

DRAFT Build to Rent Fund Certificate of Title: The Agency reserves the right to require a different form of certificate/report on a case by case basis.

Property¹: [Land Registry description] shown edged red on the attached plan labelled "Property Plan" (**Property Plan**)

Title Number(s): [●]

Developer²: [**Details of legal owner/funding recipient**] (company registration number []) of [●];

Guarantor: [●]

Buyer: [●]

Amount of Facility: £[●]

Scheme³: [●] private rental units within block[s] [●] of [name of scheme] as listed in the attached list provided to us by the Developer⁴ [**Note: To be adapted if this relates to a portfolio of properties or completed units**]

Site: means the land shown edged red on the attached plan⁵ (**Site Plan**)

Date of Certificate⁶: [●]

Insurance Amount⁷: £[●]

Developer's Conveyancer: [●] of [●]

PI Cover Amount: £25 million⁸

Conveyancer's bank: N/A

Sort code: N/A

Account number: N/A

Legal Charge: a charge in the form required by the Agency.

¹ Land Registry description for the WHOLE title taken from the Official Copy Entries of the Title Number.

² To review in the circumstances of each project if the "Developer" is the correct term if the Agency is providing finance to an investor

³ Please provide a comprehensive description of the Scheme, including unit numbers and types i.e. what will be delivered, preferably by reference to a plan.

⁴ References to Scheme, Property, Site to be amended as appropriate to best fit the terms of the proposed transaction.

⁵ This may be the whole or part of the Property. The Site Plan should be the same plan as seen/approved by the valuers and the Agency.

⁶ This will usually be the date of completion of the Facility documentation.

⁷ This is buildings insurance (block policy or otherwise), contractor's all risk or other as appropriate depending on the current state of construction. Minimum cover of Amount of Facility. Review as appropriate.

⁸ The minimum PI Cover Amount is £25 million. If the Amount of Facility is greater than £25 million, the Agency will require the PI Cover Amount to be higher than the Amount of Facility, and will be agreed on a case by case basis.

TO: Homes and Communities Agency, a body corporate under Section 1 of the Housing and Regeneration Act 2008, of 110 Central Business Exchange II, 406-412 Midsummer Boulevard, Central Milton Keynes MK9 2EA (including any statutory successor) (the **Agency**)

Except as set out in the Schedule hereto we certify that as at the date hereof:

- 1 We have verified the identity of the Developer and Guarantor in accordance with the Money Laundering Regulations 2003 (as amended or re-enacted).
- 2 We have investigated the title of the Developer to the Property, including:
 - 2.1 reviewing up-to-date official copies of the title register(s) and filed plan(s) of the Property from the Land Registry together with all documents referred to on the title register(s); and
 - 2.2 carrying out all appropriate searches and enquiries (including enquiries of the Developer) in relation to the Property, that in our reasonable opinion a prudent lender would expect to be made prior to advancing monies on the security of the Property.
- 3 The Developer is the contracting party for purposes of the Facility.
- 4 The Property is:
 - 4.1 held [freehold/leasehold] by the Developer as [sole] legal and beneficial owner [and (where relevant) includes the Site];
 - 4.2 registered with absolute title at the Land Registry;
 - 4.3 has the benefit of planning permission to allow its being developed and used for the Scheme which is:
 - 4.3.1 more than three months old;
 - 4.3.2 not subject to any challenge as to its validity;
 - 4.3.3 not personal;
 - 4.3.4 not subject to any unusual or onerous conditions which are still to be discharged or any conditions which should already have been discharged; and
 - 4.3.5 not subject to any enforcement proceedings; and
 - 4.4 we are satisfied that there are no outstanding planning conditions relating to the Property of a material nature other than as set out in the Schedule which would prevent the development use or occupation of the Scheme.
 - 4.5 not subject to any other outstanding obligations relating to the carrying out of works or payment of monies pursuant to a planning or similar agreement.⁹
- 5 The information set out in the [Developer's Due Diligence Pack] is correct in all respects.
- 6 There are no financial charges secured on the Property which will have priority to the Legal Charge.
- 7 Where the Property also comprises other land which will not be the subject of the Scheme and the Facility, the Developer and the Site have the benefit of such rights **and** easements

⁹ The Agency may require official planning sign-offs or NHBC completion certificates for these if buying completed units.

(on reasonably satisfactory terms) as are necessary to make the Scheme capable of independent delivery.

- 8 The Property or (where appropriate) the interest of the Developer in the Site is sufficient to allow the Scheme to be developed, completed and occupied without the need to obtain any further property or rights or the consent of any third party.
- 9 The roads and sewers serving the Site and the Property are adopted and the Site and the Property enjoy direct pedestrian and vehicular access to the public highway and both foul and surface water drain directly to a public sewer.¹⁰
- 10 [The Site and the Property are connected to and served by utilities appropriate to the Scheme including water, gas, electricity and telecommunication services]
- 11 The Developer has a good and marketable title to the Property and to any appurtenant rights free from prior mortgages or charges and from onerous encumbrances that have an adverse effect on the development occupation or use of the Property for the Scheme or its intended disposal, or its value or marketability.
- 12 We have compared the Site Plan and the Property Plan and the description of the Property against relevant plans in the title deeds and, in our opinion, there are no material discrepancies.
- 13 We have ourselves received satisfactory evidence or have been provided with a copy of a letter from the Developer's insurer or the Developer's insurance broker that there either is, or will be on completion, sufficient insurance in place covering all risks appropriate to the state of construction of the Scheme for the Insurance Amount as set out above.
- 14 We are in possession of such searches¹¹ or search insurances¹² as are reasonably appropriate for the Agency in making the Facility available and securing that upon the Property and in our view such searches are sufficient for us to provide this certificate to the Agency.
- 15 The Developer has confirmed that so far as it is aware:
- 15.1 the Property is not affected by any environmental contamination;
- 15.2 there are no material breaches of any environmental laws or disputes of an environmental nature affecting the Property;
- 15.3 the Property has not been affected by flooding (and insurance cover in relation to flooding remains on risk); and
- 15.4 the Property has not been affected by subsidence.
- 16 The Developer is not subject to any other contractual obligations which will adversely affect its ability to carry out the Scheme or which materially affect the cost of the Scheme.
- 17 Nothing has been revealed by our searches and enquiries which would prevent the Property being developed and used for the Scheme.
- 18 The Developer has obtained all necessary consents to allow it to grant the Legal Charge.

¹⁰ The Agency is expecting that where this statement cannot be made, the Site will benefit from adequate rights of pedestrian and vehicular access and easements for the laying and maintaining of service media so as to enable the completed Scheme to be fit for occupation and marketable for disposal, supported where necessary by adoption agreements with appropriate bonds or sureties.

¹¹ The Agency is expecting as a minimum, a local authority search in form LLC1 and CON29 Part 1, a search of the register of commons and village greens, a drainage and water search, a desktop flood and desktop environmental search and a chancel repair liability search. Local authority searches are to be no older than four months as at the date of completion of the Funding Agreement.

¹² Insurance (if accepted by the Agency) must provide a minimum level of indemnity equal to the Amount of Facility.

- 19 None of:
- 19.1 any principal in the Developer's Conveyancer;
- 19.2 any other solicitor or registered European lawyer in the Developer's Conveyancer;
- 19.3 any spouse, civil partner, child, parent, brother, or sister of any such person;
- is interested in the Property (whether alone or jointly with any other) as Developer.
- 20 We have professional indemnity insurance at least equal to the PI Cover Amount.
- 21 We confirm that the Developer has read this Certificate of Title within three working days prior to the date hereof and confirmed that it has no information which renders any statement in this Certificate incomplete, misleading or inaccurate.
- [Note: the following provisions will be required by the Agency where appropriate to the Scheme.]**
- 23 Both the Developer and the Scheme is registered at the National House Builders Council (NHBC) and the Developer has been issued on NHBC Buildmark certificate for each unit comprising the Property.¹³
- 24 We have set out in the Schedule a summary of any management company or similar arrangements for the provision of services at the Property¹⁴ and in our opinion these are reasonable and appropriate for the Agency in making the Facility available and securing that upon the Property and (where relevant) these would in any event comply with the usual requirements of the Council of Mortgage Lenders.
- 25.1 [We confirm that the form of plot sale lease granted in relation to the units within the Scheme (together with any associated estate management company documents) will accord with the standard form of plot sale leasehold documentation which has been or is being used for other leasehold residential plot sales on the relevant phase of the development of the Site (excluding the sales of affordable housing). The leases will be for a term of [●] years (less [●] days) from [●].] [The form of plot sale lease that will be charged to the Agency accords with the requirements of the Council of Mortgage Lenders and is otherwise in a suitable form that does not unduly restrict or prevent the development and use of the Scheme or the Property or use of the Property for private rental let on the open market.]¹⁵
- 25.2 No lease or transfer as referred to in clause 25.1 contains:¹⁵
- 25.2.1 a prohibition against Buyer granting assured shorthold tenancies or a requirement to obtain the consent of any person prior to the grant of such a tenancy; nor
- 25.2.2 a requirement to obtain a direct covenant from any assured shorthold tenant to pay ground rent or service charges to the freeholder or management company or otherwise; nor
- 25.2.3 a prohibition against assignment of a lease or a transfer, as appropriate, without the consent of a third party.
- 26 We have set out in the Schedule the terms of any agreements or arrangements of which we are aware that are in our opinion material to the Scheme or to the Agency in making the Facility available and securing that upon the Property.

¹³ Developer to disclose if using a different insurer, for example, Premier.

¹⁴ Disclosure should (without limitation) include appropriate reference to qualifying long term agreements (QLTAs) and to documentation relating to communal heating and power generation.

¹⁵ Paragraph to be adapted as appropriate if the acquisition of plot leases is envisaged by the Facility.

27 [Where the Property is leasehold we have summarised its terms in the Schedule and save as disclosed in the Schedule:

27.1.1 in our opinion the leases are on usual institutionally acceptable terms and will be acceptable as security by the Agency and there are no restrictions which prevent the Property being used now or in the future for [residential] [private rental] use or which conflict with that use, and there are no terms of an onerous or unusual nature, including all forfeiture and re-entry provisions (which are only exercisable on grounds of non payment of rent or breach of covenant by the tenant), which are prejudicial to the interests of the Agent as mortgagee;

27.1.2 the Developer has confirmed that it (having made all necessary enquiries) is not aware of any material breach of any of the covenants (on the part of the landlord or tenant) or terms contained in the leases or of any notice or formal written complaint having been issued or received by the Developer in respect of any such breach; and

27.1.3 no consent is necessary under the leases or otherwise to the charging or mortgaging of the Property or in respect of any disposal of the Property.]

Signed on behalf of the Developer's Conveyancer
Name of Authorised Signatory
Qualification of Authorised Signatory.....
Date of Signature

Note:

1. There will be a separate solicitor's undertaking with regard to the registration of the Legal Charge.

THE SCHEDULE
[to be completed]