

Draft 16 August 2010

DATED 2010

SOUTH SHROPSHIRE HOUSING ASSOCIATION (1)

and

SHROPSHIRE COUNCIL (2)

FACILITY AGREEMENT

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CONTENTS

Clause	Heading	Page
1.	Definitions and Interpretation	2
2.	The Facility	12
3.	Additional Facility option.....	13
4.	Utilisation of the Facility	13
5.	Making of Advances.....	13
6.	Payment and Calculation of Interest.....	14
7.	Repayment, Cancellation and Prepayment	14
8.	Taxes	15
9.	Changes in Circumstances	16
10.	Representations	18
11.	Financial Information	21
12.	Financial Covenants	23
13.	Covenants	23
14.	Events of Default	30
15.	Default Interest and Indemnities	35
16.	Payments.....	36
17.	Set-off	36
18.	Costs and Expenses	36
19.	Assignments and Transfers	37
20.	Calculations and Evidence of Debt	38
21.	Remedies and Waivers, Partial Invalidity	39
22.	Notices	40
23.	Law	41
	Schedule 1	44
	Schedule 2	47
	Schedule 3	48
	Schedule 4	50
	Schedule 5	51

THIS AGREEMENT is made on 2010.

BETWEEN

- (1) **SOUTH SHROPSHIRE HOUSING ASSOCIATION**, a registered provider registered as an industrial and provident society under the Industrial and Provident Societies Act 1965 with exempt charitable status (with registered number 27191R) and whose registered office is at The Gateway, The Auction Yard, Craven Arms, Shropshire, SY7 9BW (the "**Borrower**"); and
- (2) **SHROPSHIRE COUNCIL**, whose principal office is at Shirehall Abbey, Foregate, Shrewsbury SY2 6ND (the "**Authority**").

It is agreed as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement the following terms have the meanings given to them in this Clause 1.1.

"Account Charge" means the account charge entered into between the Borrower and the Authority.

"Advance" means an advance made or to be made by the Authority pursuant to the terms hereof.

"Additional Facility" means the additional sum to £5,000,000 which can be drawn upon at the option of the Borrower under the terms of Clause 3 (*Additional Facility Option*) in addition to the Initial Facility.

"Additional Facility Option" means the option available to the Borrower to draw on the Additional Facility.

"Additional Facility Option Notice" means a notice given to the Authority pursuant to Clause 3 (*Additional Facility Option*) in substantially the form set out in 0 (*Form of Additional Facility Option Notice*).

"Affordable Housing" means social rented and intermediate housing, provided to specified eligible households whose needs are not met by the market and which housing meets the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices and includes provisions for: (i) the home to be retained for future

eligible households; or (ii) if these restrictions are lifted, for any subsidy to be recycled for alternative affordable housing provision.

“Asset Cover” means the ratio set out in Clause 12 (*Financial Covenants*)

“Availability Period” means the period from the date of this Agreement up to and including the fifth anniversary of this Agreement (or such later date as agreed between the Authority and the Borrower).

“Available Commitment” means, at any time, the Total Commitments less:

- (a) the aggregate of the principal amount of the Loan outstanding ; and
- (b) the amount of any Advance due to be drawn down in respect of which a Utilisation Request has been delivered at such time.

“Charged Property” means any tenanted residential Property of the Borrower of a type and quality acceptable to the Authority over which there exists a Fixed Charge and **“Charged Properties”** means all such properties.

“Constitutive Documents” means, at the relevant time, the current Rules of the Borrower.

“Dangerous Substance” means any natural or artificial substance (whether in the form of a solid, liquid, gas or vapour) the generation, transportation, storage, treatment, use or disposal of which (whether alone or in combination with any other substance) gives rise to a risk of causing harm to man or any other living organism or causing damage to the Environment or public health or welfare and includes but is not limited to any controlled, special, hazardous, toxic, radioactive or dangerous waste.

“Default Rate” means a rate of interest determined by the Authority from time to time to be two per cent. per annum above the rate of interest which would have been payable under Clause 6 (*Payment and Calculation of Interest*).

“Deposit Account” means an account referred to in Clause 13.15 (*Additional Security*) and in relation to which the Borrower has entered into an Account Charge.

“Desktop Valuation” means a desktop Valuation of the Charged Properties in accordance with the EUV-SH Valuation Basis prepared by the Valuer and addressed to the Authority in a form acceptable to the Authority.

“EMU” means Economic and Monetary Union as contemplated in the Treaty on the European Union.

"Environment" means the environment as defined in Section 1(2) of the Environmental Protection Act 1990.

"Environmental Approval" means any licence, authorisation, consent or permit of any kind required under or in relation to Environmental Law.

"Environmental Claim" means any claim by any person:

- (a) in respect of any loss or liability suffered or incurred by that person as a result of or in connection with any violation of Environmental Law; or
- (b) that arises as a result of or in connection with Environmental Contamination and that could give rise to any remedy or penalty that may be enforced or assessed by private or public legal action or administrative order or proceedings.

"Environmental Contamination" means each of the following and their consequences:

- (a) any release, emission, leakage or spillage of any Dangerous Substance at or from any property owned, occupied or used by the Borrower into any part of the Environment; or
- (b) any accident, fire, explosion or sudden event at any property owned, occupied or used by the Borrower which is directly or indirectly caused by or attributed to any Dangerous Substance.

"Event of Default" means any circumstance described as such in Clause 14 (*Events of Default*).

"EUV-SH Valuation Basis" means a valuation of the Properties calculated on the basis of the Existing Use Value - Social Housing as defined in PS3.4 and in accordance with the guidelines set out in the RICS Appraisal and Valuation Manual (as amended from time to time), to be applied in relation to such Properties charged pursuant to Clause 13.15 (*Additional Security*) as a valuer appointed by the Authority would deem appropriate.

"Facility" means the term loan facility referred to in Clause 2.1 (*Grant of the Facility*), being the aggregate of the Initial Facility and, if the Additional Facility Option is validly exercised in accordance with this Agreement, the Additional Facility.

"Final Repayment Date" means the twenty-fifth anniversary of this Agreement.

"Finance Documents" means this Agreement, the Security Documents and any other document designated as such by the Authority and the Borrower.

"Financial Indebtedness" means any indebtedness of the Borrower for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with the Relevant Statutory Requirements, be treated as a finance or capital lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;
- (g) (for the purposes of Clause 14.6 (*Cross Default*) only) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the mark to market value shall be taken into account);
- (h) (without double counting) the amount of any liability in respect of any guarantee, indemnity or similar assurance against financial loss for any items referred to in paragraphs (a) to (g) above (inclusive),

but excludes any indebtedness in respect of, or liability to repay or reimburse any, Public Sector Grant or any grant from the Recycled Capital Grant Fund.

"**Financial Statements**" means the audited financial statements of the Borrower delivered to the Authority pursuant to Clause 11.1 (Annual Statements).

"**Financial Year**" means the twelve month period commencing on 1 April in any year and ending on 31 March in the next succeeding year or such other period as the Borrower may from time to time resolve subject to Clause 11.4 (*Accounting Reference*).

"**Fixed Charge**" means the fixed charge dated on or around the date of this deed over the Charged Property and any other fixed charge between the Authority and the Borrower from time to time in the agreed form (or such other form as is agreed between the Parties).

"**Government Department**" means the Department for Communities and Local Government or any successor or similar future governmental department or departments with responsibility in relation to the social housing sector.

"Grant" means a grant payable under Section 50 of the Housing Act 1988 or Sections 18, 20 or 21 of the Housing Act or Section 126-128 of the Housing Grants, Construction and Regeneration Act 1996 or any replacement or substitute grant payable under any other law applicable to Registered Providers.

"Group" means the Borrower, its Subsidiaries and Associates for the time being and any corporate body of which the Borrower is a Subsidiary.

"HCA" means the Homes and Communities Agency constituted pursuant to Part 1 of the Housing and Regeneration Act or any successor or similar future authority carrying on substantially the same grant-making and investment functions.

"Housing and Regeneration Act" means the Housing and Regeneration Act 2008.

"Initial Facility" means the sum of £5,000,000.

"Interest rate" means a rate equal to the twenty five year new annuity loan rate set by the Public Works Loan Board as determined by the Authority on each Utilisation Date.

"Interest Payment Date" means the two dates in a year which fall on (1) the anniversary of the relevant Utilisation Date and (2) the date six months after a Utilisation Date.

"Loan" means the aggregate principal amount of the Advances for the time being outstanding hereunder.

"Margin" means 0.10 per cent. per annum.

"Material Adverse Effect" means a material adverse effect on:

- (a) the assets, financial condition, business of the Group (taken as a whole);
- (b) the ability of the Borrower to meet its obligations under the Finance Documents; or
- (c) the validity, legality or enforceability of any Finance Document or the rights or remedies of the Authority under any of the Finance Documents.

"Parent" means Shropshire Housing Limited, a registered provider registered as an industrial and provident society under the Industrial and Provident Societies Act 1965 (with registered number 30269R) and whose registered office is at The Gateway, The Auction Yard, Craven Arms, Shropshire, SY7 9BW.

"Potential Event of Default" means any event which would become (with the passage of time, the giving of notice, the making of any determination hereunder or any combination thereof) an Event of Default.

"Properties" means all estates or interests of the Borrower in any freehold or leasehold property wheresoever situate now or in the future belonging to it and all buildings, fixtures, fittings (other than tenants' fixtures and fittings) and fixed plant and machinery from time to time thereon.

"Public Sector Grant" means a Grant or any other grant, loan or subsidy (whether taking the form of money or money's worth including, without limitation, land) provided by:

- (a) a body which is a central government authority or a public sector authority as defined in Section 573 of the Housing Act 1985 other than a Registered Provider or a housing association;
- (b) a body which is a development corporation as defined by Sections 4(c) or (d) of the Housing Act 1985;
- (c) a district health authority or a strategic health authority as defined in Section 1 of the National Health Service Reform and Health Care Professions Act 2002;
- (d) a housing action trust within the meaning of the Housing Act 1988; or
- (e) any other grant, loan or subsidy which the Auditors of the Borrower consider equivalent to grant for the purposes of the Borrower's audited accounts.

"Registered Provider" means a non-profit "registered provider of social housing" as such term is defined in the Housing and Regeneration Act and includes any Registered Social Landlord previously registered under the Housing Act.

"Regulator" means the Office for Tenants and Social Landlords (also known as the Tenant Services Authority) established pursuant to Part 2 of the Housing and Regeneration Act or any successor or similar future authority carrying on substantially the same regulatory and supervisory functions.

"Relevant Statutory Requirements" means, to the extent applicable, the requirements of:

- (1) the Industrial and Provident Societies acts 1965 to 2003;
- (2) the Companies Acts 1985 to 1989 and 2006 (as applicable);
- (3) the Housing Act 1996 or the Housing Act 2004 (as applicable);
- (4) the Charities Acts 1993 and 2006;
- (5) the Accounting Requirements for Registered Social Landlords General Determination Order 2006; and

(6) the Housing and Regeneration Act 2008.

"**Repayment Date**" means the dates set out in the Repayment Schedule.

"**Repayment Schedule**" means the schedule of repayments set out in Schedule 5 (*Repayment Schedule*) or any other repayment schedule which is agreed between the Borrower and the Authority in respect of an Advance.

"**Right to Buy**" means the right of a tenant of any Charged Property to buy all or part of such Charged Property (including, without limitation, by means of a shared-ownership lease where the terms of any such lease are either in the form recommended by the Housing Corporation or have been approved by the Authority including, in particular, any mortgagee protection provisions proposed to be inserted in any such lease) from the Borrower under Section 16 of the Housing Act, Part V of the Housing Act 1985 (or any similar right or scheme replacing or supplementing that right) or where a grant is provided to the Borrower in respect of such a sale under Section 21 of the Housing Act or any other statute conferring similar rights to tenants of Registered Social Landlords or under any contract conferring such a right and including, without limitation, such preserved rights.

"**RPI**" means the United Kingdom General Index of Retail Prices (January 1987 = 100) published by the Office for National Statistics (or any other Government department or other body upon which the duties in connection with such index has devolved) or such other substituted index as agreed between the Borrower and the Authority.

"**Security Documents**" means:

- (a) each Fixed Charge;
- (b) any document creating, evidencing or granting security for the obligations of the Borrower under the Finance Documents; and
- (c) each Account Charge;
- (d) any other document designated in writing as such by the Borrower and the Authority.

"**Security Interest**" means any mortgage, pledge, lien, charge, assignment, hypothecation or security interest or any other agreement or arrangement having the effect of conferring security (including, for the avoidance of doubt, a floating charge) or any other type of preferential arrangement having a similar effect.

"**Shared Ownership Property**" means any property of the Borrower which is occupied on shared ownership terms so that the Borrower holds less than 100 per cent of the beneficial

interest in that property and the purchaser of the balance of that beneficial interest has the right to acquire a further portion of the Borrower's retained beneficial interest.

"**Shared Ownership Sale**" means the disposal of all or any part of any unit of residential accommodation by the Borrower (or the retained interest of the Borrower in any unit of residential accommodation) which, immediately before the disposal, was a Shared Ownership Property.

"**SORP**" means the Statement of Recommended Practice: Accounting for Registered Social Landlords 2008 or, as appropriate, any document issued in replacement thereof.

"**Standards**" means any standards set by the Regulator pursuant to Sections 193 to 198 of the Housing and Regeneration Act (or any regulations issued by the Regulator or Government Department which succeed the Standards).

"**Statutory Provisions**" means the provisions of the Housing Act, the Housing Associations Act, or, as the case may be, the Housing and Regeneration Act.

"**Subsidiary**" has the meaning given to that term by Section 60 of the Housing Act 1996.

"**Total Commitments**" means the aggregate of the Initial Facility and, if the Additional Facility Option is validly exercised in accordance with this Agreement, the Additional Facility.

"**Transfer Certificate**" means a certificate substantially in the form set out in Schedule 3 (*Form of Authority Transfer Certificate*) signed by the Authority and a Transferee under which:

- (a) The Authority procures the transfer to such Transferee of all or a part of the Authority's rights, benefits and obligations hereunder upon and subject to the terms and conditions set out in Clause 19.3 (*Assignments and Transfers by the Authority*); and
- (b) such Transferee undertakes to perform the obligations it will assume as a result of delivery of such certificate to the Authority as contemplated in Clause 19.4 (*Transfers by the Authority*).

"**Transferees**" means a financial institution to which the Authority transfers all or part of the Authority's rights and obligations hereunder.

"**Unpaid Sum**" means the unpaid balance of any of the sums referred to in Clause 15.1 (*Default Interest*).

"**Utilisation**" means a utilisation of the Facility in a Utilisation Request.

"Utilisation Date" means the date on which an Advance is to be made.

"Utilisation Request" means a notice given to the Authority pursuant to Clause 4.1 (*Delivery of Utilisation Request*) substantially in the form set out in Schedule 2 (*Utilisation Request*).

"Value of the Charged Properties" means, at any time, the aggregate value of the Charged Properties as determined by the Valuer in accordance with the EUV-SH Valuation Basis provided that if any Charged Property or part thereof is sold pursuant to a Right to Buy or Shared Ownership Sale the value of the relevant Charged Property shall, for the purposes of this definition and with effect from the date of the relevant sale, be zero (if the entire relevant Charged Property has been sold) or (if only part of the relevant Charged Property has been sold) shall be the proportion of the value of the Charged Property as set out in the most recent valuation delivered pursuant hereto which is equal to the proportion of the relevant Charged Property which has not been sold pursuant to the relevant Right to Buy or Shared Ownership Sale.

"Valuation" means a valuation of any Charged Property carried out by the Valuer in accordance with the EUV-SH Valuation Basis.

"Valuer" means any independent professional valuer acceptable to the Authority (acting reasonably).

Interpretation

Any reference in this Agreement to:

the **"Authority"** shall be construed so as to include its and any subsequent successors, assigns and Transferees in accordance with their respective interests as permitted pursuant to Clause 19.3 (*Assignments and Transfers by the Authority*);

a **"business day"** shall be construed as a reference to a day (other than a Saturday, Sunday or a public holiday) on which banks generally are open for business in London and if sterling is participating in EMU, such clearing or settlement system as the Authority chooses for clearing or settlement of euro is open;

a **"Clause"** shall be construed as a reference to a clause hereof;

an **"encumbrance"** shall be construed as a reference to (a) a mortgage, charge, pledge, lien, assignment or other encumbrance securing any obligation of any person, (b) any arrangement under which money or claims to, or the benefit of, a bank or other account may be applied, set-off or made subject to a combination of accounts so as to effect

payment of sums owed or payable to any person or (c) any other type of preferential arrangement (including title transfer and retention arrangements) having a similar effect;

"euro" means the single currency of the member states participating in EMU;

an "Event of Default" or a "Potential Event of Default" is "continuing" if it has not been remedied or waived.

"indebtedness" means any obligation (whether incurred as principal or surety) for the payment or repayment of money whether present or future, actual or contingent;

a "month" is a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next succeeding calendar month save that, where any such period would otherwise end on a day which is not a business day, it shall end on the next succeeding business day, unless that day falls in the calendar month succeeding that in which it would otherwise have ended, in which case it shall end on the immediately preceding business day **provided that**, if a period starts on the last business day in a calendar month or if there is no numerically corresponding day in the month in which that period ends, that period shall end on the last business day in that later month (and references to "months" shall be construed accordingly);

a "person" shall be construed as a reference to any person, firm, company, body corporate, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing;

a "Schedule" shall be construed as a reference to a schedule hereto;

"tax" shall be construed so as to include any tax, levy, impost, duty or other charge of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same); and

"VAT" shall be construed as a reference to value added tax including any similar tax which may be imposed in place thereof from time to time.

1.2 Currency Symbols

"£" and "sterling" denote lawful currency of the United Kingdom.

1.3 Agreements and Statute

Any reference in this Agreement to:

- 1.3.1 this Agreement or any other agreement or document shall be construed as a reference to this Agreement or, as the case may be, such other agreement or

document as the same may have been, or may from time to time be, amended, varied, novated or supplemented; and

1.3.2 a statute, subordinate legislation, any regulation or the SORP shall be construed as a reference to such statute, subordinate legislation, any regulation or the SORP as the same may have been, or may from time to time be, amended or re-enacted.

1.4 **Headings**

Clause and Schedule headings are for ease of reference only.

1.5 **Contracts (Rights of Third Parties) Act 1999**

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

2. **THE FACILITY**

2.1 **Grant of the Facility**

2.1.1 **Initial Facility**

Subject to the terms of this Agreement, the Authority agrees to make a term loan facility available to the Borrower during the Availability Period in a principal amount not exceeding the Initial Facility.

2.1.2 **Additional Facility**

Subject to the terms of this Agreement, and at the Borrower's option pursuant to Clause 3 (*Additional Facility Option*) below, the Authority agrees to make a further term loan facility available to the Borrower during the Availability Period in a principal amount not exceeding the Additional Facility.

2.2 **Purpose and Application**

The Facility may only be used to finance the provision of Affordable Housing and shared office accommodation in Shropshire (or as otherwise agreed by the Authority) by the Borrower as permitted under the Constitutive Documents which is consistent with its continued registration as a Registered Provider and the Borrower shall, having regard to the Standards, apply all amounts made to it hereunder accordingly.

2.3 **General Condition Precedent Documents**

The Borrower may not deliver any Utilisation Request unless the Authority has confirmed to the Borrower that it has received all of the documents listed in Part A (*General Condition*

Precedent Documents) of Schedule 1 (*Condition Precedent Documents*) and that each is, in form and substance, satisfactory to it.

3. ADDITIONAL FACILITY OPTION

3.1 The Borrower may, at the Borrower's option, extend the Initial Facility to include the amount of the Additional Facility. The Borrower may not exercise the option in respect of only part of the Additional Facility.

3.2 The Borrower may from time to time signify its intention to utilise the Additional Facility by delivering to the Authority a duly executed Additional Facility Option Notice which must be served no later than the fifth anniversary of this Agreement.

3.3 Upon service of an Additional Facility Option Notice, the Additional Facilities will be made available to the Borrower, and may be utilised by submission of a Utilisation Request as set out in Clause 4 (*Utilisation of the Facility*).

3.4 Any Advance made pursuant to the Additional Facility will be subject to the terms of Clause 5 (*Making of Advances*) below.

4. UTILISATION OF THE FACILITY

4.1 Delivery of Utilisation Request

The Borrower may from time to time utilise the Facility by delivering to the Authority by no later than 5.00 p.m. two business days before the proposed Utilisation Date a duly completed Utilisation Request.

4.2 Utilisation Details

Each Utilisation Request delivered to the Authority pursuant to Clause 4.1 (*Delivery of Utilisation Request*) shall be irrevocable and shall specify:

4.2.1 the proposed Utilisation Date which shall be a business day in the Availability Period;

4.2.2 the amount requested which shall be an amount which does not exceed the Available Commitment at such time and which, if less than the Available Commitment at such time, is a minimum amount of £500,000 and an integral multiple of £500,000;

5. MAKING OF ADVANCES

5.1 Further conditions precedent

if the Borrower requests the Authority in accordance with Clause 4 (*Utilisation of the Facility*) to make any Advance and if on the proposed Utilisation Date relating to such an Advance:

- 5.1.1 no Event of Default or Potential Event of Default has occurred or would result from the proposed Advance; and
- 5.1.2 the representations set out in Clause 10 (*Representations*) are true and correct in all material respects on and as of such Utilisation Date (and they shall be deemed to be made at each such time with reference to the facts and circumstances subsisting at each such time); and
- 5.1.3 the Borrower is in compliance with its obligations under Clause 11 (*Financial Information*) and the Authority has confirmed to the Borrower that it has received in form and substance satisfactory to it the documents listed in Part B (*Property Conditions Precedent*) of Schedule 1 (*Condition Precedent Documents*);

then, on such Utilisation Date, the Authority shall, make such Advance to the Borrower.

6. PAYMENT AND CALCULATION OF INTEREST

6.1 Payment of Interest

On each Interest Payment Date the Borrower shall pay accrued interest on each Advance.

6.2 Calculation of Interest

The rate of interest applicable the Facility shall be the rate per annum which is equal to the Interest Rate plus the Margin.

7. REPAYMENT, CANCELLATION AND PREPAYMENT

7.1 Repayment of the Loan

The Borrower shall make repayments of the Advances on each Repayment Date in accordance with the Repayment Schedule.

7.2 Cancellation

The Borrower may, by giving to the Authority not less than ten business days' prior notice to that effect, cancel the whole or any part (being a minimum amount of £100,000 and integral multiple thereof) of the Available Commitment. Any amounts cancelled may not be reinstated.

7.3 Prepayment

The Borrower may, if it has given to the Authority not less than ten business days' prior notice to that effect, prepay the whole or part (being a minimum amount of £100,000 and integral multiple thereof) of the Facility.

7.4 Notice of Cancellation

Any notice of cancellation given by the Borrower pursuant to Clause 7.2 (*Cancellation*) or any notice of prepayment given pursuant to Clause 7.3 (*Prepayment*) shall be irrevocable and shall specify the date upon which such cancellation or prepayment is to be made and the amount of such cancellation or prepayment and, in the case of a notice of prepayment, shall oblige the Borrower to make such prepayment on such date.

7.5 No Other Repayments

The Borrower shall not repay all or any part of the Loan and any interest accrued thereon except at the times and in the manner expressly provided herein.

8. TAXES

8.1 Tax Gross-up

All payments to be made by the Borrower to any person hereunder shall be made free and clear of and without deduction for or on account of tax unless the Borrower is required to make such a payment subject to the deduction or withholding of tax, in which case the sum payable by the Borrower in respect of which such deduction or withholding is required to be made shall be increased to the extent necessary to ensure that, after the making of the required deduction or withholding, such person receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

8.2 Tax Indemnity

Without prejudice to the provisions of Clause 8.1 (*Tax Gross-up*), if any party hereto is required to make any payment on account of tax or otherwise on or in relation to any sum received or receivable hereunder by such party or the Authority on its behalf (including any sum received or receivable under this Clause 8 (*Taxes*)) or any liability in respect of any such payment is asserted, imposed, levied or assessed against such party or the Authority on its behalf, the Borrower shall, within fourteen days of demand of the Authority, promptly indemnify such person against such payment or liability, together with any interest, penalties, costs and expenses payable or incurred in connection therewith unless such interest penalties, costs and expenses are due to unreasonable delay or an action or omission or wilful negligence of the Authority.

8.3 Claims by Authority

If the Authority intends to make a claim pursuant to Clause 8.2 (*Tax Indemnity*) it shall as soon as reasonably practicable notify the Borrower of the event by reason of which it is entitled to make such a claim **Provided that** nothing herein shall require the Authority to disclose any confidential information relating to the organisation of its affairs.

8.4 Tax Credits

If the Borrower pays any additional amount under Clause 8.1 (*Tax Gross-up*) or Clause 8.2 (*Tax Indemnity*) (a "**Tax Payment**") to or for the account of any person and that person obtains a refund of tax or credit against tax by reason of that Tax Payment (a "**Tax Credit**") and such person acting in good faith is able to identify the Tax Credit as being attributable to the Tax Payment, then such person will promptly reimburse to the Borrower such proportion of the Tax Credit as such person shall reasonably determine to be the proportion of the Tax Credit as will leave such person (after that reimbursement) in no better or worse position than it would have been in if the Tax Payment had not been required. Nothing in this Clause 8.4 shall interfere with the right of any party hereto to arrange its tax affairs in whatever manner it thinks fit and the Authority shall be under no obligation to claim a Tax Credit in priority to any other claims, relief, credit or deduction available to it. The Authority shall not be obliged to disclose any information regarding its tax affairs or computations to the Borrower.

9. CHANGES IN CIRCUMSTANCES

9.1 Increased Costs

If, by reason of (i) any change in law or in its interpretation or administration and/or (ii) compliance with any request or requirement relating to the maintenance of capital or any other request from or requirement of any central bank or other fiscal, monetary or other authority (including, without limitation, resulting from the introduction of euro) with which it is customary for institutions such as the Authority to comply with in each case occurring after the date of this Agreement:

- 9.1.1 the Authority is unable to obtain the rate of return on its capital which it would have been able to obtain but for its entering into or assuming or maintaining a commitment or performing its obligations under this Agreement;
- 9.1.2 the Authority incurs a cost as a result of its entering into or assuming or maintaining the Total Commitments or performing its obligations under this Agreement;
- 9.1.3 there is any increase in the cost to the Authority,

then the Borrower shall, from time to time within fourteen days of a demand of the Authority, pay to the Authority amounts sufficient to hold harmless and indemnify the Authority from and against, as the case may be, (1) such reduction in the rate of return of capital, (2) such cost, or (3) such increased cost.

9.2 Increased Costs Claims

If the Authority intends to make a claim pursuant to Clause 9.1 (*Increased Costs*) it shall, as soon as reasonably practicable, notify the Borrower of the event by reason of which it is entitled to do so **Provided that** nothing herein shall require the Authority to disclose any confidential information relating to the organisation of its affairs.

9.3 Illegality

If, at any time, it is unlawful for the Authority to make, fund or allow to remain outstanding all or any of the Facility made or to be made by it hereunder then the Authority shall, promptly after becoming aware of the same, deliver to the Borrower a notice to that effect and:

9.3.1 the Authority shall not thereafter be obliged to make any Advances and the amount of the Available Commitment shall be immediately reduced to zero; and

9.3.2 if the Authority so requires, the Borrower shall on such date as the Authority shall have specified being not earlier than the last day upon which it is lawful for the Advance to remain outstanding repay the Facility together with accrued interest thereon and all other amounts owing to the Authority.

9.4 Mitigation

If circumstances are such that the Authority intends to claim indemnification from the Borrower under Clause 8.2 (*Tax Indemnity*) or Clause 9.1 (*Increased Costs*) the Authority shall, after consultation with the Borrower and to the extent that it can do so lawfully consider what steps it might reasonably take with a view to mitigating the effect of such circumstances on the Borrower and take such steps **Provided that** the Authority shall be under no obligation to take any such steps if, in the reasonable opinion of the Authority, such steps would or might have an adverse effect upon its business, operations or financial condition.

9.5 Repayment

If circumstances arise which would or would upon the giving of notice result in:

- 9.5.1 an increase in the amount of any payment to be made by the Borrower for the account the Authority pursuant to Clause 8.1 (*Tax Gross-up*); or
- 9.5.2 a claim for indemnification against the Borrower by the Authority pursuant to Clause 8.2 (*Tax Indemnity*) or Clause 9.1 (*Increased Costs*),

which has not been mitigated pursuant to Clause 9.4 (*Mitigation*), then the Borrower may by giving not less than two business days' notice to that effect to the Authority (such notice to take effect not more than thirty days after notice of the relevant circumstance has been given to the Borrower) elect to prepay the Facility made to the Borrower without penalty but subject to the indemnity for costs contained in Clause 15 (*Default Interest and Indemnities*) whereupon the Facility shall be cancelled.

10. REPRESENTATIONS

The Borrower makes the representations set out in this Clause 10.

10.1 Status and Due Authorisation

It is a Registered Provider within the meaning of the Housing and Regeneration Act and registered under an industrial and provident society registered under the Industrial and Provident Societies Act 1965 with charitable status and it is duly established under the laws of England with power to execute and deliver the Finance Documents and to exercise its rights and perform its obligations thereunder and all corporate and other action required to authorise its execution and delivery of the Finance Documents and its performance of its obligations thereunder has been duly taken.

10.2 Deduction or Withholding

Under the laws of England in force at the date hereof, it will not be required to make any deduction or withholding from any payment it may make hereunder.

10.3 Validity and Admissibility in Evidence

All acts, authorisations, consents, conditions and things required to be done, fulfilled and performed in order (a) to enable it lawfully to enter into, exercise its rights under and perform and comply with the obligations expressed to be assumed by it in each of the Finance Documents, (b) to ensure that the obligations expressed to be assumed by it in each of the Finance Documents are legal, valid and binding in accordance with their respective terms, (c) to make each Finance Document admissible in evidence in England and (d) to enable the Authority to exercise at any time the power of sale contained in the Fixed Charge have been done, fulfilled and performed save (where relevant) for any

registration of the Fixed Charge at the Land Registry or with the Financial Services Authority.

10.4 Execution of the Finance Documents

Its execution and delivery of the Finance Documents and its exercise of its rights and performance of its obligations thereunder do not and will not:

- 10.4.1 conflict with any agreement, mortgage, bond or other instrument or treaty to which it is a party or which is binding upon it or any of its assets;
- 10.4.2 conflict with its Constitutive Documents;
- 10.4.3 conflict with any applicable law, regulation or official or judicial order; or
- 10.4.4 (save for any Security Document) result in the existence of nor oblige the Borrower to create any encumbrance in favour of a third party over the whole or any part of its undertaking or assets, present or future.

10.5 Licences, Consents, Approvals and Permissions

It has obtained all necessary licences, consents, approvals and permissions to enable it to enter into the Finance Documents and such licences, consents, approvals or permissions are in full force and effect.

10.6 No Filing or Stamp Taxes

Other than the Fixed Charge, it is not necessary that any of the Finance Documents be filed, recorded or enrolled with any court or other authority in England or that any stamp, registration or similar tax be paid on or in relation to any of the Finance Documents.

10.7 Financial Statements

The financial statements of the Borrower most recently delivered to the Authority have been prepared in accordance with the Relevant Statutory Requirements and fairly represent the financial condition of the Borrower as at the date at which they were signed.

10.8 No Material Defaults

- 10.8.1 The Borrower is not in breach of or in default under any agreement to which it is a party or which is binding on it or any of its assets to an extent or in a manner which might have a Material Adverse Effect and no Event of Default or Potential Event of Default is outstanding or would result from the making of any Advance.

10.9 Binding Obligations

The obligations expressed to be assumed by it in the Finance Documents are legal, valid, binding and enforceable obligations on it in accordance with the terms thereof but subject to the application of all insolvency laws.

10.10 No Material Adverse Change

Since the date of the financial statements most recently delivered by the Borrower to the Authority, there has been no material adverse change in the business or financial condition of the Borrower.

10.11 No Material Proceedings

Except as disclosed by the Borrower to the Authority in writing prior to the date of this Agreement there are no litigation, arbitration or administrative proceedings, current, pending or to its knowledge threatened against the Borrower which would if adversely determined be expected to have a Material Adverse Effect.

10.12 Full Disclosure

The written information provided by the Borrower in respect of itself to the Authority (or its solicitors):

10.12.1 was true in all material respects as at the date on which it was provided and all projections, feasibility studies, cashflow statements and statements of belief and opinion contained in that written information was made in good faith and all such beliefs and opinions were honestly held at the relevant time; and

10.12.2 did not omit as at its date any information which, if disclosed, might materially and adversely affect the decision of a person considering whether or not to provide finance on the terms of this Agreement.

10.13 Environmental Claims

There is no Environmental Claim which is current or, to its knowledge, pending or threatened against the Borrower and to the best of the Borrower's knowledge and belief (having made all reasonable enquiries) there are no past or present acts, omissions, events or circumstances that could form the basis of any Environmental Claim against the Borrower which in either case would result in a Material Adverse Effect.

10.14 Dangerous Substances

No Dangerous Substance has been used, disposed of, generated, stored, transported, dumped, released, deposited, buried or emitted at, on, from or under any other premises

owned, leased, occupied, controlled or used by the Borrower in circumstances which would result in a Material Adverse Effect.

10.15 Fixed Charge

Each Fixed Charge creates those interests it purports to create ranking as they specify and is not liable to be avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise and it is not necessary that this Agreement be filed, recorded or enrolled with any court or other authority in the United Kingdom save for registration of the Fixed Charge with the Financial Services Authority or at the Land Registry or, that any stamp duty, registration fee (other than fees payable to the Land Registry and the Financial Services Authority on registration of the Fixed Charge) or taxes be paid on or in relation to this Agreement or the Fixed Charge.

10.16 Winding Up

The Borrower has not taken any corporate action nor have any other steps been taken or legal proceedings been started or (to the best of the Borrower's knowledge and belief) threatened against the Borrower for its winding up, dissolution, administration or re-organisation or for the appointment of an administrative receiver, administrator, trustee, liquidator, receiver or similar officer in respect of it or of any or all of its assets or revenues nor has any order been made by the Regulator under paragraph 14 or, as the case may be, paragraph 24(2)(d) or paragraph 27 of Schedule 1 to the Housing Act 1996 in respect of it nor is it the subject of an inquiry by the Regulator under paragraph 20 of Schedule 1 to that Act which has not been discharged within 14 days of its commencement.

10.17 Repetition of Representations

The representations contained in this Clause 10 shall be deemed to be repeated by the Borrower on each Utilisation Date and on the exercise of the Additional Facility Option (and in any event at intervals not exceeding six months) by reference to the facts and circumstances then existing.

11. FINANCIAL INFORMATION

11.1 Annual Statements

The Borrower shall as soon as the same become available, but in any event within six months days after the end of each of its Financial Years, deliver to the Authority the audited Financial Statements of the Borrower for such Financial Year.

11.2 Other Financial Information

The Borrower shall from time to time on the request of the Authority, promptly furnish the Authority with such other information about its business and/or financial condition, as the Authority may reasonably require.

11.3 The Borrower shall allow the Authority's auditors access to its financial information and information relating to the Charged Properties as the Authority shall reasonably require and upon reasonable notice.

11.4 The Borrower shall provide all assistance as is reasonably required by the authority in respect of Freedom of Information Act requests relating to the Finance Documents.

11.5 **Information Miscellaneous**

The Borrower shall supply to the Authority:

11.5.1 all documents despatched by it to its members or to its creditors generally (or any class of them) at the same time as they are despatched, but only, in the case of notices or other documents despatched to its members, if they are relevant to the monitoring by the Authority of the performance by, or the ability to perform of, the Borrower of its obligations under the Finance Documents;

11.5.2 promptly upon becoming aware of them, details of any litigation, arbitration or administrative proceedings which are current, started or threatened, and which would reasonably be expected, if adversely determined, to have a Material Adverse Effect;

11.5.3 promptly, any other communications received by the Borrower from the Regulator or the HCA which could reasonably be expected to have a Material Adverse Effect;

11.5.4 promptly, all information received from the Regulator, the Financial Services Authority, the HCA, the relevant Government Department or any other regulatory or self regulatory authority or organisation relating to the status of the Borrower or the conduct of its business and any other information from any of the foregoing but only if they may be relevant to the monitoring by the Authority of the performance by, or ability to perform of, the Borrower of its obligations under the Finance Documents or to the extent that such information may be material to the financial condition of the Borrower;

11.5.5 immediately upon becoming aware of them, details of any adverse variations in its cashflows which would reasonably be expected to have a Material Adverse Effect;

11.5.6 promptly, such other information about its financial condition or business as the Authority may reasonably request (taking into account the information which the Borrower is already under an obligation to provide under this Agreement).

11.6 Notification of Default

The Borrower shall notify the Authority:

11.6.1 immediately, of any Event of Default or Potential Event of Default (and the steps, if any, being taken to remedy it) promptly upon it becoming aware of such occurrence; and

11.6.2 immediately upon receipt, of any communication received from the Regulator in relation to a decision by the Regulator to arrange a survey or inspection or to direct an inquiry or an extraordinary audit pursuant to its powers under Sections 190, 201 to 203, 206 to 209 or 210 of the Housing and Regeneration Act 2008.

11.7 Requirements as to Financial Statements

The Borrower shall ensure that:

11.7.1 each set of Financial Statements delivered by it pursuant to Clause 11.1 (*Annual Statements*) is certified by a duly authorised officer of the Borrower on behalf of the Borrower as giving a true and fair view of the financial condition of the Borrower as at the end of the period to which those Financial Statements relate and of the results of its operations during such period; and

11.7.2 each set of Financial Statements delivered by it pursuant to Clause 11.1 (*Annual Statements*) has been audited by [name of auditors] or such other top ten firm of auditors who are able to display the necessary expertise in auditing Registered Providers or such other firm of auditors acceptable to the Authority acting reasonably.

12. ASSET COVER COVENANT

12.1 The Borrower shall ensure that the Value of the Charged Properties shall not be less than 100 per cent. of the aggregate principal amount of the Loans less any balance standing to the credit of the Deposit Account.

13. COVENANTS

13.1 Maintenance of Legal Validity

The Borrower shall obtain, comply with the terms of and do all that is necessary to maintain in full force and effect all authorisations, approvals, licences and consents required in or by the laws and regulations of England to enable it lawfully to enter into and perform its obligations under each of the Finance Documents and to ensure the legality, validity, enforceability or admissibility in evidence in England of each of the Finance Documents and any agreement relating thereto and to maintain:

13.1.1 its registration as an Industrial and Provident Society with the Financial Services Authority;

13.1.2 its registration as a social landlord with the Regulator; and

13.1.3 its charitable status.

13.2 Rules

The Borrower shall carry on its business in accordance with its Rules.

13.3 Claims Pari Passu

The Borrower shall ensure that at all times the claims of the Authority against it under each of the Finance Documents rank at least *pari passu* with the claims of all its other present and future unsecured creditors save those whose claims are mandatorily preferred by any bankruptcy, insolvency or other similar laws of general application to industrial and provident societies or Registered Providers.

13.4 Mandatory requirements from the Regulator/Government Department

The Borrower shall at all times comply with all mandatory requirements of the Regulator and the Government Department insofar as they relate to its business and to the extent that non-compliance with such mandatory requirements could reasonably be expected to affect materially and adversely its ability to perform its obligations under this Agreement.

13.5 Environmental Law

The Borrower shall at all times comply with:

13.5.1 all applicable Environmental Law; and

13.5.2 the terms and conditions of all Environmental Approvals applicable to it,

to the extent that breach of such Environmental Law and/or Environmental Approvals might reasonably be expected to affect materially and adversely the Borrower's business or

financial condition or its ability to perform or observe its obligations under this Agreement and the Fixed Charge.

13.6 Claims

The Borrower shall notify the Authority immediately of any claim, notice or other communication served on it in respect of any alleged breach of any Environmental Law or any suspension, revocation or modification of any Environmental Approval which has a Material Adverse Effect and set out the action proposed by the Borrower to be taken with respect to such matters.

13.7 Environmental Contamination

The Borrower shall notify the Authority promptly if it becomes aware of any Environmental Contamination which could reasonably be expected to have a Material Adverse Effect and its proposals for remedying that Environmental Contamination.

13.8 Insurance

The Borrower shall maintain insurance in relation to all of its assets and undertaking with reputable insurers against such risks and to such extent as is usual for non-self insuring Registered Providers carrying on activities such as that carried on by the Borrower (including without prejudice to the generality of the foregoing insurance against liability to third parties) and such other risks as the Authority may from time to time reasonably require, and provide from time to time following request from the Authority (such request not to be made more frequently than once each Financial Year) copies of all policies relating thereto together with evidence that all premiums have been paid and that such policies are in force; **provided that** nothing shall prevent the Borrower from maintaining in lieu of such insurance coverage, in whole or in part, a self insurance programme, if and to the extent that such is consistent with sound and prudent business practice and is determined by the Borrower to be in the best interests of the Borrower and such programme is otherwise permitted by applicable law and practice.

13.9 Financial Statements

The Borrower shall procure that in every Financial Year of the Borrower financial statements shall be prepared in accordance with the Relevant Statutory Requirements and the SORP and shall fairly represent the financial condition of the Borrower.

13.10 Negative Pledge

The Borrower shall not create any encumbrance on any of the Charged Properties save for:

- 13.10.1 an Approved Tenancy;
- 13.10.2 an encumbrance created with the prior written consent of the Authority (whether prior to signing the Agreement or subsequently);
- 13.10.3 any lien arising by operation of law in the ordinary course of business and securing amounts not more than 30 days overdue and which does not affect a substantial part of the Borrower's assets;
- 13.10.4 any encumbrance arising from retention of title provisions in respect of the purchase of goods in the ordinary course of business and which does not affect a substantial part of the Borrower's assets; or
- 13.10.5 any encumbrance permitted by this Agreement.

13.11 Change in Business

The Borrower shall not without the prior written consent of the Authority make any change in the scope or nature of its business or operations.

13.12 Disposals of Assets

13.12.1 The Borrower shall not sell, transfer, grant or lease or otherwise dispose of all or any part of any Charged Properties without the prior written consent of the Authority.

13.12.2 Sub-clause 13.11.1 does not apply to:

- (a) the grant of residential tenancies at a rent and without a fine or premium;
- (b) the grant of any lease or tenancy of any shop, garage or office owned by the Borrower on such commercial arms length terms as the Borrower shall in its reasonable opinion see fit from time to time;
- (c) sales and the grant of leases pursuant to the Right to Buy or a Shared Ownership Sale;
- (d) disposals of assets (other than land and buildings or other property which is assigned, mortgaged or subject to a fixed charge under any Security Documents) in the ordinary course of business
- (e) Security Interests permitted under the terms of this Agreement.

13.12.3 Without prejudice to the other requirements contained in this Clause 13.11, the Borrower shall not, unless so required by any applicable law or regulation, consent

to any sub-lease or sub-tenancy of any part of the Charged Properties (which are not commercial properties) where the sub-lease or sub-tenancy confers a greater degree of security of tenure than that already existing without the prior written consent of the Authority.

13.13 The Charged Properties

The Borrower shall:

- 13.13.1 if requested by the Authority (acting reasonably), use all reasonable endeavours to obtain any authorisation or licence required in order to enable the Authority pursuant to the powers of enforcement conferred on it by the Security Documents to sell vacant Charged Properties;
- 13.13.2 maintain insurances on and in relation to the Charged Properties and on and in relation to its business and assets with reputable underwriters or insurance companies against such risks and to such extent as is usual for housing associations carrying on a business such as that carried on, or to be carried on, by the Borrower and whose practice is not to self insure all in accordance with the Fixed Charge; and
- 13.13.3 following consultation with the Authority and the Borrower's other lenders and provided the approvals of the Borrower's other lenders and the Regulator, in the event that such approvals are required, have been obtained (which approvals will be sought by the Borrower using its reasonable endeavours), the Borrower shall at the request of the Authority enter into a floating charge over substantially all the Borrower's undertaking and assets both present and future in the event that the provisions of Part II of the Insolvency Act 1986 shall apply to the Borrower or any similar provision in each case the effect of which would be to prevent the Authority enforcing any Security Document in circumstances where the Borrower has not created a floating charge in favour of the Authority provided always that such floating charge shall not contain any further covenants or restrictions on the Borrower which would be materially more onerous than those already contained within this Agreement at that time, provided that such floating charge created pursuant to this sub-clause 13.12 shall be released if the reasons for creating such charge have ceased to exist.

13.14 Constitutive Documents

The Borrower shall not without the prior written consent of the Authority amend its Constitutive Documents in a manner which could reasonably be expected to affect adversely its ability to perform its obligations under this Agreement.

13.15 Security - Valuations

13.15.1 The Borrower shall, if the Authority so requests, deliver to the Authority a Valuation (dated no earlier than 90 days prior to the date that it is delivered to the Authority):

- a) where the Authority requires confirmation that the Borrower is in compliance with the requirements of the Asset Cover; or
- b) where there has been a release and/or substitution of Charged Properties pursuant to Clause 13.17 (*Release and Substitution of Charged Property*); or
- c) if there is an Event of Default or Potential Event of Default which is continuing.

13.15.2 The Borrower may deliver to the Authority a Valuation at any time, but must deliver a valuation on or before the third anniversary of the date of this Agreement and every three years thereafter.

13.15.3 The Borrower shall deliver a Desktop Valuation to the Authority on each anniversary of this Agreement.

13.15.4 The Borrower shall give the Valuers all reasonable assistance to enable them to carry out each Valuation required pursuant to the terms of this Agreement and permit them such access to the Properties and the records and accounts of the Borrower as they reasonably require for such purposes

13.15.5 All Valuations shall be at the expense of the Borrower except that Valuations requested by the Authority under sub-clause 13.16.1a) will be at the expense of the Authority unless (a) an Event of Default has occurred which is continuing or (b) an Event of Default is shown by such Valuation to have occurred.

13.15.6 All Valuations shall be addressed, inter alia, to the Authority.

13.16 Additional Security

If the Borrower is not in compliance with the provisions of the Asset Cover it shall within 15 business days (and only to the extent that such non-compliance continues) either (i) cause to be designated in favour of the Authority and charged (if not already charged) in favour of the Authority by way of Fixed Charge, Property (approved as security by the Authority) and deliver to the Authority the documents listed in Part B (*Property Conditions Precedent*) of 0 (*Condition Precedent Documents*) in respect of such Property in form and content satisfactory to the Authority; and/or (ii) place a cash deposit in the Deposit

Account, in each case sufficient to ensure compliance with the provisions of the Asset Cover.

13.17 Release and Substitution of Charged Property

At the request and expense of the Borrower, the Authority shall (a) release from the first fixed charge constituted by the Fixed Charges or (b) substitute from the first fixed charge constituted by the Fixed Charges such of the Charged Properties as may be selected by the Borrower with any alternative Properties, **provided that**:

- 13.17.1 the Authority has received a Valuation (i) of all Charged Properties in the event of release and (ii) of any Properties to be charged in substitution in the event of substitution, prepared by the Valuer no earlier than 120 days prior to the date of the Borrower's request;
- 13.17.2 in the case of any release (but not substitution) the latest Valuations delivered hereunder show that the Value of the Charged Properties shall not be less than 100% of the Loan (less any balance standing to the credit of the Deposit Account), assuming the EUV-SH Valuation Basis is used immediately after the release of the relevant Charged Properties;
- 13.17.3 no Event of Default or Potential Event of Default has occurred and is continuing at that time or would result from that release and/or substitution;
- 13.17.4 the Borrower demonstrates to the satisfaction of the Authority (acting reasonably) that the Charged Properties proposed to be released or substituted comprise a representative cross section of all the Charged Properties, having regards to any relevant factors including, without limitation, the age, type and condition of the Charged Properties in respect of which the relevant release or substitution is requested; and
- 13.17.5 with regard to a substitution only, the Borrower grants in favour of the Authority a first fixed charge constituted by a Fixed Charge over such Properties and/or places a cash deposit in the Deposit Account; and with regard to a substitution only, the Authority has received such other documents and information in respect of any substitute Property as the Authority may reasonably require.

13.18 Compliance with Laws

The Borrower shall comply in all respects with all:

- 13.18.1 laws to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under the Finance Documents; and

13.18.2 sanctions-related laws and regulations to which it may be subject.

13.19 Mergers and Subsidiaries

Except with the prior consent of the Authority (which consent shall not be unreasonably withheld or delayed), the Borrower shall not:

13.19.1 enter into any merger or consolidation if it would alter the legal personality of the Borrower; or

13.19.2 become a Subsidiary of anyone other than Parent.

13.20 Loans and Guarantees

The Borrower shall not on-lend any Loans to any other person other than the Parent and then only with the Authority's prior written consent. **[to be discussed]**

14. EVENTS OF DEFAULT

Each of Clause 14.1 (*Failure to Pay*) to Clause 14.21 (*Material Adverse Change*) describes circumstances which constitute an Event of Default for the purposes of this Agreement. Clause 14.22 (*Acceleration and Cancellation*) and 14.23 (*Repayment Demand*) deal with the rights of the Authority after the occurrence of an Event of Default.

14.1 Failure to Pay

The Borrower fails to pay any sum due from it under any Finance Document on the date for payment specified therein and in the manner specified therein (unless such failure is due solely to technical reasons and is remedied within two business days of the date for payment).

14.2 Breach of Key Obligations

The Borrower fails to perform or observe any provision of Clause 12 (*Asset Cover Covenant*) or Clause 13.17 (*Additional Security*) within any applicable grace periods referred to therein.

14.3 Specific Covenants

Other than as provided in Clause 14.1 (*Failure to Pay*) or Clause 14.2 (*Breach of Key Obligations*) the Borrower fails duly to perform or comply with any of the obligations expressed to be assumed by it in this Agreement or a Finance Document and such failure (if capable of remedy) is not remedied within fourteen days of the date when the Authority gives notice thereof to the Borrower requiring the same to be remedied or such longer

period as the Authority may agree in accordance with any proposal for rectification produced by the Borrower and which the Borrower complies with in all respects.

14.4 Misrepresentation

Any representation or statement made or deemed to be made by the Borrower to the Authority under this Agreement is or proves to have been incorrect or misleading in any material respect when made or deemed to be made save where such breach is remedied to the Authority's satisfaction within 14 days of the Authority giving notice to the Borrower or the Borrower becoming aware of the same.

14.5 Unenforceability of Finance Documents

Any Finance Document is terminated (unless terminated by the Borrower with the approval of the Authority) or frustrated or declared void or unenforceable by any court of competent jurisdiction or is claimed to be void or unenforceable by the Borrower.

14.6 Cross default

- (a) Any Financial Indebtedness of the Borrower is not paid on the due date nor within any applicable grace period;
- (b) Any Financial Indebtedness of the Borrower is declared to be or otherwise becomes due and payable prior to its stated maturity as a result of an event of default (however described).
- (c) Any commitment for any Financial Indebtedness of the Borrower is cancelled or suspended by its creditor as a result of an event of default (however described).
- (d) Any creditor of the Borrower becomes entitled to declare any of its Financial Indebtedness due and payable prior to its specified maturity as a result of an event of default (however described).
- (e) No Event of Default will occur under this Clause 14.6 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within sub-clauses (a) to (d) above is less than £250,000 (increasing annually with RPI).

14.7 Insolvency

- (a) The Borrower is unable or admits 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 its indebtedness generally.
- (b) The value of the assets of the Borrower is less than its liabilities (taking into account contingent and prospective liabilities).

- (c) A moratorium is declared in respect of any class of indebtedness of the Borrower.

14.8 Insolvency proceedings

Any corporate action, legal proceedings or other procedure or step (which is not vexatious or frivolous and is then discharged within ten Business days) is taken in relation to:

- (a) the suspension of payments generally, a moratorium of any indebtedness, winding-up, dissolution, administration or insolvent reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Borrower;
- (b) a composition, assignment or arrangement with any class of creditors of the Borrower;
- (c) the appointment of a provisional liquidator, a liquidator, receiver, receiver or manager, administrator, administrative receiver, compulsory or interim manager or other similar officer in respect of the Borrower or any substantial part of its assets; or
- (d) enforcement of any Security Interest over any substantial part of the assets of the Borrower,

or any analogous procedure or step is taken in any jurisdiction.

14.9 Creditors' process

Any expropriation, attachment, sequestration, distress or execution affects any substantial part of the assets of the Borrower and is not discharged within 21 days of its commencement.

14.10 Unlawfulness

It is or becomes unlawful for the Borrower to perform any of its obligations under the Finance Documents.

14.11 Repudiation

The Borrower repudiates a Finance Document or evidences an intention to repudiate a Finance Document.

14.12 Cessation of Business

The Borrower:

14.12.1 ceases or threatens to cease to carry on all or a substantial part of its business; or

14.12.2 carries on or purports to carry on any activity to a material extent outside its lawful objects.

14.13 Illegality

At any time it is or becomes unlawful for the Borrower to perform any material part of its obligations under any of the Finance Documents or any of the obligations of the Borrower under any of the Finance Documents are not or cease to be legal, valid and binding.

14.14 Insolvency and Rescheduling

Any action or administrative proceedings of or before any court or agency are started or threatened which, would, if adversely determined materially and adversely affect the interests of the Authority under this Agreement and the Fixed Charge.

14.15 Registered Provider

The Borrower ceases for whatever reason to be a Registered Provider with the Regulator with charitable status or becomes a Subsidiary of any person other than the Parent.

14.16 Availability of Public Sector Grant

Any Public Sector Grant becomes repayable by the Borrower otherwise than as envisaged under the terms on which such Public Sector Grant was made and this causes a Material Adverse Effect.

14.17 Action by the Regulator

14.17.1 The Regulator presents a petition for the winding-up of the Borrower under Section 166 of the Housing and Regeneration Act.

14.17.2 Any person is appointed by the Regulator to conduct an inquiry into the affairs of the Borrower under Section 206 of the Housing and Regeneration Act and no evidence satisfactory to the Authority is produced to the Authority within ten Business days to satisfy the Authority that a report materially adverse to the interests of the Authority is not likely to be issued and the circumstances giving rise to the enquiry could not reasonably be expected, in the opinion of the Authority, to have a Material Adverse Effect provided that if the Regulator subsequently produces a report which is, in the Authority's opinion, materially adverse to the interests of the Authority, the issuance of such a report shall be an Event of Default.

14.17.3 A management tender process is initiated pursuant to Section 247 of the Housing and Regeneration Act or a transfer of management is required under Section 249 of the Housing and Regeneration Act or a manager is appointed under Section 251 of the Housing and Regeneration Act.

14.17.4 An order is made by the Regulator in relation to the money, securities or transactions of the Borrower under Sections 256 (4) and (5) and 257 (2) and (3) of the Housing and Regeneration Act.

14.17.5 The Regulator directs the Borrower to transfer land to the Regulator or any other person under Section 253 of the Housing and Regeneration Act or to enter into an amalgamation with any other Registered Provider or person under Section 255 of the Housing and Regeneration Act.

14.17.6 The Regulator appoints (or gives written notice to the Borrower of its intention to appoint) any person to the board of management of the Borrower pursuant to Section 269 of the Housing and Regeneration Act.

14.18 **Breach of guidelines**

The Borrower fails to carry on its business in accordance with:

14.18.1 the Standards; or

14.18.2 any regulations published by the Regulator or the HCA or any other body from which the Borrower receives or might receive Public Sector Grant,

and, as a result there is a significant reduction in the amount of all or any Public Sector Grant receivable by the Borrower, or the HCA unconditionally indicates that such a reduction will take place which reduction, would reasonably be expected to have a Material Adverse Effect.

14.19 **Environmental Law or Approval**

The Borrower fails to comply with any Environmental Law or Environmental Approval or becomes subject to any Environmental Claim and such failure to comply or Environmental Claim could reasonably be expected to have a Material Adverse Effect.

14.20 **Breach of Statutory Provisions**

The Borrower breaches any of the Statutory Provisions in any respect which could reasonably be expected to have a Material Adverse Effect.

14.21 **Material Adverse Change**

There is a material adverse change in the nature of the business or financial condition of the Borrower which causes a Material Adverse Effect.

14.22 **Acceleration and Cancellation**

If any Event of Default occurs then, and in such case and at any time provided such Event of Default is continuing, the Authority may by written notice to the Borrower:

14.22.1 declare the Loan to be immediately due and payable (whereupon the same shall become so payable together with accrued interest thereon and any other sums then owed by the Borrower hereunder) or declare the Loan to be due and payable on demand of the Authority; and/or

14.22.2 declare that the Facility shall be cancelled, whereupon the Facility shall be cancelled and the Total Commitments shall be reduced pro-rata by the same amount and the Facility Amount shall be reduced to zero; and/or

14.22.3 declare the security constituted by the Fixed Charge executed by the Borrower to be immediately enforceable.

14.23 Repayment Demand

If, pursuant to Clause 14.22 (*Acceleration and Cancellation*), the Authority declares the Loan to be due and payable on demand of the Authority, then, and at any time thereafter, the Authority may by written notice to the Borrower call for repayment of any and all of the Loan which is outstanding on such date as it may specify in such notice (whereupon the same shall become due and payable on such date together with accrued interest thereon and any other sums then owed by the Borrower hereunder) or withdraw its declaration with effect from such date as it may specify in such notice.

15. DEFAULT INTEREST AND INDEMNITIES

15.1 Default Interest

If the Borrower fails to pay any amount payable by it under any Finance Document, it will, on demand by the Authority from time to time, pay interest on the Unpaid Sum from the due date up to the date of actual payment, both before and after judgment, at the Default Rate. Interest at the Default Rate will be compounded at such intervals as the Authority may select.

15.2 General Indemnity

The Borrower undertakes to indemnify the Authority against:

15.2.1 any cost, claim, loss, expense (including legal fees) or liability together with any VAT thereon, which it may sustain or incur as a consequence of the occurrence of any Event of Default or any default by the Borrower in the performance of any of the obligations expressed to be assumed by it in any of the Finance Documents;

15.2.2 any loss it may suffer or incur as a result of its funding or making arrangements to fund an Advance requested by the Borrower hereunder but not made by reason of the operation of one or more of the provisions hereof.

16. PAYMENTS

16.1 Payments to the Authority

On each date on which any Finance Document requires an amount to be paid by the Borrower, the Borrower shall make the same available to the Authority by payment in sterling and in immediately available, freely transferable, cleared funds by CHAPS to such account of the Authority with such bank as the Authority shall from time to time have specified for this purpose.

16.2 No Set-off

All payments required to be made by the Borrower under any Finance Document shall be calculated without reference to any set-off or counterclaim and shall be made free and clear of and without any deduction for or on account of any set-off or counterclaim save as required by law.

16.3 EMU

If, as a result of sterling joining EMU an amount is to be paid to the Authority in euro, such payment shall be made in euro and in immediately available, freely transferable cleared funds to such account as the Authority may specify, and thereafter each reference in this Agreement to a sterling amount shall be replaced by a reference to a comparable euro amount fixed by the Authority and this Agreement shall be subject to such other consequential changes as the Authority reasonably decides are necessary.

17. SET-OFF

Following an Event of Default which is continuing unremedied or unwaived the Authority may apply any amount owed by the Authority to the Borrower in satisfaction of any sum due and payable from the Borrower to the Authority hereunder but unpaid. The Authority shall not be obliged to exercise any right given to it by this Clause 17. The Authority shall notify the Borrower prior to the exercise of any right of set-off giving full details in relation thereto.

18. COSTS AND EXPENSES

18.1 Transaction Expenses

The Borrower shall, from time to time on demand of the Authority, reimburse the Authority for all reasonable costs and expenses (including legal fees) together with any VAT thereon incurred by it in connection with the negotiation, preparation and execution of each of the Finance Documents and the completion of the transactions therein contemplated.

18.2 Preservation and Enforcement of Rights

The Borrower shall, from time to time on demand of the Authority, reimburse the Authority for all costs and expenses (including legal fees) together with any VAT thereon incurred in or in connection with the preservation and/or enforcement of any of the rights of the Authority against the Borrower under any of the Finance Documents.

18.3 Stamp Taxes

The Borrower shall pay all stamp, registration and other taxes to which any of the Finance Documents or any judgment given in connection therewith is or at any time may be subject and shall, from time to time on demand of the Authority, indemnify the Authority against any liabilities, costs, claims and expenses resulting from any failure to pay or any delay in paying any such tax.

19. ASSIGNMENTS AND TRANSFERS

19.1 Binding Agreement

This Agreement shall be binding upon and enure to the benefit of each party hereto and its or any subsequent successors and Transferees.

19.2 Assignments and Transfers by the Borrower

19.2.1 The Borrower shall not be entitled to assign or transfer all or any of its rights, benefits and obligations under the Finance Documents except as permitted by this Clause 19.2.

19.2.2 The Borrower shall be permitted to transfer by novation all of its rights, benefits and obligations under this Agreement to the Parent only provided that Parent enters into such documentation as is required by the Authority to effect such transfer.

19.3 Assignments and Transfers by the Authority

The Authority may assign all or any of its rights and benefits hereunder or transfer all or any of its rights, benefits and obligations hereunder. The Borrower agrees that in the event that the Authority assigns or transfers all or any of its rights, benefits and/or obligations hereunder the Borrower shall (at the Authority's expense) execute and deliver such documents and accept such amendments to this Agreement and any other Finance

Document as may be reasonably requested by the Authority in connection with such assignment or transfer.

19.4 Transfers by the Authority

If the Authority wishes to transfer all or any of its rights, benefits and/or obligations hereunder as contemplated in Clause 19.3 (*Assignments and Transfers by the Authority*), then such transfer may be effected by the delivery to the Borrower of a duly completed Transfer Certificate executed by the Authority and the relevant Transferee in which event, on the later of the Transfer Date specified in such Transfer Certificate and the fifth business day after (or such earlier business day endorsed by the Authority on such Transfer Certificate falling on or after) the date of delivery of such Transfer Certificate to the Borrower:

19.4.1 to the extent that in such Transfer Certificate the Authority party thereto seeks to transfer by novation its rights, benefits and obligations hereunder, the Borrower and the Authority shall be released from further obligations towards one another hereunder and their respective rights against one another shall be cancelled (such rights and obligations being referred to in this Clause 19.4 as "**discharged rights and obligations**");

19.4.2 the Borrower and the Transferee party thereto shall assume obligations towards one another and/or acquire rights against one another which differ from such discharged rights and obligations only insofar as the Borrower and such Transferee have assumed and/or acquired the same in place of the Borrower and the Authority; and

19.4.3 such Transferee shall become a party hereto.

19.5 Disclosure of Information

The Authority may disclose to any actual or potential assignee, transferee or to any person who may otherwise enter into contractual relations with the Authority in relation to this Agreement such information about the Borrower as the Authority or shall consider appropriate **Provided that** such information is relevant to such assignment and is disclosed on a confidential basis.

20. CALCULATIONS AND EVIDENCE OF DEBT

20.1 Basis of Interest Accrual

Interest and commitment commission shall accrue from day to day and shall be calculated on the basis of a year of 365 days (or such other calculation as the Authority reasonably determines has become market practice).

20.2 Evidence of Debt

The Authority shall maintain in accordance with its usual practice accounts evidencing the amounts from time to time lent by and owing to it hereunder.

20.3 Prima Facie Evidence

In any legal action or proceeding arising out of or in connection with this Agreement, the entries made in the accounts maintained pursuant to Clause 20.2 (*Evidence of Debt*) shall be *prima facie* evidence of the existence and amounts of the specified obligations of the Borrower.

20.4 Certificates of the Authority

A certificate of the Authority as to (a) the amount by which a sum payable to it hereunder is to be increased under Clause 8.1 (*Tax Gross-up*) or (b) the amount for the time being required to indemnify it against any such cost, payment or liability as is mentioned in Clause 8.2 (*Tax Indemnity*) or Clause 9.1 (*Increased Costs*) shall, in the absence of manifest error, be *prima facie* evidence of the existence and amounts of the specified obligations of the Borrower.

20.5 Public Works Loan Board

Reference to the Public Works Loan Board rate shall, if such rate no longer exists in comparable form, be construed as meaning the nearest equivalent rate as may be as determined by the Authority.

21. REMEDIES AND WAIVERS, PARTIAL INVALIDITY

21.1 Remedies and Waivers

No failure to exercise, nor any delay in exercising, on the part of the Authority, any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

21.2 Partial Invalidity

If, at any time, any provision of any Finance Document is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of the Finance Documents nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

22. NOTICES

22.1 Giving of notices

All notices or other communications under or in connection with this Agreement shall be given in writing or by fax. Any such notice will be deemed to be given as follows:

22.1.1 if served personally, when delivered to the addressee's address for service;

22.1.2 if posted by pre-paid first class post, at 9.00 a.m. 2 business days after posting; and

22.1.3 if by fax, when received in fully legible form.

However, a notice in accordance with the above but received on a non-business day or after business hours in the place of receipt will only be deemed to be given at 9.00 a.m. on the next business day. Fax notices should be confirmed by posting a copy to the addressee's address for service (but without affecting the validity of the notice).

22.2 Addresses for notices

22.2.1 The address, and fax number of each Party for all notices under, or in connection with, this Agreement are:

- (a) those notified by that Party to the other Party on or before it becomes a Party to this Agreement; or
- (b) any other address notified by that Party to the other Party for this purpose by not less than five business days' notice.

22.3

(a) [REDACTED] The address and fax number of the Authority is

[REDACTED]

Shire Hall, Abbey Foregate, Shrewsbury, SY2 6ND

Fax: [REDACTED]

Attn: [REDACTED]

or such other details as the Authority may notify to the Borrower by not less than five business days' notice.

(b) The address and fax number of the Borrower is:

The Gateway
The Auction Yard
Craven Arms
Shropshire SY7 9BW

Fax: []

Attn: Group Resources Director

or such other details as the Borrower may notify to the Authority by not less than five business days' notice.

23. LAW

This Agreement shall be governed by, and shall be construed in accordance with, English law.

AS WITNESS this Agreement has been executed by the parties on the date stated on page one.

SCHEDULE 1

CONDITION PRECEDENT DOCUMENTS

PART A

General Condition Precedent Documents

1. A copy (certified to be true and up-to-date by an authorised signatory of the Borrower) of the Constitutive Documents of the Borrower.
2. A copy (certified to be a true copy by an authorised signatory of the Borrower) of the Acknowledgement of Registration of the Borrower under the Industrial and Provident Societies Act 1965 from the Financial Services Authority.
3. Evidence of registration of the Borrower as a Registered Provider in the register maintained by the Regulator pursuant to Section I of the Housing Act.
4. A copy of a resolution of the Board of Management of the Borrower:
 - (i) approving the terms of, and the transactions contemplated by, the Finance Documents and resolving that it executes the Finance Documents;
 - (ii) authorising a specified person or persons to execute each Finance Document on its behalf;
 - (iii) authorising its seal to be affixed to those Finance Documents to be executed by it under seal; and
 - (iv) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices to be signed and/or despatched by it under, or in connection with, the Finance Documents to which it is a party.
5. A certificate of an authorised signatory of the Borrower setting out the names and specimen signatures of the persons authorised to sign, on behalf of the Borrower, the Finance Documents and any documents to be delivered by the Borrower pursuant thereto.
6. A certificate of an officer of the Borrower confirming that the borrowing of the Facility in full would not cause any borrowing limit binding on it to be exceeded.
7. A certificate of an authorised signatory of the Borrower certifying that each copy document specified in Part A of this Schedule 1 is correct, complete, up-to-date and in full force and effect as at a date no earlier than the date of this Agreement.
8. A legal opinion from Wragge & Co LLP, solicitors to the Authority addressed to the Authority regarding the power of the Borrower to enter into the Finance Documents and confirming that the obligations of the Borrower thereunder are legal, valid and binding.

PART B

Property Conditions Precedent

1. A Certificate of Title in the agreed form in respect of the Charge Properties prepared by solicitors acceptable to the Authority and addressed to the Authority;
2. A valuation of the Charged Property prepared by the Valuer in accordance with the EUV-SH Valuation Basis addressed to the Authority confirming the Value of the Charged Property;
3. A letter of undertaking relating to the title deeds to the Charged Property and perfection of the security under the Fixed Charge relating thereto duly executed by solicitors acceptable to the Authority (including applications to The Land Registry to enter on the Register the restriction against dealings and the obligation to make further advances);
4. Where the Charged Property is registered land or an application for first registration has been lodged at The Land Registry in relation thereto, Land Registry searches affording priority to the Authority for a period of not less than ten business days following the date of the relevant Fixed Charge relating thereto and revealing no entries adverse to the interests of the Borrower or the Authority and/or to the extent that the Charged Property involves unregistered land, official priority searches in favour of the Authority of each of the land charges registers against all relevant estate owners which confers a period of priority expiring not less than ten business days after the date of the Fixed Charge relating thereto and reveals no entries adverse to the interests of the Borrower or the Authority;
5. Copies of policies, certificates or cover notes relating to each contract or policy of insurance taken out by or on behalf of the Borrower, or in which the Borrower has an interest, and which relates to the Charged Property, and evidence satisfactory to the Authority that a note of the Authority's interest has been endorsed upon each such contract or policy of insurance;
6. A certified copy of the consent of the Regulator pursuant to Section 172 of the Housing and Regeneration Act to the creation of the relevant Fixed Charge and to the charging by the Borrower of its assets thereunder; and
7. The Fixed Charge, duly executed.
8. To the extent there have not been any changes, a certificate of an authorised signatory of the Borrower confirming that there have been no amendments to the Constitutive Documents or the authorised signatories list since the date they were previously delivered to the Authority in connection with this Agreement and certifying that the Constitutive Documents are true, complete and up to date, or to the extent there have been any changes, a copy of the most recent Constitutive Documents or authorised signatories list certified as being true, complete and up to date.

9. A copy of any other authorisation, document, opinion or assurance which the Authority reasonably considers to be necessary in connection with the taking of security pursuant to the Fixed Charge.

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SCHEDULE 2
UTILISATION REQUEST

From: South Shropshire Housing Association

To: Shropshire Council

Dated:

Dear Sirs,

1. We refer to the term loan facility agreement (the "**Facility Agreement**") dated [•] and made between South Shropshire Housing Association as borrower and Shropshire Council. Terms defined in the Facility Agreement shall have the same meaning in this notice.
2. We hereby give you notice that, pursuant to the Facility Agreement, we wish to borrow an Advance as follows:
 - (a) Amount: [•];
 - (b) Utilisation Date: [•];
3. We confirm that, at the date hereof, the representations set out in Clause 10 (*Representations*) of the Facility Agreement are true and no Event of Default or Potential Event of Default has occurred.
4. [The proceeds of this Utilisation should be credited to *[insert account details]*].

Yours faithfully

.....

for and on behalf of

South Shropshire Housing Association

SCHEDULE 3

FORM OF AUTHORITY TRANSFER CERTIFICATE

To:

Transfer Certificate relating to the agreement (the "**Facility Agreement**") dated [] whereby a term loan facility was made available to South Shropshire Housing Association as borrower by Shropshire Council.

5. Terms defined in the Facility Agreement shall, subject to any contrary indication, have the same meanings herein. The terms Authority, Borrower and Transferee are defined in the schedule hereto.
6. The Authority (a) confirms that the details in the schedule hereto accurately summarises the amount of the Loan and any interest accrued thereon and (b) requests the Transferee to accept and procure the transfer to the Transferee of the Loan and any interest accrued thereon by counter-signing and delivering this Transfer Certificate to the Borrower at its address for the service of notices specified in the Facility Agreement.
7. The Transferee hereby requests the Borrower to accept this Transfer Certificate as being delivered to the Borrower pursuant to and for the purposes of Clause 19.4 (*Transfers by Authority*) of the Facility Agreement so as to take effect in accordance with the terms thereof on the Transfer Date or on such later date as may be determined in accordance with the terms thereof.
8. The Transferee confirms that it has received a copy of the Facility Agreement together with such other information as it has required in connection with this transaction and that it has not relied and will not hereafter rely on the Authority to check or enquire on its behalf into the legality, validity, effectiveness, adequacy, accuracy or completeness of any such information and further agrees that it has not relied and will not rely on the Authority to assess or keep under review on its behalf the financial condition, creditworthiness, condition, affairs, status or nature of the Borrower.
9. The Transferee hereby undertakes with the Authority and with the Borrower that it will perform in accordance with their terms all those obligations which by the terms of the Facility Agreement will be assumed by it after delivery of this Transfer Certificate to the Authority and satisfaction of the conditions (if any) subject to which this Transfer Certificate is expressed to take effect.
10. The Authority makes no representation or warranty and assumes no responsibility with respect to the legality, validity, effectiveness, adequacy or enforceability of the Facility Agreement or any document relating thereto and assumes no responsibility for the financial

condition of the Borrower or for the performance and observance by the Borrower of any of its obligations under the Facility Agreement or any document relating thereto and any and all such conditions and warranties, whether express or implied by law or otherwise, are hereby excluded.

11. The Authority hereby gives notice that nothing herein or in the Facility Agreement (or any document relating thereto) shall oblige the Authority to (a) accept a re-transfer from the Transferee of the whole or any part of its rights, benefits and/or obligations under the Facility Agreement transferred pursuant hereto or (b) support any losses directly or indirectly sustained or incurred by the Transferee for any reason whatsoever including the non-performance by the Borrower or any other party to the Facility Agreement (or any document relating thereto) of its obligations under any such document. The Transferee hereby acknowledges the absence of any such obligation as is referred to in (a) or (b) above.
12. This Transfer Certificate and the rights, benefits and obligations of the parties hereunder shall be governed by and construed in accordance with English law.

THE SCHEDULE

1. Authority:
2. Borrower:
3. Transferee:
4. Transfer Date:
5. Amount of Loan outstanding at Transfer Date:

[Authority]

[Transferee]

By:

By:

Date:

Date:

Administrative Details of Transferee

Address:

Contact Name:

Account for Payments:

Fax:

Telephone:

SCHEDULE 4

FORM OF ADDITIONAL FACILITY OPTION NOTICE

From: South Shropshire Housing Association

To: Shropshire Council

Dated:

OPTION NOTICE

6. We refer to the term loan facility agreement (the "**Facility Agreement**") dated [•] and made between South Shropshire Housing Association and Shropshire Council. Terms defined in the Facility Agreement shall have the same meaning in this notice.
7. We hereby give you notice that, pursuant to the Facility Agreement, we wish to exercise our option to extend the Facilities to include the Additional Facility.
8. We confirm that, at the date hereof, the representations set out in Clause 10 (*Representations*) of the Facility Agreement are true and no Event of Default or Potential Event of Default has occurred.

Yours faithfully

.....

for and on behalf of

South Shropshire Housing Association

SCHEDULE 5
THE REPAYMENT SCHEDULE

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EXECUTION PAGE

The Borrower

For and on behalf of
South Shropshire Housing Association

The Authority

For an on behalf of
Shropshire Council was

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Document comparison by Workshare Professional on 16 August 2010 19:57:48

Input:	
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Description	#16584105v4<Legal01> - Facilities Agreement
Document 2 ID	interwovenSite://Worksite/Legal01/16584105/5
Description	#16584105v5<Legal01> - Facilities Agreement
Rendering set	Standard

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	14
Deletions	13
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	27