spouse or the Property does not pass to any such surviving Spouse as aftermentioned) the death of the Shared Equity Owner;</p> <p>(e) (If the Shared Equity Owner comprises more than one person) the death of the survivor of such persons;</p> <p>(f) The Shared Equity Owner or any Spouse of the Shared Equity Owner ceasing to use the Property as his only place of residence or renting the Property or allowing it to be occupied by a third party without the prior written consent of Scottish Ministers;</p>
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	<p>(g) The Shared Equity Owner or any Spouse of the Shared Equity Owner granting a New Security without first obtaining the written consent of Scottish Ministers;</p> <p>(h) Any security holders calling up their security or the security holders or any other party exercising any other process of law which would affect the Property;</p> <p>(i) Any default under the Standard Security; <u>or</u></p> <p>(j) It is established to the reasonable satisfaction of Scottish Ministers that the Shared Equity Owner has provided or permitted the provision of false or misleading information to Scottish Ministers or the registered social landlord in connection with the granting or transmission of this Agreement;</p>
<p>“Property”</p>	<p>means the whole of the property at <i>[here insert the postal address]</i>;</p>
<p>“Ranking Agreement”</p>	<p>means the agreement regulating the ranking of standard securities between Scottish Ministers, the Shared Equity Owner and <i>[insert details of Primary Lender]</i>;</p>
<p>“Scottish Ministers’ Proportion”</p>	<p>either [# %] or, if the terms of clause 3</p>

	<p>have been implemented in full (including without prejudice all sums due to Scottish Ministers thereunder having been paid), the New Proportion;</p>
<p>“Spouse”</p>	<p>means a person who lives with the Shared Equity Owner and is the husband or the wife, or lives with the Shared Equity Owner as the husband or wife; or lives with the Shared Equity Owner in a relationship which has the characteristics of the relationship between husband and wife except that the persons are of the same sex; or is the civil partner of the Shared Equity Owner in terms of the Civil Partnership Act 2004;</p>
<p>“Standard Security”</p>	<p>means the standard security by the Shared Equity Owner in favour of Scottish Ministers for the Shared Equity Owner’s obligations in terms of this Agreement; and</p>
<p>“Valuer”</p>	<p>means the District Valuer of HM Revenue and Customs for the district in which the Property is situated or if otherwise agreed between the Parties such other professionally qualified valuer as Scottish Ministers and the Shared Equity Owner may agree;</p>

and derivative expressions of any defined term shall be construed accordingly.

1.2 References to:

- 1.2.1 statutes, statutory provisions and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force;
- 1.2.2 “including” shall not be construed as limiting the generality of the words preceding it;
- 1.2.3 words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
- 1.2.4 this Agreement and any provisions of it or to any other document referred to in this Agreement shall be construed as references to it in force for the time being as amended, varied, supplemented, restated, substituted or novated from time to time;
- 1.2.5 any person are to be construed to include references to a corporation, firm, owner, partnership, joint venture, unincorporated body of persons, individual or any state or agency of a state, whether or not a separate legal entity;
- 1.2.6 any person are to be construed to include that person’s assignees or transferees or successors in title, whether direct or indirect;
- 1.2.7 a clause means a clause of this Agreement;
- 1.2.8 clause headings are for ease of reference only and shall not affect the interpretation of this Agreement;
- 1.2.9 Scottish Ministers includes registered social landlords or other persons authorised to act on behalf of Scottish Ministers; and

- 1.2.10 the consent of Scottish Ministers shall be a reference to their prior written consent.
- 1.3 For the avoidance of doubt, this Agreement supersedes any previous agreement, whether written or oral, expressed or implied, between the Parties to it (or any of them) in relation to the subject matter of this Agreement.
- 1.4 Obligations undertaken by more than one person shall be undertaken by each jointly and severally.
- 1.5 Unless otherwise stated any consent, approval or other determination of Scottish Ministers whether in this Agreement, the Standard Security or the Ranking Agreement shall not be unreasonably withheld or delayed nor given subject to unreasonable conditions.
2. Obligation to Pay

Subject always to the terms of clause 2.7

- 2.1 If the Shared Equity Owner proposes to transfer their interest in the Property the Shared Equity Owner shall (1) notify Scottish Ministers as soon as reasonably possible; (2) provide them with such information about the proposed sale as Scottish Ministers may reasonably require; and (3) use all reasonable endeavours to ensure that the Open Market Conditions apply including without prejudice ensuring that all duties of care under the relevant Home Report or valuation are extended to Scottish Ministers on terms which Scottish Ministers consider to be satisfactory.
- 2.2 If the proposed transfer is an Open Market Sale the Shared Equity Owner shall pay to Scottish Ministers, Scottish Ministers' Proportion of the Actual Open Market Value on or before the date of settlement of the Open Market Sale.

- 2.3 If the proposed transfer is not an Open Market Sale it shall only take place with the consent of Scottish Ministers which consent shall not be unreasonably withheld or delayed but if granted shall be given subject to such conditions as Scottish Ministers may reasonably require in order to ensure that they receive payment of Scottish Ministers' Proportion of the Deemed Open Market Value.
- 2.4.1 Subject to the terms of clause 2.4.2, upon the occurrence of a Payment Event other than in the circumstances set out in clauses 2.1 – 2.3 inclusive Scottish Ministers shall be entitled to instruct the Valuer in terms of this Agreement to determine the Deemed Open Market Value as at a date ("Valuation Date") which is either on, or within a reasonable period of, the date when that Payment Event occurred.
- 2.4.2 If the Payment Event is a default which is capable of remedy Scottish Ministers shall not take any action under clause 2.4.1 or clause 5.1 unless (a) they have previously delivered to the Shared Equity Owner a notice which specifies in reasonable detail the nature of the default and a period ("Remediation Period") – which shall be not less than 28 days – in which to remedy the same and (b) the Remediation Period has elapsed and the default has not been remedied to the reasonable satisfaction of Scottish Ministers.
- 2.5 Once the Deemed Open Market Value has been determined in accordance with this Agreement Scottish Ministers shall be entitled at any time thereafter to serve notice ("Payment Notice") upon the Shared Equity Owner requiring him to make payment of Scottish Ministers' Proportion of the Deemed Open Market Value.
- 2.6 In the event that a Payment Notice is served the Shared Equity Owner shall within seven days of receipt of the Payment Notice make payment to Scottish Ministers of Scottish Ministers' Proportion of the Deemed Open Market Value.

2.7 For the avoidance of doubt the terms of clause 2 shall not apply in relation to any transfer or transmission to a Spouse who assumes the obligations of the Shared Equity Owner in terms satisfactory to Scottish Ministers within six months of such transfer or transmission all as set out in sub paragraph (c) of the definition of 'Payment Event'.

### 3. Tranching Up

3.1 At any time after the Date of Entry the Shared Equity Owner will be entitled to reduce Scottish Ministers' Proportion in terms of this clause 3 provided always that:

3.1.1 The Shared Equity Owner shall only be entitled to exercise his right to reduce Scottish Ministers' Proportion in terms of this clause 3.1 if he shall have complied with, performed and discharged all of the obligations incumbent upon him in terms of this Agreement and the Standard Security;

3.1.2 Scottish Ministers' Proportion expressed as a percentage of the Property after the Shared Equity Owner's exercise of this right shall be a minimum of 5 % lower than it was prior to the Shared Equity Owner's exercise of that right ( for example if Scottish Ministers Proportion before exercise is 30 % Scottish Ministers' Proportion after exercise ; must be 25 % or less ) and

3.1.3 For the avoidance of doubt Scottish Ministers Proportion cannot be reduced so as to be above zero but less than 5%. For example if Scottish Ministers' Proportion is 10% it may only be reduced to 5% or zero and if it is 9% it can only be reduced to zero.

3.2 The Shared Equity Owner shall serve on Scottish Ministers a notice ("Reduction Notice") in writing specifying the amount expressed as a

percentage (“New Proportion”) to which Scottish Ministers’ Proportion is to be reduced and requiring Scottish Ministers to instruct the Valuer to determine the Deemed Open Market Value as at the date of service of the Reduction Notice and Scottish Ministers shall notify the Shared Equity Owner of the amount thereof in writing within seven days of the said determination by the Valuer.

- 3.3 Provided payment by the Shared Equity Owner of the amount necessary to reduce Scottish Ministers’ Proportion in terms of clause 3.1 is effected within three months of such notification by Scottish Ministers, the Shared Equity Owner may reduce Scottish Ministers’ Proportion to the New Proportion. The amount due to Scottish Ministers by the Shared Equity Owner in terms of this clause 3.3 shall be calculated in accordance with the following formula:

$A \times B$

where:

A = the difference between Scottish Ministers’ Proportion at the date of the Reduction Notice and the New Proportion; and

B = the Deemed Open Market Value.

As an example if the Deemed Open Market Value of the Property at the date of the Reduction Notice was £120,000; Scottish Ministers’ Proportion at the Date of the Reduction Notice was 30% and the New Proportion was 20%; the amount due to Scottish Ministers would be £12,000 being 10% (ie 30% - 20%) x £120,000.

- 3.4 The reasonable costs of any such determination by the Valuer shall be paid on demand by the Shared Equity Owner to Scottish Ministers.



3.5 The Valuer shall be deemed to be acting as an expert and not as an arbiter and his decision as to the Deemed Open Market Value shall be final and binding on the Parties.

3.6 Upon payment by the Shared Equity Owner the Shared Equity Owner and Scottish Ministers shall forthwith execute a memorandum detailing the New Proportion.

#### **4. Expenses**

4.1 The Shared Equity Owner shall be liable for (a) all expenses incurred in connection with the registration of the Standard Security and the Ranking Agreement in the Land Register,(b) the costs of registering this Agreement in the Books of Council and Session and of obtaining two extracts and (c) any other reasonable expenses properly incurred by Scottish Ministers in connection with the preparation and completion of this Agreement, the Standard Security and the Ranking Agreement other than the professional charges of their legal advisers.

4.2 The Shared Equity Owner shall pay on demand to Scottish Ministers on a full indemnity basis all reasonable costs and expenses (including but not limited to legal, valuation, registration and out-of-pocket expenses) properly incurred by Scottish Ministers in connection with any actual, proposed or attempted amendment, exercise, enforcement, discharge, extension, variation, waiver or preservation of any rights under this Agreement and/ or the Standard Security and/ or the Ranking Agreement.

#### **5. Certificates and Determinations**

5.1 A certificate signed by any duly authorised officer or employee of Scottish Ministers shall be prima facie evidence of any sums due to Scottish Ministers under this Agreement.

## **6. Interest and Losses**

6.1 If the Shared Equity Owner fails to pay any amount payable by him under this Agreement, Scottish Ministers may charge the Shared Equity Owner interest on the overdue amount. The Shared Equity Owner shall pay the interest immediately on demand, from the due date up to the date of actual payment, after as well as before judgment, at the rate of 2% per annum above the base lending rate (or the equivalent) of the Royal Bank of Scotland plc prevailing at the time of the written demand from the date of the written demand until payment in full of both the sum and the interest thereon, or in the event of that ceasing to exist, such other rate equivalent to it as Scottish Ministers may specify. Such interest shall accrue on a daily basis and be compounded quarterly.

6.2 The Shared Equity Owner shall indemnify and keep indemnified Scottish Ministers against all losses, liabilities, costs and expenses – including without prejudice any depletion of value of the Property – reasonably incurred by Scottish Ministers as a result of any breach by the Shared Equity Owner of any terms of this Agreement, the Standard Security and/ or the Ranking Agreement.

## **7. Land Tenure Reform (Scotland) Act 1974**

7.1 Subject always to the provisions of section 11 of the Land Tenure Reform (Scotland) Act 1974 the Shared Equity Owner shall not be entitled to redeem the Standard Security–

## **8. Transfer**

8.1 The Shared Equity Owner shall not at any time assign, transfer or novate any of its rights and/ or obligations under this Agreement save to a Spouse who has entered into an agreement to assume the

obligations of the Shared Equity Owner in terms satisfactory to Scottish Ministers.

8.2 Scottish Ministers may at any time assign, transfer or novate any of its rights and/or obligations under this Agreement to any person.

8.3 Scottish Ministers may disclose to any person with whom it is proposing to enter, or has entered into, any kind of transfer, participation or other agreement in relation to this Agreement:

- a copy of this Agreement; and
- any information which Scottish Ministers have acquired in connection with this Agreement.

## **9. Notices**

9.1 Any notice to Scottish Ministers shall be addressed to:

The Scottish Ministers *c/o [insert details of Registered Social Landlord or subsidiary including contact person]* or to the Scottish Ministers at such other address as Scottish Ministers may notify to the Shared Equity Owner in accordance with this Agreement.

9.2 Any notice to the Shared Equity Owner shall be addressed to the Shared Equity Owner at the Property.

**10. Separate Provisions**

If any provision of this Agreement is or becomes invalid, illegal or unenforceable that shall not affect the validity, legality or enforceability of any other provision.

**11. Governing Law**

This Agreement shall be governed by and construed according to Scots law and each of the parties submits to the exclusive jurisdiction of the Scottish courts.

**12. Consent to Registration**

The Parties consent to the registration hereof and of any such Certificate for preservation and execution. IN WITNESS WHEREOF this Agreement consisting of this and the [ ] preceding pages is executed as follows:

<p>SUBSCRIBED by the Shared Equity Owner at</p> <p>on the day of (Year-figure)</p> <p>in the presence of:</p> <p>..... Witness (Signature)</p> <p>..... Full Name</p> <p>..... Address</p> <p>.....</p>	<p>..... (Signature)</p> <p>..... (Signature)</p>
<p>SUBSCRIBED for and on behalf of Scottish Ministers by</p> <p>on the day of (Year-figure)</p> <p>in the presence of:</p> <p>..... Witness (Signature)</p> <p>..... Full Name</p> <p>..... Address</p> <p>.....</p>	<p>..... (Signature)  Authorized signatory</p> <p>..... (Full Name)</p>

**AGREEMENT**

**between**

**THE SCOTTISH MINISTERS**

**and**

**# [Shared Equity owner]**

**GOLDEN SHARE**



## **CLAUSES**

- 1. Definitions**
- 2. Obligation to Pay**
- 3. Tranching Up**
- 4. Expenses**
- 5. Scottish Minister's Right of Pre-emption**
- 6. Certificates and Determinations**
- 7. Interest and Losses**
- 8. Land Tenure Reform (Scotland) Act 1974**
- 9. Transfer**
- 10. Notices**
- 11. Separate Provisions**
- 12. Governing Law**
- 13. Consent to Registration**

## MINUTE OF AGREEMENT

between

THE SCOTTISH MINISTERS (“Scottish Ministers”) ON THE ONE PART

and

# residing at # (hereinafter referred to as the “Shared Equity Owner”) ON THE OTHER PART

WHEREAS:

(One) [*Insert name of RSL selling property*] (“the RSL”) has sold to the Shared Equity Owner the dwellinghouse known as # at the price of # (£#) (being [#] per cent of the current value of the Property as agreed between the Parties);

(Two) Funding in respect of the dwellinghouse has partly been provided by Scottish Ministers on condition that the Shared Equity Owner enters into this Agreement with Scottish Ministers and grants a standard security over the Property for the Shared Equity Owner’s obligations hereunder;

NOW THEREFORE the Parties have agreed and do hereby agree as follows:

### 1. Definitions

1.1 In this Minute of Agreement where the context so admits:

1.1.1 the following words and phrases shall have the following meanings:

“Actual Open Market Value”	means the highest sum offered by a third party in an Open Market Sale;
“Agreement”	means this agreement;



"Date of Entry"	means <i>[here insert the date of entry under the contract for sale]</i> ;
"Deemed Open Market Value"	means the open market value of the Property as determined by the Valuer making the Open Market Value Assumptions and having regard to such other matters as he may in his professional judgement deem appropriate;
"Encumbrance"	means a standard security; any inhibition, adjudication or other matter which may competently be registered in the personal registers; or any other encumbrance which may affect the Property including without prejudice any order relating to property transfer or confiscation;
"Home Report"	means the documents referred to in the Housing (Scotland) Act 2006 (Prescribed Documents) Regulations 2008 being survey report, information on energy efficiency and property questionnaire in the form set out in the schedules to those regulations
"New Proportion"	has the meaning ascribed to it in clause 3;
"New Security"	means any standard security over the Property or any part thereof other than (1) the Standard Security and (2) any standard security specifically referred to in the Ranking Agreement;
"Open Market Conditions"	means the following conditions (i) the Shared Equity Owner has taken all

	<p>reasonable steps to ensure that the price at which the Property is to be sold is the best that can be reasonably obtained which will include, without prejudice, Scottish Ministers being satisfied with the nature and level of advertising, the Home Report , the marketing of the Property and the terms of sale; and (ii) the sum offered by the third party has not been adversely affected by any of the Open Market Value Assumptions not being the case in fact;</p>
<p>“Open Market Sale”</p>	<p>a sale of the whole of the Property on the open market to a third party in circumstances where Scottish Ministers, acting reasonably, are and remain satisfied that the Open Market Conditions have been met;</p>
<p>“Open Market Value Assumptions”</p>	<p>means the following assumptions:</p> <ol style="list-style-type: none"> <li>1 that the Property is being sold by a willing seller to a willing purchaser in the open market on an arm's length basis;</li> <li>2 that vacant possession of the Property is available;</li> <li>3 that the Shared Equity Owner has duly complied with, performed and discharged all of the obligations incumbent upon him in terms of this Agreement;</li> </ol>

	<p>4 that the Shared Equity Owner has complied with the obligations incumbent upon him in terms of the Standard Security;</p> <p>5 that there is no Encumbrance affecting the Property;</p> <p>6 that any increase in value arising from any additions or improvements carried out to the Property is to be reflected in the open market value</p> <p>7 that any diminution in value arising from adaptations which have been carried out to meet the needs of a disabled person is to be disregarded from the open market value;</p>
<p>“Parties”</p>	<p>means the parties to this Agreement;</p>
<p>“Payment Event”</p>	<p>means any one or more of the following events:</p> <p>(a) an Open Market Sale other than to a Spouse;</p> <p>(b) any transfer or transmission of the Property or part of the Property whether by sale or gift or succession or in any other way to a third party other than a Spouse which is not an Open Market Sale;</p>

	<p>(c) the failure on the part of a Spouse to assume the obligations of the Shared Equity Owner in terms satisfactory to Scottish Ministers within six months of the transfer or transmission of the Property or part of the Property to the Spouse whether by sale or gift or succession or in any other way;</p> <p>(d) (If the Shared Equity Owner is one individual and dies without a surviving Spouse or the Property does not pass to any such surviving Spouse as aftermentioned) the death of the Shared Equity Owner;</p> <p>(e) (If the Shared Equity Owner comprises more than one person) the death of the survivor of such persons;</p> <p>(f) The Shared Equity Owner or any Spouse of the Shared Equity Owner ceasing to use the Property as his only place of residence or renting the Property or allowing it to be occupied by a third party without the prior written consent of Scottish Ministers;</p> <p>(g) The Shared Equity Owner or any Spouse of the Shared Equity Owner granting a New Security without first obtaining the written consent of</p>
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	<p>Scottish Ministers;</p> <p>(h) Any security holders calling up their security or the security holders or any other party exercising any other process of law which would affect the Property;</p> <p>(i) Any default under the Standard Security; or</p> <p>(j) It is established to the reasonable satisfaction of Scottish Ministers that the Shared Equity Owner has provided or permitted the provision of false or misleading information to Scottish Ministers or the registered social landlord in connection with the granting or transmission of this Agreement;</p>
<p>“Property”</p>	<p>means the whole of the property at <i>[here insert the postal address]</i>;</p>
<p>“Ranking Agreement”</p>	<p>means the agreement regulating the ranking of standard securities between Scottish Ministers, the Shared Equity Owner and <i>[insert details of Primary Lender]</i>;</p>
<p>“Scottish Ministers’ Proportion”</p>	<p>either [# %] or, if the terms of clause 3 have been implemented in full (including without prejudice all sums due to Scottish Ministers thereunder having been paid), the New Proportion;</p>

<p>“Spouse”</p>	<p>means a person who lives with the Shared Equity Owner and is the husband or the wife, or lives with the Shared Equity Owner as the husband or wife; or lives with the Shared Equity Owner in a relationship which has the characteristics of the relationship between husband and wife except that the persons are of the same sex; or is the civil partner of the Shared Equity Owner in terms of the Civil Partnership Act 2004;</p>
<p>“Standard Security”</p>	<p>means the standard security by the Shared Equity Owner in favour of Scottish Ministers for the Shared Equity Owner’s obligations in terms of this Agreement; and</p>
<p>“Valuer”</p>	<p>means the District Valuer of HM Revenue and Customs for the district in which the Property is situated or if otherwise agreed between the Parties such other professionally qualified valuer as Scottish Ministers and the Shared Equity Owner may agree;</p>

and derivative expressions of any defined term shall be construed accordingly.

1.2 References to:

1.2.1 statutes, statutory provisions and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force;

- 1.2.2 “including” shall not be construed as limiting the generality of the words preceding it;
- 1.2.3 words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
- 1.2.4 this Agreement and any provisions of it or to any other document referred to in this Agreement shall be construed as references to it in force for the time being as amended, varied, supplemented, restated, substituted or novated from time to time;
- 1.2.5 any person are to be construed to include references to a corporation, firm, owner, partnership, joint venture, unincorporated body of persons, individual or any state or agency of a state, whether or not a separate legal entity;
- 1.2.6 any person are to be construed to include that person’s assignees or transferees or successors in title, whether direct or indirect;
- 1.2.7 a clause means a clause of this Agreement;
- 1.2.8 clause headings are for ease of reference only and shall not affect the interpretation of this Agreement;
- 1.2.9 Scottish Ministers includes registered social landlords or other persons authorised to act on behalf of Scottish Ministers; and
- 1.2.10 the consent of Scottish Ministers shall be a reference to their prior written consent.
- 1.3 For the avoidance of doubt, this Agreement supersedes any previous agreement, whether written or oral, expressed or implied, between the Parties to it (or any of them) in relation to the subject matter of this Agreement.

1.4 Obligations undertaken by more than one person shall be undertaken by each jointly and severally.

1.5 Unless otherwise stated any consent, approval or other determination of Scottish Ministers whether in this Agreement, the Standard Security or the Ranking Agreement shall not be unreasonably withheld or delayed nor given subject to unreasonable conditions.

## 2. Obligation to Pay

Subject always to the terms of clause 2.7 and clause 5 (Scottish Ministers' Right of Pre-emption):

2.1 If the Shared Equity Owner proposes to transfer their interest in the Property the Shared Equity Owner shall (1) notify Scottish Ministers as soon as reasonably possible; (2) provide them with such information about the proposed sale as Scottish Ministers may reasonably require; and (3) use all reasonable endeavours to ensure that the Open Market Conditions apply including without prejudice ensuring that all duties of care under the relevant Home Report are extended to Scottish Ministers on terms which Scottish Ministers consider to be satisfactory.

2.2 If the proposed transfer is an Open Market Sale the Shared Equity Owner shall pay to Scottish Ministers, Scottish Ministers' Proportion of the Actual Open Market Value on or before the date of settlement of the Open Market Sale.

2.3 If the proposed transfer is not an Open Market Sale it shall only take place with the consent of Scottish Ministers which consent shall not be unreasonably withheld or delayed but if granted shall be given subject to such conditions as Scottish Ministers may reasonably require in order to ensure that they receive payment of Scottish Ministers' Proportion of the Deemed Open Market Value.



- 2.4.1 Subject to the terms of clause 2.4.2, upon the occurrence of a Payment Event other than in the circumstances set out in clauses 2.1 – 2.3 inclusive Scottish Ministers shall be entitled to instruct the Valuer in terms of this Agreement to determine the Deemed Open Market Value as at a date (“Valuation Date”) which is either on, or within a reasonable period of, the date when that Payment Event occurred.
- 2.4.2 If the Payment Event is a default which is capable of remedy Scottish Ministers shall not take any action under clause 2.4.1 or clause 5.1 unless (a) they have previously delivered to the Shared Equity Owner a notice which specifies in reasonable detail the nature of the default and a period (“Remediation Period”) – which shall be not less than 28 days – in which to remedy the same and (b) the Remediation Period has elapsed and the default has not been remedied to the reasonable satisfaction of Scottish Ministers.
- 2.5 Once the Deemed Open Market Value has been determined in accordance with this Agreement Scottish Ministers shall be entitled at any time thereafter to serve notice (“Payment Notice”) upon the Shared Equity Owner requiring him to make payment of Scottish Ministers’ Proportion of the Deemed Open Market Value.
- 2.6 In the event that a Payment Notice is served the Shared Equity Owner shall within seven days of receipt of the Payment Notice make payment to Scottish Ministers of Scottish Ministers’ Proportion of the Deemed Open Market Value.
- 2.7 For the avoidance of doubt:
- 2.7.1 the terms of clause 5 (Scottish Ministers’ Right of Pre-emption) shall take precedence over this clause 2 (Obligation to Pay) in the event that the Scottish Ministers’ right of pre-emption is exercised; and

2.7.2 the terms of clause 2 shall not apply in relation to any transfer or transmission to a Spouse who assumes the obligations of the Shared Equity Owner in terms satisfactory to Scottish Ministers within six months of such transfer or transmission all as set out in sub paragraph (c) of the definition of 'Payment Event'.

### 3. Tranching Up

3.1 At any time after the Date of Entry the Shared Equity Owner will be entitled to reduce Scottish Ministers' Proportion as set out in this clause 3.1 provided always that:

3.1.1 the Shared Equity Owner shall only be entitled to exercise his right to reduce Scottish Ministers' Proportion in terms of this clause 3.1 if he shall have complied with, performed and discharged all of the obligations incumbent upon him in terms of this Agreement;

3.1.2 Subject to the terms of this Clause Scottish Ministers' Proportion expressed as a percentage of the Property after the Shared Equity Owner's exercise of this right shall be a minimum of 5% lower than it was prior to the Shared Equity Owner's exercise of that right ( for example if Scottish Ministers Proportion before exercise is 30% Scottish Ministers' Proportion after exercise must be 25% or less);

3.1.3 For the avoidance of doubt Scottish Ministers Proportion cannot be reduced so as to be less than 20%. For example if Scottish Ministers' Proportion is 30% it may only be reduced to 25% or 20% and if it is 29% it can only be reduced to 20%;

3.2 The Shared Equity Owner shall serve on Scottish Ministers a notice ("Reduction Notice") in writing specifying the amount expressed as a percentage ("New Proportion") to which Scottish Ministers' Proportion is to be reduced and requiring Scottish Ministers to instruct the Valuer to determine the Deemed Open Market Value as at the date of service of

the Reduction Notice and Scottish Ministers shall notify the Shared Equity Owner of the amount thereof in writing within seven days of the said determination by the Valuer.

- 3.3 Provided payment by the Shared Equity Owner of the amount necessary to reduce Scottish Ministers' Proportion in terms of clause 3.1 is effected within three months of such notification by Scottish Ministers, the Shared Equity Owner may reduce Scottish Ministers' Proportion to the New Proportion. The amount due to Scottish Ministers by the Shared Equity Owner in terms of this clause 3.3 shall be calculated in accordance with the following formula:

$A \times B$

where:

A = the difference between Scottish Ministers' Proportion at the date of the Reduction Notice and the New Proportion; and

B = the Deemed Open Market Value.

As an example if the Deemed Open Market Value of the Property at the date of the Reduction Notice was £120,000; Scottish Ministers' Proportion at the Date of the Reduction Notice was 30% and the New Proportion was 20%; the amount due to Scottish Ministers would be £12,000 being 10% (ie 30% - 20%) x £120,000.

- 3.4 The reasonable costs of any such determination by the Valuer shall be paid on demand by the Shared Equity Owner to Scottish Ministers.
- 3.5 The Valuer shall be deemed to be acting as an expert and not as an arbiter and his decision as to the Deemed Open Market Value shall be final and binding on the Parties.

- 3.6 Upon payment by the Shared Equity Owner the Shared Equity Owner and Scottish Ministers shall forthwith execute a memorandum detailing the New Proportion.

#### **4. Expenses**

- 4.1 The Shared Equity Owner shall be liable for (a) all expenses incurred in connection with the registration of the Standard Security and the Ranking Agreement in the Land Register,(b) the costs of registering this Agreement in the Books of Council and Session and of obtaining two extracts and (c) any other reasonable expenses properly incurred by Scottish Ministers in connection with the preparation and completion of this Agreement, the Standard Security and the Ranking Agreement other than the professional charges of their legal advisers.

- 4.1.1 The Shared Equity Owner shall pay on demand to Scottish Ministers on a full indemnity basis all reasonable costs and expenses (including but not limited to legal, valuation, registration and out-of-pocket expenses) properly incurred by Scottish Ministers in connection with any actual, proposed or attempted amendment, exercise, enforcement, discharge, extension, variation, waiver or preservation of any rights under this Agreement and/ or the Standard Security and/ or the Ranking Agreement.

#### **5. Scottish Ministers' Right of Pre-emption**

- 5.1 In the event of the Shared Equity Owner deciding to sell or otherwise dispose of the Property or, subject to clause 2.4.1, on the occurrence of a Payment Event the Shared Equity Owner shall in the first instance notify Scottish Ministers and Scottish Ministers or their nominees shall have the option of purchasing the Property at a price to be calculated in accordance with the following formula:

$$A \times (100 - B)\%$$

where:

A = the price determined by the Valuer to be the value of the Property if purchased in the open market by a willing buyer from a willing seller at arm's length as determined by the Valuer having proper regard to such matters as he may in his professional judgement deem appropriate including without prejudice to the foregoing the impact on value of (i) any failure on the part of the Shared Equity Owner to comply with, perform and discharge all of the obligations incumbent upon him in terms of this Agreement and the Standard Security (ii) whether vacant possession is available (iii) any Encumbrance affecting the Property and (iv) any increase in value arising from any additions or improvements carried out to the Property provided however that any diminution in value arising from adaptations which have been carried out to meet the needs of a disabled person shall be disregarded; and

B = Scottish Ministers' Proportion.

For the avoidance of doubt, the Shared Equity Owner shall only be entitled to sell or otherwise dispose of the whole of the Property and not only part thereof and the other terms and conditions of the sale shall be such as Scottish Ministers shall, acting reasonably, determine.

As an example if at the time when the option becomes exercisable under clause 5.1 the price determined by the Valuer is £120,000 and Scottish Ministers' Proportion is 20%; the amount to be paid by Scottish Ministers or their nominees will be £96,000 being  $£120,000 \times (100 - 20)\%$ .

5.2 The Scottish Ministers' right of pre-emption in terms of this clause 5 shall be exercised by Scottish Ministers giving notice in writing to the Shared Equity Owner within twenty one days from the date of receipt by Scottish Ministers of written notice of determination of the price in terms of this clause 5.

5.3 In the event that Scottish Ministers decide not to exercise their right of pre-emption the terms of clause 2 (Obligation to Pay) shall apply.

## 6. Certificates and Determinations

6.1 A certificate signed by any duly authorised officer or employee of Scottish Ministers shall be prima facie evidence of any sums due to Scottish Ministers under this Agreement.

## 7. Interest and Losses

7.1 If the Shared Equity Owner fails to pay any amount payable by him under this Agreement, Scottish Ministers may charge the Shared Equity Owner interest on the overdue amount. The Shared Equity Owner shall pay the interest immediately on demand, from the due date up to the date of actual payment, after as well as before judgment, at the rate of 2% per annum above the base lending rate (or the equivalent) of the Royal Bank of Scotland plc prevailing at the time of the written demand from the date of the written demand until payment in full of both the sum and the interest thereon, or in the event of that ceasing to exist, such other rate equivalent to it as Scottish Ministers may specify. Such interest shall accrue on a daily basis and be compounded quarterly.

7.2 The Shared Equity Owner shall indemnify and keep indemnified Scottish Ministers against all losses, liabilities, costs and expenses – including without prejudice any depletion of value of the Property – reasonably incurred by Scottish Ministers as a result of any breach by

the Shared Equity Owner of any terms of this Agreement, the Standard Security and/ or the Ranking Agreement.

## **8. Land Tenure Reform (Scotland) Act 1974**

8.1 Subject always to the provisions of section 11 of the Land Tenure Reform (Scotland) Act 1974 the Shared Equity Owner shall not be entitled to redeem the Standard Security.

## **9. Transfer**

9.1 The Shared Equity Owner shall not at any time assign, transfer or novate any of its rights and/ or obligations under this Agreement save to a Spouse who has entered into an agreement to assume the obligations of the Shared Equity Owner in terms satisfactory to Scottish Ministers.

9.2 Scottish Ministers may at any time assign, transfer or novate any of its rights and/ or obligations under this Agreement to any person.

9.3 Scottish Ministers may disclose to any person with whom it is proposing to enter, or has entered into, any kind of transfer, participation or other agreement in relation to this Agreement:

- a copy of this Agreement; and
- any information which Scottish Ministers have acquired in connection with this Agreement.

## **10. Notices**

10.1 Any notice to Scottish Ministers shall be addressed to:

The Scottish Ministers c/o *[insert details of Registered Social Landlord or subsidiary including contact person]* or to the Scottish Ministers at such other address as Scottish Ministers may notify to the Shared Equity Owner in accordance with this Agreement.

10.2 Any notice to the Shared Equity Owner shall be addressed to the Shared Equity Owner at the Property.

**11. Separate Provisions**

If any provision of this Agreement is or becomes invalid, illegal or unenforceable that shall not affect the validity, legality or enforceability of any other provision.

**12. Governing Law**

This Agreement shall be governed by and construed according to Scots law and each of the parties submits to the exclusive jurisdiction of the Scottish courts.

**13. Consent to Registration**

The Parties consent to the registration hereof and of any such Certificate for preservation and execution. IN WITNESS WHEREOF this Agreement comprising this and the [ ] preceding pages is executed as follows:



<p>SUBSCRIBED by the Shared Equity Owner at</p> <p>on the day of (Year-figure)</p> <p>in the presence of:</p> <p>..... Witness (Signature)</p> <p>..... Full Name</p> <p>..... Address</p> <p>.....</p>	<p>..... (Signature)</p> <p>..... (Signature)</p>
<p>SUBSCRIBED for and on behalf of Scottish Ministers by</p> <p>on the day of (Year-figure)</p> <p>in the presence of:</p> <p>..... Witness (Signature)</p> <p>..... Full Name</p> <p>..... Address</p> <p>.....</p>	<p>..... (Signature)  Authorized signatory</p> <p>..... (Full Name)</p>

**STANDARD SECURITY**

**by**

**# [Owner]**

**in favour of**

**# [The Scottish Ministers]**

I, # (the "Owner"), residing at # (declaring that where these presents are granted by more than one person the singular herein includes the plural and all obligations herein are undertaken jointly and severally) hereby in security of all sums, liabilities and obligations which are now or may hereafter become due by the Owner to the Scottish Ministers (hereinafter referred to as "Scottish Ministers") by virtue of the Minute of Agreement between them and the Owner signed by the Owner on or about the date hereof (hereinafter referred to as the "Shared Equity Agreement") and any variation thereof, GRANT a Standard Security in favour of Scottish Ministers over ALL and WHOLE [*description per Disposition*] (hereinafter referred to as the "Property"); The Standard Conditions specified in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970 and any lawful variation thereof operative for the time being shall apply; And the Owner agrees that the Standard Conditions shall be varied to the effect that:

- (a) standard condition 1 shall be modified to the effect that it shall be an obligation on the Owner where there is an obligation to maintain the security subjects such obligation shall be deemed to include an obligation to renew or procure the renewal of the same should this be reasonably required by Scottish Ministers;
- (b) standard conditions 3 and 4 shall be modified to the effect that it shall be an obligation on the Owner to ensure that all consents and approvals under all statutes (including all bye-laws, instruments, orders and regulations for the time being made thereunder or deriving therefrom) and the regulations and codes of practice of any governmental, local or other competent authorities affecting the Property have been obtained and are complied with at all times;
- (c) standard condition 4 shall be varied to the effect that reference to any notice or order issued or made by virtue of the Town and Country Planning (Scotland) Acts 1997 to 2006 and any subsequent amendments shall be construed as including all notices or orders of whatsoever kind made, given or issued by any authority or person which may affect the value of the Property in any way;
- (d) standard condition 5 shall be modified to the effect that it shall be an obligation on the Owner:
  - (i) to maintain such insurances in relation to the Property as are normally maintained by prudent owners of similar properties;
  - (ii) without prejudice to the foregoing sub-paragraph (i), to effect and maintain insurance against loss or damage to the Property by fire, lightning, aircraft, explosion,

earthquake, storm, flood, riot, malicious damage, theft or attempted theft, falling trees or branches or aerials, subsidence, heave, landslip, collision, accidental damage to underground services, professionals fees, demolition and site clearance costs, public liability to anyone else and such other risks as Scottish Ministers may from time to time require and that with sound and reputable insurers;

- (iii) to ensure that each such insurance policy will not as against Scottish Ministers be rendered void, voidable or unenforceable by reason of any act, omission, breach of warranty or non-disclosure by the Owner or any occupier of the Property. Scottish Ministers shall have full power to settle and adjust with the insurers all questions with respect to claims under each such policy. The Owner shall also ensure that all monies payable by the insurers under each such policy will be paid to the good discharge therefor ;
- (iv) not to insure the Property or any part thereof otherwise than in accordance with the foregoing obligation and, if the Owner shall at any time effect any insurance in breach of such obligation, then (subject as aftermentioned) to hold all monies received under any such last-mentioned insurance (hereinafter referred to as the "Insurance Monies") as trustee for Scottish Ministers and, on demand, to pay the same to Scottish Ministers to be applied as if the same arose under a policy effected in terms hereof; except that the Owner will not be held to be in breach of the foregoing obligation if the Owner holds as trustee and pays to Scottish Ministers as aforesaid part only of the Insurance Monies, in circumstances where (a) the Owner is required by the holder of a standard security over the Property which Scottish Ministers have agreed shall rank prior to these presents in respect of the Property (hereinafter referred to as the "Prior Ranking Secured Creditor") to pay the Insurance Monies to the Prior Ranking Secured Creditor towards repayment of sums owed by the Owner to the Prior Ranking Secured Creditor; and (b) the part of the Insurance Monies held by the Owner as trustee and paid to Scottish Ministers as aforesaid is an amount which is no less than the total amount of the Insurance Monies actually received by the Owner multiplied by the Scottish Ministers' Proportion (as that term is defined in the Shared Equity Agreement) then applicable; and

- (v) the insurance to be effected in terms of Standard Condition 5(a) shall provide index linked cover to the extent of the full reinstatement value;

for the purposes of this Standard Security, the terms “Scottish Ministers” and “the Owner” herein contained shall be deemed to be references to the terms “creditor” and “debtor” respectively contained in the said standard conditions which shall be construed accordingly; And the Owner grants warrandice excepting therefrom the standard security by the Owner in favour of [##] dated on or about the date hereof; And the Owner declares that as at the date of the execution of these presents the Property is neither (a) a matrimonial home in relation to which a spouse of the Owner has occupancy rights within the meaning of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 as amended nor (b) a family home in relation to which a civil partner of the Owner has occupancy rights within the meaning of the Civil Partnership Act 2004; And the Owner consents to registration for execution: IN WITNESS WHEREOF

## **RANKING AGREEMENT**

**among**

**# [Bank/Building Society]**

and

**# [The Scottish Ministers]**

and

**# [Owner]**

## **CLAUSES**

- 1. Ranking of Securities**
- 2. Security to be Continuing**
- 3. Agreement**
- 4. Negative Pledge**
- 5. Authority to Release Information**
- 6. Consent**
- 7. Variation**
- 8. Transfers**
- 9. Miscellaneous**
- 10. Notices**
- 11. Definitions**
- 12. Other Security**
- 13. Separate Provisions**
- 14. Governing Law**
- 15. Consent to Registration**

## RANKING AGREEMENT

This RANKING AGREEMENT is made amongst:

- (1) # (the “**Primary Lender**”);
- (2) The Scottish Ministers (“**Scottish Ministers**”); and
- (3) # (the “**Owner**”).

**Definitions are given in Clause 12.**

### WHEREAS

- (A) The Owner has granted or is about to grant in favour of the Primary Lender a fixed security over the Property;
- (B) The Owner has granted or is about to grant in favour of Scottish Ministers a fixed security over the Property;
- (C) The Primary Lender and Scottish Ministers wish to regulate the ranking of the Securities; and
- (D) The Owner has agreed to the terms of this Agreement.

IT IS AGREED AS FOLLOWS:

### 1. Ranking of Securities

- 1.1 The Primary Lender, Scottish Ministers and the Owner agree that the sums secured or to be secured by the Primary Lender Fixed Security and the Postponed Fixed Security shall rank in the following order of priority:
  - 1.1.1 the Primary Lender Fixed Security to the extent of the Primary Lender Priority Debt; then
  - 1.1.2 the Postponed Fixed Security to the extent of the Postponed Debt; then
  - 1.1.3 the Primary Lender Fixed Security to the extent of the balance (if any) of the Primary Lender Debt.
- 1.2 The ranking and priority set out in Clause 1.1 shall take effect notwithstanding any of the following:



- 1.2.1 the nature of the securities created by the Primary Lender Fixed Security and the Postponed Fixed Security and the dates of execution and registration of them;
  - 1.2.2 any provision contained in any of the Securities;
  - 1.2.3 the date or dates on which moneys have been or may be advanced or become due, owing or payable under the Primary Lender Fixed Security and the Postponed Fixed Security respectively;
  - 1.2.4 any fluctuation from time to time in the amounts secured by the Primary Lender Fixed Security or the Postponed Fixed Security including any reduction of those amounts to nil;
  - 1.2.5 the existence of any credit balance on any current or other account of the Owner with either the Primary Lender or Scottish Ministers;
  - 1.2.6 the appointment of a Trustee in bankruptcy to the Owner, his sequestration, his apparent insolvency and/or the appointment of a judicial factor to all or any part of his assets in respect of the Owner or over all or any part of the assets;
  - 1.2.7 the sale or other disposal of any land or buildings or any interest in any land or buildings prior to enforcement;
  - 1.2.8 any present or future mortgage or other charge granted by the Owner to either the Primary Lender or Scottish Ministers (other than the Securities) (unless otherwise agreed in writing by the Primary Lender or Scottish Ministers); and
  - 1.2.9 the provisions of Section 13 of the Conveyancing and Feudal Reform (Scotland) Act 1970.
- 1.3 The Owner agrees for the benefit of the Primary Lender only that he shall not exercise any right he may have or which may accrue to him under Section 11 of the Land Tenure Reform (Scotland) Act 1974 with respect to the Postponed Fixed Security at any time prior to the Primary Lender Priority Debt Discharge Date.

## **2. Security to be Continuing**

The Securities shall rank as provided in this Agreement as continuing securities for repayment of the amounts owing to each of the Primary Lender and Scottish Ministers from time to time by the Owner or by any person or Owner whose obligations to the Primary Lender or Scottish Ministers are guaranteed by the Owner.

### **3. Agreement**

If a Trustee in bankruptcy or a judicial factor regards this Agreement as failing to bind him in the distribution of the proceeds of sale of the assets of the Owner (and in as far as the refusal of the Trustee in bankruptcy or the judicial factor causes prejudice to the Primary Lender or Scottish Ministers), the Primary Lender and Scottish Ministers will compensate each other to the extent to which it has benefited as a result of this refusal.

### **4. Negative Pledge**

The Owner shall not grant any further fixed charges over the Property without the written consent of the Primary Lender and Scottish Ministers.

### **5. Authority to Release Information**

5.1 During the continuance of each of the Primary Lender Fixed Security and the Postponed Fixed Security, the Primary Lender and Scottish Ministers may disclose to each other information concerning the Owner and its affairs in such manner and to such extent as the Primary Lender and Scottish Ministers may wish and the Owner consents to such disclosure.

5.2 The Primary Lender agrees to give notice promptly to Scottish Ministers upon increasing the limit of any of the facilities for the time being granted by it to the Owner or upon granting it new facilities.

### **6. Consent**

The Primary Lender and Scottish Ministers consent to the grant by the Owner of the Securities and each acknowledge the right of the other to production and delivery of copies of the Securities.

### **7. Variation**

The Primary Lender Fixed Security and the Postponed Fixed Security are varied to the extent specified in this Agreement and this Agreement shall be construed and receive effect as a variation within the meaning of Section 16 of the Conveyancing and Feudal Reform (Scotland) Act 1970.

### **8. Transfers**

The Primary Lender shall not assign or transfer the benefit of the Primary Lender Fixed Security and Scottish Ministers shall not assign or transfer the benefit of any of the Postponed Fixed Security unless the assignee or transferee first undertakes in writing to the Primary Lender and/or Scottish Ministers, as the case may be, to be bound by the provisions of this Agreement as if such transferee were a party to this Agreement.

## 9. Miscellaneous

Unless and until the Primary Lender Fixed Security is discharged, Scottish Ministers agree that any obligation under the Postponed Fixed Security to deposit deeds and documents of title, and all policies of insurance with Scottish Ministers shall be deemed satisfied and complied with if those are deposited with the Primary Lender.

## 10. Notices

10.1 All notices or other communications to be made or given under this Agreement shall be in writing and shall be by first-class pre-paid post or by fax.

10.2 Receipt shall be deemed to have occurred forty-eight hours after posting (unless hand-delivered and then at the time of delivery) and if by fax when sent provided a transmission report is received.

10.3 Any notice to the Primary Lender shall be addressed to:

10.4 Any notice to Scottish Ministers shall be addressed to:

The Scottish Ministers c/o *[insert details of Registered Social Landlord including contact person]* or to the Scottish Ministers at such other address as Scottish Ministers may notify in accordance with this Agreement

10.5 Any notice to the Owner shall be addressed to the Owner at the Property.

## 11. Definitions

In the interpretation of this Agreement:

11.1 "Primary Lender Debt" means all or any monies and liabilities which shall from time to time (and whether on or at any time after demand) be due, owing or incurred in whatsoever manner to the Primary Lender by the Owner, whether actually or contingently, solely or jointly and whether as principal or surety and whether or not the Primary Lender shall have been an original party to the relevant transaction, and including interest, discount, commission and other lawful charges or expenses which the Primary Lender may in the course of its business charge or incur in respect of any of those matters or for keeping the Owner's account, and so that interest shall be computed and compounded according to the usual Primary Lender rates and practice as well after as before any demand made or decree obtained;

11.2 "Primary Lender Fixed Security" means the standard security over the Property granted by the Owner in favour of the Primary Lender dated

on or about the date hereof and about to be registered in the Land Register of Scotland in security for the Primary Lender Debt;

- 11.3 “Primary Lender Priority Debt” means the Primary Lender’s Debt not exceeding £# (or such greater amount, if any, as shall be agreed in writing between the Primary Lender and Scottish Ministers) together with (a) outstanding interest on that amount and (b) all outstanding commission, charges, fees, costs and expenses arising or incurred in connection with it;
- 11.4 “Primary Lender Priority Debt Discharge Date” means the date on which the Primary Lender Priority Debt has been repaid or otherwise discharged in full;
- 11.5 “Postponed Debt” means all sums due and to become due to Scottish Ministers by the Owner whether as principal debtor, co-obligant, guarantor, surety or otherwise (including all present, future or contingent obligations owed to Scottish Ministers, whether such obligations exist now or arise in the future) together with interest and charges, interest on them and all commission, charges, fees, costs and expenses arising or incurred in connection with those sums;
- 11.6 “Postponed Fixed Security” means the standard security over the Property granted by the Owner in favour of Scottish Ministers dated # on or about the date hereof and about to be registered in the Land Register of Scotland in security for the Postponed Debt;
- 11.7 “Property” means ALL and WHOLE the subjects known as and forming #, being the whole subjects registered or about to be registered in the Land Register of Scotland under Title Number #;
- 11.8 “Securities” means the Primary Lender Fixed Security and the Postponed Fixed Security;
- 11.9 “enforce” (and all derivations from it) means the taking of any of the following actions:
- (1) exercising a power of sale or otherwise utilising the rights given to a creditor under any of the Securities;
  - (2) suing for payment of any of the Primary Lender Debt or the Postponed Debt;
  - (3) petitioning for a sequestration order;
  - (4) granting of a voluntary Trust Deed or the making of a composition contract or arrangement with creditors; or

- (5) exercising of any rights of set-off, retention combination of accounts or similar right in respect of the Primary Lender Debt or the Postponed Debt;

11.10 Derivative expressions of any defined term shall be construed accordingly;

11.11 References to:

- 11.11.1 statutes, statutory provisions and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force;
- 11.11.2 “including” shall not be construed as limiting the generality of the words preceding it;
- 11.11.3 words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
- 11.11.4 this Agreement and to any provisions of it or to any other document referred to in this Agreement shall be construed as references to it in force for the time being as amended, varied, supplemented, restated, substituted or novated from time to time;
- 11.11.5 any person are to be construed to include references to a corporation, firm, owner, partnership, joint venture, unincorporated body of persons, individual or any state or agency of a state, whether or not a separate legal entity;
- 11.11.6 any person are to be construed to include that person’s assignees or transferees or successors in title, whether direct or indirect; and
- 11.11.7 clause headings are for ease of reference only and are not to affect the interpretation of this Agreement; and

11.12 For the avoidance of doubt, this Agreement supersedes any previous agreement, whether written or oral, express or implied, between the parties to it (or any of them) in relation to the subject matter of this Agreement.

## **12. Other Security**

The Primary Lender shall be entitled at any time at its discretion and without consulting the Owner or Scottish Ministers to transact and deal with any other securities or guarantees of any kind that may be held by it in respect of the Owner's obligations to it and may sell, dispose of or realise such other securities in any order which it may determine and this Agreement shall remain in full force and effect notwithstanding such transactions or dealings.

## **13. Separate Provisions**

If any provision of this Agreement is or becomes invalid, illegal or unenforceable that shall not affect the validity, legality or enforceability of any other provision.

## **14. Governing Law**

This Agreement shall be governed by and construed according to Scots law and each of the parties submits to the exclusive jurisdiction of the Scottish courts.

**15. Consent to Registration**

The parties to this Agreement consent to its registration for preservation.

IN WITNESS WHEREOF this Agreement consisting of this and the # preceding pages is executed as follows:

<p>SUBSCRIBED for and on behalf of the Primary Lender by its duly authorised signatory at</p> <p>on the day of (Year-figure)</p> <p>in the presence of:</p> <p>..... Witness (Signature)</p> <p>..... Full Name</p> <p>..... Address</p> <p>.....</p>	<p>..... (Signature)</p> <p>..... (Full Name)</p>
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<p>SUBSCRIBED by the Owner at</p> <p>on the day of (Year-figure)</p> <p>in the presence of:</p> <p>..... Witness (Signature)</p> <p>..... Full Name</p> <p>..... Address</p> <p>.....</p> <p>..... Occupation</p>	<p>..... (Signature)</p> <p>..... (Signature)</p>
<p>SUBSCRIBED for and on behalf of the Scottish Ministers by</p> <p>on the day of (Year-figure)</p> <p>in the presence of:</p> <p>..... Witness (Signature)</p> <p>..... Full Name</p> <p>..... Address</p> <p>.....</p> <p>..... Occupation</p>	<p>..... (Signature)</p> <p>..... (Full Name)</p>



## Annexe B

### Application form

Please read the guidance notes for applicants before completing the application form.

#### Part one – About the application

1. Please tell us the address of the property you are interested in, or the name of the development, if known:

Property address/ name of development:
--

2. How many people are applying to the New Supply Shared Equity scheme (applicants are all those who wish to be named as the owner of the property)?  
—

3. Please give details of all applicants:

<b>First applicant:</b>	<b>Second applicant:</b>
Name:	Name:
Current Address:	Current Address:
Postcode (in full):	Postcode (in full):
Telephone number: Home Work Mobile	Telephone number: Home Work Mobile
Email address:	Email address:
Date of birth:	Date of birth:
Relationship to other applicant:	Relationship to other applicant:

***(If there are more than two applicants please use the space at the end of the form to tell us about the other people applying.)***

**Part two – Enclosures**

Please tick  
(if provided)

- 1. Written evidence of your current accommodation status. \_\_\_\_\_
- 2. In the case of current home owners, evidence supporting your need to move. \_\_\_\_\_
- 3. Written evidence of mortgage quotes which you have received from **three** different qualifying lenders. \_\_\_\_\_

## Part three – About you

### First applicant

1. Are you a first-time buyer? Yes / No
2. Are you currently employed or in receipt of an employment offer in the area where the property is located? Yes / No

If yes, please tell us about your employment.

Employer's address:
Type of employment:

3. Are you currently self-employed? Yes / No

If yes, please tell us about the kind of business you operate.

Company address:
Type of company:
Occupation:

4. Do you have any local connection in the area in which you wish to live, for example, family or relatives? Yes / No

If yes, please give us more information.

--

5. How long have you lived in this area (if relevant)?

--

6. If you wish to move into the area where the property is located please tell us why this is.

7. Is this application in respect of your intended primary and only residence?

Yes / No

8. Have you left the Armed Forces in the past two years?

Yes / No

9. Are you a United Kingdom national?

Yes / No

If no, please provide written evidence that you have a right to permanent residency in the United Kingdom.

10. Are you in receipt of any other grant payments from our grant provider or any other agency?

Yes / No

If yes, please state:

### **Second applicant**

11. Are you a first-time buyer?

Yes / No

12. Are you currently employed or in receipt of an employment offer in the area where the property is located?

Yes / No

If yes, please tell us about your employment.

Employer's address:

  
  

Type of employment:

13. Are you currently self-employed? Yes / No

If yes, please tell us about the kind of business you operate.

Company address:
Type of company:
Occupation:

14. Do you have any local connection in the area in which you wish to live, for example, family or relatives?

Yes / No

If yes, please give us more information.

--

15. How long have you lived in this area (if relevant)?

--

16. If you wish to move into the area where the property is located please tell us why this is.

--

17. Is this application in respect of your intended primary and only residence?

Yes / No

18. Have you left the Armed Forces in the past two years?

Yes / No

19. Are you a United Kingdom national?

Yes / No

If no, please provide written evidence that you have a right to permanent residency in the United Kingdom.

20. Are you in receipt of any other grant payments from our grant provider or any other agency?

Yes / No

If yes, please state:

--

***(If there are more than two applicants please use the space at the end of the form to tell us about the other people applying.)***

**Part four – Details of those who will be living with you**

1. Please tell us about the other people who will live in the property:

<b>Surname</b>	<b>First name(s)</b>	<b>Date of birth</b>	<b>Relationship to applicant(s)</b>	<b>Occupation (if applicable)</b>

**Part five – Current accommodation**

Do all applicants currently live in the same accommodation? Yes / No

*If Yes, only complete Questions 1 to 7 in this section. If no, the second applicant must complete Questions 8 to 14.*

*You must provide written evidence of the accommodation status of **all** applicants regardless of whether they currently live in the same accommodation or live separately.*

**First applicant**

1. How would you describe your current living arrangements?

Please tick

Home owner	
Local authority tenant	
Registered Social Landlord (normally a housing association or housing co-operative) tenant	
Private rented tenant (unfurnished accommodation)	
Private rented tenant (furnished accommodation)	
Lodger	
Living with parents/relatives	
Tied accommodation (Armed Forces)	
Tied accommodation (non Armed Forces)	
Other (please state):	

2. If you are a tenant, lodger or living in tied accommodation please give the name and address of your landlord:

Name: Address:
-------------------



3. Are you on a local authority or Registered Social Landlord waiting list? If so, which?

Name of local authority/ Registered Social Landlord	How long have you been on the waiting list?

4. Please describe the type of accommodation that you live in:

	Please tick
House	
Flat	
Caravan	
Hostel	
Shared accommodation	
Other (please state):	

5. How long have you lived in this accommodation?

6. How many rooms are there in your present accommodation (excluding the kitchen, bathroom and any hall areas)?

7. Please explain why you want to move from the house you currently live in:

*Please include Enclosure One – Evidence of accommodation status.*

*Please include Enclosure Two – Written support stating why you have to move from the house you own.*

**Second applicant**

8. How would you describe your current living arrangements?

Please tick

Home owner	
Local authority tenant	
Registered Social Landlord (normally a housing association or housing co-operative) tenant	
Private rented tenant (unfurnished accommodation)	
Private rented tenant (furnished accommodation)	
Lodger	
Living with parents/relatives	
Tied accommodation (Armed Forces)	
Tied accommodation (non Armed Forces)	
Other (please state):	

9. If you are a tenant, lodger or living in tied accommodation please give the name and address of your landlord:

Name: Address:
-------------------

10. Are you on a local authority or Registered Social Landlord waiting list? If so, which?

<b>Name of local authority/ Registered Social Landlord</b>	<b>How long have you been on the waiting list?</b>

11. Please describe the type of accommodation that you live in:

	Please tick
House	
Flat	
Caravan	
Hostel	
Shared accommodation	
Other (please state):	

12. How long have you lived in this accommodation?

13. How many rooms are there in your present accommodation (excluding the kitchen, bathroom and any hall areas)?

14. Please explain why you want to move from the house you currently live in:

*Please include Enclosure One – Evidence of accommodation status.*

*Please include Enclosure Two – Written support stating why you have to move from the house you own.*

**Part six – People with particular housing needs**

1. Do you or any member of your household have a disability or learning difficulty we should take into account?

Yes / No

If no, please go to Part seven.

2. Does this affect the type/ size/ design of property that you can live in?

Yes / No

If yes, please give us more information, for example, need full wheelchair access internally; need all electric power:

3. Does this affect the location where you are able to purchase a house?

Yes / No

If yes, please give us more information, for example, need to be close to family/carer(s); need to be close to facilities – transport, schools:

4. If you currently own your home, do you have written support from a professional (such as a doctor or occupational therapist) stating that your current property is not suitable for your needs?

Yes / No

5. Who is providing this written support?

## Part seven – Income assessment

1. Gross earnings (per annum):

First applicant	£
Second applicant	£
<i>Other applicants</i>	£
Total earnings	£

2. Please specify any other income per annum:

Sickness benefit	£
Unemployment benefit	£
Bank interest	£
Superannuation or pension from previous employment	£
Working families tax credit	£
Widow's pension	£
Shareholder's profits	£
Other (please specify):	£ £ £

3. Please specify total personal contributions held:

First applicant	£
Second applicant	£
<i>Other applicants</i>	£
Total savings	£

4. Do any members of the household currently own their home?

Yes / No

If yes, how much equity do they expect to release from the sale of the property (that is the difference between the expected sale price and any loans secured over the property)?

£

5. Have any members of the household previously owned a home?

Yes / No

If yes, what profit did they make from the sale of this property?

£

6. Which lenders have you contacted regarding a mortgage for a New Supply Shared Equity property?

*Please note that you are normally required to provide quotes from three different lenders. Where this is not possible, there should be clear justification of the reasons (see Question 8). The quotes must be from a qualifying lender such as a bank, building society or insurance company. Other lenders may be acceptable but you will need to check first with us whether the lender can provide a mortgage for the New Supply Shared Equity scheme. You may wish to consult an independent financial advisor if you have not done so already.*

*You should be able to obtain quotes that do not involve a credit search. Searches can leave 'footprints' on your credit history which may affect your ability to obtain credit. You should therefore confirm with the lender whether a quote will include any form of credit search. If a quote does require a credit search the lender should explain to you any potential consequences. The lender should also obtain your consent before carrying out the search.*

**Lender 1**

Name:  
Address:

**Lender 2**

Name:  
Address:

**Lender 3**

Name:  
Address:

7. What is the maximum value of the mortgage that you have been told you are entitled to?

£

8. Do you have written confirmation of the mortgage that you are entitled to from three different qualifying lenders?

Yes / No

If no, please tell us why you have not been able to obtain three separate quotes.

*Please include Enclosure Three – Written evidence of the mortgage quotes which you have received from lenders.*

## Part eight – Solicitors who will be acting for you

1. Which firm of solicitors have you contacted to act for you in the purchase of a property?

Name:
Address:
Solicitor responsible:

Please note that if you have not already appointed a solicitor you should do so as soon as possible. You should make sure that they pass on their details to us as soon as they are appointed (see 'Notes for applicants').



## Part nine – Use of information

The Scottish Government and the Registered Social Landlord will use the information you provide on this application form (including Sensitive Personal Data as defined in the Data Protection Act 1998) for the purposes of, or in connection with, the processing of your application for the New Supply Shared Equity scheme and/ or the operation of the New Supply Shared Equity scheme; any transfer of the Scottish Government's interest in it; and enabling the Scottish Government and its agents, including the registered social landlord and anyone acting on its behalf, to monitor and/ otherwise evaluate the scheme.

This may include making checks with credit rating agencies to authenticate and verify your identity and credit status; taking up references and sharing this information with other organisations that handle public funds; and passing information to other partner housing providers (registered social landlords and private developers) and to your own legal advisers. If any of the information changes, you must inform the Scottish Government and the registered social landlord immediately.

The information may also be used for statistical surveys and the Scottish Government and/ or their representatives, including the registered social landlord, may contact you in the future to seek your views on the scheme.

The Scottish Government must protect public funds and so may use the information you have provided on this form to prevent and detect fraud. Under section 29(3) of the Data Protection Act 1998, the information may be disclosed for the purposes of crime prevention and detection. Sensitive Personal Data is required under the Equal Opportunities Monitoring statute.

You may request a copy of the information we hold about you. We may charge an administrative charge for each request. You also have the right to request correction of any incorrect information.

**Note:** 'Sensitive Personal Data' is defined in the Data Protection Act 1998 as being information concerning your racial or ethnic origin, political opinions, religious, philosophical or similar beliefs, trade union membership, physical or mental health, sexual life, commission of criminal offences and/ or involvement in criminal proceedings.

## Part ten – Signing the application form

For joint applications both signatures are required.

I/ We confirm that I/ we would like to be considered for the New Supply Shared Equity scheme and that I/ we have fully considered the requirements of the scheme.

I/ We acknowledge and explicitly give my/ our consent to the Scottish Government and the registered social landlord processing my/ our personal data, including any Sensitive Personal Data as defined in the Data Protection Act 1998 in accordance with Part nine.

I/ We confirm that the information provided in this application form is to the best of my/ our knowledge and belief correct and accurate in all respects.

I/ We understand that the registered social landlord and the Scottish Government reserve the right to withdraw from any agreement with me/ us in the event that the information provided proves to have been false or misleading and that it is a criminal offence to knowingly or recklessly make a false declaration or withhold information reasonably required in connection with the application.

Signatory 1:            Print name (including Mr/Mrs/Ms/Miss):  
                                 Signature 1:  
                                 Date:

Signatory 2:            Print name (including Mr/Mrs/Ms/Miss):  
                                 Signature 2:  
                                 Date:

All applicants must sign this form **twice** – once here and once in the next section. The signature in the next section allows us to request information from the lender that has offered you a mortgage.

We may contact you after we have received the application form to ask you to sign letters giving us permission to contact other organisations mentioned in this form.



**Equal opportunities monitoring**

Our equal opportunities policy aims to ensure that everyone who applies to us, whatever their race, colour or ethnic origin, will receive equal treatment.

To ensure our policy is working, we would be grateful if you would choose ONE section, then tick one box within that section to indicate your cultural background.

**First applicant**

(Registered social landlord to insert sections)

**Second applicant**

(Registered social landlord to insert sections)

**Additional space for extra information**

# **Application form for the New Supply Shared Equity scheme**

## **Notes for applicants**

Please complete the application form using **BLOCK CAPITALS**.

### **Part one – About the application**

Please tell us about the property you would like to buy.

Please also complete all your personal details and include a telephone number which would be useful if we need to clarify any details.

### **Part two – Enclosures**

These are additional documents which must be provided where necessary in order to consider your application.

Enclosure one – Evidence of your accommodation status is required. For example, if you are a tenant, a copy of your tenancy agreement should be provided. You must provide written evidence of the accommodation status of **all** applicants regardless of whether they currently live in the same accommodation or live separately.

Enclosure two – If you currently own your home but need to move, you must provide evidence of why this is the case. For example, if you have particular housing needs arising from an impairment or disability and need to move you must provide written evidence from a professional (such as a doctor or occupational therapist) stating why your current home is unsuitable.

Enclosure three – You are normally required to provide quotes from three different lenders. Where this is not possible, there should be clear justification of the reasons. The quotes must be from a qualifying lender such as a bank, building society or insurance company. Other lenders may be acceptable but you will need to check first with us whether the lender can provide a mortgage for the New Supply Shared Equity scheme.

**You should be able to obtain quotes that do not involve a credit search. Searches can leave ‘footprints’ on your credit history which may affect your ability to obtain credit. You should therefore confirm with the lender whether a quote will include any form of credit search. If a quote does require a credit search the lender should explain to you any potential consequences. The lender should also obtain your consent before carrying out the search.**

### **Part three – About you**

This part tells us whether you are a first-time buyer and gives us information about your current employment status.

You should provide details if you have any local connections in the area and, if you already live in the area, please say how long you have lived there. If you have not lived in the area before, you should tell us why you wish to move there.

This part of the form also asks you to confirm whether your application is in respect of your primary and only residence. It also asks you to confirm whether you have left the Armed Forces in the last two years, and whether you are a United Kingdom national. You should also let us know whether you are in receipt of any other grant payments.

This section should be completed for all applicants.

### **Part four – Details of those who will be living with you**

This is to help us assess your house size requirements. Please give details of all those who will be living with you.

### **Part five – Current accommodation**

Please give us details of your current accommodation. If **all** applicants currently live in the same accommodation you only need to complete Questions 1 to 7 in this section. If the applicants currently live in separate accommodation you must tell us about the living arrangements for each person.

Please note that you must provide written evidence of the accommodation status of **all** applicants regardless of whether they currently live in the same accommodation or live separately.

Please give us the details of your landlord, if applicable, and any housing waiting lists that you are currently on.

Please tell us about the type of accommodation that you currently live in. House/ apartment size should be based on the number of rooms in your accommodation excluding the kitchen, bathroom and any hall areas.

Please explain why you want to move from your current accommodation into a New Supply Shared Equity property.

*Please provide Enclosure one – Evidence of accommodation status.*

*If applicable, please also provide Enclosure two – Evidence of why you have to move from the house that you own.*

## **Part six – People with particular housing needs**

We use the term 'people with particular housing needs' to describe people who have a need for a more expensive, larger or more specialised house. This need could arise as a result of a member of the household having a disability or impairment.

This section relates to information about any particular housing need that you or a member of your household has. Please give as much detail as possible about any special housing requirements that you have in relation to house type, size, design and location.

If you currently own your home but require a property which is more expensive as a result of your particular housing needs we will need to know the specific reasons for this. We need written support from a professional (such as a doctor or occupational therapist) stating why your current house is no longer suitable for your needs (*Enclosure two*).

## **Part seven – Income assessment**

We need as much information as possible relating to your financial situation. We cannot assess your application unless you fully complete this section.

You will have to state all sources of finance. Your funds will be considered to be the total of:

- gross earnings, per single person or couple, as appropriate;
- any other income, comprising sickness benefit, unemployment benefit, bank interest, superannuation or pension from previous employment, working families tax credit, widow's pension and shareholder's profits; and
- personal contributions.

Personal contributions may comprise savings, gifts or any other financial contributions you can make. The definition of personal savings that we use includes: cash; Premium Bonds; stocks and shares; unit trusts; bank or building society accounts and fixed-term investments; the surrender value of any endowment policies; property; redundancy payments; and pension lump sum payments.

We will include personal contributions held by all prospective applicants.

You may retain £5,000 of any personal contributions held. Above this amount, 90 per cent of the balance will be treated as a contribution towards the purchase of a property.

If you already own a home you may still apply. However, any capital gain on your last owned property will be included as a personal contribution. You must tell us about the profit, or anticipated profit, from the sale of the property. *The information must be validated by a solicitor if the application proceeds to the next stage.*

You must purchase the maximum level of equity you can afford, taking into account other financial commitments and the associated costs of home ownership.

*Please include Enclosure Three – Evidence of the maximum mortgage that you are able to raise.*

### **Part eight – Appointing a solicitor**

You should appoint a solicitor to act on your behalf to complete the work involved in buying a home as soon as possible if you have not already done so. You should ask them to notify us directly so that we can put them in contact with our own solicitors who will, if your application is successful, forward a formal offer to them as your agents.

Your mortgage provider or independent financial advisor may be able to recommend certain legal firms having regard to matters such as cost, experience and quality of service.

**YOU SHOULD ALSO ENSURE THAT YOUR SOLICITOR ADVISES YOU ON THE IMPLICATIONS OF THE SCHEME AND THE TERMS OF ALL DOCUMENTATION AND THAT YOU ARE SATISFIED WITH THE SAME BEFORE AGREEING TO ENTER INTO ANY LEGAL COMMITMENTS.**

The shared equity arrangements will include the granting of a mortgage (or 'standard security' as it is known in Scotland) to secure the rights of the Scottish Government. **YOU SHOULD CHECK THAT THIS MORTGAGE WILL MEET YOUR NEEDS IF YOU WANT TO MOVE OR SELL YOUR HOME, OR IF YOU WANT YOUR FAMILY TO INHERIT IT.**

### **Part nine – Use of information**

This part sets out how information provided by you may be used and shared with others and advises you of your rights to obtain a copy of the information held and to request correction.

### **Part ten – Signing the application form**

Please ensure that all applicants sign the application form. Each applicant must sign the form twice – here and in the next section.

### **Part eleven – Allowing us to request and share information**

The signatures in this section allow us to request information from the lenders that have given you mortgage quotes.



## Annexe C

### Case studies

#### Case study one

Jill and Ian currently rent a one-bedroom flat in the south side of Edinburgh from a private landlord. They have been married for three years and have decided that they would like to own their home. Both work in the city centre and travel to work by public transport. Ideally they would like to purchase a two bedroom flat in the local area.

Both work full-time – Ian earns a salary of £16,000 and Jill earns £14,000 a year. The couple do not have significant savings (not more than £5,000). They have been to see three mortgage lenders and have ascertained that the maximum mortgage they are likely be given is £75,000. Typical market prices for two bedroom flats in the area are around £120,000 and they have not been able to find a suitable property that they can afford.

Ian has seen that a registered social landlord has developed properties for sale through Shared Equity in the south west of the city. The registered social landlord is advertising two bedroom flats at £115,000.

Their application is successful. On their combined salaries they are able to buy a 65.22 per cent stake in a flat.

Value of property	£115,000	
Owners' equity stake	£75,000	(= 65.22 per cent stake)
Scottish Ministers' equity stake	£40,000	(= 34.78 per cent stake)

## Case study two

Mary and John are married and have two children below the age of ten. They currently live in a two-bedroom house in a small town in Argyll which they rent from a registered social landlord. Both children attend the local primary school. House prices in the town have been rising sharply in recent years. The couple would like to purchase a home and do not want to move their children away from the school they attend. They do not have the right to buy their home from the registered social landlord.

John earns a salary of £15,000. Mary works part-time and earns £10,000 a year. They do not have significant savings. A mortgage lender has given them a quote for a mortgage of £62,500. Typical market prices for a three bedroom house in the area range between £110,000 and £150,000.

A registered social landlord has developed New Supply Shared Equity homes in the local area. A three-bedroom house is valued at £110,000 and under usual circumstances will cost a purchaser between £66,000 and £88,000.

The application is unsuccessful. The registered social landlord does not feel that the applicants have an adequate income for home ownership at this time. They have not demonstrated sufficient need to justify lowering the equity stake below 60 per cent and feel that the household is appropriately housed in the social rented sector.

### Case study three

John, 23, lives in a two bedroom privately rented flat in Stirling and has regular paid support, including a worker who sleeps over. He has been given a valid notice to quit by his landlord and needs to leave the property in the coming months.

John has learning difficulties and is supported to live a full life in his community but it is unlikely that he will ever have an earned income. In the flat the bedrooms and bathroom are upstairs; the kitchen and living room are downstairs. This suits John who has no problems accessing the property or its rooms.

John needs to remain in the town close to his family networks, to the community centre, and to other resources that he currently attends and with which he is familiar. He requires a similar property with two bedrooms. His family, support provider and care manager at the local authority confirm John's need to stay within the area. He has registered as homeless with the local authority and has also made an application to a local registered social landlord.

John's income comprises Income Support of £146.75<sup>6</sup> per week including relevant disability premiums and Disability Living Allowances at high rates for care and mobility of £67.00 and £46.75 respectively. This gives him a total weekly income of £260.50 of which he has to contribute £77.00 a week towards his support costs. He has no significant savings.

Income Support rules allow John to claim Income Support Mortgage Interest payments in addition to his current benefits to repay the interest on a mortgage providing it is taken out in order to acquire alternative accommodation more suited to his needs as a disabled person. The termination of his tenancy is sufficient proof of the need for a more suitable property.

John has limited access to mortgage lenders, and to affordable mortgage finance. However he is able to raise a mortgage of £45,000 based on anticipated help through his Income Support claim.

A registered social landlord has developed New Supply Shared Equity flats in the local area. They accept John's application on the grounds that he is potentially homeless and in housing need; and they obtain supplementary evidence from his care manager confirming his need to live in the same area and from his welfare benefits advisors that the maximum mortgage he can raise and afford is £45,000. This supports their decision to accept a 51.00 per cent stake on a property valued at £88,235.

Value of property	£88,235	
Owner's equity stake	£45,000	(= 51.00 per cent stake)
Scottish Ministers' equity stake	£43,235	(= 49.00 per cent stake)

<sup>6</sup>

These are illustrative figures and may vary from time to time.

## Case study four

Sarah is in her thirties, lives with her young son and has serious mobility problems as a result of a car accident. She has difficulty with stairs although she is not a wheelchair user. She also has difficulty concentrating but believes she will be able to return to low paid work at some point.

She currently owns her home in the Scottish Borders outright without a mortgage. The house is on two storeys and has two bedrooms. The house is small and has not been adapted in any way. Sarah has been told that the house is not suitable for adaptation to meet her needs – for example, a stair lift will not be appropriate as the staircase is too narrow. She needs a single storey house, preferably with an accessible garden to allow her to supervise her son, and three bedrooms to allow for family and other supporters to provide overnight care when Sarah is unwell. A bungalow would be most suitable if this can be found at an affordable price.

Sarah's current income is Income Support plus Disability Living Allowances. She does not have significant savings. She wants to stay in the town where she is living, where her son is at school and would prefer to buy a property. Properties identical to her current home have sold recently in the local area for £85,000. She has looked at property prices on the open market and does not think that she will be able to buy a suitable home in the town for less than £150,000. Her desire to return to work means it would be inadvisable for her to take out a mortgage based on benefits that are only payable while she is not working.

A local registered social landlord is developing a number of New Supply Shared Equity properties, including a few bungalows which would be suitable for Sarah's needs. The bungalows are valued at £160,000, making the normal price somewhere between £96,000 and £128,000 (60 per cent – 80 per cent). Sarah would only be able to purchase a stake of 53.13 per cent by contributing the entire proceeds from the sale of her house ( $(£85,000 \div £160,000) \times 100$ ). She is aware that in particular circumstances the equity stake can be lowered and makes an application to the scheme.

The registered social landlord receives evidence from an occupational therapist that Sarah's current home is not suitable for adaptation. The application is successful.

Value of property	£160,000	
Owner's equity stake (from sale of previous house)	£85,000	(= 53.13 per cent stake)
Scottish Ministers' equity stake	£75,000	(= 46.87 per cent stake)

## Annexe D

### Financial appraisal – relevant only to project approved under the Affordable Housing Supply Programme – and not the Innovation and Investment Fund

#### Example 1 – Type 1 project (tender stage)

This example is based on a new build project of 10 properties, where the project receives tender approval after 12 May 2009. At tender stage, it is assumed that each owner will take a 60 per cent equity stake in a property. The District Valuer has valued each property at £110,000.

Scheme costs	£
Land acquisition	104,500
Works	750,000
Fees	75,000
Other costs – including capitalised interest charges (see note 1)	34,173
Development allowances (see note 2)	36,327
<b>Total costs</b>	<b>1,000,000</b>

Funding breakdown	£
Owner (see note 3)	660,000
Grant (see note 3)	340,000
<b>Total costs</b>	<b>1,000,000</b>

Note 1	The grant provider will accept capitalised interest charges arising from any projected development period borrowings as a legitimate capital cost. Estimated interest charges should be based on the projected level and timing of development period borrowings. In line with existing procedures, claims for payment of grant for capitalised interest charges should be substantiated by documentation from the registered social landlord's lender confirming the amount of interest actually charged.
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Note 2	Development allowances are calculated as follows: <table> <thead> <tr> <th></th> <th>£</th> </tr> </thead> <tbody> <tr> <td>Allowance per project</td> <td>13,827</td> </tr> <tr> <td>Allowance per new unit (10 x £691)</td> <td>6,910</td> </tr> <tr> <td>New Supply Shared Equity allowance (see note 4)</td> <td>15,590</td> </tr> <tr> <td><b>Total development allowances</b></td> <td><b>36,327</b></td> </tr> </tbody> </table>		£	Allowance per project	13,827	Allowance per new unit (10 x £691)	6,910	New Supply Shared Equity allowance (see note 4)	15,590	<b>Total development allowances</b>	<b>36,327</b>
	£										
Allowance per project	13,827										
Allowance per new unit (10 x £691)	6,910										
New Supply Shared Equity allowance (see note 4)	15,590										
<b>Total development allowances</b>	<b>36,327</b>										

Note 3	Given that owners are each expected to take a 60 per cent equity stake in the properties and the properties each have an open market value of £110,000, the registered social landlord can expect to receive a total sales income of £660,000 from owners (60 per cent of £1,100,000). The difference between this sum and the total cost of the project equals the required grant funding.
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Note 4	As per HIGN 2009/05 for projects approved after 12 May 2009 the New Supply Shared Equity allowance per unit has been reduced by the nominal sum of £100 from the published figure of £1,659 to £1,559 to reflect the central conveyancing arrangement now in place.
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## Financial appraisal

### Example 2 – Type 2 project (tender stage)

This example involves a registered social landlord buying five properties (at an appropriate discount) from a private developer. The project receives tender approval after 12 May 2009. At tender stage, it is assumed that each owner will take a 75 per cent equity stake in a property. The District Valuer has given each property an open market valuation of £120,000.

Scheme costs	£
Property acquisitions	500,000
Other costs (including capitalised interest charges) (see note 1)	14,923
Development allowances (see note 2)	25,077
<b>Total costs</b>	<b>540,000</b>

Funding breakdown	£
Owners (see note 3)	450,000
Grant (see note 3)	90,000
<b>Total costs</b>	<b>540,000</b>

Note 1	The grant provider will accept capitalised interest charges arising from any projected development period borrowings as a legitimate capital cost. Estimated interest charges should be based on the projected level and timing of development period borrowings. In line with existing procedures, claims for payment of grant for capitalised interest charges should be substantiated by documentation from the registered social landlord's lender confirming the amount of interest actually charged.
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Note 2	Development allowances are calculated as follows:
	£
	Allowance per project 13,827
	Allowance per new unit (5 x £691) 3,455
	New Supply Shared Equity allowance (see note 4) 7,795
	<b>Total development allowances 25,077</b>

Note 3	Given that owners are each expected to take a 75 per cent equity stake in the properties, the registered social landlord can expect to receive a total sales income of £450,000 from owners (75 per cent of £600,000). The difference between this sum and the total cost of the project equals the required grant funding.
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Note 4	As per HIGN 2009/05 for projects approved after 12 May 2009 the New Supply Shared Equity allowance per unit has been reduced by the nominal sum of £100 from the published figure of £1,659 to £1,559 to reflect the central conveyancing arrangement now in place.
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## Financial appraisal

### Example 3 – Type 3 project (tender stage)

This example is based on a five property new build project, which receives tender approval after 12 May 2009. As the project involves existing owner occupiers whose homes are scheduled for demolition, it is assumed at tender stage that each owner will take an equity stake equivalent to the value of their existing home. The District Valuer has valued each of the existing properties at £40,000 and has valued each of the new properties at £85,000.

Scheme costs	£
Land acquisition	50,000
Purchase of existing owners' properties	200,000
Works	350,000
Fees	35,000
Other costs (including capitalised interest charges) (see note 1)	14,923
Development allowances (see note 2)	25,077
<b>Total costs</b>	<b>675,000</b>

Funding breakdown	£
Owners (see note 3)	200,000
Grant (see note 3)	475,000
<b>Total costs</b>	<b>675,000</b>

Note 1	The grant provider will accept capitalised interest charges arising from any projected development period borrowings as a legitimate capital cost. Estimated interest charges should be based on the projected level and timing of development period borrowings. In line with existing procedures, claims for payment of grant for capitalised interest charges should be substantiated by documentation from the registered social landlord's lender confirming the amount of interest actually charged.
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Note 2	Development allowances are calculated as follows: <table> <thead> <tr> <th></th> <th>£</th> </tr> </thead> <tbody> <tr> <td>Allowance per project</td> <td>13,827</td> </tr> <tr> <td>Allowance per new unit (5 x £691)</td> <td>3,455</td> </tr> <tr> <td>New Supply Shared Equity allowance (see note 4)</td> <td>7,795</td> </tr> <tr> <td><b>Total development allowances</b></td> <td><b>25,077</b></td> </tr> </tbody> </table>		£	Allowance per project	13,827	Allowance per new unit (5 x £691)	3,455	New Supply Shared Equity allowance (see note 4)	7,795	<b>Total development allowances</b>	<b>25,077</b>
	£										
Allowance per project	13,827										
Allowance per new unit (5 x £691)	3,455										
New Supply Shared Equity allowance (see note 4)	7,795										
<b>Total development allowances</b>	<b>25,077</b>										

Note 3	Given that an owner is expected to take a £40,000 equity stake in a property, the registered social landlord can expect to receive a total sales income of £200,000 from the owners (5 x £40,000). The difference between this sum and the total cost of the project equals the required grant funding, and each owner will have a 47.06 per cent equity stake in their new property.
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Note 4	As per HIGHN 2009/05 for projects approved after 12 May 2009 the New Supply Shared Equity allowance per unit has been reduced by the nominal sum of £100 from the published figure of £1,659 to £1,559 to reflect the central conveyancing arrangement now in place.
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## Financial appraisal

### Example 4 – Type 1 project (completion stage)

This example shows how a reassessment of grant would work at completion stage on a 10 property development where the actual levels of equity stake taken vary from those projected at tender stage. The project was approved and completed in the same year. At tender stage, it was assumed that each owner would take a 60 per cent equity stake, whereas each owner actually took a 70 per cent stake. The District Valuer valued each property at £90,000.

<b>Scheme costs</b>	<b>£</b>
Land acquisition	70,000
Works	675,000
Fees	67,500
Other costs	28,673
Development allowances	36,327
<b>Total costs</b>	<b>877,500</b>

<b>Funding breakdown at tender stage</b>	<b>£</b>
Owners (see note 1)	540,000
Grant (see note 2)	337,500
<b>Total costs</b>	<b>877,500</b>

<b>Funding breakdown at completion stage</b>	<b>£</b>
Owners (see note 3)	630,000
Grant (see note 3)	247,500
<b>Total costs</b>	<b>877,500</b>

<b>Grant reconciliation</b>	<b>£</b>
Grant approved at tender stage (see note 4)	337,500
Grant approved at completion stage (see note 4)	247,500
<b>Difference</b>	<b>90,000</b>

Note 1	Given that owners were each expected to take a 60 per cent equity stake in the properties, the registered social landlord expected to receive a total sales income of £540,000 from owners (60 per cent of £900,000).
Note 2	The difference between the anticipated sales income and the total cost of the project equalled the required grant funding at tender stage.
Note 3	Instead of each owner taking a 60 per cent equity stake in a property, each owner actually took a 70 per cent stake. Given that the properties each had an open market value of £90,000, the registered social landlord received a total sales income of £630,000 from the owners (70 per cent of £900,000). The difference between this sum and the total cost of the project equals the actual grant funding required.
Note 4	The difference between the grant approved at tender stage (£337,500) and the grant required at completion stage (£247,500) is £90,000. The registered social landlord must repay this sum to the grant provider.



## Annexe E

### Standard style of grant offer - relevant only to project approved under the Affordable Housing Investment Programme – and not the Innovation and Investment Fund

Dear Sir/Madam

[SUBJECTS: ]

[RESOURCE SYSTEM REFERENCE: ]

On behalf of the Grant Provider (after defined), I hereby offer to make to you the Grant Recipient (after defined) the Grant subject to the following terms and conditions and the conditions contained in the Standard Conditions of Grant forming Part 1 of the Schedule annexed hereto (“the Schedule”).

#### 1. Interpretation

1.1 In this offer (the “Offer”) the following expressions have the following meanings:

<b>Acquisition Stage:</b>	The stage in a Project at which a proposed Grant Recipient seeks to acquire the Subjects.
<b>Approved Contract Sum:</b>	£ <i>[Insert where applicable the amount approved]</i>
<b>Approved Contractor:</b>	<i>[Insert where applicable the name of the Contractor whose tender is to be accepted]</i>
<b>Approved Costs:</b>	As specified in Part 2 of the Schedule.
<b>Approved Documents:</b>	All specifications, designs, bills of quantity, plans, forms of building contract, professional appointments and tender reports submitted to and approved by the Grant Provider in respect of the Project.
<b>Drawdown:</b>	A drawdown of the Grant.

<b>Grant:</b>	The provision of <i>[insert the total amount of grant on offer]</i> towards the provision of housing for sale for owner occupation on a shared equity basis in accordance with the Shared Equity Procedures.
<b>Grant Agreement:</b>	This Offer and the Grant Recipient's acceptance.
<b>Grant Allocation by Year:</b>	The allocation of Grant by Year approved by the Grant Provider as specified in Part 3 of the Schedule.
<b>Grant Provider:</b>	<p><b>For Scottish Ministers insert:</b></p> <p><i>[The Scottish Ministers of [insert the relevant Area Housing Supply Team Office address]</i></p> <p><b>For a local authority insert:</b></p> <p><i>[The name and address of the local authority]</i></p>
<b>Grant Recipient:</b>	<i>[Insert the name and address of the Grant Recipient. If a company, this should be the address of its registered office.]</i>
<b>HAG/Payment:</b>	The form as specified in the Housing Association Grant Procedures Guide.
<b>HAG/Settlement:</b>	The form as specified in the Housing Association Grant Procedures Guide.
<b>Housing Association Grant Procedures Guide:</b>	The procedures guide issued by Scottish Ministers.
<b>Plan:</b>	The plan, if any, annexed and signed as relative hereto.

**Prescribed Rate:**

**For Scottish Ministers insert:**

Two per centum per annum above the base lending rate (or the equivalent) of the Royal Bank of Scotland plc or, in the event of that ceasing to exist, such other rate equivalent to it as the Scottish Ministers may specify.

**For a local authority insert:**

*[The rate of interest set by the local authority]*

**Project:**

As specified in Part 3 of the Schedule.

**Realisation Form:**

Any of the Equity stake increase form, the Open market sale form and the Property re-sale form as set out in Annexe G, Annexe I and Annexe J respectively of the Shared Equity Procedures.

**Shared Equity Documentation:**

All shared equity agreements, standard securities and ranking agreements in respect of the Project in the form set out in the Shared Equity Procedures.

**Shared Equity Procedures:**

The New Supply Shared Equity Scheme Administrative Procedures issued by Scottish Ministers.

**Subjects:**

[Insert the full address of the Subjects (i.e. site/property addresses). If multiple properties are involved, the property addresses can be listed in a separate schedule and the words "As specified in Schedule Part [ ]." inserted here.]

**Tender Stage:**

The stage at which the Grant Recipient has a fully costed proposal in respect of the Project.

**Unit:**

An individual flat or house that is provided by the Project.

1.2 Except where the context otherwise requires words denoting the singular include the plural and vice versa, words denoting any gender include all genders, words denoting persons include firms and corporations and vice versa.

- 1.3 Any reference in this Agreement to guidance and/ or procedures shall be a reference to any amendment and/ or replacement of the same from time to time.
- 1.4 A reference to the Scottish Ministers shall include their statutory successors and predecessors.

## **2. Contract**

- 2.1 This contract will commence on *[insert commencement date]* and shall endure for as long as obligations subsist under the Shared Equity Procedures.

## **3. Purpose of the Grant**

- 3.1 The Grant will be used by the Grant Recipient to meet the costs of the Project and administering and where necessary enforcing the Shared Equity Documentation in a good and proper manner all in accordance with the Project and the Shared Equity Procedures and for no other purpose whatsoever.
- 3.2 This Offer will lapse in the event of any variation in the Approved Costs. The Grant Recipient will immediately notify the Grant Provider in writing of any variation and the Grant Provider may at its sole discretion issue a revised offer.
- 3.3 It is a material condition of this Offer that the Project will commence on site within [ ] weeks of the date of this Offer. *[Delete if not applicable]*

## **4. Payment of Grant**

- 4.1 Payment of each Drawdown will be made by the Grant Provider to the Grant Recipient upon receipt of a HAG/Payment form accompanied by all necessary supporting documentation as required by the Grant Provider. It is understood that the Drawdown when paid will be applied to the Project within 14 days of payment by the Grant Provider.
- 4.2 The Grant or any instalment thereof will not be paid in advance of or in excess of expenditure incurred, save where the Grant or any instalment thereof is required in respect of the acquisition of the Subjects in which case the Grant or any instalment thereof may be paid within fourteen days prior to the expenditure being incurred in respect of that acquisition.

## **5. Acquisition Stage**

- 5.1 Where the Grant is to be applied towards the acquisition of the Subjects, the Grant Recipient will obtain vacant possession of the Subjects and a good marketable title in terms of Clause 11 of Schedule Part 1. The Grant Recipient will immediately following settlement confirm to the Grant Provider in writing using form HAG/Settlement that the foregoing has been carried out.
- 5.2 The Grant will be repayable to the Grant Provider in the event of the Subjects or any part thereof not being developed in accordance with the Project or in such other manner as is approved by the Grant Provider.

## **6. Tender Stage**

- 6.1 The Grant Recipient shall accept the tender submitted by the Approved Contractor and in the Approved Contract Sum.

## **7. Sale or Disposal**

- 7.1 The Grant Recipient will not sell or otherwise dispose of the Subjects, the Units or any part thereof save as in accordance with the Project without prior written notification to the Grant Provider and without first satisfying the Grant Provider that it has obtained all necessary statutory consents to such sale or disposal, including (where applicable) written consent of Scottish Ministers under Section 66 of the Housing (Scotland) Act 2001.
- 7.2 The Units will be marketed by the Grant Recipient in accordance with a strategy agreed in writing with the Grant Provider and the Shared Equity Procedures.

## **8. Shared Equity Procedures**

- 8.1 The Shared Equity Procedures shall be deemed to form part of this Offer and by acceptance the Grant Recipient agrees to abide and comply with the Shared Equity Procedures. For the avoidance of doubt but without prejudice to the rights of the Grant Provider under this Clause and Condition 3 (Interest) of the Standard Conditions:
- (i) duly completed Realisation Forms shall be submitted to the Grant Provider within one week of the transaction to which they relate taking place all as set out in those forms; and

(ii) payment of all sums due by the Grant Recipient to the Grant Provider in terms of the Realisation Forms shall be made to the Grant Provider on the date specified by the Grant Provider (either in the relevant request or otherwise) following receipt by them of that Realisation Form.

8.2.1 The Grant Recipient shall appoint legal advisers (acceptable to the Scottish Ministers) ('legal advisers') to act for them in connection with the Project.

8.2.2 The legal advisers will within 14 days of the date of your acceptance provide the following letter to the Scottish Ministers c/o the relevant address set out in Section 8 of the Shared Equity Procedures or such other address (including email address) as the Scottish Ministers may specify:

Dear Sirs

Name of registered social landlord (the 'RSL')

We act as legal advisers for the RSL in connection with *[insert description of the Project as defined in Part 3.1 of the Schedule to the Grant Offer]* and confirm that we have exercised and will continue to exercise the level of skill and care which would reasonably be expected of solicitors engaged in work of this nature.

This letter is without prejudice to any other rights which the Scottish Ministers may have.

Yours faithfully

8.2.3 In the event that there should be a change of legal adviser during the Project the new legal adviser will provide a letter on the same terms as those set out in Clause 8.2.2.

## **9. Default**

9.1 The breach of any of the terms and conditions contained in this Offer shall constitute a default.

9.2 In the event of a default which is, in the opinion of the Grant Provider, capable of being remedied, the Grant Provider will allow the Grant Recipient a period in which to remedy that default, said period being determined by the Grant Provider on the basis of what it considers reasonable in the circumstances and the Grant Provider will serve a notice in writing on the Grant Recipient to that effect.

- 9.3 In the event of a default which is in the opinion of the Grant Provider not capable of being remedied or is a default in terms of Clause 9.2 that has not been remedied in terms of that clause:–
- (i) where no Grant has been paid the Grant Provider will not make a payment; and
  - (ii) in all other cases where payment of Grant has been made the Grant Recipient will immediately repay to the Grant Provider any such payment or part payment up to the full amount of the Grant under deduction of any sum attributable on a pro rata basis to any Unit or Units provided in accordance with the Project.

## **10. Acceptance**

- 10.1 This Offer is open for acceptance in writing to reach the Grant Provider not later than twenty eight days after the date hereof (or such other period as may be mutually agreed) and if no such acceptance has been received, then this Offer will be held to have been withdrawn.
- 10.2 By acceptance hereof the Grant Recipient consents to this Offer and its acceptance being registered for preservation and execution.

*[Clause 11 below must be included in offers where the Grant Provider is a local authority. It must not be included in offers where the Grant Provider is the Scottish Ministers.]*

## **11. Scottish Ministers**

- 11.1 The parties acknowledge that the Grant Provider is administering the Grant for the Scottish Ministers who shall be entitled to rely upon and enforce the Grant Agreement as if the Grant Provider were the Scottish Ministers.
- 11.2 Without prejudice to all rights of the Scottish Ministers under Clause 11.1 and regardless of whether the same is expressly stated in any Clause hereunder:
- 11.2.1 all obligations by the Grant Recipient to the Grant Provider shall also be owed to the Scottish Ministers;  
and
  - 11.2.2 where the Grant Recipient assumes liability in respect of any form of loss suffered by the Grant Provider this shall include an assumption of liability for any form of loss suffered by the Scottish Ministers.

11.3 All Realisation Forms and/ or payments to be made thereunder shall be sent to the Grant Provider unless either the Scottish Ministers or the Grant Provider so require.

Yours faithfully

\_\_\_\_\_ (Signature)

\_\_\_\_\_ (Full name)

\_\_\_\_\_ (Position)

\_\_\_\_\_ (Date)

**For and on behalf of the Grant Provider**

On behalf of the Grant Recipient I hereby accept the foregoing Offer on the terms and conditions stated therein.

\_\_\_\_\_ (Signature)

\_\_\_\_\_ (Full name)

\_\_\_\_\_ (Position)

\_\_\_\_\_ (Date)

**For and on behalf of the Grant Recipient**



THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING OFFER BY  
[ ] TO [ ] (“the Offer”)

## **PART 1**

### **STANDARD CONDITIONS OF GRANT**

#### **Acceptance of Offer**

1. No payment of Grant will be made until the Offer is accepted.

#### **Breach of Terms of Offer**

2. Failure to comply with the terms and conditions in the Offer will be deemed to be a default on the part of the Grant Recipient and the Grant Provider may, on such a default, enforce its rights in accordance with the Offer.

#### **Interest**

3. The Grant Recipient will make payment of any sum due to the Grant Provider in terms of the Offer by a date specified by the Grant Provider for that purpose and interest at the Prescribed Rate will be payable by the Grant Recipient to the Grant Provider on any sum which is overdue.

#### **Expenses**

4. The Grant Recipient and the Grant Provider will bear their own legal fees which arise in connection with the entering into of this Offer. All other legal fees and expenses will be borne by the Grant Recipient.

#### **Compliance**

5. The Grant Recipient shall ensure that in carrying out the Project it will (a) comply with all applicable statutory requirements including without prejudice the obtaining of all licences which are necessary or in the opinion of the Grant Provider desirable and (b) without prejudice to the terms of Clause 8 of the Offer (Shared Equity Procedures) ensure that third party warranties are or will be obtained in terms of Section Three of the Shared Equity Procedures.

#### **Indemnity**

6. The Grant Recipient will indemnify the Grant Provider and the Scottish Ministers from and against all actions, proceedings, claims, losses, expenses and damages arising from any breach by the Grant Recipient of any undertaking or obligation in connection with the Grant and for all liability in respect of personal injury to or death of any person or of any damage to any property arising out of or in the course of or caused by

the carrying out of the Project by the Grant Recipient or those authorised by it.

### **Insurance**

7. The Subjects and any Units thereon will be adequately insured to the satisfaction of the Grant Provider and in the case of the Units for at least full reinstatement value.

### **Project Agreements**

8. The Grant Recipient will not breach any agreement with the Grant Provider and/ or the Scottish Ministers in respect of the Project.

### **Project Completion**

9. All development works forming part of the Project will be carried out with all due diligence, completed to the satisfaction of the Grant Provider and no material changes will be made to the Approved Documents without the prior written consent of the Grant Provider.

### **Time Limit**

10. The Offer will be deemed to be withdrawn where the Project does not commence or proceed within time periods specified in the Offer unless the Grant Provider consents in writing to extend those specified periods.

### **Title**

11. The Grant Recipient or the grantor of a Licence Agreement to the Grant Recipient has or can obtain a good and marketable title to the Subjects with no burdens, conditions, restrictions or servitudes affecting the Subjects which would adversely affect the Project or Scottish Ministers' shared equity interest in any Unit or Units and for the avoidance of doubt the Seller will furnish to the purchaser of each Unit such documents and evidence including a plan as the Keeper of the Registers of Scotland may require to enable (1) the Keeper to issue a Land Certificate in the name of that purchaser as the registered proprietor of the house or (2) that purchaser's interest to be registered as aforesaid in the Land Register and in either case containing no exclusion of indemnity in terms of Section 12(2) of the Land Registration (Scotland) Act 1979.

### **Other Grants**

12. In the event of the Grant Recipient receiving, or being entitled to receive, any other monies for the Project not disclosed by the Grant Recipient to the Grant Provider at the time of the Grant application the Grant Recipient will disclose the nature and the amount of the other

such monies to the Grant Provider within seven days of being advised that it is to receive, or is entitled to receive, other such monies, and the Grant Provider will then be entitled at its sole discretion to:

- (i) reduce the amount of the Grant then unpaid by such sum as the Grant Provider reasonably considers appropriate; or
- (ii) require repayment of any Grant then paid up to the full amount of the Grant.

### **Default of Grant Recipient**

- 13. The Grant Recipient shall not be, or be deemed for the purpose of any law to be, unable to pay its debts as they fall due.
- 14. The Grant Recipient shall not be insolvent nor apparently insolvent, nor admit inability to pay its debts as they fall due and an insolvency practitioner, administrative receiver, receiver or liquidator or administrator shall not be appointed to the Grant Recipient or in respect of any of its assets, and steps shall not be taken to appoint any of the foregoing.
- 15. The Grant Recipient will not assign its rights or obligations in respect of the Grant or any part of it to any other party without the prior written consent of the Grant Provider.
- 16. The Grant Recipient shall not be wound up, struck off or dissolved, other than for the purpose of restructuring of the Grant Recipient for trading purposes.
- 17. The Grant Recipient shall not cease or threaten to cease operating or trading.
- 18. There shall be no legal diligence or execution affecting any material asset of the Grant Recipient required for the Project.
- 19. The Grant Recipient shall not provide false or misleading information to the Grant Provider or omit to provide information that has been requested.

### **News releases**

- 20. The Grant Provider reserves the right to issue any news release or other public information about the Grant and/or the Project including the right to erect a signboard at the Project.

## **Supersession**

21. The terms of the Offer, and the contract following thereon, will remain in full force and effect insofar as they relate to any matter referred to herein which has not been implemented or on which the Grant Provider has not been fully satisfied, and that notwithstanding delivery of any of the Shared Equity Documentation or that such matter has not been referred to therein.

## **VAT**

22. The payment of the Grant by the Grant Provider to the Grant Recipient will be inclusive of all, if any, Value Added Tax payable thereon. The payment of any sum of money or other consideration by the Grant Recipient to the Grant Provider arising from the contract, any Standard Security and Deed of Variation of Conditions will be exclusive of all Value Added Tax payable thereon. The Grant Recipient will also be required to pay or keep the Grant Provider indemnified against all Value Added Tax relating to such sum of money or other consideration. References in the contract to Value Added Tax will include any other tax replacing or supplementing the same.

## **Notices**

23. Any notice given under the terms of the Offer is effectively given if it is posted to either the Grant Provider or the Grant Recipient at their address as shown in the Offer, or if the Grant Recipient is a company and its registered office is not in the United Kingdom, at the address of the Subjects and such Notice will be deemed to have been served two working days after it has been posted.

## **Proper Law**

24. The contract will be construed and regulated according to the Law of Scotland.

## **Severance**

25. All the provisions of the contract are severable and distinct from one another, and if one or more of such provisions becomes invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired.

## **Liability of Grant Recipient**

26. Where the Grant Recipient comprises more than one person the obligations hereunder will be joint and several.

**Consent to Registration**

- 27. The Grant Provider and the Grant Recipient consent to registration of the contract for preservation and execution.

.....  
On behalf of the Grant Provider

.....  
On behalf of the Grant Recipient

**SCHEDULE**

**PART 2**

**APPROVED COSTS**

<b>Cost item</b>	<b>TOTAL</b>
<b>TOTAL</b>	

(Itemise the Approved Costs on which this Offer is based, e.g. acquisition, works, professional fees, site investigation costs, feasibility study costs, VAT, allowances, legal fees, capitalised interest and third party warranty costs.)

## SCHEDULE

### PART 3

#### PROJECT, GRANT ALLOCATION BY YEAR AND FUNDING BREAKDOWN

##### 1. NEW SUPPLY SHARED EQUITY PROJECT APPROVED BY THE GRANT PROVIDER

<b>Project name:</b>		
<b>Client group(s) to be housed:</b> <i>[Provide a detailed breakdown of the client group(s) to be housed]</i>		
<b>House type</b>	<b>House size</b>	<b>Number of New Supply Shared Equity houses this type/ size</b>
		<b>TOTAL</b>

together with the sale of the same in accordance with the Shared Equity Procedures.

##### 2. GRANT ALLOCATION BY YEAR APPROVED BY THE GRANT PROVIDER

	<b>Actual spend prior to [insert current financial year]</b>	<b>Grant allocation in [insert current financial year]</b>	<b>Grant allocation in [insert next financial year]*</b>	<b>Grant allocation in [insert next again financial year]*</b>	<b>TOTAL</b>
<b>TOTAL</b>					

\* Please note that these are merely planning assumptions at this stage and therefore may be subject to change.

##### 3. FUNDING BREAKDOWN APPROVED BY THE GRANT PROVIDER

Total Approved Costs:	£
Sales income:	£
Grant:	£
Other public subsidy: <i>[if applicable]</i>	£

## Annexe F

### Sales log form – To be returned along with grant payment form

#### New Supply Shared Equity scheme – sales log form

#### What is the sales log form?

The sales log form is used by the Scottish Government to collect information about sales through the New Supply Shared Equity scheme. It is in three parts:

- PART A** Records details of the house purchased and is completed by the registered social landlord. A person authorised by the registered social landlord acting in connection with the purchase should sign the form to confirm the accuracy of all of the information contained in Part A.
- PART B** Records information about the household which has purchased the house and is completed by one of the named purchasers. The purchaser's solicitor must ensure that this part of the form is completed and returned to the registered social landlord on or before settlement.
- PART C** Records information about the named purchasers of the house and is completed by **each** named purchaser. The purchaser's solicitor must ensure that this part of the form is completed and returned to the registered social landlord on or before settlement.

#### How long will it take to fill in the questionnaire?

Each part of the questionnaire should take only a few minutes to complete.

#### What happens to the answers?

The questionnaire is only for the use of the Scottish Government and its representatives and will not be passed on to any other third party. All of the answers given will be treated in the strictest confidence.

#### For purchasers:

By completing and returning this questionnaire to the Scottish Government, you:

- confirm that you understand that the Scottish Government will use the information contained in this questionnaire for the purposes of collecting and evaluating information about sales through the New Supply Shared Equity scheme;



- acknowledge and explicitly give your consent to the Scottish Government (and anyone who they may authorise) processing your personal data, including any Sensitive Personal Data as defined in the Data Protection Act 1998, for the purposes referred to above. ('Sensitive Personal Data' is information concerning your racial or ethnic origin, political opinions, religious, philosophical or similar beliefs, trade union membership, physical or mental health, sexual life, commission of criminal offences and/ or involvement in criminal proceedings); and
- acknowledge and explicitly give your consent to the Scottish Government (and anyone who they may authorise) potentially contacting you in the future to seek your views about the New Supply Shared Equity scheme.

The Scottish Government, their representatives, and the registered social landlord will process all personal data, including any Sensitive Personal Data, in accordance with the terms of the Data Protection Act 1998 and only insofar as is necessary for or in connection with any of the purposes referred to above.

Under the Data Protection Act 1998, you have the right to request a copy of the information we hold about you. We may charge an administrative charge for each request. You also have the right to request correction of any incorrect information.

**Thank you for your co-operation**

**Part A The house which has been purchased**

**A1** Name of registered social landlord \_\_\_\_\_

**A2** Project name \_\_\_\_\_

**A3** House address and post code details must be included

Number \_\_\_\_\_ Street name \_\_\_\_\_

Town \_\_\_\_\_ Local authority \_\_\_\_\_

Plot number \_\_\_\_\_ Post code \_\_\_\_\_

**A4** Please list the number of: Bedrooms \_\_\_\_\_

**A5** Bedspaces \_\_\_\_\_

(please count a single room as 1 bedspace, a double room as 2)

**A6** Rooms \_\_\_\_\_

(enter the number of rooms in the dwelling (excluding the kitchen, bathrooms and hall))

**A7** Is the property:

a flat  terraced  semi-detached

detached  other

**A8**

Is the building:

a newly built house

improvement of existing housing

conversion

other

How many **purchasers** are there?

**A9**

\_\_\_\_\_

**A10**

Total purchase price paid for the house

£ \_\_\_\_\_

**A11**

Purchaser's contribution towards the total purchase price paid

£ \_\_\_\_\_

**A12**

Scottish Government's contribution towards the purchase price paid

£ \_\_\_\_\_

**A13**

Weeks available for sale

\_\_\_\_\_

**A14**

Date of settlement

Day

Month

Year

**Name of contact person** \_\_\_\_\_

**Signature** \_\_\_\_\_

**Part Household details**  
*(to be completed by one named purchaser on behalf of the household)*

**B**

**B** How many people live permanently in your household?

**1**

\_\_\_\_\_

**B** What are their ages, sex and the applicable occupation category (listed 1–8)?

**2**

The 8 categories are:

- |   |                   |   |   |   |                        |
|---|-------------------|---|---|---|------------------------|
| 1 | Working full-time | 2 | Working part-time   | 3 | Unemployed             |
| 4 | Retired           | 5 | Long-term sick or disabled                                  | 6 | Looking after the home |
| 7 | Dependent child   | 8 | Other (including students or those on a training programme) |   |                        |

Person number	Age	Sex	Occupation category (1–8)
<b>Example</b>	<b>30</b>	<b>M</b>	<b>1</b>
<b>First named purchaser</b>			
<b>Person 2</b>			
<b>Person 3</b>			
<b>Person 4</b>			
<b>Person 5</b>			
<b>Person 6</b>			
<b>Person 7</b>			
<b>Person 8</b>			

**B** Why did you decide to buy this house/flat?  
**3**

(Tick all questions noting whether each reason was **very** important, **quite** important or **not** important to you.)

Reasons	Very important	Quite important	Not important
To get a better house than my last house			
Wanted to buy my/our own house			
Size of the house was right			
The house was good value for money			
Setting up home for the first time			
The house was in an area I/we liked			
To live near family/ friends			
To look for/be close to work			
Previous home was unsuitable			
Left previous home for personal reasons			
Other (please specify)			
Don't wish to comment			

**B4** Please can you tell us your annual gross **household** income before tax?

Under £5,000  £5,000 – £10,000

£10,001 – £15,000  £15,001 – £20,000

£20,001 – £25,000  £25,001 – £30,000

£30,001 – £35,000  Over £35,000

Refused  Not known

How long do you think you are likely to stay in your shared equity home?

**B5**

Years \_\_\_\_\_

**B6** Do you think you think you are likely to want to increase your equity stake in the future?

Yes  No

**Part C**    **Named purchaser details**  
*(to be completed by each named purchaser)*

**C1**    Which of the following describes the ethnic group to which you belong?

***First named purchaser***

White                                            Bangladeshi                     

Black – Caribbean                                            Chinese                     

Black – African                                            Other – Asian                     

Black – Other                                            Mixed race                     

Indian                                            Other                     

Pakistani                                            Don't know/ don't wish to comment                     

***Second named purchaser***

White                                            Bangladeshi                     

Black – Caribbean                                            Chinese                     

Black – African                                            Other – Asian                     

Black – Other                                            Mixed race                     

Indian                                            Other                     

Pakistani                                            Don't know/ don't wish to comment

**C2**

Do you consider that you have a disability? (Under the Disability Discrimination Act 1995, a person is described as having a disability if they have 'a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities'.)

***First named purchaser***

Yes                      No                      Don't know              No comment

***Second named purchaser***

Yes                      No                      Don't know              No comment

**C3**

Are you a first-time buyer?

***First named purchaser***

Yes                       No

***Second named purchaser***

Yes                       No

Have you left the Armed Forces in the past year?

**C4**

***First named purchaser***

Yes                       No

***Second named purchaser***

Yes                       No



**C5**

What kind of accommodation were you living in before buying your new house/ flat?

***First named purchaser***

A house or flat you were renting (If you rented, go to question C6. If not, go to C7.)

A house or flat you owned or were paying a mortgage on

Living with parents/relatives

Living with friends (where you were not renting)

Other (please specify)

***Second named purchaser***

A house or flat you were renting (If you rented, go to question C6. If not, go to C7.)

A house or flat you owned or were paying a mortgage on

Living with parents/relatives

Living with friends (where you were not renting)

Other (please specify)

**C6** If you lived in rented accommodation, who was your landlord?

***First named purchaser***

The Council  Private landlord

Housing association/  
co-operative  Your employer (excluding  
the Ministry of Defence)

No comment  Your employer (the  
Ministry of Defence)

***Second named purchaser***

The Council  Private landlord

Housing association/  
co-operative  Your employer (excluding  
the Ministry of Defence)

No comment  Your employer (the  
Ministry of Defence)

In which country was your permanent address when you bought this house/flat?

**C7**

***First named purchaser***

Scotland  Go to C8a

Elsewhere in the UK  Go to C8b

Outwith the UK

***Second named purchaser***

Scotland  Go to C8a

Elsewhere in the UK  Go to C8b

Outwith the UK

**C8a** What was your previous **full** post code?

**First named purchaser** \_\_\_\_\_

**Second named purchaser** \_\_\_\_\_

**C8b** In which local authority area did you live?

**First named purchaser** \_\_\_\_\_

**Second named purchaser** \_\_\_\_\_

**C9** Were you on a waiting list when you bought this house?

**First named purchaser**

Council

Housing association/  
co-operative

Common housing list

Not on a waiting list

Refused to comment

Don't know

**Second named purchaser**

Council

Housing association/  
co-operative

Common housing list

Not on a waiting list

Refused to comment

Don't know

Did you receive a cash grant from your previous landlord to help pay for this house?

**C10**

**First named purchaser**

Yes

No

If yes, who was your previous landlord?

***Second named purchaser***

Yes

No

If yes, who was your previous landlord?

**Please return this form to your registered social landlord.**

**Thank you for filling out this form.**

## Annexe G

### Equity stake increase form

#### Notes on completion

**PLEASE READ THESE NOTES BEFORE COMPLETING THIS FORM. IF IN DOUBT, PLEASE CONSULT YOUR GRANT PROVIDER.**

You should submit a completed form each time an owner has increased their equity stake in a property.

Forms must be submitted to your grant provider within one week of the equity stake increase having taken place. **This allows the grant provider to raise a request for the receipt of sums due to the Scottish Ministers.**

You should not enclose any remittances with the form, as the information contained therein will be used by the grant provider to raise a request for the sum that is repayable.

## New Supply Shared Equity scheme – equity stake increase form

Please complete this form each time an owner has increased their equity stake in a property.

<b>Part A                    General information</b>	
1. Registered social landlord or subsidiary (“registered social landlord):	3. Harper Macleod LLP
2. Address of property:	4. Date of settlement of further equity stake acquired:

(Note: Complete **either** Part B (i) or Part B (ii) below. Part B (i) should be completed if the owner has increased their equity stake in the property for the first time. Part B (ii) should be completed if the owner has increased their equity stake in the property for a second time.)

<b>Part B (i)                    Financial reconciliation (first equity stake increase)</b>	
Current open market value of the property (please enclose a copy of the professional valuer’s report)	£                    (A)
Original % equity stake taken by the owner (please enclose appropriate supporting documentation showing the original % equity stake taken)	%                    (B)
Owner’s actual equity stake (current open market value (A) x % (B))	£
Additional % equity stake now being taken by the owner (please enclose appropriate supporting documentation showing the additional % equity stake being taken)	%                    (C)
Owner’s receipt to the Scottish Ministers: (current open market value (A) x % (C))	£

<b>Part B (ii) Financial reconciliation (second or subsequent equity stake increase)</b>	
Current open market value of the property (please enclose a copy of the professional valuer's report)	£ (A)
Current % equity stake taken by the owner (please enclose appropriate supporting documentation showing the original equity stake taken plus any additional equity stakes already taken)	% (B)
Owner's actual equity stake (current open market value (A) x % (B))	£
Additional % equity stake now being taken by the owner (please enclose appropriate supporting documentation showing the additional % equity stake being taken)	% (C)
Owner's receipt to the Scottish Ministers: (current open market value (A) x % (C))	£

<b>Part C Declaration</b>	
I declare that the above information, together with any supporting information, is true and complete.	
Signature (Officer of registered social landlord authorised by Management Committee or other governing body)	Date

For grant provider's use:	Checked by: Approved by:	Date Date
---------------------------	-----------------------------	--------------

## Annexe H

### Financial reconciliation – equity stake increases

This example shows what would happen if an owner in a Type 1 project decides to increase the equity stake in their property from 65 per cent to 85 per cent and then from 85 per cent to 95 per cent and then from 95 per cent to 100 per cent. There is no golden share over the property.

	£
Open market valuation (1 year after the owner has taken entry of the property)	130,000
Owner's equity stake (65 per cent of £130,000)	84,500
The Scottish Ministers' equity stake (35 per cent of £130,000)	45,500
Owner then increases their equity stake to 85 per cent:	
Owner's new equity stake (85 per cent of £130,000)	110,500
Owner's receipt to the Scottish Ministers (£110,500 – £84,500)	26,000
The Scottish Ministers' equity stake decreases to 15 per cent:	
The Scottish Ministers' new equity stake (15 per cent of £130,000)	19,500
Registered social landlord pays the receipt to the Scottish Ministers	26,000
Open market valuation (3 years after the initial purchase)	
Open market valuation (3 years after the initial purchase)	140,000
Owner's equity stake (85 per cent of £140,000)	119,000
The Scottish Ministers' equity stake (15 per cent of £140,000)	21,000
Owner then increases their equity stake to 95 per cent:	
Owner's new equity stake (95 per cent of £140,000)	133,000
Owner's receipt to the Scottish Ministers (£140,000 – £119,000)	21,000
The Scottish Ministers' equity stake decreases to 5 per cent:	
The Scottish Ministers' new equity stake (5 per cent of £140,000)	7,000
Registered social landlord pays the receipt to the Scottish Ministers:	21,000
Open market valuation (4 years after the initial purchase)	
Open market valuation (4 years after the initial purchase)	142,000
Owner's equity stake (95 per cent of £142,000)	134,900
The Scottish Ministers' equity stake (5 per cent of £142,000)	7,100
Owner then increases their equity stake to 100 per cent	
Owner's new equity stake (100 per cent of £142,000)	142,000
Owner's receipt to the Scottish Ministers (£142,000 - £134,900)	7,100
Registered social landlord pays the receipt to the Scottish Ministers:	7,100



# Annexe I

## Open market sale form

### Notes on completion

**PLEASE READ THESE NOTES BEFORE COMPLETING THE FORM. IF IN DOUBT, PLEASE CONSULT YOUR GRANT PROVIDER.**

You should submit a completed form each time a property is sold outright on the open market.

Forms must be submitted to your grant provider within one week of the date of settlement. **This allows the grant provider to raise a request for the receipt of sums due to the Scottish Ministers.**

You should not enclose any remittances with the form, as the information contained therein will be used by the grant provider to raise a request for the sum that is repayable.

## New Supply Shared Equity scheme – open market sale form

Please complete this form each time a property is sold outright on the open market.

<b>Part A                    General information</b>	
1. Registered social landlord or subsidiary (“registered social landlord”):	3. Name and address of RSL’s solicitors:
2. Address of property:	4. Date of settlement:

<b>Part B                    Financial reconciliation</b>	
Sales price obtained (please enclose a copy of the professional valuer’s report on which the sales price is based)	£                    (A)
Actual % equity stake taken by the Scottish Ministers (please enclose appropriate supporting documentation showing the actual % equity stake taken by the Scottish Ministers)	%                    (B)
The Scottish Minister’s actual equity stake (sales price obtained (A) x % (B))	£                    (C)
Capital receipt to the Scottish Ministers (C)	£

<b>Part C                    Declaration</b>	
I declare that the above information, together with any supporting information, is true and complete.	
Signature (Officer of registered social landlord authorised by Management Committee or other governing body)	Date

For grant provider’s use:	Checked by: Approved by:	Date Date
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## Annexe J

### Property re-sale form

#### Notes on completion

**PLEASE READ THESE NOTES BEFORE COMPLETING THE FORM. IF IN DOUBT, PLEASE CONSULT YOUR GRANT PROVIDER.**

You should submit a completed form each time you buy back a property with a golden share and re-sell it to an owner who takes a higher equity stake in the property than the previous owner.

Forms should be submitted to the grant provider within one week of the date of settlement in the case of a buy back and re-sale. **This allows the grant provider to raise a request for the receipt of sums due to the Scottish Ministers.**

You should not enclose any remittances with the form, as the information contained therein will be used by the grant provider to raise a request for the sum that is repayable.

## New Supply Shared Equity scheme – property re-sale form

Please complete this form each time you buy back a property with a golden share and re-sell it to an owner who takes a higher equity stake in the property than the previous owner.

<b>Part A                    General information</b>	
1. Registered social landlord or subsidiary (“registered social landlord”):	3. Name and address of RSL’s solicitors:
2. Address of property:	4. Date of settlement:

<b>Part B                    Financial reconciliation</b>	
Current open market value of the property (please enclose a copy of the professional valuer’s report)	£            (A)
Actual % equity stake taken by the previous owner (please enclose appropriate supporting documentation showing the actual % equity stake taken by the previous owner)	%            (B)
Previous owner’s actual equity stake (current open market value (A) x % (B))	£            (C)
Actual % equity stake taken by the new owner (please enclose appropriate supporting documentation showing the actual % equity stake taken by the new owner)	%            (D)
New owner’s actual equity stake (current open market value (A) x % (D))	£            (E)
Capital receipt to the Scottish Ministers ((E) – (C))	£

<b>Part C                    Declaration</b>	
I declare that the above information, together with any supporting information, is true and complete.	
Signature (Officer of registered social landlord authorised by Management Committee or other governing body)	Date

For grant provider’s use:	Checked by: Approved by:	Date Date
---------------------------	-----------------------------	--------------



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ISBN: 978-1-78412-646-9 (web only)

Published by the Scottish Government, July 2014

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APS Group Scotland  
DPPAS33138 (07/14)

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