



Homes England

Date: 17 April 2024

Our Ref: RFI4637

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

[REDACTED]
By Email Only

Dear [REDACTED]

RE: Request for Information – RFI4637

Thank you for your request for information which was processed in accordance with the Freedom of Information Act 2000 (FOIA).

You requested the following information:

- 1) A copy of the full terms and conditions that bound housebuilders who were signed up to the Help to Buy scheme during 2017.**
- 2) A copy of the contract and any other agreements between Homes England and Countryside Properties that pertain to / cover Countryside's status as a housebuilder that was signed up to the Help to Buy scheme during 2017**
- 3) data broken down by year for how many properties sold under the help to buy scheme were: 1) leasehold flats 2) leasehold houses 3) freehold houses and 4) other.**
- 4) data for how many leasehold flats and houses sold under the help to buy scheme had:**
 - i) starting ground rents of more than 0.1% of the property value (i.e the purchase price)**
 - ii) starting ground rents of £250 or more**
 - iii) starting ground rents that were set to double at rent review intervals of 20 years or less**
 - iv) starting ground rents that rose in line with the retail price index at intervals of 20 years or less**
 - v) had any form of escalating ground rent that rose at rent review periods of 20 years or less**





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Response

We can confirm that we do hold some of the requested information. We will answer your questions in turn below.

- 1) A copy of the full terms and conditions that bound housebuilders who were signed up to the Help to Buy scheme during 2017.**
- 2) A copy of the contract and any other agreements between Homes England and Countryside Properties that pertain to / cover Countryside's status as a housebuilder that was signed up to the Help to Buy scheme during 2017**

We can inform you that we do hold the information that you have requested. Please see the attached Annex A for a copy of the original contract we have on file.

We can also confirm that all home builders signed up to the same terms and conditions in this agreement during the period. You can access the agreement templates and additional guidance material for the home builders via this link:

<https://www.gov.uk/government/publications/help-to-buy-equity-loan-funding-administration-agreement>

- 3) data broken down by year for how many properties sold under the help to buy scheme were: 1) leasehold flats 2) leasehold houses 3) freehold houses and 4) other.**

We can inform you that we do hold the information that you have requested. However, we rely on section 21, exemption where information is available to the applicant elsewhere.

The full text of the legislation can be found on the following link:

<https://www.legislation.gov.uk/ukpga/2000/36/section/21>





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Advice and Assistance

We have a duty to provide advice and assistance in accordance with Section 16 of the FOIA. To comply with this duty, we are able to confirm the information requested is available in the published Official Statistics for the Help to Buy: Equity Loan scheme. You can access the relevant information on the following link:

<https://www.gov.uk/government/statistics/help-to-buy-equity-loan-scheme-data-to-31-may-2023>

Please be advised that Table 9a within the Help to Buy Tables contains a breakdown by year. Table 9 contains the cumulative figures and also gives a breakdown by property type.

- 4) data for how many leasehold flats and houses sold under the help to buy scheme had:**
- i) starting ground rents of more than 0.1% of the property value (i.e the purchase price)**
 - ii) starting ground rents of £250 or more**
 - iii) starting ground rents that were set to double at rent review intervals of 20 years or less**
 - iv) starting ground rents that rose in line with the retail price index at intervals of 20 years or less**
 - v) had any form of escalating ground rent that rose at rent review periods of 20 years or less**

We can confirm that Homes England does not hold the information detailed in this part of your request.

To conclude that the information is not held, we have searched with our Help to Buy Reporting team who would have the requested information if held.

The FOIA does not oblige a public authority to create information to answer a request if the requested information is not held. The duty under section 1(1) is only to provide the recorded information held.

The full text of section 1 in the legislation can be found here:

<https://www.legislation.gov.uk/ukpga/2000/36/section/1>





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Advice and Assistance

We have a duty to provide advice and assistance in accordance with Section 16 of the FOIA. To comply with this duty, we are able to confirm the Homes England does not collect this information, so it is not information we either hold or can provide.

Right to Appeal

If you are not happy with the information that has been provided or the way in which your request has been handled, you may request an internal review. You can request an internal review by writing to Homes England via the details below, quoting the reference number at the top of this letter.

Email: infogov@homesengland.gov.uk

Information Governance Team
Homes England
Windsor House
6th Floor
42-50 Victoria Street
London
SW1H 0TL
United Kingdom

Your request for review must be made in writing, explain why you wish to appeal, and be received within 40 working days of the date of this response. Failure to meet this criteria may lead to your request being refused.

Upon receipt, your request for review will be passed to an independent party not involved in your original request. We aim to issue a response within 20 working days.

You may also complain to the Information Commissioner's Office (ICO) however, the Information Commissioner does usually expect the internal review procedure to be exhausted in the first instance.

The Information Commissioner's details can be found via the following link:

6th Floor
Windsor House
42 - 50 Victoria Street, Westminster
London, SW1H 0TL

0300 1234 500
@HomesEngland
www.gov.uk/homes-england





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Email: infogov@homesengland.gov.uk

<https://ico.org.uk/>

Please note that the contents of your request and this response are also subject to the Freedom of Information Act 2000. Homes England may be required to disclose your request and our response accordingly.

Yours sincerely,

The Information Governance Team
For Homes England



dated *5 June* 2013

Homes and Communities Agency
and
COUNTRYSIDE PROPERTIES (UK) LIMITED

Help to Buy Equity Loan Funding Administration Agreement

Trowers & Hamblins LLP
Heron House
Albert Square
Manchester
M2 5HD
t +44 (0)161 211 0000
f +44 (0)161 211 0001
www.trowers.com

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Help to Buy Equity Loan Funding Administration Agreement

dated

5 June

2013

Parties

- (1) **Homes and Communities Agency**, a body corporate established under Section 1 of the Housing and Regeneration Act 2008 of Central Business Exchange II 406 – 412 Midsummer Boulevard Central Milton Keynes MK9 2EA (the **Agency**); and
- (2) **COUNTRYSIDE PROPERTIES (UK) LIMITED** (registration number 00614864) whose registered office is at The Drive, Brentwood, Essex, CM13 3AT (the **Provider**).

Background

- (A) The Agency is empowered under Section 19 of the Housing and Regeneration Act 2008 to provide financial assistance to any person by way of a loan.
- (B) The Agency has agreed pursuant to the Help to Buy Initiative to make funds available for the purpose of providing equity loans secured by a mortgage to Eligible Purchasers in order to enable such Eligible Purchasers to purchase Eligible Dwellings for their own occupation.
- (C) The Provider has registered with the Agency in order to promote and facilitate access to the Help to Buy product amongst potential purchasers in relation to its Eligible Dwellings.
- (D) It is a condition of the Agency's provision of funding that the Agency's Contribution Percentage will be secured on the title of the Eligible Dwelling purchased by an Eligible Purchaser by way of an equity mortgage in favour of the Agency.
- (E) It is a further condition of the Help to Buy Initiative that any purchaser wishing to participate in the scheme irrevocably agrees (as part of their application) to the Agency Contribution being paid directly to the Provider (via the Provider's Solicitor) upon completion of the sale of the relevant Eligible Dwelling.
- (F) The parties have entered into this Agreement in order to document the terms relating to the administration and receipt of the Equity Loan Funding and to enable the Provider and the Agency to agree forecasts for future potential sales (subject always to purchaser led demand) in order to effectively manage the Help to Buy Initiative.

Agreed Terms

1 Definitions and interpretation

1.1 Definitions

In this Agreement where the context so admits;

Additional Area means an Area in relation to which there is no identified Equity Loan Funding Projected Capacity;

- (e) Schedule 2 Part 1; and
- (f) (subject always to the provisions of condition 33) the London Area;

Authority to Exchange means a notice served by the Nominated Local HomeBuy Agent on the Eligible Purchaser's conveyancer in the form set out in the Solicitor's Pack or such other form as the Agency may from time to time reasonably require;

Authority to Proceed means a notice served by the Nominated Local HomeBuy Agent on the Eligible Purchaser's conveyancer and the Provider in the form set out in the Solicitor's Pack or such other form as the Agency may from time to time reasonably require;

Business Day means any day other than a Saturday, Sunday or a statutory Bank Holiday in England or any day between 24 December and 3 January (inclusive);

Conditions Precedent means the conditions precedent (including where relevant dates for satisfaction of the same) set out in Schedule 3;

Confidential Information means in respect of the Agency all information relating to the Agency or the existence or terms of this Agreement or any Equity Mortgage in respect of which the Provider becomes aware in its capacity as a party to this Agreement or which is received by the Provider in relation to this Agreement or any Equity Mortgage from either the Agency or any of its advisors or from any third party if the information was obtained by that third party directly or indirectly from the Agency or any of its advisors in whatever form in either case (including information given orally and any document electronic file or other means of recording or representing information which includes derives or is copied from such information) and in the case of the Provider means such specific information as the Provider shall have identified to the Agency in writing prior to the date hereof as confidential information for the purposes of this Agreement;

Consents means and includes any necessary approval, authorisation, consent, exemption, licence, permit permission or registration by or from any governmental or other authority the local planning authority landlords funder adjoining landowners or any other person required to undertake the works and deliver the Dwellings;

Consumer Registration means such registration or licence under consumer credit legislation or regulations as the Provider may from time to time be required to maintain (or procure the maintenance of) for the purposes of lawfully carrying out its obligations under this Agreement;

Contribution Percentage means the percentage of the Full Purchase Price specified as such in the relevant Authority to Proceed and being calculated as follows:

$$\frac{\text{Agency Contribution}}{\text{Full Purchase Price}} \times 100$$

PROVIDED THAT in no case shall the Contribution Percentage exceed 20% (twenty per cent) or be less than 10% (ten per cent);

Dispute Resolution Procedure means the procedure set out in Condition 18;

- (e) who does not (or will not at the point of purchase of the Eligible Dwelling) possess an interest in any other dwelling.

Eligible Purchaser's Certificate of Title means a certificate of title substantially in the form set out in the Solicitor's Pack;

Equity Loan Funding means the amount payable by the Agency (pursuant to its powers set out in Section 19 of the Housing and Regeneration Act 2008) on a unit-by-unit basis, which shall be set as the equivalent of the Agency Contribution in respect of each Eligible Dwelling, and which shall in aggregate be up to but not exceed the Equity Loan Funding Projected Capacity per Area (subject always to the terms of this Agreement);

Equity Loan Funding Projected Capacity has the meaning set out in the Forecast Details, as may be amended from time to time in accordance with the terms of this Agreement;

Equity Mortgage means the equity mortgage in the form set out at Schedule 4 or such other form as the Agency may from time to time reasonably require;

Exempted Information means any Information that is designated as falling or potentially falling within the FOIA Exemptions or the EIR Exceptions;

FA 2004 means the Finance Act 2004;

First Equity Loan Funding Date means the first date upon which the Agency Contribution is paid to the Provider (at the direction of the Eligible Purchaser) under this Agreement in respect of an Eligible Dwelling;

First Longstop Date shall mean the First Year 1 Longstop Date, the First Year 2 Longstop Date or the First Year 3 Longstop Date as applicable;

First Year 1 Longstop Date means 31 December 2013 or such other date as may be agreed between the parties (which shall not in any event be later than the Second Year 1 Longstop Date);

First Year 2 Longstop Date means 31 December 2014 or such other date as may be agreed between the parties (which shall not in any event be later than the Second Year 2 Longstop Date);

First Year 3 Longstop Date means 31 December 2015 or such other date as may be agreed between the parties (which shall not in any event be later than the Second Year 3 Longstop Date);

FOIA means the Freedom of Information Act 2000, and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation;

FOIA Exemption means any applicable exemption to FOIA;

Forecast Details means for each Area and for each of Year 1, Year 2 and Year 3 (as applicable):

- (a) the Equity Loan Funding Projected Capacity;

- (b) in relation to EIR has the meaning given under the definition of “environmental information” in section 2 of EIR;

Information Commissioner has the meaning set out in Section 6 of the DPA 1998;

Insolvency Event means the occurrence of any of the following in relation to the Provider;

- (a) it is unable or admits an inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness;
- (b) the value of its assets is less than its liabilities (taking into account contingent and prospective liabilities);
- (c) a moratorium is declared in respect of any indebtedness;
- (d) any corporate action, legal proceedings or other procedure or step is taken in relation to:
 - i the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) other than a solvent liquidation or reorganisation on terms previously approved by the Agency (such approval not to be unreasonably withheld or delayed);
 - ii a composition, compromise, assignment or arrangement with any of its creditor;
 - iii the appointment of a liquidator (other than in respect of a solvent liquidation) on terms previously approved by the Agency (such approval not to be unreasonably withheld or delayed), receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Provider;
 - iv enforcement of any Security over any assets of the Provider; or
 - v any analogous procedure or step is taken in any jurisdiction, other than any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within ten (10) Business Days of commencement; or
- (e) any expropriation, attachment, sequestration, distress or execution affects any asset or assets of the Provider;

Intellectual Property Rights shall include without limitation all rights to, and any interests in, any patents, designs, trademarks, copyright, know-how, trade secrets and any other proprietary rights or forms of intellectual property (protectable by registration or not) in respect of any technology, concept, idea, data, program or other software (including source and object codes), specification, plan, drawing, schedule, minutes, correspondence, scheme, formula, programme, design, system, process logo, mark, style,

- (c) have a material adverse effect on the validity or enforceability of, or the effectiveness of any rights or remedies of the Agency under this Agreement or any Equity Mortgage;

Maximum Limit means the amount set by the Agency from time to time and which at the date hereof is £600,000 (six hundred thousand pounds);

Monthly Update and Forecast Report means a report in the form set out in Schedule 6 or such other form as the Agency shall prescribe;

National HomeBuy Agent means the agent appointed by the Agency pursuant to the National HomeBuy Agent's competition launched on 24 October 2008 (or any subsequent competition) provided always that the Agency may itself fulfil the role of National HomeBuy Agent where none has been appointed;

NHBC means the National House Builders' Council;

Nominated Local HomeBuy Agent means such Local HomeBuy Agent as the Agency shall from time to time notify the Provider in writing will be a Nominated Local HomeBuy Agent for the purposes of this Agreement provided always that the Agency may itself fulfil the role of Nominated Local HomeBuy Agent where none has been appointed;

OFT means the Office of Fair Trading or any successor body taking over its regulatory functions;

Open Book means the declaration of all price components including profit margins, central office overheads, site overheads, preliminaries, contingencies and the cost of all materials, goods, equipment, work and services with all and any books of accounts, correspondence, agreements, orders, invoices, receipts and other documents available for inspection;

Permitted Incentives means Incentives to a value equal to those which would be made available to any purchaser of the relevant Eligible Dwelling whether or not they are an Eligible Purchaser participating in the Help to Buy Initiative PROVIDED THAT:

- (a) the value of such Incentives shall not be such that the existence or absence thereof would affect the Market Value of the Eligible Dwellings;
- (b) the value of such Incentives shall not in any event exceed 5% (five per cent) of the Full Purchase Price of the Eligible Dwelling; and
- (c) such Incentives comply with the requirements of the Council of Mortgage Lenders and which for the avoidance of doubt shall be disclosed on the Council of Mortgage Lenders' disclosure of incentives form;

Personal Data has the meaning ascribed to it in the DPA;

Planning Agreement means an agreement in respect of and affecting any Dwelling made pursuant to Section 106 of the Town and Country Planning Act 1990 and/or Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and/or Section 38 and/or 278

Provider Area Default means a Provider Default confirmed by the Agency to constitute a Provider Area Default pursuant to Condition 12.1;

Provider Default means:

- (a) the Provider or where applicable any subcontractor, employee, officer or agent commits a Prohibited Act (in respect of which the Waiver Condition has not been satisfied);
- (b) an Insolvency Event occurs in respect of the Provider and/or the Provider ceases trading;
- (c) the Provider experiences a change in its financial or commercial circumstances which in the opinion of the Agency would have a Material Adverse Effect;
- (d) the Agency becomes aware of any breach of the Warranties or inaccuracy in any representation made by the Provider in respect of this Agreement;
- (e) the Provider fails to maintain any required Consumer Registration or comply with the Advertising Requirements;
- (f) the Provider commits a breach of this Agreement which, in the reasonable opinion of the Agency, will have (either alone or in aggregate with any previous breaches) a Material Adverse Effect;
- (g) any enforcement action is taken or other right is enforced by the Regulator in relation to the Provider;
- (h) any senior employee, executive, board member or partner (as applicable) of the Provider is convicted of dishonesty;
- (i) any disposal of an Eligible Dwelling to an Eligible Purchaser where a Solicitor Form 1 has not been provided before exchange of contracts and/or a Solicitor Form 2 has not been provided in advance of completion, in both cases signed by and on behalf of the relevant Eligible Purchaser's conveyancer;
- (j) the Eligible Dwellings in an Area have not been completed to the Required Standards; or
- (k) the Agency becomes aware of any changes in any of the information provided at any time by or on behalf of the Provider to the Agency in respect of any Area with the Agency acting in its absolute discretion considers to have a Material Adverse Effect.

Provider Personnel means all employees, agents, consultants and contractors of the Provider and/or of any sub-contractors;

Provider's Solicitor means a solicitor whose details have been provided to the Agency and the Nominated Local HomeBuy Agent in writing from time to time as being the sole solicitor who is appointed by the Provider for all the Areas under this Agreement and who

Sales and Marketing Forecasts means in respect of each Area the respective forecasts for Eligible Dwellings being actively marketed and sold as detailed in the Allocations Details. References to "**Sales Forecasts**" and "**Marketing Forecasts**" shall be construed accordingly;

Secure Legal Interest means the Provider has in respect of the Eligible Dwelling:

- (a) freehold title registered with title absolute;
- (b) leasehold title (where the lease has at least 60 years unexpired duration) registered with title absolute; or
- (c) freehold title registered with possessory title or good leasehold title and defective title indemnity insurance in favour of the Provider (and for the benefit of any Eligible Purchaser and their mortgagees) with a limit of indemnity to at least the equivalent of the Market Value of the total number of Eligible Dwellings available on that Site.

Security means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect (such as sale or lease and leaseback, a blocked account, set-off or similar "flawed asset" arrangement);

Senior Officer means the employee of the Provider holding the title "Finance Director" or such other person with equivalent seniority notified in writing to the Agency by the Provider;

Significant Event means an event which could reasonably be considered to prejudice the reputation of the Agency or the Help to Buy Initiative;

Site means the overall development site upon which the Dwelling is located;

Solicitor's Form 1 means an undertaking duly completed in favour of the Agency by a conveyancer acting on behalf of the Eligible Purchaser and its Approved Lender substantially in the form set out in the Solicitor's Pack or such other form as the Agency may from time to time reasonably require;

Solicitor's Form 2 means an unqualified Eligible Purchaser's Certificate of Title and undertaking duly completed in favour of the Agency by a conveyancer acting on behalf of the Eligible Purchaser and its Approved Lender substantially in the form set out in the Solicitor's Pack or such other form as the Agency may from time to time reasonably require;

Solicitor's Pack means a pack of documentation in substantially the form set out in Schedule 7 or such other form as the Agency may from time to time reasonably require;

Standard Literature means the explanatory and other documentation from time to time supplied by the Agency or the Nominated Local HomeBuy Agent for provision to the Eligible Purchaser, the Approved Lender and the Eligible Purchaser's conveyancers;

- 1.2.4 Any reference to this Agreement or to any other document shall include (except where expressly stated otherwise) any variation, amendment or supplement to such document to the extent that such variation, amendment or supplement is not prohibited under the terms of this Agreement.
- 1.2.5 Any reference to any enactment, order, regulation or similar instrument shall (except where expressly stated otherwise) be construed as a reference to the enactment, order, regulation or instrument (including any EU instrument) as amended, replaced, consolidated or re-enacted.
- 1.2.6 A reference to a person includes firms, partnerships and corporations and their successors and permitted assignees or transferees.
- 1.2.7 Headings are for convenience of reference only.
- 1.2.8 A time of day shall be a reference to London time.
- 1.2.9 A party means a party to this Agreement.
- 1.2.10 The words includes or including are to be construed without limitation.
- 1.2.11 A deliberate act or omission of any person shall exclude acts or omissions which were within the contemplation of the parties or which were otherwise provided for in this Agreement.
- 1.2.12 In any case where the consent or approval of the Agency (or any officer of the Agency) is required or a notice is to be given by the Agency, such consent or approval or notice shall only be validly given if it is in writing and signed by such person as may be specified by the Agency by notice in writing to the Provider.
- 1.2.13 An obligation to do anything includes an obligation to procure its being done.
- 1.2.14 Any restriction includes an obligation not to permit infringement of the restriction.
- 1.2.15 When there are two or more persons affected by the obligations under this Agreement such obligations are to bind each such person jointly and severally.
- 1.2.16 Save where a contrary intention is shown, or where an express discretion is given by this Agreement, the Agency shall act reasonably in exercising its rights hereunder.
- 1.2.17 If there is any ambiguity or conflict between the implied terms and the express terms of this Agreement then the express terms shall prevail.
- 1.2.18 No review comment or approval by the Agency under the provisions of this Agreement shall operate to exclude or limit the Provider's obligations or liabilities under this Agreement save where the Agency have confirmed the said review comment or approval in writing.
- 1.2.19 The Provider shall be responsible as against the Agency for the acts or omissions of any of its subcontractors, officers, employees and agents as if they were the acts or omissions of the Provider.

- 3.4.1 the Agency Contribution will be deducted from the Full Purchase Price; and
 - 3.4.2 the Provider agrees to sell (or procure the sale of) the Eligible Dwelling to the Eligible Purchaser for the Full Purchase Price which shall be treated as satisfied by payment of the Reduced Purchase Price and the entering into of the Equity Mortgage by the Eligible Purchaser.
- 3.5 The Provider acknowledges and agrees that the Equity Loan Funding is made available by the Agency solely for the purpose of assisting Eligible Purchasers to purchase Eligible Dwellings on equity mortgage terms pursuant to the Help to Buy initiative. The parties have entered into this Agreement:
- 3.5.1 to enable the payment of such Equity Loan Funding which is properly due and payable to Eligible Purchasers directly to the Provider on a per unit basis;
 - 3.5.2 enable the parties to agree and monitor forecasts for the availability of the Provider's Eligible Dwellings for purchase under the Help to Buy Initiative; and
 - 3.5.3 to assist the Agency with the monitoring and projections of spend.
- 3.6 In the absence of the Provider or its solicitor being placed on notice to the contrary the Provider shall not be responsible for verifying the due completion of the Equity Mortgage and the relevant Condition Precedent shall be treated as satisfied if the Provider obtains an undertaking in favour of its solicitor (from the legal advisor acting for the Eligible Purchaser and its Approved Lender) that the Solicitor's Form 2 has been duly provided to the Nominated Local HomeBuy Agent PROVIDED THAT (if required by the Agency) the Provider shall use all reasonable endeavours procure that the undertaking which has been received by its solicitor is enforced and complied with.
- 3.7 The parties hereby agree that the Forecast Details for each Year represent the Provider's estimate of the potential demand for the Help to Buy Initiative from potential purchasers in relation to their Eligible Dwellings and that, subject to any changes agreed pursuant to Condition 8, the Provider shall use reasonable endeavours to promote and market the Help to Buy Initiative in order to achieve the Forecast Number of Sales for each Area by the relevant Second Longstop Date in each Year.

4 Payment and repayment

4.1 Calculation of Contributions

The Agency shall contribute by way of a loan to an Eligible Purchaser no less than 10% (ten per cent) but no more than 20% (twenty per cent) of the Market Value of the Eligible Dwelling depending on the outcome of the eligibility and financial assessment of the Eligible Purchaser by the Nominated Local HomeBuy Agent.

4.2 Pricing and Progress

4.2.1 The Provider shall dispose of all Eligible Dwellings at no more than Market Value. In determining an estimated Market Value for the purposes of marketing the Eligible Dwellings the Provider shall act in good faith and shall not make any distinction between dwellings being disposed of to Eligible Purchasers and dwellings being disposed of to other buyers.

together with interest which shall accrue at the Prescribed Rate from the date such Equity Loan Funding (or relevant part) was paid until it is repaid in full.

4.6 Non-compliant contracts with purchaser

The Provider hereby agrees that in the event it enters into any contract with an Eligible Purchaser for the purchase of a Dwelling using the Help to Buy Initiative and the Provider is not eligible to receive Equity Loan Funding in relation to such transaction (whether as a result of a Provider Default or otherwise) then the Provider shall unconditionally release the Eligible Purchaser from such contract and return to them any deposit and/or reservation fee paid by that Eligible Purchaser.

5 Warranties and Covenants

5.1 The Provider warrants to the Agency on the date hereof and on each day the Provider calls for a payment of Equity Loan Funding pursuant to Condition 7.13 in the terms of the Warranties.

5.2 Each of the Warranties shall be separate and independent and, save as expressly provided to the contrary, shall not be limited by reference to any of them or by any other provisions of this Agreement.

5.3 All warranties (including the Warranties), representations, undertakings, indemnities and other obligations made, given or undertaken by the Provider in this Agreement are cumulative and none shall be given a limited construction by reference to any other.

5.4 The Provider shall indemnify and keep indemnified the Agency from and against any liabilities and Losses incurred by the Agency as a result of any breach of any of the Warranties.

5.5 The Agency will take all reasonable steps to mitigate any Losses incurred by it as a result of any breach of any of the Warranties.

6 Provider Obligations

6.1 Marketing

6.1.1 Prior to undertaking any marketing in respect of Help to Buy, the Provider shall obtain or procure the obtaining of a valid Consumer Registration and ensure it is in a position to comply with the Advertising Requirements in respect of the Equity Mortgage;

6.1.2 The Provider shall procure that:

- (a) all potential purchasers of Eligible Dwellings (who are introduced to it or who introduce themselves) are provided with the Standard Literature;
- (b) no representations about Help to Buy or its suitability for Eligible Purchasers are made or permitted to be made by or on its behalf save as set out in the Standard Literature; and
- (c) in no circumstances shall the Provider itself approve or determine the eligibility of any potential purchaser for Help to Buy nor restrict any

6.2 Compliance with legislation

The Provider shall ensure that in exercising its rights and performing its obligations under this Agreement and in selecting and appointing any subcontractor it shall at all times comply with:

6.2.1 all applicable Legislation and Regulations; and

6.2.2 Good Industry Practice;

7 Procedure for receiving payment of Equity Loan Funding

7.1 The Provider shall procure that all potential purchasers of Eligible Dwellings (who are introduced to it or who introduce themselves to the Provider) are notified of the availability of Help to Buy in respect of such Eligible Dwellings.

7.2 The Provider shall work with the potential purchaser in order to fully complete the Property Information Form and the Provider shall ensure that the completed form is supplied to the Nominated Local HomeBuy Agent. The Provider shall ensure that the potential purchaser is notified of the contents of the declaration contained in the Property Information Form prior to signing the form, particularly in relation to:

7.2.1 the obligation to ensure that all information provided on the Property Information Form is accurate and true; and

7.2.2 the provision of the potential purchaser's prior consent to the Agency paying the Equity Loan Funding directly to the Provider in accordance with the terms of this Agreement

7.3 The Provider and the Agency shall use all reasonable endeavours to put in place (in so far as practicable) arrangements to ensure that any potential purchaser and their proposed purchase are subject to a full assessment by the Nominated Local HomeBuy Agent for eligibility (subject to full consideration of their formal application via the Property Information Form).

7.4 The Provider shall be entitled to require a potential purchaser to make a reservation of an Eligible Dwelling at the point of completing the Property Information Form provided that it is acknowledged that:

7.4.1 both the Provider and the potential purchaser shall be entitled to withdraw an Eligible Dwelling from a reservation to an Eligible Purchaser prior to exchange of contracts on the same terms as would be applied to any other buyer; and

7.4.2 (if the Authority to Proceed is not issued within five (5) Business Days of receipt of the fully completed Property Information Form by the Nominated Local HomeBuy Agent or the Nominated Local HomeBuy Agent confirms that an Authority to Proceed authorising the Eligible Purchaser to proceed with the purchase will not be issued) either the Provider or the potential purchaser shall be entitled to withdraw such Eligible Dwelling from the reservation and the Provider agrees to return any reservation fee (which shall be no greater than £500) to the potential purchaser.

- 7.10 If exchange does not occur within three (3) months of the Authority to Proceed (or any confirmed period of extension as detailed in Condition 7.9) the Authority to Proceed shall cease to have effect and the Provider shall notify the Nominated Local HomeBuy Agent.
- 7.11 Following exchange of contracts to dispose of an Eligible Dwelling to an Eligible Purchaser the Provider shall forthwith provide to the Nominated Local HomeBuy Agent a copy of the contract together with written confirmation of:
- 7.11.1 the date of exchange;
 - 7.11.2 the proposed (or anticipated) date of completion of the disposal; and
 - 7.11.3 the amount of the Equity Loan Funding payable to the Provider on completion of the disposal of that Eligible Dwelling.
- 7.12 The Agency shall use reasonable endeavours to procure that the Nominated Local HomeBuy Agent shall issue a Transaction Confirmation to the Provider following receipt of the Solicitor's Form 2 in relation to the relevant Eligible Dwelling from the Eligible Purchaser's Solicitor.
- 7.13 The Provider may within three (3) Business Days of the exchange of contracts for the sale of an Eligible Dwelling to an Eligible Purchaser (but in any event no later than twelve (12) Business Days prior to the anticipated date of completion of such sale), call on the Agency through IMS for the transfer of the Equity Loan Funding equivalent to the Agency Contribution for such Eligible Dwelling to an interest bearing client account of the Provider's Solicitor and the Agency shall transfer such Equity Loan Funding no later than such anticipated completion date notwithstanding the fact that the Conditions Precedent may not have been satisfied in respect of the relevant Eligible Purchaser and the relevant Eligible Dwelling PROVIDED THAT the Provider has confirmed on IMS:
- 7.13.1 the date of exchange of the relevant disposal;
 - 7.13.2 the proposed (or anticipated) completion date of the relevant disposal;
 - 7.13.3 the level of the Agency Contribution; and
 - 7.13.4 the identity of the Eligible Dwelling and the Eligible Purchaser.
- 7.14 Interest at the Prescribed Rate shall accrue on the Equity Loan Funding paid pursuant to this Condition from the date of payment to the Provider up to and including the date of completion of the sale of the Eligible Dwelling to the Eligible Purchaser or the date of repayment of the Equity Loan Funding to the Agency (as applicable) and shall, save where otherwise directed by the Agency, be paid to the Provider.
- 7.15 The Provider shall procure that the Provider's Solicitor provides one undertaking in respect of all Areas to the Agency to hold any monies received from the Agency pursuant to Condition 7.13 to the strict order of the Agency until such time as (subject to Condition 3.6) the Conditions Precedent in respect of the relevant Eligible Dwelling are met and the Provider's Solicitor has received confirmation from the Nominated Local HomeBuy Agent that Conditions Precedent 8(b) and 8(c) have been satisfied and from the Provider or the Eligible Purchasers conveyancer that Conditions Precedent 8(a) and 8(d) have been satisfied in respect of that Eligible Dwelling **provided always** that the Agency shall not be

HomeBuy Agent or otherwise) the Agency shall, following consultation with the Provider, keep the Forecast Details under review and shall revise the Forecast Details (if required) in accordance with any of the procedures set out in Conditions 8.2 to 8.5.

8.2 Agreed changes to the Forecast Details

The parties may from time to time agree changes to the Forecast Details in respect of individual Areas (and in seeking to agree any such changes both parties shall act reasonably and with regard to any published written briefing notes or guidance issued by the Agency relating to the substitution of Eligible Dwellings) and if such changes are agreed they shall be implemented through the amendment by the Provider of the relevant sections on IMS and the electronic confirmation of that amendment by the Agency through IMS.

8.3 Increasing the Forecast Numbers in existing Areas

Where the parties agree that an Area is suitable for the Provider to put forward additional Dwellings to be made available to Eligible Purchasers for the provision of Equity Loan Funding and/or changes to the Forecast Number for that Area:

8.3.1 the Agency may agree to increase the Equity Loan Funding Forecast Capacity; and/or

8.3.2 the Parties may agree such changes as required to the Forecast Number for that Area.

and the parties shall effect such agreement in accordance with Condition 8.2.

8.4 Proposals for Additional Areas

The Provider shall be entitled at the Agency's invitation from time to time to submit proposals for additional Eligible Dwellings to be made available in order for Eligible Purchasers to access Equity Loan Funding in any Additional Areas and where the Agency is satisfied that:

8.4.1 the Provider's proposals in relation to the Additional Area:

(a) comply with the requirements of the Help to Buy Initiative;

(b) can be developed by the First Longstop Date for the relevant Year;

(c) can be disposed of by the Second Longstop Date for the relevant Year; and

(d) satisfy any other conditions which the Agency may wish to impose;

8.4.2 the Provider's performance in sales and marketing as against its projections in respect of other Areas has been of an acceptable standard; and

8.4.3 the Provider has complied with the terms of this Agreement (including any agreed variations to the same)

granted to certain undertakings entrusted with the operation of services of general economic interest to recover any amount of overcompensation (as described in the Decision) the Agency will be entitled to recover any such amount from the Provider.

11 **Variations**

Save to the extent expressly stated to the contrary, any addition, variation or amendment to this Agreement shall only be binding if made in writing and signed by a duly authorised representative of each party.

12 **Provider Default**

12.1 On or after the occurrence of any Provider Default, the Agency (acting reasonably) shall notify the Provider in writing whether it considers the Provider Default to constitute a Provider Area Default.

12.2 Where a Provider Default is classified as a Provider Area Default the Agency shall be entitled, by notice in writing and with immediate effect, to exercise any or all of the following rights and remedies:

12.2.1 (where applicable) to suspend further Equity Loan Funding in relation to the relevant Area (save to the extent Condition 4.3 applies); and/or

12.2.2 to require repayment within 10 (ten) Business Days of any Equity Loan Funding paid in whole or part in relation to the relevant Area (save to the extent secured on an Eligible Dwelling pursuant to the Equity Mortgage or to which Condition 4.3 applies).

12.3 On or after the occurrence of any Provider Default which is not covered by Condition 12.2 above, the Agency shall be entitled by notice in writing and with immediate effect, to exercise any or all of the following rights and remedies:

12.3.1 to terminate this Agreement in full;

12.3.2 to suspend all further Equity Loan Funding payments (save to the extent Condition 4.3 applies); or

12.3.3 to require repayment within 10 (ten) Business Days of any Equity Loan Funding paid in whole or part in relation to any Area (save to the extent secured on an Eligible Dwelling pursuant to the Equity Mortgage or to which Condition 4.3 applies);

12.4 In relation to the exercise by the Agency of its rights in Conditions 12.2 or 12.3 the Provider shall pay on demand all the Agency's losses incurred as a result of the Provider Default (whether or not this Agreement is terminated) including any costs incurred by the Agency in investigating any Provider Default which has occurred.

13 **Monitoring, reviews and reporting**

13.1 The Provider shall with effect from the date of this Agreement submit a Monthly Update and Forecast Report to the Agency no later than ten (10) Business Days following the end of each calendar month during the currency of this Agreement.

13.3 The Agency may call a meeting with the Provider (to discuss the content of the Report, any other matter relating to this Agreement or the arrangements between the parties) at any time provided that the Agency:

13.3.1 gives reasonable prior written notice of such meeting; and

13.3.2 includes with the notice (or circulates within ten (10) Business Days of the notice) an agenda for such meeting.

13.4 The Agency and the Provider shall use all reasonable endeavours to ensure that any representatives at any meeting held pursuant to this Condition 13 have the necessary authority and knowledge to deal with the items on the agenda for such meeting.

13.5 Subject to the prior approval of the other party (such approval not be unreasonably withheld) either party may request that additional persons attend a meeting to provide detailed or particular advice or information.

14 **Provider's records and accounting**

14.1 The Provider shall, as and when requested by the Agency whether before or after the date of payment of the Equity Loan Funding or any part thereof, make available on an Open Book basis and in a timely manner to the Agency where required in connection with this Agreement or the Eligible Dwellings a copy of each of:

14.1.1 all data, materials, documents and accounts of any nature created, acquired or brought into existence in any manner whatsoever by or on behalf of the Provider for the purposes of this Agreement; and

14.1.2 all such data, materials, documents and accounts created, acquired or brought into existence by the Provider's officers, employees, agents or consultants relating to the Eligible Dwellings and which have been supplied to the Provider for the purposes of this Agreement.

14.2 The Provider shall at all times:

14.2.1 maintain a full record of particulars of all sale details (including valuations) and receipts received in respect of all Eligible Dwellings sold under Help to Buy;

14.2.2 when required to do so by the Agency, provide a summary of any information referred to in Condition 14.2.1 as the Agency may require to enable it to monitor the performance by the Provider of its obligations under this Agreement; and

14.2.3 provide such facilities as the Agency may require for its representatives to visit any place where the records are held and examine the records maintained under this Condition.

14.3 Compliance with the above shall require the Provider to keep (and where appropriate shall procure that any subcontractor shall keep) separate books of account (from those relating to any business, activity or operation carried on by the Provider and/or subcontractor and which do not directly relate to any Eligible Dwelling) in accordance with good accountancy practice with respect to all the Eligible Dwellings showing in detail:

14.3.1 income (including sales receipts);

- (b) is obtained from a third party without that third party being under an obligation (express or implied) to keep the information confidential; or
- (c) is lawfully in the possession of the other party before the date of this Agreement and in respect of which that party is not under an existing obligation of confidentiality; or
- (d) is independently developed without access to the Confidential Information of the other party.

15.1.4 Each party will be permitted to disclose Confidential Information to the extent that it is required to do so:

- (a) to enable the disclosing party to perform its obligations under this Agreement or any Equity Mortgage; or
- (b) by any applicable law or by a court, arbitral or administrative tribunal in the course of proceedings before it including without limitation any requirement for disclosure under FOIA, EIR or the Code of Practice on Access to Government Information and the Provider acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and the Agency may nevertheless be obliged to disclose such confidential information ; or
- (c) by any regulatory body (including any investment exchange) acting in the course of proceedings before it or acting in the course of its duties; or
- (d) in order to give proper instructions to any professional advisor of that party who also has an obligation to keep any such Confidential Information confidential; or
- (e) to meet reasonable information requests from Approved Lenders (or the Approved Lenders' professional advisors or insurance advisors) to the extent that such disclosure is necessary to the performance of this Agreement.

15.1.5 The Provider shall ensure that all Confidential Information obtained from the Agency under or in connection with this Agreement:-

- (a) is given only to such of its Group Companies, employees, professional advisors or consultants engaged to advise it in connection with this Agreement as is strictly necessary for the performance of this Agreement and only to the extent necessary for the performance of this Agreement;
- (b) is treated as confidential and not disclosed (without the Agency's prior written approval) or used by any such staff or professional advisors or consultants otherwise than for the purposes of this Agreement;
- (c) where it is considered necessary in the opinion of the Agency the Provider shall ensure that such staff, professional advisors or

- 15.2.3 Subject to Condition 15.2.4 below, the Provider acknowledges that the Agency may be obliged under FOIA or EIR to disclose Information:-
- (a) without consulting the Provider or
 - (b) following consultation with the Provider and having taken (or not taken, as the case may be) its views into account.
- 15.2.4 Without in any way limiting Conditions 15.2.2 and 15.2.3, in the event that the Agency receives a Request for Information, the Agency will, where appropriate, as soon as reasonably practicable notify the Provider.
- 15.2.5 The Provider will assist and co-operate with the Agency as requested by the Agency to enable the Agency to comply with its disclosure requirements under FOIA and EIR within the prescribed periods for compliance and in particular without limitation will (and shall procure that its Group Companies agents contractors and sub-contractors will), at their own cost:
- (a) transfer any Request for Information received by the Provider or any Group Company (as applicable) to the Agency as soon as practicable after receipt and in any event within two Business Days of receiving a request for information;
 - (b) provide all such assistance as may be required from time to time by the Agency and supply such data or information as may be requested by the Agency;
 - (c) provide the Agency with any data or information in its possession or power in the form that the Agency requires within five Business Days (or such other period as the Agency may specify) of the Agency requesting that Information;
 - (d) permit the Agency to inspect any records as requested from time to time
- 15.2.6 Nothing in this Agreement will prevent the Agency from complying with any valid order, decision, enforcement or practice recommendation notice issued to it by the Information Commissioner under FOIA and / or EIR in relation to any Exempted Information.
- 15.2.7 The obligations in this Condition 15 will survive the expiry or termination of this Agreement and each Equity Mortgage for a period of 2 years or, in respect of any particular item of Confidential Information, until such earlier time as that item of Confidential Information reaches the public domain otherwise than by reason of a breach of this Agreement or of any other duty of confidentiality relating to that information.

15.3 **Transparency**

- 15.3.1 The parties acknowledge that, except for any information which is exempt from this Agreement, the Provider hereby consents for the Agency to publish the Agreement to the general public in its entirety (but with any information which is

17.3 All sums or other consideration payable to or provided by a Provider to the Agency at any time will be deemed to be exclusive of all VAT payable and where any such sums become payable or due or other consideration is provided, the relevant Provider will pay to the Agency all the VAT payable upon the receipt of a valid VAT invoice.

18 **Dispute resolution**

18.1 All disputes and differences arising out of or in connection with this Agreement (a **Dispute**) shall be resolved pursuant to the terms of this Condition 18.

18.1.1 In the event that the Provider or the Agency consider that a Dispute exists, such party shall serve a notice upon the other party (a **Notice of Dispute**) giving brief details of the Dispute and in the first instance the parties shall use their reasonable endeavours to resolve such Dispute amicably and in good faith and in accordance with this Condition 18.

18.1.2 Representatives of the parties shall meet within five (5) Business Days (or such other longer period not exceeding twenty (20) Business Days as the parties may agree) of receipt of a Notice of Dispute.

18.1.3 Where either no representatives of both parties are available to meet within the period set out in Condition 18.1.2 or the representatives fail to agree a unanimous resolution of the Dispute at such meeting, the Dispute shall be referred to the chief executives (or nominated deputies) of the Provider and the Agency (the **Chief Executives**).

18.1.4 The Chief Executives shall meet within ten (10) Business Days (or such other longer period not exceeding twenty (20) Business Days as the parties may agree) of such referral to attempt to resolve the Dispute. Any unanimous resolution of the Chief Executives shall be recorded in writing and signed by them and shall be final and binding unless the parties agree otherwise.

18.1.5 If the Dispute remains unresolved after ten (10) Business Days following referral to the Chief Executives, such Dispute must be dealt with in accordance with Condition 18.2.

18.2 In the circumstances contemplated in Condition 18.1.5, the parties will attempt to settle the Dispute by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed by the parties, the mediator will be nominated by CEDR. The parties agree that:

18.2.1 to initiate the mediation a party must give notice in writing (**ADR notice**) to the other party to the Dispute requesting a mediation. A copy of the request should be sent to CEDR.

18.2.2 the mediation shall start not later than twenty eight (28) days after the date of the ADR notice; and

18.2.3 except where the right to issue proceedings would be prejudiced by a delay, no party may commence any court proceedings in relation to any dispute arising out of this agreement until it has attempted to settle the dispute by mediation

23.2.3 if delivered by facsimile transmission, upon production by the sender's equipment of a transmission report indicating that the fax was sent to the fax number of the recipient in full without error provided that a confirmation copy is delivered by hand within forty-eight (48) hours of delivery of the facsimile transmission;

provided that if the delivery or receipt is on a day which is not a Business Day or is after 4.00pm it is to be regarded as received at 9.00am on the following Business Day.

24 **Severability**

If any term, condition or provision contained in this Agreement shall be held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall to that extent be omitted from this Agreement and shall not affect the validity, legality or enforceability of the remaining parts of this Agreement.

25 **Cumulative rights and enforcement**

Any rights and remedies provided for in this Agreement whether in favour of the Agency or the Provider are cumulative and in addition to any further rights or remedies which may otherwise be available to those parties.

26 **Waiver**

26.1 The failure of any party at any one time to enforce any provision of this Agreement in no way affects its right thereafter to require complete performance by the other party, nor may the waiver of any breach or any provision be taken or held to be a waiver of any subsequent breach of any provision or be a waiver of the provision itself.

26.2 Where in this Agreement any obligation of a party is to be performed within a specified time that obligation shall be deemed to continue after that time if the party fails to comply with that obligation within the time.

26.3 Any waiver or release of any right or remedy of either party must be specifically granted in writing signed by that party and shall:

26.3.1 be confined to the specific circumstances in which it is given;

26.3.2 not affect any other enforcement of the same or any other right; and

26.3.3 (unless it is expressed to be irrevocable) be revocable at any time in writing.

27 **Public relations and publicity**

The Provider shall ensure that the Agency's requirements from time to time in relation to public relations and publicity as notified to the Provider from time to time or otherwise as included in the Regulations are observed and implemented in respect of each Eligible Dwelling.

28 **Data Protection**

- 28.5.2 ensure that all Provider Personnel required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Clause 28;
 - 28.5.3 ensure that none of Provider Personnel publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Agency;
 - 28.5.4 provide a written description of the technical and organisational methods employed by the Provider for processing Personal Data (within the timescales required by the Agency); and
 - 28.5.5 not Process Personal Data outside the European Economic Area without the prior written consent of the Agency and, where the Agency consents to a transfer, to comply with:
 - (a) the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 by providing an adequate level of protection to any Personal Data that is transferred; and
 - (b) any reasonable instructions notified to it by the Agency.
- 28.6 The Provider agrees to use all reasonable efforts to assist the Agency to comply with such obligations as are imposed on the Agency by the DPA. For the avoidance of doubt, this includes the obligation to:
- 28.6.1 provide to the Agency such access as may be reasonably required from time to time to all Personal Data stored or processed in performing its obligations under this Agreement, in order to enable the Agency to meet its obligations to respond to access requests from Data Subjects under the DPA;
 - 28.6.2 provide the Agency with reasonable assistance in complying with any request for information served on the Agency under Section 7 of the DPA;
 - 28.6.3 notify the Agency (within five Working Days) about the receipt of any such request received by the Provider under Section 7 of the DPA or complaint or request relating to the Agency's obligations under the DPA and not disclose or release any information (including the Agency's Personal Data) in response to such a request or complaint without first consulting with the Agency, where the information sought relates to the Agency, its employees, agents and/or its business operations;
 - 28.6.4 provide the Agency with full co-operation and assistance in relation to any complaint of request made, including by:
 - (a) providing the Agency with full details of the complaint or request;
 - (b) complying with a data access request within the relevant timescales set out in the DPA and in accordance with the Agency's instructions;

29.2.2 relieve either party from any obligation contained in this Agreement.

29.3 Without prejudice to the generality of the foregoing the Provider shall co-operate fully and in a timely manner with any reasonable request from time to time:

29.3.1 of any auditor (whether internal or external) of the Agency to provide documents, or to procure the provision of documents, relating to the Dwellings, and to provide, or to procure the provision of, any oral or written explanation relating to the same; and/or

29.3.2 of the Agency where the Agency is required under any legislation to provide any document relating to the Dwellings to any person.

29.4 The Provider will not, and will use all reasonable endeavours to procure that its suppliers and sub-contractors will not, knowingly do or omit to anything in relation to the Help to Buy Initiative, the Dwellings or in the course of their other activities that may bring the standing of the Agency into disrepute or attract adverse publicity for the Agency.

29.5 No Party will publish any statement, orally or in writing, relating to the other Party which might damage that other Party's reputation or that of any of its officers or employees.

30 **Governing law**

This Agreement shall be governed by and construed in accordance with the laws of England and Wales and subject to the provisions of Condition 18 the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

31 **No fetter on statutory functions**

Notwithstanding anything apparently or impliedly to the contrary in this Agreement or any of the deeds and documents referred to herein, in carrying out its statutory duties or functions the discretion of the Agency shall not be fettered, constrained or otherwise unlawfully affected by the terms of this Agreement or any such other deed or document.

32 **Survival of this agreement**

32.1 Insofar as any of the rights and powers of the Agency provided for in this Agreement shall or may be exercised or exercisable after the termination or expiry of this Agreement the provisions of this Agreement conferring such rights and powers shall survive and remain in full force and effect notwithstanding such termination or expiry.

32.2 Insofar as any of the obligations of the Provider provided for in this Agreement remain to be discharged after the termination or expiry of this Agreement the provisions of this Agreement shall survive and remain in full force and effect notwithstanding such termination or expiry.

33 **London Area**

33.1 This Agreement shall only operate in relation to the London Area up to and including the London Area Expiry Date. For the avoidance of doubt, no Equity Loan Funding shall be made available in respect of any Eligible Dwelling within the London Area after the London Expiry Date.



Schedule 2

Part 1

Areas – Outside London

HCA Operating Area
East and South East
Local Authority
Castle Point
Brentwood
Rochford
Uttlesford
Braintree
Chelmsford
Harlow
Epping Forest
Eastbourne
Shepway
Thanet
Ashford
North Hertfordshire
Sevenoaks
Watford
Tonbridge and Malling
Tunbridge Wells
Stevenage
East Hertfordshire
Hertsmere
Broxbourne
St. Albans
Dacorum
Runnymede
Tandridge
Mid Suffolk
Guildford
Welwyn Hatfield
Three Rivers
Ipswich
Woking
Reigate and Banstead
Elmbridge
Spelthorne
South Cambridgeshire
Wycombe
East Cambridgeshire
Surrey Heath
Mole Valley
Waverley
St. Edmundsbury
Suffolk Coastal

HCA Operating Area
East and South East
Local Authority
Babergh
Forest Heath
Waveney
South Buckinghamshire
Worthing
Chiltern
Fenland
Aylesbury Vale
Crawley
Horsham
Huntingdonshire
Cambridge
Canterbury
Adur
Chichester
Mid Sussex
Arun
Epsom and Ewell
Wealden
Lewes
Rother
Swale
Dartford
Maidstone
Dover
Gravesham
Hastings
Norwich
Breckland
Broadland
North Norfolk
South Norfolk
Colchester
Basildon
Tendring
Maldon
Great Yarmouth
Kings Lynn and West Norfolk
Peterborough
Southend-on-Sea
Medway Towns
Brighton and Hove

HCA Operating Area
East and South East
Local Authority
Thurrock

HCA Operating Area
Midlands
Local Authority
Ashfield
Corby
Stafford
East Staffordshire
Lichfield
Staffordshire Moorlands
Newcastle-under-Lyme
Cannock Chase
South Staffordshire
Newark and Sherwood
Dudley
Broxtowe
Mansfield
Hinckley and Bosworth
North West Leicestershire
Wolverhampton
Tamworth
Wychavon
Melton
Bromsgrove
Malvern Hills
Worcester
Wyre Forest
Redditch
Nuneaton and Bedworth
Rugby
Warwick
North Warwickshire
Stratford-on-Avon
High Peak
Amber Valley
South Derbyshire
East Lindsey
Lincoln
North Kesteven
Erewash

HCA Operating Area
South and South West
Local Authority
Torridge
Teignbridge
North Devon
West Devon
South Hams
East Hampshire
Cotswold
Cheltenham
Winchester
New Forest
Stroud
Eastleigh
Tewkesbury
Gloucester
Basingstoke and Deane
Bath and North East Somerset
Isles of Scilly
Isle of Wight
Portsmouth
Cornwall
Southampton
Plymouth
Poole
Bristol
Reading
Swindon
South Gloucestershire
North Somerset
Slough
Windsor and Maidenhead
West Berkshire
Wokingham
Bournemouth
Bracknell Forest
Torbay
Wiltshire

Schedule 3

Conditions Precedent

	Conditions Precedent	Notes
1	<p>Provision of the following written information by the Provider to the Agency:</p> <p>(a) in relation to the Provider's conveyancers:</p> <ul style="list-style-type: none"> • Bank name; • Bank branch/address; • Bank sort code; • Bank account number; and • Bank account name. 	<p>No fewer than 15 (fifteen) Business Days prior to the First Equity Loan Funding Date</p> <p><i>These only need to be provided once (unless changed)</i></p>
2	<p>The Provider has provided to the Agency a certificate from its solicitors that they have verified the identity of the Provider in accordance with the Money Laundering Regulations 2007 (as amended or re-enacted);</p>	<p>No fewer than 15 (fifteen) Business Days prior to the First Equity Loan Funding Date</p> <p><i>These only need to be provided once (unless changed)</i></p>
3	<p>Either:</p> <p>(a) where the Provider or a Group Company holds a Secure Legal Interest in the Eligible Dwelling self certification by the Provider that this applies; or</p> <p>(b) where CP3(a) does not apply, confirmation from the Provider's Solicitor to the Agency that the Provider has sufficient control over the land ownership of the Eligible Dwelling to procure compliance with the requirements of this Agreement in respect of such unit (save that the Provider will not be the party transferring the land to the Eligible Purchaser).</p>	
4	<p>Confirmation from the Provider that all matters represented and warranted by the Provider under this Agreement are true and correct as if made at each claim for Equity Loan Funding and would be true and correct immediately after the making of any such payment of Equity Loan Funding.</p>	

	<p>valuation and valuing the Eligible Dwelling at a sum which is equal to the Full Purchase Price or (at the discretion of the Agency) within a tolerance of that sum determined from time to time by the Agency and notified by the Nominated Local HomeBuy Agent to the Provider in writing;</p> <p>(d) contracts have been exchanged for the disposal of the Eligible Dwelling to the Eligible Purchaser in accordance with the relevant Authority to Exchange and the Eligible Purchaser and all relevant parties have unconditionally executed and irrevocably released the lease/transfer related to that disposal; and</p> <p>(e) execution by the Eligible Purchaser of the Equity Mortgage and a prior charge to an Approved Lender (subject to Condition 3.6).</p>	
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Schedule 4

dated

201[]

[homeowner]

and

Homes and Communities Agency

Equity Mortgage – Help to Buy

FORM OF CHARGE FILED AT HM LAND REGISTRY UNDER REFERENCE MD1246C

Full Purchase Price means the full purchase price of the property which would be payable but for Contributions offered pursuant to the Help To Buy Scheme and which does not exceed the Initial Market Value;

Gross Interest means a sum equal to 1.75% of the Initial Market Value subject to annual increases in accordance with Clause 9;

Help to Buy Scheme means the government home ownership initiative of the same name as described in the Help to Buy Participation Guidance published by the Agency on 25 March 2013;

Initial Market Value means the sum of £[•] being the Market Value at the date of this mortgage;

Initial Proportion means [•]% being the percentage of the Initial Market Value which the Lender Contribution represents;

Lender Contribution means the sum of £[] being the amount paid by the Lender directly to the Seller or its nominee (with the agreement of the Borrower) to enable the Seller to charge the Reduced Purchase Price;

Management Fee means £4 per month payable in the circumstances as set out in Clause 4.2 (subject to review in accordance with Clause 9);

Management Fee Review Date means each 1 April whilst this mortgage subsists;

Market Value means the price which the Property would fetch on the open market on a sale by a willing vendor to a willing purchaser on the assumption if not a fact that all the covenants on the part of the Borrower in this mortgage have been fully complied with and in the event of damage to the Property that it has been fully reinstated and disregarding any additions or improvements made by the Borrower with the written consent of the Lender **provided that** in the case of a Disposal where the Disposal price (disregarding any part of that price attributable to any additions or improvements made by the Borrower with the written consent of the Lender) is greater than the Market Value then the Market Value shall be substituted with such Disposal price when calculating the Repayment Sum;

Memorandum means the Memorandum of Redemption of Part annexed to this mortgage at the Second Schedule;

New Management Fee means the Management Fee increased pursuant to Clause 9 on each Review Date;

Nominated Agent means such agent appointed by the Lender from time to time and notified in writing to the Borrower;

Payment Date means the fifth anniversary of the date of this mortgage;

Payment Method means the method by which the Borrower pays the Interest and other payments due under this mortgage;

Qualifying Lender has the meaning given in Statutory Instrument 2005/2863;

Reduced Purchase Price means the Full Purchase Price less the Lender Contribution;

Remaining Proportion means the Initial Proportion less any Specified Proportion(s) in respect of which payment has been made in accordance with clause 8.4;

35.3 Where the Borrower is more than one person the covenants on the part of the Borrower shall be joint and several covenants and references to the Borrower include any one or more of those persons

35.4 The singular includes the plural and the masculine includes the feminine and the neuter and vice versa

35.5 Any clauses schedules and paragraphs referred to in this mortgage are clauses schedules and paragraphs to this mortgage unless specifically stated otherwise

35.6 Any primary or subordinate statutory provisions referred to in this mortgage shall include any regulations statutory instruments or secondary legislation made pursuant to such statutory provisions and any variation amendment or re-enactment of such provisions.

35.7 **Nominated Agent**

The Lender reserves the right to appoint a Nominated Agent to administer this loan on its behalf and to collect all payments that are due (including any payments pursuant to Clauses 6,7 and/or 8). Where the Lender has confirmed that a Nominated Agent is appointed:

35.7.1 all correspondence and/or payments that are required under this mortgage should be directed to the Nominated Agent unless the Lender has notified you otherwise (in writing) of any changes to this arrangement; and

35.7.2 the Nominated Agent will be entitled to recover from the Borrower on behalf of the Lender any reasonable costs and expenses which the Lender is entitled to recover from the Borrower under the terms of this Mortgage.

36 **Mortgage**

36.1 The Borrower has directed that the Lender Contribution is paid directly to the Seller or its nominee by the Lender and the Seller has agreed that:

36.1.1 the Lender Contribution will be applied towards the Full Purchase Price of the Property so that the Borrower only pays the Reduced Purchase Price; and

36.1.2 any obligation on the Borrower to pay an amount equal to the Lender Contribution to the Seller is satisfied by the Borrower entering into this mortgage.

36.2 In consideration of the reduction in the Full Purchase Price by an amount equal to the Lender's Contribution, the Borrower with full title guarantee charges all of his rights, title and interest in the Property by way of legal mortgage to the Lender as security for the discharge of the obligations and the making of the payments referred to in clause 2.3.

36.3 The Borrower covenants with the Lender that it will discharge all of its obligations which arise under the terms of this Mortgage and make all payments to the Lender as set out in this Mortgage as and when they fall due.

otherwise and even though of a wholly novel character) now or at any time during the continuance of this security payable in respect of the Property or any part of the Property or by the owner or occupier of the Property.

- 38.8 To execute and do at the expense of the Borrower all such works and things whatever as may now or at any time during the continuance of this mortgage be directed or required by any national or local or other public authority to be executed or done upon or in respect of the Property or any part of the Property or by the owner or occupier of the Property.
- 38.9 To obtain all licences permissions and consents and execute and do all works and things and bear and pay all expenses required or imposed by any existing or future legislation in respect of any works carried out by the Borrower on the Property or any part of the Property or of any user of the Property during the continuance of this mortgage.
- 38.10 Not to make or cause or permit to be made any alteration in or addition to the Property nor carry out any development or change of use on the Property within the meaning of any legislation for the time being relating to town and country planning without the previous consent in writing of the Lender such consent not to be unreasonably withheld.
- 38.11 To deliver to the Lender within seven days of receiving them full particulars of any notice or order or proposal served or made by a planning authority affecting the Property or any part of the Property which the Borrower receives and take all necessary steps to comply with any such notice or order or proposal. If you do not comply with this clause then you must permit the Lender to enter on the Property for the purpose of taking such steps.
- 38.12 At the Borrower's own cost at the request of the Lender to make or join with the Lender in making such representations or objections or appeals in respect of any such notice, order or proposal served or made by any planning authority as the Lender may reasonably require and indemnify the Lender against all costs charges and expenses reasonably and properly incurred by the Lender in respect of such representations objections and appeals.
- 38.13 Not without the prior consent in writing of the Lender to exercise the power of leasing or agreeing to lease or accepting surrenders of leases conferred on a mortgagor in possession by the Law of Property Act 1925 nor otherwise to grant or agree to grant any lease or tenancy of the Property or any part of the Property nor to confer upon any person any contractual licence right or interest to occupy the Property or any part of the Property or part with possession of the Property.
- 38.14 Not to deal with his interest in the Property in any way other than in accordance with clause 6 or 7.
- 38.15 Without limiting the generality of Clause 4.14, not to create or permit to subsist any Security Interest on the Property, save for
- 38.15.1 any lien arising by operation of law in the ordinary course of business in relation to fixtures and fittings and securing amounts not more than 30 days overdue;
 - 38.15.2 a Security Interest securing amounts owing to a Qualifying Lender but only to the extent permitted by paragraph 10.1;
 - 38.15.3 any Security Interest created with the prior written consent of the Lender.

41 Redemption before transfer

41.1 If the Borrower wishes to redeem this mortgage before an event specified in clause 5 the following procedure shall apply:

41.1.1 The Borrower shall apply in writing to the Lender.

41.1.2 Within fourteen (14) days of service of the notice as specified in 7.1.1 the Borrower shall apply (at its own cost) to the Valuer (whose decision shall be final) to determine the Market Value as at the date of receipt of such application and within five working days of receipt of such determination by the Valuer the Borrower shall serve a Valuation Notice on the Lender.

41.1.3 At any time within three (3) months (or four (4) months if extended by the Valuer) of service of the Valuation Notice the Borrower may pay an amount equal to the Repayment Sum together with any reasonable costs and expenses incurred by the Lender pursuant to this Mortgage and together with any other sums payable and outstanding under this Mortgage.

41.1.4 As soon as reasonably possible after receipt of such payment the Lender will duly discharge this security and apply to the Land Registry to remove the restriction referred to in clause 11 from the Register.

42 Redemption of part before transfer

42.1 Subject to Clause 8.2 the Borrower shall be permitted to redeem a Specified Proportion of this Mortgage at any time before an event specified in clause 5 and the following procedure shall apply:

42.2 The Borrower shall apply in writing to the Lender indicating what Specified Proportion the Borrower would like to redeem.

42.3 Within fourteen (14) days of service of such an application as specified in 8.2 the Borrower shall apply to the Valuer to determine the Market Value as at the date of receipt of such application and within five (5) working days of receipt of such determination by the Valuer the Borrower shall serve a Valuation Notice on the Lender together with written confirmation of any change to the Specified Proportion that the Borrower would like to repay following on from such valuation.

42.4 At any time within three (3) months (or four (4) months if extended by the Valuer) of service of the Valuation Notice the Borrower may pay the Specified Proportion (as specified in accordance with 8.2 or 8.3) of the Market Value together with any reasonable costs and expenses incurred by the Lender pursuant to this Mortgage together with any other sums payable and outstanding under this Mortgage.

42.5 As soon as reasonably possible after receipt of such payment the Lender shall execute a Memorandum evidencing the redemption of part and specifying the Remaining Proportion and details of the revised amount of Specified Interest and provide such Memorandum to the Borrower.

44.2.2 with power in the case of any failure to repair in accordance with the covenants contained in this mortgage to enter upon the Property upon reasonable prior written notice without becoming liable to account as mortgagee in possession.

44.3 All monies expended by the Lender for any such purpose and all costs charges and expenses reasonably and properly incurred by the Lender in relation to the protection or enforcement of this security whether involving litigation or not shall on demand be repaid to the Lender by the Borrower.

44.4 If the Borrower fails to pay any amount payable by it under this mortgage, it shall on demand by the Lender, pay interest on both the overdue amount and on all costs, charges and expenses properly incurred by the Lender in relation to the protection or enforcement of this security (whether involving litigation or not and on a complete unlimited and unqualified indemnity basis) from the date upon which such amount was due up to the date of actual payment, both before and after judgement, at the Default Interest Rate (such interest being compounded at such intervals as the Lender shall determine but no more than once per year).

44.5 Until repayment all monies due shall be a charge on the Property provided that the charge shall be in addition and without prejudice to any and every other remedy lien or security which the Lender may or but for the said charge would have for the recovery of monies secured by this mortgage or any part of those monies.

45 **Restriction**

The parties agree that no person or persons shall be registered under the Land Registration Acts 1925 to 2002 or any statutory amendment or re-enactment of those Acts as proprietor or proprietors of the Property or any part of the Property without the consent in writing of the Lender (which shall not be granted if the Lender is not satisfied that other provisions of this Agreement have been complied with in relation to the Property) and the Borrower shall at the same time as registering this mortgage apply to HM Land Registry for the following restriction in standard form P pursuant to rule 91 and Schedule 4 of the Land Registration Rules 2003 (as amended) to be entered in the proprietorship register of the title to the Property:

“No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [●] 20[●] in favour of Homes and Communities Agency referred to in the charges register”

46 **Possession**

If the Lender shall enter into possession of the Property (or any part of the Property) the Lender may from time to time go out of such possession and shall not be liable to account as mortgagee in possession while in fact out of such possession provided that notice of such fact shall within seven days after its happening be served on the Borrower.

47 **Extension of the term of this Mortgage**

47.1 Where prior to the Term Date (but no earlier than the twenty-fourth anniversary of the date of this Mortgage) the Borrower requests in writing to the Lender an extension to the term of this Mortgage, the Lender hereby agrees to consent to such request **provided that:**

The First Schedule to the Equity Mortgage (Homes and Communities Agency)

The Property

[•]

Title Number

[•]

Signed by the Borrower

Signed as a deed by the Borrower(s):

in the presence of:

Signature:

Name (in BLOCK CAPITALS):

Address:

3 No litigation

To the best of the Provider's knowledge, no claim is presently being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of the knowledge of the Provider, pending or threatened against the Provider or any of its assets which will or might have a Material Adverse Effect on the ability of the Provider to perform its obligations under this Agreement.

4 Information Provided to the Agency

4.1 All information supplied by or on behalf of the Provider to the Agency or its agents or employees in connection with the Provider's proposal in respect of the provision of Help to Buy by the Provider or in the course of the subsequent negotiations was at the time of submission and as far as the Provider was aware (or ought to have been aware) having made all reasonable and proper enquiries true, complete and accurate in all respects;

4.2 The Provider has informed the Agency of any material change that has occurred since the date of submission of which the Provider is aware (or ought to be aware) having made all reasonable and proper enquiries which would render the information referred to in paragraphs 4.1 and/or 4.4 untrue, incomplete or inaccurate in any material respect; and

4.3 The Provider is not aware of any material facts or circumstances which have not been disclosed to the Agency and which might, if disclosed would materially and adversely affect the decision of anyone considering whether or not to contract with the Provider.

4.4 All information submitted to the Agency during the course of this Agreement (whether via IMS or otherwise) is as far as the Provider is aware (or ought to be aware) having made all reasonable and proper enquiries complete and accurate in all respects.

5 Provider Defaults

5.1 To the best of the Provider's knowledge, no proceedings or other steps have been taken and not discharged (nor, to the best of the knowledge of the Provider threatened) for its winding-up or dissolution or for the appointment of a receiver, administrative receiver, administrator, liquidator or similar officer in relation to any of its assets or revenues and without limitation no insolvency event has occurred in relation to the Provider.

5.2 In entering into this Agreement the Provider has not committed any Prohibited Act.

5.3 Without prejudice to paragraphs 5.1 and 5.2 above, no Provider Default has occurred or is continuing.

6 Third party rights and intervening events

6.1 No person having any charge or other form of security over the property or any other assets of the Provider has enforced or given notice of its intention to enforce such security.

6.2 The Provider is not aware, after due enquiry, of anything which materially threatens the success or successful completion of the intention or purpose of this Agreement.

Schedule 6

Monthly Update and Forecast Report

To be inserted.

Contribution and the Contribution Percentage and notifies these to the Buyer the Agency and the Provider, via the Authority to Proceed. The terms of the purchase contract will need to correspond with this. In order to qualify for this product the Buyer must be entering into a first ranking mortgage prior to the Agency's charge.

When the Buyer purchases a property under this Initiative he/she then pays the Reduced Purchase Price on completion to the Provider instead of the Full Purchase Price. The difference between the two (i.e. the Contribution) expressed as a percentage of the Full Purchase Price will be the Contribution Percentage (which the Buyer will direct is paid to the Provider). When the Buyer sells the property he/she will be obliged to pay the Agency the Contribution Percentage of the eventual sales proceeds. The mortgage term in the Agency charge is 25 years.

For the avoidance of doubt, in calculating the Reduced Purchase Price (i.e. the amount of funding to be provided by the first qualifying lending institution together with any contribution from the Buyer's own reserves), any mortgage fees that may be added by the first qualifying lending institution are to be **ignored**.

The obligation to make the repayment to the Agency has to be secured on the property by a second legal charge ("**the Equity Mortgage**") which must rank immediately behind the loan of the qualifying lending institution (such as a building society, bank or insurance company) who will be providing a conventional mortgage for a sum up to the remainder of the total purchase price.

The Agency has appointed a post sales HomeBuy Agent for the purpose of administering the Equity Mortgage and collecting all payments due including partial and full redemption payments as well as the interest payments due after the first five years of the mortgage. This will mean that the Buyer has one nominated point of contact for the Equity Mortgage.

A restriction in favour of the Agency is set out in the Equity Mortgage. The Land Registry have confirmed that the restriction contained in the Equity Mortgage is in a standard form. This restriction will need to be registered against the title at the same time as the transfer is registered in the name of the Buyer. A Form RX1 will be required to register this restriction. An undertaking will be required prior to completion of the Equity Mortgage from you to ensure that this restriction is registered together with the Equity Mortgage. You must also ensure that, within 5 working days of completion, the first qualifying lending institution is served a notice that the second charge is in place in accordance with a method of service of notice as set out in the Land Registration Rules 2003 (as may be varied or amended from time to time).

You are also required to send to the Local HomeBuy Agent the following as soon as practicable (and no later than 10 working days) following receipt from HM Land Registry.

- Original Homes and Communities Agency Equity Mortgage
- Land Registry Title confirming that the Equity Mortgage has been registered

The Buyer must not obtain a first loan for more than the Reduced Purchase Price (excluding any mortgage fees of the first qualifying lending institution) and you will be expected to provide the Local HomeBuy Agent with verification of the total purchase price payable and the amount of the first loan.

Please note that the qualifying lending institution cannot make further advances to the Buyer without the consent of the Agency (which will not normally be given). It is important that you confirm that the amount secured by the charge does not exceed the Reduced Purchase Price,

connection with the mortgage should, in the interest of transparency, be separately identified to the Buyer.

In accordance with the accompanying Authority to Proceed, the Buyer will be able to pay a Reduced Purchase Price on completion but will be obliged to pay to the Agency the Contribution Percentage of its eventual sale proceeds when the home is sold. You will be responsible for registering the Equity Mortgage at the Land Registry to secure this.

You will receive with these instructions the Equity Mortgage for execution by the Buyer.

Summary

A brief summary of your role under this initiative is as follows:-

- Verify identity of Buyer;
- Return the Solicitor's Form 1 to the Local HomeBuy Agent no later than 5 working days before exchange of contracts (having checked and enclosed a copy of the Buyer's first mortgage offer and, where available, the first lender's valuation);
- Obtain a completed copy of the CML Disclosure of Incentives form from the conveyancer acting on behalf of the Provider who is selling the property that the Buyer is intending to purchase;
- Advise the Buyer fully of all terms/provisions of the Help to Buy Initiative (including, for the avoidance of doubt, the Help to Buy Buyer's Information Sheet set out in Schedule 10 ('**Help to Buy Buyer's Information Sheet**'), the Authority to Proceed as set out in Schedule 7 ('**Form of Authority to Proceed**') and the Equity Mortgage;
- Check confirmation of receipt/authorisation to exchange;
- Exchange contracts within three months of the date of the Authority to Proceed and subsequently (and immediately) confirm exchange of contracts to the Local HomeBuy Agent;
- Obtain confirmation from the Buyer that they do not (or will not at the point of purchase of the Help to Buy property) possess an interest in any other Dwelling;
- Ensure that the information inserted in the Equity Mortgage corresponds with the information contained in the Authority to Proceed ;
- Ensure that the Buyer properly executes the Equity Mortgage;
- Provide the Solicitor's Form 2 to the Local HomeBuy Agent no later than 5 working days before completion;
- Complete and register the Equity Mortgage as a second charge and ensure the restriction referred to in the Equity Mortgage is noted on the title at the Land Registry;
- Ensure that the prior lender's charge documentation does not include an obligation on the prior lender to make further advances or to permit tacking (see below for more detail);
- Serve written notice of the second charge created by the Equity Mortgage on the first qualifying lending institution immediately upon completion in accordance with a method of service as set out in the Land Registration Rules 2003 (as may be varied or amended from time to time);

percentage which the Contribution forms of the Full Purchase Price);

"Dwelling" This means any residential dwelling that is used as, constructed for or intended for use for residential purposes and an 'interest in a Dwelling' means ownership of or any other legal or beneficial interest in a Dwelling;

"Equity Mortgage" The second charge to be entered into by the Buyer with the Agency. The original Agency Equity Mortgage is provided with these instructions as there is no requirement for the Agency to execute the same;

"Full Purchase Price" This is the total purchase price of the home that the Buyer is buying;

"Help to Buy Information Sheet" **Buyer's** This is the explanatory and other documentation supplied with these Instructions to Solicitors by the Local HomeBuy Agent for provision to applicants and their solicitors;

"Incentives" These are the financial or non-financial inducements or incentives that may be provided (or offered) by the Provider to buyers of units (including, as examples, subsidies, white goods, additional fixtures, fittings or enhanced specifications). They will be identified by your review of the completed copy of the CML Disclosure of Incentives form provided to you by the conveyancer acting on behalf of the Provider;

"Local HomeBuy Agent" This is an agent contractually appointed by the Agency to deliver a one stop shop housing advice service within a geographical area that covers the property to be acquired. The agent is nominated by the Agency act on its behalf in the operation of the Help to Buy Initiative;

"Property Information Form" This is the application form completed by the Buyer and the Provider and sent to the Local HomeBuy Agent together with the Provider's reservation form, a copy of which will be provided to you with these instructions;

"Qualifying Lender" This is a single mortgagee who is a qualifying lending institution taking a first charge on the property;

"Reduced Purchase Price" This corresponds to the amount that the Buyer is required to pay on completion (through the

"enter into a regulated mortgage contract as lender". This is likely to include most banks and building societies.

When the applicant reserves the property, the applicant will provide its financial details and details of the purchase to the Local HomeBuy Agent for an assessment of eligibility and approval via the completion of a Property Information Form in the form attached at Schedule 9 (the "**Property Information Form**"). The Property Information Form shall also include details of the Buyer's legal representative. The Buyer and the Provider will work together to complete the Property Information Form and the Provider shall ensure that it is submitted to the Local HomeBuy Agent together with a copy of the Provider's completed reservation form.

Whilst the Buyer will need to confirm the detail of its appointed legal representative (who must be either a solicitor or a licensed conveyancer) the Buyer should not incur any legal fees until it has been accepted for the Help to Buy Initiative. Any reservation fee payable to the Provider should be no more than £500 and should be refundable if the Buyer is not accepted for the Help to Buy Initiative following the submission of the Property Information Form.

As part of the assessment of eligibility, the Local HomeBuy Agent will ask the Buyer to produce evidence of their identity. However, irrespective of this, you are required to verify the identity of the Buyer in accordance with Council of Mortgage Lender's guidelines.

Once the Local HomeBuy Agent has considered the Property Information Form it will issue the Authority to Proceed to the qualifying applicant (with a copy being provided to the Provider), in which it will either approve or reject the purchase.

Events before exchange of contracts

If the purchase is approved, the Local HomeBuy Agent will make contact and provide you with these Instructions to Solicitors (having already been provided with your details in the qualifying applicant's Property Information Form), providing a copy to the Buyer. As mentioned above, your receipt of these papers means that the applicant for whom you are being asked to act has been successful in his/her application for such assistance and is intending to purchase a property from a Provider who is participating in the Help to Buy Initiative.

You will be instructed to proceed on the basis that the assistance for the Buyer (being an amount equivalent to the Contribution Percentage applied to the total purchase price of the property that the Buyer is buying) will be available upon completion.

If the copy of the Authority to Proceed provided to you makes reference to the Buyer providing some of his/her own cash to the purchase, you will need to verify that that cash will be available upon completion.

Exchange of contracts stage

Upon receipt of these Instructions to Solicitors you will need to check the details of the Buyer's purchase and provide the Local HomeBuy Agent with the signed and dated Solicitor's Form 1. **The Solicitor's Form 1 must be provided no later than 5 working days prior to the anticipated exchange date.**

Before exchange of contracts is requested you should send the Qualifying Lender a copy of the Instructions to Mortgage Lenders.

For the avoidance of doubt, you are not permitted to exchange contracts until the Local HomeBuy Agent has received the Solicitor's Form 1 and has provided you with confirmation (via the Authority to Exchange notice) of receipt and instructions that you may now exchange. Such confirmation should be provided within 3 working days of receipt by the Local HomeBuy Agent of the completed Solicitor's Form 1.

As soon as contracts have been exchanged, you must confirm to the Local HomeBuy Agent:-

- that exchange has taken place;
- the proposed completion date (which must be **no more than six (6) months following the date of exchange**); and
- that the terms of the purchase accord with the Solicitor's Form 1.

At the same time, the Local HomeBuy Agent will notify the Agency that there will, upon completion, be a requirement for the assistance due (for the Buyer's purchase) to be available.

For the avoidance of doubt, exchange of contracts must not happen any later than 3 months after the date of the Authority to Proceed as, after that date, it will be null and void and of no effect. A further application would need to be made to the Local HomeBuy Agent before exchange of contracts could then be effected for that purchase, unless you obtain the Local HomeBuy Agent's confirmation in writing that this period can be extended).

Legal representative's undertakings: the Solicitor's Form 2

You must provide the Local HomeBuy Agent with the signed and dated Solicitor's Form 2 no later than 5 working days prior to the anticipated completion date. You will thereafter need to comply with the undertakings set out in the Solicitor's Form 2. These undertakings may not be amended without the Local HomeBuy Agent's confirmation in writing.

For the avoidance of doubt, you may not complete the Buyer's purchase until the Solicitor's Form 2 has been properly completed and delivered to the Local HomeBuy Agent in the requisite form.

Where you have provided the Solicitor's Form 2 to the Local HomeBuy Agent in accordance with your instructions, the Local HomeBuy Agent will issue a confirmation to Provider in the form annexed at Schedule 9.

Purchase completion stage

If the copy of the Authority to Proceed that has been provided to you makes reference to the Buyer providing some of his/her own cash to the purchase you must satisfy yourself that that cash will be available upon completion.

These arrangements should be reflected in the Buyer's purchase contract so as to incorporate provisions consistent with the example contract provisions set out in Schedule 2 of these instructions.

The Provider should provide you with a sale contract that incorporates these terms.

It is your responsibility to ensure that the Contribution Percentage and other details including, but not limited to, the initial market value of the property, and the amount of the

the Equity Mortgage and the consequences of this (in particular his/her obligations to pay the Contribution Percentage and other sums to the Agency). You must ensure that the Buyer receives copies of these documents at least seven days before completion.

You must further advise that the Buyer's home is at risk if they do not make the payments required by the Equity Mortgage and you must advise in accordance with the explanatory information supplied with this letter.

Neither you nor the Buyer may rely on any representation made by any person (including the Provider, its sales team, solicitor or any other person) as to the Buyer's rights or obligations under the Equity Mortgage save as set out in the Help to Buy Buyer's Guide, by the Agency or confirmed in writing by the Local HomeBuy Agent.

Duty to Notify:

If you become aware of any of the following facts:-

- the Buyer will not be occupying the property as a principal residence;
- the Buyer (or any one of them) owns or has an interest in any Dwelling that will not be sold on the completion date;
- the Buyer will not be obtaining the prior loan (from a prior Qualifying Lender) in accordance with your Solicitor's Form 1;
- the first mortgage is for more than the Reduced Purchase Price (or any lesser amount specified in the Authority to Proceed);
- the first mortgage and any private cash contributions are less than the Reduced Purchase Price (or any lesser amount specified in the Authority to Proceed);
- the Provider is providing Incentives to the Buyer not previously or otherwise disclosed on the completed copy of the CML Disclosure of Incentives form obtained from the conveyancer acting on behalf of the Provider;
- the mortgage fees of the qualifying lending institution have been included in the calculation of the Reduced Purchase Price (and therefore the Contribution and the Contribution Percentage);
- any cashback received by the Buyer has been treated as part of the Buyer's cash contribution towards the purchase; or
- there is an obligation in the first mortgage to register at HM Land Registry a form or notice obliging the Qualifying Lender to make further advances and confirmation has not been provided by the Qualifying Lender that they will not make any further advances without the consent of the Agency;

you must report this to the Local HomeBuy Agent, if the Buyer agrees, failing which you must return these Instructions to Solicitors and explain that you are unable to continue to act for the Agency as there is a conflict of interest.

Enquiries

Any enquiries concerning these instructions should be raised with [Local HomeBuy Agent]

[Note: Full contact details of Local HomeBuy Agent to be inserted]

charges (other than the prior first charge to the Qualifying Lender) must be redeemed on or before completion. If the prior mortgagee requires a deed or form of postponement to be entered into you are not required to advise the Agency upon the effect of this but any correspondence relating to such deed or form should be passed to the Local HomeBuy Agent so that the Local HomeBuy Agent can obtain advice from the Agency and instruct you how to proceed.

You may not proceed (without written authority from the Local HomeBuy Agent) if:

- (a) the prior mortgagee has agreed a maximum amount of advance with the Buyer which exceeds the Reduced Purchase Price (or any lesser amount specified in the Authority to Proceed); or
- (b) you have been instructed by the prior mortgagee to register any obligation to make further advances in priority to the Equity Mortgage and confirmation has not been provided by the Qualifying Lender that they will not make any further advances without the consent of the Agency; or
- (c) the property is subject to any other form of shared equity (or similar) scheme.

In any event you may not proceed unless there is a first mortgage in place prior to registering the Agency's second charge.

Please note that the Agency is contacting some Qualifying Lenders with a view to the provision by them of a global confirmation to the Agency that they will not make further advances in respect of a mortgage on a Help to Buy property, without the consent of the Agency. In the event that you cannot obtain such confirmation from a Qualifying Lender in respect of the individual transaction you are acting on, please contact the Local HomeBuy Agent in order to confirm whether the Qualifying Lender has given a confirmation of this type to the Agency.

You are required to provide written notice of the existence of the Equity Mortgage to the prior Qualifying Lender immediately upon completion of the purchase. You will note that this is specifically covered by one of the undertakings contained in Solicitor's Form 2.

Other loans (CML paragraph 5.9): You must ask the Buyer how the balance of the purchase price is being provided. If the Authority to Proceed specifies an amount of savings to be provided by the Buyer then this must be complied with. If you subsequently become aware that the borrower is not providing the balance of the purchase price from his/her own funds and/or is proposing to give a further charge over the property (other than the prior charge to the Qualifying Lender in the amount disclosed in your Solicitor's Form 1) you must report this to the Local HomeBuy Agent if the borrower agrees failing which you must return these Instructions to Solicitors and explain that you are unable to continue to act for the Agency as there is a conflict of interest.

Purchase Price (and incentives) – (CML paragraph 6.3): We have provided you with a copy of the explanatory guidance notes for lenders. You must provide this (before exchange of contracts) to the prior mortgagee by way of explanation of the Help to Buy Initiative. As referred to above, you must also provide them with written notice of the existence of the Equity Mortgage upon completion of the Help to Buy purchase.

Insurance (CML paragraph 6.13): Where there is no common insurance policy for a property you should check that the total sum insured for the building is not less than the recommended insurance amount referred to in the prior Qualifying Lender's valuation report (unless insurance has been

For example, if the value of the property was £200,000 then in the sixth year the total interest charge is 1.75% on £200,000 which is £3,500. Using the example above, if the Agency funded £40,000 then the Buyer only contributed £160,000. This means that the Agency funded 20% of the price. In the sixth year the interest charge will therefore be 20% of £3,500 (the total interest charge). This is £700 or about £58.33 a month in the first year in which interest is chargeable (i.e. in the sixth year after purchase).

After the sixth year and every year after that, the amount due will go up every year. (Please see below for an example calculation).

The interest which is due to the Agency every year (from the sixth year) increases. The amount it is increased by is calculated by firstly increasing the total interest charge (i.e. the interest charge on the initial value) by 1% plus increases in the Retail Prices Index ("RPI"). The Buyer will then pay the relevant percentage of that total charge representing the amount of the equity which the Agency has funded. The interest increase is calculated by increasing the total interest charge by 1% and also by any increase in the prevailing RPI. The increased interest charge on the initial value calculated each year is compounded and forms the base figure for the calculation of interest the following year. We cannot give a figure which shows how much this increase will be because it depends on what the RPI is for each year but we have set out some illustrative examples below.

Example B

If we use the above example without using the RPI in the calculation, then the total interest charge in the sixth year would be £3,500 pa i.e. 1.75% of £200,000. The Buyer would have to pay £700 in the sixth year i.e. 20% of £3,500 which is about £58.33 a month.

In the seventh year the total interest charge will be increased by 1% plus RPI so the total interest charge will be £3,535 i.e. £3,500 plus a 1% increase. The Buyer will pay 20% of that amount which is £707. So the seventh year interest charge will be £707 or about £58.92 a month plus RPI increases.

In the eighth year the total interest charge will be £3,570.35 i.e. £3,535 plus a 1% increase. The Buyer will pay 20% of that amount which is £714.07 in the eighth year or about £59.51 a month plus RPI increases.

In the ninth year, the total interest charge will be £3606.05 i.e. £3,570.35 plus a 1% increase. The Buyer will pay 20% of that amount which is £721.21 in the ninth year or about £60.10 a month plus RPI increases.

In the tenth year the total interest charge will be £3,642.11 i.e. £3,605.05 plus a 1% increase. The Buyer will have to pay 20% of that amount which is £728.42 in the tenth year or about £60.70 a month plus RPI increases.

In the eleventh year the total interest charge will be £3,678.53 i.e. £3,642.11 plus a 1% increase. The Buyer will have to pay 20% of that amount which is £735.71 in the eleventh year or about £61.31 a month plus RPI increases.

In the twelfth year the total interest charge will be £3,715.32 i.e. £3,678.53 plus a 1% increase. The buyer will have to pay 20% of that amount which is £743.06 in the twelfth year or about £61.92 a month plus RPI increases.

The same increases will take place in every year until the Buyer redeems the Equity Mortgage.

Schedule 2 (Solicitor's Pack)

Provider's Sale Contract Provisions

The contract will specify:

The Full Purchase Price: [Insert Amount]

The Contribution: [£]

Contribution Percentage: [%]

The Reduced Purchase Price: [Insert Amount]

(Note: These are to correspond with the Authority to Proceed)

1 In consideration of the Buyer:

1.1 agreeing to enter into the Equity Mortgage requiring it to pay the Contribution Percentage to the Agency; and

1.2 agreeing to pay the Reduced Purchase Price on the completion date; and

1.3 directing (in the Property Information Form) that the Agency pays the Contribution direct to the Provider;

the Provider agrees to sell and the Buyer agrees to buy the Property for the Full Purchase Price.

2 For the avoidance of doubt payment of the Full Purchase Price shall be deemed to be satisfied by the Buyer having entered into the Equity Mortgage; given the direction at paragraph 1.3 above; and paid the Reduced Purchase as described above.

3 This contract is conditional upon:

3.1 the Buyer's original mortgage offer from a Qualifying Lender remaining valid (or the Buyer obtaining a replacement mortgage offer from a Qualifying Lender for an equivalent amount and the details of such offer being notified to the Local HomeBuy Agent prior to completion);

3.2 the Full Purchase Price being equal to that set out in the Authority to Proceed; and

3.3 the Seller(or its nominated agent) being eligible to receive funding for the Equity Mortgage for the Property by way of the Contribution from the Agency (for whatever reason and irrespective of whether such ineligibility has arisen prior to, on or after the date of this Contract)

together "**the Conditions**".

Schedule 3 (Solicitor's Pack)

PROPERTY INFORMATION FORM

SCHEME: HELP TO BUY

To: *[Local HomeBuy Agent]* (the **Local HomeBuy Agent**) as agent for Homes and Communities Agency (the **Agency**)

PART 1

Named Applicant 1: [•]

Contact Telephone Number: [•]

Email address: [•]

Named Applicant 2: [•]

Contact Telephone Number: [•]

Email address: [•]

Lead applicant current property address: [•]

(together the **Applicant**)

Site Name: [•]

Selected Property Address: [•] (the Property)

Provider: [•]

Provider's Conveyancer's Details (including name, address, email, tel no and reference); [•]

Full Purchase Price: [•]

Buyer's mortgage amount: [i.e. Maximum amount to be obtained by applicant]

Applicant's Cash Contribution: [•]

Expected build completion date: [•]

Expected purchase completion date: [•]

Applicant's Conveyancer's Details: [•]

Working tax credits: [•]

Child tax credits: [•]

Child benefit: [•]

Disability allowance: [•]

Guaranteed maintenance income: [•]

Other income: [•]

Monthly Service Charge: [•]

Do any of the applicants own a residential property? Y/N

If yes, please confirm the address: [•]

The Applicant confirms to the Local HomeBuy Agency and the Agency that the above details are accurate and acknowledges that this information shall be used to determine the Applicant's eligibility for Help to Buy funding.

PART 3

The Applicant (subject to acceptance for the Help to Buy Initiative and proceeding to completion of the purchase of the Property) agrees to and directs that the equity loan funding that the Agency will provide (comprising a contribution of up to 20% of the Full Purchase Price) is paid direct to the Provider to enable it to reduce the Full Purchase Price of the Property.

The Applicant acknowledges that the term of the Help to Buy equity loan is 25 years (subject to earlier redemption in accordance with the equity loan provisions).

The Applicant acknowledges that if they own a residential property that they will sell their interest in that property (or properties) in advance of completing their purchase of the Property with the assistance of a Help to Buy equity loan and that it is a condition of the equity loan that the Property which is the subject of the Help to Buy equity loan will be the only residential property they have any interest in for the duration of the Help to Buy equity loan.

The Applicant acknowledges that if it exchanges contracts to buy the Property (particularly in, but not limited to, circumstances where the completion date is to be a period of time of more than a few days following exchange, eg where construction of the Property has not yet completed at the date of exchange) then any reservation fee or deposit paid for the Property may be at risk, for example in the event of the insolvency of the Provider. The Applicant is advised to seek legal advice on its position and security for any reservation fee or deposit paid.

The Applicant further acknowledges that the Agency has nominated an agent to administer Help to Buy equity loans (currently [*Housing Options Plus*] (the post sales HomeBuy Agent)) and that all

The Applicant has read the above and confirms that the Applicant has provided accurate and up-to-date information relating to the Applicant's application for assistance under the Help to Buy Initiative.

The Applicant understands that if it is found that false information has been given to obtain assistance under the Help to Buy Initiative either knowingly or recklessly, appropriate legal action may be taken and the Agency may take action under its Equity Mortgage.

The Applicant authorises the Local HomeBuy Agent to pass information to other HomeBuy agents, the post sales HomeBuy Agent, the Agency, Local Authorities, partner housing providers (registered social landlords/the Provider/Private Developers), the Department of Communities and Local Governance and to Credit Reference Agencies for the purposes of processing this application

I [] agree to the above terms and conditions and declare that all information provided in this form is true and accurate (1st applicant)

Signed

Dated

I [] agree to the above terms and conditions and declare that all information provided in this form is true and accurate (2nd applicant)

Signed

Dated

PROVIDER; PLEASE ATTACH A COPY OF YOUR RESERVATION FORM AND SEND IT TO [LOCAL HOMEBUY AGENT] WITH THIS PROPERTY INFORMATION FORM.

And that the balance of £[●] is to be provided by the Buyer;

- 13 the Full Purchase Price of the Property is [£[●]];
- 14 the calculation of the Reduced Purchase Price (and therefore the Contribution and the Contribution Percentage) does not include the mortgage fees referred to in paragraph 6;
- 15 it is anticipated that exchange of contracts will take place [on [specified date]]/[within the next [specified period]];
- 16 we have received written confirmation from the Buyer (and from each Buyer where there is more than one person) [that they have no interest in any Dwelling] OR [that the Buyer has an interest in a Dwelling but that it intends to sell or complete the sale of any Dwelling(s) that they have an interest in, on or before the date of completion. The Buyer has confirmed that it anticipates that exchange of contracts for the sale of such Dwelling shall take place on the date referred to at paragraph 9]**. We further confirm that we have received no notice or indication that contradicts such written confirmation(s) from the Buyer;
- 17 the Buyer has received copies of the Help to Buy Buyer's Information Sheet, the Equity Mortgage, and the Authority to Proceed and we have advised [him][her][them] of their contents in accordance with these Instructions to Solicitors. The Buyer received these at least seven days before completion;
- 18 [subject to final inspection*] the Full Purchase Price for the property does not exceed the market value of the Property as stated in the valuation report (or the mortgage offer, where the valuation report is not available) for the Qualifying Lender (a copy of which is attached);
- 19 prior to completion we will provide you with the Solicitor's Form 2 in the required form;
- 20 upon completion the Equity Mortgage (in the form supplied to us by you will be entered into and, within 5 working days of completion, notice of charge will be provided to the Qualifying Lender (in relation to the Buyer's participation in the Help to Buy Initiative) in accordance with a method of service of notice as set out in the Land Registration Rules 2003 (as may be varied or amended from time to time).

Yours faithfully

[Date and insert details of solicitor signing report]

*Amend as appropriate

** Delete as appropriate

The Solicitor's Form 1 paragraphs 1 – 14 must be returned unamended (save for the words in square brackets at the start of paragraph 11 as indicated) to the Local HomeBuy Agent. Amended forms will not be accepted by the Local HomeBuy Agent.

- 25 We confirm that the calculation of the Reduced Purchase Price (and therefore the Contribution and the Contribution Percentage) does not include any mortgage fees of the Qualifying Lender.
- 26 We confirm that the amount stated in the first charge as being secured by the prior ranking charge is £[●]
- 27 [We confirm that the prior ranking first charge does not include an obligation on the Qualifying Lender to make further advances or to permit tacking.] OR [We confirm that the prior ranking first charge does include an obligation on the Qualifying Lender to make further advances or to permit tacking but that we have received confirmation from the Qualifying Lender that they will not make such further advances or permit tacking without the consent of the Agency] OR [We confirm that the prior ranking first charge does include an obligation on the Qualifying Lender to make further advances or to permit tacking and although we have been unable to obtain direct confirmation from the Qualifying Lender that they will not make such further advances or permit tacking without the consent of the Agency, you have confirmed that a general confirmation to this effect has been provided to the Agency.] **
- 28 [We confirm that (although we express no opinion on matters of valuation) the Full Purchase Price does not exceed the market value of the Property as stated in the Valuation Report obtained by the prior Qualifying Lender, or the mortgage offer, where no such Valuation Report is available (a copy of [the Valuation Report] or [the mortgage offer] is attached) OR [we have [received] your written approval to the Valuation Report or mortgage offer a copy of which is attached] ***]
- 29 We confirm that we have provided the Qualifying Lender with notice that the Buyer is participating in this Initiative and we have provided the Qualifying Lender with the Guidance Notes for Mortgage Lenders.
- 30 We confirm that exchange took place on [●] and that the completion date is [●].
- 31 We have complied with the Council of Mortgage Lenders' Handbook in relation to the first loan from the Qualifying Lender which is to be secured by the first charge over the Property including submission of a fully completed disclosure of incentives form.
- 32 That we have investigated title to the Property and on the Agency's behalf have carried out the other steps required of us so that we can and hereby do give the certificate set out in the Appendix****.
- 33 We undertake to ensure that the form of Equity Mortgage that we have been supplied with:
- 33.1 contains information which corresponds with the information set out in the Authority to Proceed.
- 33.2 bears the Contribution and the Contribution Percentage as specified above;
- 33.3 is properly executed by the Buyer; and
- 33.4 is dated contemporaneously with the purchase of the Property.

APPENDIX 1

CERTIFICATE OF TITLE

TO:	The Agency c/o Local HomeBuy Agent
The Borrower:	INSERT BUYER DETAILS
Property:	
Scheme	Help to Buy
Title Number:	
Mortgage Advance:	(Total amount of Contribution) which represents []% of the Full Purchase Price
Price stated in transfer:	(Full Purchase Price)
Completion Date:	
Conveyancer's Name & Address:	
Conveyancer's Reference:	
Conveyancer's bank, sort code, and account number:	NOT REQUIRED
Date of instructions:	

We the conveyancers named above give the Certificate of Title referred to in IB (3.7) of the SRA Code of Conduct 2011, published by the Law Society as if the same were set out in full subject to the limitations constrained in it.

Signed (Partner / Licensed Conveyancer)

Date: [●]

Full Purchase Price for the property is then satisfied by paying a lower Reduced Purchase Price and entering into the Help to Buy Equity Mortgage in favour of the Agency. The difference in price will represent up to 20% of the total purchase price of the property that is being acquired (the percentage being defined as the "Contribution Percentage"). The full Purchase Price must not exceed the upper limit specified by the Agency which is £600,000.

39.2 The Reduced Purchase Price will be referred to in the Provider's sale contract and will correspond to the amount which is affordable to the Buyer as assessed by the Local HomeBuy Agent under the Help to Buy Initiative. The intention is that Buyers should only have assistance for the element which is not affordable through normal private mortgages. It is the Local HomeBuy Agent's role to calculate the Contribution and the Contribution Percentage and notify these to the Buyer, the Agency and the Provider.

39.3 When the Buyer purchases a property under the Help to Buy Initiative he/she pays the Reduced Purchase Price on completion to the Provider, and directs that the Contribution by the Agency is paid to the Provider, instead of paying the Full Purchase Price. The difference between the Reduced Purchase Price and the Full Purchase Price (i.e. the Contribution) expressed as a percentage of the Full Purchase Price will be the Contribution Percentage. When the Buyer sells his/her property he/she will be obliged to pay the Agency an amount equal to the Contribution Percentage of the eventual sales proceeds. The mortgage term is 25 years. However, if the Agency approved term of the Buyer's original mortgage (at the time of initial purchase) is longer than the Help to Buy Equity Mortgage term (up to a maximum of 35 years) and neither the original mortgage or the Equity Mortgage have been redeemed by the 25th anniversary of the date of the Equity Mortgage, the Agency shall agree to extend the term of the Equity Mortgage to match the remaining term of the Buyer's original mortgage.

39.4 The obligation to make this payment to the Agency has to be secured on the property (the "Help to Buy Equity Mortgage") and must rank immediately behind the qualifying lending institution (such as a building society, bank or insurance company) who will be providing a conventional mortgage for a sum up to the remainder of the total purchase price. As stated above there will be a second charge in favour of the Agency. This note gives notice to you that the purchaser intends to proceed and this will result in a second on the property.

Example – A Buyer agrees to purchase a £200,000 property from Provider.

Full Purchase Price (set by Provider and validated by	
the qualifying lending institution's valuation)	£200,000
Buyers affordability (assessed by the Local HomeBuy Agent	
using the Agency's affordability calculator)	£160,000
Contribution (calculated by Local HomeBuy Agent)	£40,000
Reduced Purchase Price (calculated by Local HomeBuy Agent)	£160,000
Contributions Percentage (calculated by Local HomeBuy Agent)	£40,000 (= 20%)
	<hr/>
	£200,000

any time or on a compulsory basis on the happening of specified events in the Help to Buy Equity Mortgage or when they sell the Property. The amount of the repayment is equivalent to the value of the property at the date of repayment (whether that value has increased or decreased), or the sale price if higher, multiplied by the Contribution Percentage. Early repayment can be made through a part redemption arrangement based on current valuation as repayments are made.

- 41.5 The assistance will be secured on the property by way of a second charge which will rank immediately behind the private loan from a qualifying lender, as stated above in paragraph 1.3.
- 41.6 Following completion, the Buyer's solicitor will notify you that the Help to Buy Equity Mortgage has been completed by serving notice in accordance with a method of service of notice as set out in the Land Registration Rule 2003 (as may be varied or amended from time to time) and will register the Help to Buy second charge at the Land Registry.
- 41.7 **Please note that tacking under the first charge will not be permitted.**
- 41.8 **Further advances provided by the qualifying lending institution will need to be approved by the National HomeBuy Agent (on behalf of the Agency) but further advances will not usually be permitted. Unless specifically approved to the contrary further advances that are permitted must be secured behind the Help to Buy Equity Mortgage.**
- 41.9 **In addition, under Help to Buy the qualifying lender will not be permitted to register a Form CH2 (or any equivalent form or note obliging the qualifying lender to make further advances) at the Land Registry. References in the first charge to allow tacking or provide an obligation to make further advances must be removed.**
- 41.10 In light of paragraphs 4.3 and 4.5, the first charge provided by the qualifying lender must detail the maximum amount that that lender is lending. This figure (less any mortgage fees) cannot exceed the Reduced Purchase Price as set out at paragraph 2.1 above.
- 41.11 Please note that upon full discharge by the Buyer of the Equity Mortgage to the Agency, the property will be released from the restriction in favour of the Agency to protect the Equity Mortgage.

42 **Documents required by the Local HomeBuy Agent**

- 42.1 Before the Local HomeBuy Agent can approve a qualifying applicant for the purchase of a Help to Buy property, the qualifying applicant must provide the Local HomeBuy Agent with:-
- 42.1.1 a copy of the qualifying lending institution's first mortgage offer;
- 42.1.2 a letter from the qualifying applicant's legal representative confirming the financial details of the purchase and confirming that an undertaking in the standard form will be provided prior to exchange of contracts (a standard form of which is attached to the enclosed copy Instructions to Conveyancer);

Schedule 7 (Solicitor's Pack)

Form of Authority to Proceed

Date: [●]
To: [Buyer's solicitor/conveyancer – Name/Address]
To: [Provider – Name/Address]
CC: [Buyer – Name/Address]
Scheme: Help to Buy
Property: [●]
Named Buyer: [●]

Option A

Your application to take part in the Help to Buy Initiative has been approved by [LHBA Name] and (subject to our standard terms) an equity loan will be available in respect of the Property referred to above on the following terms:-

FULL DETAILS OF NAMED BUYER: [●]

REDUCED PURCHASE PRICE (i.e. the amount met by the Buyer after deducting the amount advanced under the Equity Mortgage from the Full Purchase Price and excluding any mortgage fees of the Qualifying Lender): £[●]

FULL PURCHASE PRICE: £[●]

CONTRIBUTION (The Agency contribution (to be paid directly to the Provider), specifying in pounds sterling the amount of purchase price to be treated as deducted): £[●]

CONTRIBUTION PERCENTAGE (specifying percentage of the total sale proceeds to be repaid to the Agency when the property is sold, calculated as the Contribution as a percentage of the Full Purchase Price): £[●]

MORTGAGE LEVEL £[●]

APPROVED MORTGAGE TERM [●] YEARS

FORECAST INTEREST CHARGE YEAR 6 £[●]

(This will be collected by the National HomeBuy Agent in year 6)

REQUISITE AMOUNT OF CASH SAVINGS TO BE INVESTED BY BUYER: £[●]

(which will exclude any cashback incentive provided to the Buyer).

CASHBACK PROVIDED BY PROVIDER (to be paid to the Buyer on completion £[●])

Check that this mortgage will meet your needs if you want to move or sell your home or want your family to inherit it. If you are in any doubt, seek independent advice.

Step 2

[LHBA name] has reviewed the **Property Information Form** completed by you and the house builder and has prepared this Authority to Proceed based on the information you have provided. This Authority to Proceed is valid for three months and you must exchange contracts to purchase the home in this time.

Although this Authority to Proceed is valid for three months, you will be expected to exchange contracts within a period of time specified by the Provider. The three month limit gives some allowances for unforeseen delays during conveyancing.

UPON RECEIPT OF THIS AUTHORITY TO PROCEED, YOU MUST AS SOON AS POSSIBLE CONTACT YOUR IFA AND LENDER SO THAT A FULL MORTGAGE OFFER CAN BE MADE ON YOUR SELECTED PROPERTY.

Step 3

Your solicitor/conveyancer will advise you on the Help to Buy Initiative and prepare all the documents. Your solicitor/conveyancer will explain the Equity Mortgage which means that the Agency must be paid the amount due under its mortgage when the property is sold or earlier in specified circumstances.

SO, FOR EXAMPLE, IF THE HOMES AND COMMUNITIES AGENCY INITIALLY PROVIDED A 20% CONTRIBUTION, THE REPAYMENT WILL BE 20% OF THE TOTAL VALUE WHEN IT IS SOLD OR WHEN REPAID IF EARLIER.

You must sign to agree the Equity Mortgage and the sale contract before exchange of contracts. Your solicitor will contact you to arrange this.

Once your mortgage offer and valuation has been received, your solicitor/conveyancer will ask [LHBA name] for permission to exchange contracts with the Provider. After exchange you will be legally committed to purchasing the property.

You will also be advised of the date for completion so that you can plan your move. It is also important that you arrange buildings insurance cover for your new home from exchange of contracts.

If you have an existing home or property you must ensure that this is sold on or before the completion date of your purchase of your Help to Buy property.

Step 4

[LHBA name] will approve the exchange and your solicitor/conveyancer will exchange contracts and ensure your deposit contribution is paid. You will then be legally contracted to complete the purchase at a date agreed between you and the Provider.

Personal Worked Example (with no partial redemption) for [Purchaser's Name(s)]

You have found a property which is valued at [£XXX].

The Homes and Communities Agency (the **Agency**) has agreed to loan you [YYY%] of the purchase price (in return for you entering into an Equity Mortgage in favour of the Agency). You will fund [£ZZZ] which represents [WWW%] of the property value.

You will have to pay a monthly interest charge in the sixth year of [£]. This is calculated by firstly working out the total interest charge and then calculating [YYY%] of that interest charge. Please note that there are no interest charges for the first five years.

In the seventh year and in every year after that until the Equity Mortgage is paid back in full, the total interest charge is increased by the increase in RPI for the previous 12 months plus 1% and you will have to pay [YYY%] of the increased interest charge.

For example, in the seventh year if the RPI is taken from September [LHBA to insert relevant year] then the total annual seventh year interest charge would be increased by [to insert relevant RPI from published RPI figures plus 1%] and you would pay [YYY%] of that interest charge. This would mean that the interest charge you pay in the seventh year would be [to calculate].

If you decide to redeem the Equity Mortgage you will pay back [YYY%] of the market value. If you decide to sell then you will pay back [YYY%] of the market value unless the sale proceeds are greater in which case you will have to pay back [YYY%] of the sale proceeds.

For example if you sell the property at the end of year one then on the assumption that the value of the property has increased by 5% you will pay back [£to calculate]. In this example (assuming an annual 5% property price increase) the APR is therefore 3.98%. Please note that this is based **solely** on the capital sum repayable and does not take account of interest charges and any valuation fee payable on redemption

As another example, if you sell the property at the end of year 7 then on the assumption that the value of the property has increased by 5% a year and that the RPI for year seven is the same as the RPI for year six (i.e. [to insert RPI for the sixth year]) you will pay back a total of [£to calculate]. In this example the APR is therefore [to calculate]

This is worked out by firstly assuming that the value of your home increases each year by 5% so the value of your home in year seven is [to calculate – nb the increases are **not** compounded so it is the initial price which goes up by 5% each year] and you pay back [YYY%] of that value which is [].

You will also pay back the interest charge in each of years six and seven of the loan. In the sixth year the interest charge will be [to insert]. In each year the interest charge increases by 1% plus RPI. If we assume that the RPI in the seventh year stays the same as it as at the date this worked example was calculated (which is [to insert]%) then the total amount of interest you have paid in each of the sixth and seventh years will be [to calculate – nb the interest increases **are** compounded.] If the property is valued for the purposes of the sale or the redemption then you will have to pay the valuation fee which is currently approximately [£to insert].

Schedule 9 (Solicitor's Pack)

Local HomeBuy Agent Transaction Confirmation to Provider

Date: []

To [Provider's solicitor – Name/Address]

Provider []

Property: [.....]

Scheme: Help to Buy

Named Buyer: []

Date of Exchange: []

We confirm receipt of a Solicitor's Form 2 in relation to the purchase of the above Property by the above named Buyer. Please take this letter as confirmation from the Local HomeBuy Agent of: -

- (a) receipt by the Local HomeBuy Agent of a valid Solicitor's Form 2 (with the attached Certificate of Title completed and signed by the legal advisor acting on behalf of the above named Buyer) in respect of the above Property; and
- (b) receipt by the Local HomeBuy Agent from the legal advisor acting on behalf of the above named Buyer of a certified copy of either the above named Buyer's final professional valuation (obtained on behalf of an approved lender) or (where not available) the above named Buyer's mortgage offer confirming the valuation and valuing the Property at a sum which is no less than the Full Purchase Price (as set out in the Solicitor's Form 2) or (at the discretion of the Agency) within a tolerance of that sum determined from time to time by the Agency and notified by the Local HomeBuy Agent to you in writing.

Signed
[Local HomeBuy Agent]

the contributions made by the HCA to assist you to buy it. From the sixth year of the term of the equity mortgage you will have to pay a proportion of 1.75% a year of the total amount of that value. The proportion is linked to the percentage of the initial purchase price funded by the HCA. The amount you pay a year will be spread out over 12 months so you will pay a proportion of that every month.

Example 2

For example, if the value of your home was £200,000 then in the sixth year the total interest charge is 1.75% on £200,000 which is £3,500. Using example 1 above, if the HCA funded the price you paid by £40,000 then you only contributed £160,000. This means that the HCA funded the price by 20%. In the sixth year you will therefore have to pay 20% of £3,500 (the total interest charge). This is £700 or about £58.33 a month in the first year.

After the sixth year and every year after that, the amount you will have to pay each month will go up every year. (Please see below for an example calculation).

It is very important that you keep up these payments to the HCA because your home will be at risk if you do not make these payments. You will also have to pay interest on any payments which are made late. Missing payments could have severe consequences and risk making obtaining credit more difficult.

50 When you sell your home you will have to repay the HCA from some of the money you receive from the sale. The amount you have to pay back depends on the value of your home (or the sale price if higher) when you sell your home. The value may have gone up or down.

51 If the value of your home goes up then you will pay back to the HCA more than the amount by which the HCA funded the price of your home when you first bought it. You will pay back the same percentage as the HCA funded the original price by.

Example 3

For example, if the value of your home was £200,000 and the HCA funded the amount you paid by £40,000 then you only contributed £160,000. This means that the HCA funded the value by 20%.

If, for example, you sell your home five years later and you sell your home for £250,000 then the amount you will have to pay back will be 20% of £250,000 because the HCA funded the price paid by you by a total of 20%. This means that you would have to pay back £50,000.

The value of your home has increased by 5% each year so the amount you have to pay back has increased by 5% each year. This means that the annual percentage rate is 5%. You will not pay any interest if you sell in the fifth year because interest does not accrue or become payable until the sixth year.

interest charge).

Example 5

As an example using RPI then:

In the sixth year is £3,500 i.e. 1.75% of £200,000, using example 4, then you would have to pay £700 in the sixth year i.e. 20% of £3,500 which is about £58.33 a month.

In the seventh year the total interest charge will be increased by RPI plus 1%. The RPI increase which will be used will be the annual increase for the 12 month period ending at the end of September immediately preceding the date on which the interest charge is reviewed (which will be on 1 April in each year). If we take the RPI increase of February 2011, this is 5.5%. The total interest charge is therefore increased by 6.5% (i.e. the 5.5% RPI increase plus 1%) so the total interest charge will be £3,727.50 i.e. £3,500 plus a 6.5% increase. You will pay 20% of that amount which is £745.50. So your seventh year interest charge will be £745.50 or about £62.13 a month

We have set out below a table of the **example** interest rates and APR but you must obtain independent financial advice.

This example is based on an initial property value of £200,000 with a total 20% equity mortgage, property values increasing by 5% a year			
	Sale on 5 th anniversary	Sale on 6 th anniversary	Sale on 7 th anniversary
Example Total Repayment (excluding any RPI increases)	£51,051 of which Interest: £0 Capital: £51,051	£54,304 of which Interest: £700 Capital: £53,604	£56,991 of which Interest: £707 Capital: £56,284
Example approximate APR (excluding any RPI increases)	5%	5.23%	5.19%

The above calculations are only examples and the amount you will have to pay will depend on how much the value of your home has increased by and on how much the RPI increases (because the above examples exclude any RPI). Please note that if the RPI for a particular year goes below 0% the interest charge will still be increased by the additional 1%. This means that the minimum interest increase is 1% per year (after the 6th year).

If you want to pay back only part of the equity mortgage you will have to arrange and pay for the valuation and the HCA will then work out how much you need to pay to pay off a part of your equity mortgage. The minimum amount you can pay back as part only is a total of 10% of the value of your home at the time you want to pay off part of the equity mortgage. The HCA will require a copy of the valuation before you make a part repayment.

Example 7

For example, if you bought your home for £200,000 and the HCA contributed a total of £40,000 then you contributed £160,000. This means that the HCA funded a total of 20% of the price paid. If your home is valued at £250,000 four years later and you want to pay back a total of 10% to the equity mortgage lenders, you will have to pay the HCA a total of £25,000. After you have paid back that 10% of the equity mortgage, you will then only have to pay back 10% of the value of your home when you sell or when you decide to pay off more of your mortgage.

If you pay off part of your equity mortgage then the percentage of the total interest charge you will pay every month will reduce because, using the example above, you will only have to pay 10% of the total interest charge and not 20%.

- 56 As well as taking out the equity mortgage, you must also mortgage your property in the normal way to a different lender.

You must take out a standard mortgage with a different lender or you will not be able to take out the equity mortgage. If you ever pay off your standard mortgage you must also pay off your equity mortgage at the same time. You can pay off your equity mortgage before your standard mortgage.

You should make sure that you can afford the payments under any other mortgage as well as the payments under the equity mortgage because your home will be at risk if you do not keep up with the payments. You will also have to pay interest on any payments which are made late. Missing payments could have severe consequences and affect your ability to obtain credit.

- 57 You may want to borrow more money against the value of your home. You can only borrow more money from the 'normal' mortgage lender. You cannot borrow more money from the HCA.

If you want to borrow more money then you will have to agree this with the normal mortgage lender and the HCA will have to consent to the extra borrowing.

In the majority of circumstances the HCA will refuse consent to extra borrowing.

Please note that if you borrow more then this means that the amount you owe to the normal mortgage lender has increased so the amount of money secured against your home will increase. You will need to discuss this carefully with your normal mortgage lender and make sure that you can afford the monthly repayments, which will go up.

Table of Payments Under the Equity Mortgage

Please note that this table sets out payments which you will have to make under the Equity Mortgage with references to where the payment obligations appear in the Mortgage. You should read the whole of the Mortgage carefully. We recommend that you get your own legal advice before you sign the mortgage agreement. The money you borrow is secured against your home which means that your home is at risk if you do not keep up the payments under the mortgage.

Payment	When it becomes payable	Where the obligation appears in the Equity Mortgage
Interest	<p>Interest only starts to accrue and is only payable from the sixth year of the mortgage.</p> <p>After that, interest is payable monthly and is increased every year.</p> <p>If you do not pay the interest payments by direct debit you will also have to pay a management fee of £4 a month (which is increased by RPI every year)</p>	<p>Clause 4.2.</p> <p>The interest increases are in Clause 9</p> <p>Please see examples 4 and 5.</p>
Paying back the amount you borrowed together with the reasonable costs and expenses of the equity mortgage lender and other sums outstanding under equity mortgage at the date of repayment	<ol style="list-style-type: none"> 1. When you sell your home; or 2. If you want to, when you decide to pay off the mortgage; or 3. If you are in breach of any of your obligations; or 4. If and when you repay the first mortgage (unless there is a simultaneous approved re-mortgage); 5. If you become Bankrupt (this is defined in the equity mortgage and is wide in meaning and we advise that you seek advice from your legal advisor as to the meaning of this); or 6. On the 25th anniversary of the date you took out the equity mortgage. This means that you 	<p>Clause 4.1 , 5, 6 and Clause 7</p> <p>Please see examples 3 and 6.</p>

Schedule 8
Agency Letter

maximum purchase price of £600,000. The equity loan will be made by the HCA to the purchaser; there is no house builder contribution.

5. All Help to Buy applications will be processed by the Local HomeBuy Agent network. Local HomeBuy Agents will carry out an affordability check and issue the transaction approvals in a similar way to the existing FirstBuy procedure.
6. Organisations with a FirstBuy grant agreement and current allocation on 1st April 2013 are deemed to be registered to market Help to Buy from 1st April 2013 subject to the requirement to enter into a new agreement for Help to Buy with the HCA by the end of April 2013 in order to fully complete their registration. The Help to Buy standard form agreement will be available on the HCA website and will be issued to you shortly. It will continue to be a contractual requirement that house builders must comply with the Consumer Credit Act Advertising Regulations and any applicable consumer credit licensing requirements, particularly in relation to credit brokerage.
7. The HCA will not make Help to Buy equity loan payments for sales where exchange takes place after 1 April 2013 until house builders are in contract. Accordingly, any sales (which do not qualify as FirstBuy Legacy Sales) which take place using the new Help to Buy product before the contract is completed are at the house builder's risk. Housebuilders are therefore urged to complete the new Help to Buy contracts as soon as possible after issue. The new Help to Buy contract can run concurrently with an existing FirstBuy Grant Agreement where there are ongoing FirstBuy Legacy Sales – as outlined in paragraph 3 above.
8. House builders registered and contracted for Help to Buy will have HCA-agreed projected unit sales and funding forecasts. These will be agreed for each of the initiative's three years, initially for 2013-14, and subsequently for 2014-15 and 2015-16. Forecasts will become the anticipated contractual delivery position. They will be periodically reviewed by the HCA and may be increased or decreased, based on delivery performance. Organisations with a FirstBuy grant agreement and allocation on 1st April 2013 are now requested to estimate on the enclosed pro-forma: -
 - a. Forecast number of Help to Buy purchaser legal completions in 2013-14, 2014-15 and 2015-16 by HCA Operating Area. For 2013-14, it is assumed that the former FirstBuy allocation will be the minimum forecast expected for 2013-14;
 - b. Number of sites where forecast sales will occur by HCA Operating Area;
 - c. Total market value of forecast sales by HCA Operating Area.
 - d. Note that forecast sales in a year must be capable of purchaser legal completion by 31st March in the same year. The maximum sales value per home is £600,000.

Please sign the declaration below and return it attached to a full copy of this letter in order to acknowledge and accept the provisions of this letter.

Please return to: Provider Management Team, HCA, Maple House, 149 Tottenham Court Road, London W1T 7BN, no later than 26 April 2013.

In consideration of the HCA continuing to fund the FirstBuy Legacy Sales and permitting our registration in relation to the Help to Buy initiative, we confirm that we have read and accept the provisions of the above.

Signed:

Name:

House builder:

Address:

Contact tel & e-mail:

Date: