



Community Housing Agreement  
Common Terms and Conditions to  
Community Housing Assistance  
Agreements  
(Common Terms Agreement)

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The Secretary of the  
Department of Family and  
Community Services

(Housing Agency)

And

[Name Of Provider]

ACN XXX XXX XXX

(Provider)

# Common Terms and Conditions to Community Housing Assistance Agreements

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- 1. Statement of Intentions 5**
  - 1.1 Objective 5
  - 1.2 Underlying Principles 5
  - 1.3 Relationship 5
- 2. Background 5**
- 3. Acceptance of Terms 6**
  - 3.1 Status of this Agreement 6
  - 3.2 Acknowledgements 6
- 4. Representations and Warranties 6**
  - 4.1 Representations and Warranties 6
  - 4.2 Representations and warranties repeated 7
- 5. Undertakings 7**
  - 5.1 Duration of Obligations 7
  - 5.2 General Provider Undertakings 7
  - 5.3 Housing Agency Undertakings 7
  - 5.4 Performance 8
- 6. Reporting 8**
  - 6.1 General Reports 8
  - 6.2 Access to Records 8
  - 6.3 Notifications 8
- 7. Information Management 9**
  - 7.1 Confidentiality 9
  - 7.2 Privacy 9
- 8. Default, Review and Remedy 10**
  - 8.1 Defaults Specific to Providers 10
  - 8.2 Defaults Specific to Vested Properties 10
  - 8.3 Default by Other Cause 11
  - 8.4 Cross Default 11
  - 8.5 Remedy 11
  - 8.6 Effect of Default 11
  - 8.7 Review 12
  - 8.8 No Limitation 12
- 9. Review of Agreement 12**
- 10. Variation 12**
  - 10.1 By Mutual Agreement 12
  - 10.2 Policy Change 12
  - 10.3 Policy Impact 12

<b>11.</b>	<b>Release, Indemnity and Charge</b>	<b>13</b>
11.1	Indemnity	13
11.2	Charge	13
<b>12.</b>	<b>Insurances</b>	<b>14</b>
12.1	Permanent Cover	14
12.2	Project Cover	14
12.3	Policy Documents	14
12.4	Not to Void	14
12.5	Increase in Cover	14
<b>13.</b>	<b>Communication</b>	<b>14</b>
13.1	Communications Generally	14
13.2	Authorised Representatives and Communications	14
13.3	Policy Communication	15
13.4	Public Announcements	15
13.5	Rights and Powers	15
13.6	Waivers	15
<b>14.</b>	<b>No Exclusivity</b>	<b>15</b>
<b>15.</b>	<b>Law and Process</b>	<b>15</b>
15.1	Law and Legislation	15
15.2	Governing Law, Jurisdiction and Service of Process	16
15.3	Conflicts	16
<b>16.</b>	<b>Costs and Taxes</b>	<b>16</b>
16.1	Costs and Expenses	16
16.2	Taxes, Fees and Charges	16
<b>17.</b>	<b>Goods and Services Tax</b>	<b>16</b>
17.1	Warranty	16
17.2	Information	17
17.3	Recipient Created Tax Invoice	17
17.4	GST Private Ruling	17
17.5	Provider's Private Ruling	17
<b>18.</b>	<b>Assignment</b>	<b>17</b>
18.1	By Provider	17
<b>19.</b>	<b>Termination</b>	<b>17</b>
<b>20.</b>	<b>Dispute Resolution</b>	<b>18</b>
20.1	General	18
20.2	No Arbitration or court Proceedings	18
20.3	Notification	18
20.4	Parties to Resolve Dispute	18
20.5	Resolution by Mediation	18
20.6	Role of Mediator	18
<b>21.</b>	<b>Notices and Demands</b>	<b>18</b>
21.1	Service	18
21.2	Effective on Receipt	19

<b>22. Other Provisions</b>	<b>19</b>
22.1 No Obligation	19
22.2 Severability	19
22.3 Counterparts	19
22.4 Entire Agreement	19
22.5 Transitional	19
<b>23. Defined Terms</b>	<b>20</b>
23.1 Defined Terms	20
<b>24. Interpretation</b>	<b>28</b>
<b>Schedule 1 – Policies and Guidelines</b>	<b>29</b>
<b>Schedule 2 – Reporting Requirements</b>	<b>30</b>
<b>Schedule 3 – Portfolio Assistance</b>	Error! Bookmark not defined.
<b>Signing Page</b>	<b>31</b>

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# Agreed Terms

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## 1. Statement of Intentions

### 1.1 Objectives

- (a) The Department of Family and Community Services is working to grow and promote the Community Housing sector in New South Wales by providing Assistance to Registered Community Housing Providers.
- (b) The objectives of the Housing Agency in providing Assistance to Registered Community Providers are:
  - (i) To support the growth of not for profit community housing providers capable of increasing the supply of affordable rental accommodation for people in need in NSW.
  - (ii) To enable community housing providers to strategically manage assets to better meet future housing demand and the changing needs of residents.
  - (iii) To provide a secure asset base for community housing providers to leverage additional finance for investment in social housing and affordable housing.

### 1.2 Underlying Principles

The underlying principles of Community Housing Agreements are:

- (a) (**commitment**) commitment by the parties to work together in good faith in the spirit of collaboration and cooperation to achieve the best possible outcomes for Community Housing tenants and applicants and the best value from the use of government resources;
- (b) (**interdependence**) recognition of the interests, rights and responsibilities of both parties;
- (c) (**openness and information sharing**) keeping both parties informed of the other's intentions, direction and way of working to avoid surprises;
- (d) (**trust**) developing and maintaining a level of trust and adherence to agreed decisions between the parties; and
- (e) (**flexibility**) adapting to relevant changes through dialogue between the parties.

### 1.3 Relationship

Without derogating from the legal rights and responsibilities arising under this Community Housing Agreement the parties agree to work cooperatively and in good faith in accordance with the principles referred to in clause 1.2.

## 2. Background

- (a) (**Housing Agency**) The Secretary of the Department of Family and Community Services is a Housing Agency within the meaning of the Act and the National Law and is entitled to give Assistance to Registered Community Housing Providers.
- (b) (**Registered Provider**) The Provider is a Community Housing Provider that is Registered under Part 3 of the National Law that has entered into or proposes to enter into Community Housing Assistance Agreements with the Housing Agency and has agreed with the Housing Agency to be bound by these Common Terms.

- (c) (**Engagement**) The Housing Agency will engage with Registered Community Housing Providers from time to time assisting them to provide Community Housing which, in each case, will be provided under a Community Housing Assistance Agreement.

## 3. Acceptance of Terms

### 3.1 Status of this Agreement

- (a) This Common Terms to Community Housing Assistance Agreements ('Common Terms Agreement') affirms and standardises the contractual arrangements between the parties relating to the provision of Community Housing.
- (b) This Common Terms Agreement replaces and supersedes any prior Common Terms Agreement entered into between the parties.
- (c) Whenever the Provider signs a Community Housing Assistance Agreement it incorporates, for the avoidance of doubt, any changes or future changes to the Common Terms.
- (d) The Community Housing Agreement and all Community Housing Assistance Agreements (including the Common Terms) comprising it, is, for all purposes under the Act, a Community Housing Agreement.

### 3.2 Acknowledgements

The Provider acknowledges that it has received a copy of these Common Terms and that it is its responsibility to familiarise itself with the Common Terms including the Policies as they are published from time to time in accordance with clause 10.2 of this Agreement.

## 4. Representations and Warranties

### 4.1 Representations and Warranties

The Provider represents and warrants to the Housing Agency that:

- (a) (**Community Housing in New South Wales**) any Assistance provided herein by the Housing Agency is to be used for Community Housing for the State of New South Wales and its people as envisaged and set out in the Act.
- (b) (**Community Housing Assistance Agreements**) each Community Housing Assistance Agreement to which it is expressed to be a party is (subject to equitable principles generally affecting creditors' rights and applicable stamping and registration) valid, binding and enforceable against it in accordance with the terms of those documents, and the transactions contemplated by those documents are for its benefit;
- (c) (**Registered Community Housing Provider**) it is and will remain a Registered Community Housing Provider under Part 3 of the National Law;
- (d) (**no conflicts**) its execution and performance of each Community Housing Assistance Agreement to which it is expressed to be a party do not and will not:
  - (i) conflict with or contravene any other law or a judgment, ruling, order, document or agreement applying to it or its assets or its constituent documents; or
  - (ii) result in a default under any agreement relating to any actual or contingent debt or other monetary liability in respect of money borrowed or raised or any financial accommodation; or

- (iii) result in a conflict of interest which might affect the provision of Community Housing.

## 4.2 Representations and warranties repeated

The Provider repeats each representation and warranty in clause 4.1 with reference to the facts and circumstances at the time, on each day on which its Community Housing Assistance Agreements are in existence.

## 5. Undertakings

### 5.1 Duration of Obligations

The Provider agrees that its obligations under a Community Housing Assistance Agreement will continue during the term of that Community Housing Assistance Agreement even if it is not then a Registered Community Housing Provider.

### 5.2 General Provider Undertakings

Unless the Housing Agency otherwise consents in writing, the Provider must use its best endeavours to:

- (a) **(law)** have due regard to and act in accordance with all obligations and responsibilities at law and perform all duties in accordance with such obligations and responsibilities;
- (b) **(Policies)** comply with all current applicable Policies including but not limited to those listed in Schedule 1;
- (c) **(reporting requirements)** meet reporting requirements as required by the Housing Agency from time to time including those specified in clause 6 and Schedule 2 of this Agreement;
- (d) **(effect registration of interest)** (where applicable) do all things necessary to facilitate the registration of the Housing Agency's Interest on the title to each Property to which the Housing Agency is entitled to register an Interest under Section 14 of the Act;
- (e) **(NSW housing register)** participate in the *Housing Pathways* NSW housing register as and when required by the Housing Agency;
- (f) **(appeals system)** participate in any appeals system that may be required by the Housing Agency;
- (g) **(information)** provide Information to applicants for or recipients of Community Housing as and when and in the form and manner as reasonably requested by the Housing Agency;
- (h) **(not act)** not be or become a subsidiary, act as a trustee or amend its constitution if to do so may adversely affect its ability to provide the Community Housing or to comply with the Policies, Act or National Law;
- (i) **(not subcontract)** not subcontract the whole or any part of its Community Housing Agreement except as allowed for in any Community Housing Assistance Agreement;
- (j) **(change in business)** immediately notify the Housing Agency if it is intending to, or is about to, materially change the operation of its business, including the composition of its Board.

### 5.3 Housing Agency Undertakings

The Housing Agency will:

- (a) respond in a timely fashion to any requests from the Provider;

- (b) subject to clause 7 provide relevant Information necessary to enable the Provider to comply with its Community Housing Agreement; and
- (c) deliver the Assistance offered the Provider in a reasonably timely manner taking into account the type of Assistance concerned.

## **5.4 Performance**

Where the Provider is providing Community Housing and whether or not it is receiving Assistance to do so, it will provide that Community Housing at all times:

- (a) in accordance with all applicable laws, regulations, orders and rules, including but not limited to, the Housing Act, the Act, the National Law, and Policies and Guidelines;
- (b) in accordance with all applicable professional ethical principles and standards;
- (c) using due skill, expertise, diligence and vigour;
- (d) using good and sufficient labour and materials fit for their purpose; and
- (e) in good faith.

The Provider will further commit to deliver this Community Housing:

- (f) in accordance with and to the standards required under the Policies; and
- (g) in accordance with any relevant Community Housing Agreement.

## **6. Reporting**

### **6.1 General Reports**

In addition to the reporting requirements specified in the Common Terms, the Provider agrees to submit to the Housing Agency at the times and in the manner specified by the Housing Agency the reports and documentation specified in Schedule 2 of this Agreement.

### **6.2 Access to Records**

The Provider will, within a reasonable time of a request from the Housing Agency, provide the Housing Agency with access to, and copies of, all Records relevant to the performance of the Provider's obligations under each Community Housing Assistance Agreement and its compliance with the National Regulatory Code.

### **6.3 Notifications**

The Provider agrees that it will:

- (a) immediately notify the Housing Agency if it is intending to or is about to:
  - (i) fail to comply in any material respect with its Community Housing Agreement;
  - (ii) fail to comply in any material respect with any financial accommodation;
  - (iii) be placed into Liquidation or provisional liquidation (whether voluntary or otherwise);
  - (iv) have a Receiver or External Administrator appointed to it; or
  - (v) be in breach of the National Regulatory Code which will materially affect the provider's Community Housing registration status;or has done so or if such action has occurred.



- (b) immediately notify the Housing Agency upon becoming aware of circumstances which give rise to an actual or potential conflict of interest and comply with any direction given by the Housing Agency for the purpose of eliminating, avoiding, reducing or resolving any such conflict of interest.

## 7. Information Management

### 7.1 Confidentiality

- (a) The parties will take all reasonable steps to ensure that confidential and sensitive business Information and all documents, materials, media, Information technology systems and all other things on or in which the confidential Information (or any part of it) may be recorded, contained, set out or referred to in connection with the Community Housing Agreement, are kept secure and protected at all times from any unauthorised use or access.
- (b) The parties will not use, collect, hold, store, or without the prior written consent of the party affected, disclose any confidential Information in connection with the Community Housing Agreement to a third party other than:
  - (i) as is reasonably necessary to deliver the Community Housing;
  - (ii) as is reasonably necessary to comply with the Community Housing Agreement;
  - (iii) with respect to a disclosure of any matter already within the public domain; or
  - (iv) as required by law.
- (c) Without limiting clause 13.4 the Provider will not, without the prior written consent of the Housing Agency (such consent not to be unreasonably withheld or delayed) make any statement to the media or issue any document or Information to any person or entity concerning the terms of the Community Housing Agreement.
- (d) The Provider acknowledges that the Housing Agency is obliged to disclose certain details of the Community Housing Agreement, including the names of the parties and the consideration under the *Government Information (Public Access) Act 2009* and that such disclosure may include the posting of such details on the NSW State Government eTendering website.

### 7.2 Privacy

- (a) The parties acknowledge and agree that they will comply with the privacy principles of the *Privacy and Personal Information Protection Act 1998 (NSW)* and the *Health Records and Information Privacy Act 2002 (NSW)* and to the extent applicable the *Privacy Act 1988 (Cth)*, for the Community Housing Agreement.
- (b) The parties will ensure that any personal or health Information about a person whose identity is apparent or can be reasonably ascertained from the Information, is not used, collected, held, stored, disclosed or exchanged with a third party in performing the Community Housing other than:
  - (i) as is reasonably necessary to deliver the Community Housing;
  - (ii) as is reasonably necessary to comply with the terms and conditions of the Community Housing Agreement, the Policies, or the Act; or
  - (iii) with respect to a disclosure of any matter already within the public domain; or
  - (iv) the person to whom the Information relates has provided informed consent; or

- (v) as is lawfully authorised or required by legislation, or an exemption under the Privacy legislation including a Privacy Code of Practice or applicable Privacy Direction and if available supported by a Service Agreement, Memorandum of Understanding or similar document.

## 8. Default, Review and Remedy

### 8.1 Defaults Specific to Providers

A Default occurs if any one or more of the following occurs:

- (a) **(failure to maintain registration)** the Provider is no longer a Registered Community Housing Provider; or
- (b) **(improper use of Assistance)** the Provider:
  - (i) fails to use any Community Housing Asset vested in it, or transferred to it, or leased to it by the Housing Agency, or purchased by it using Funding provided by the Housing Agency, for the purposes contemplated by a Community Housing Assistance Agreement; or
  - (ii) takes steps to sell, encumber or otherwise dispose of a Community Housing Asset vested, transferred or leased to it or purchased by it using Funding provided by the Housing Agency without the prior written consent of the Housing Agency; or
  - (iii) fails to use Funding advanced or paid to it by or on behalf of the Housing Agency as contemplated by a Community Housing Assistance Agreement;
- (c) **(other obligation not complied with)** the Provider fails in a material respect to comply with any of its material obligations under a Community Housing Assistance Agreement; or
- (d) **(statement or representation)** a statement, representation or warranty made by or on behalf of the Provider in a Community Housing Assistance Agreement, or in a document provided in connection with a Community Housing Assistance Agreement, is untrue, or misleading in a material respect when made or repeated; or
- (e) **(Security Interest)** any Security Interest over an asset of the Provider is enforced or becomes enforceable; or
- (f) **(Insolvency Event)** an Insolvency Event occurs with respect to the Provider;

### 8.2 Defaults Specific to Vested Properties

In addition to the Defaults identified in clause 8.1, a Default specific to Vested Properties occurs under section 24 of the Act if any one or more of the following occurs:

- (a) **(failure to meet Leveraging Target)** the Provider fails to meet the Leveraging Target by the Leveraging Date; or
- (b) **(failure to meet the Specified Number)** the Provider fails to meet the Specified Number of Properties which are required to be maintained as Social Housing; or
- (c) **(failure to register interest)** the Provider fails to register an interest on a Property which the Housing Agency is entitled to record an interest; or
- (d) **(failure to enter Agreement)** the Provider fails to enter a Community Housing Agreement with the Housing Agency within a period of 40 days of the Housing Agency vesting or transferring land to it as required by section 24(1)(c) of the Act or such other period as may be prescribed by the Regulations; or

- (e) (**tripartite**) any of the events in paragraphs 8.1 or 8.3 of this Agreement occurs mutatis mutandis with respect to any tripartite agreement to which the Provider and the Housing Agency are parties.

### 8.3 Default by Other Cause

- (a) (**vitiating of Community Housing Assistance Agreement**) any of the following occurs or is alleged by the Provider to have occurred:
  - (i) all or part of any Community Housing Assistance Agreement is terminated or is or becomes void, avoided, illegal, invalid, unenforceable or limited in its effect; or
  - (ii) any party has the right to terminate due to breach or to rescind or avoid all or part of any Community Housing Assistance Agreement;
- (b) (**material adverse effect**) an event or change occurs which would, in the reasonable opinion of the Housing Agency, have or be likely to have a material adverse effect on:
  - (i) the validity or enforceability of all or a material part of a Community Housing Assistance Agreement; or
  - (ii) the Housing Agency's material rights or remedies under any Community Housing Assistance Agreement; or
  - (iii) the ability of the Provider to observe or perform its obligations under a Community Housing Assistance Agreement; or
  - (iv) the assets, operations, condition (financial or otherwise) or business of the Provider; or
- (c) (**change of control**) if, in the Housing Agency's reasonable opinion, there is a change in the management, ownership or control of the Provider which would have a material adverse effect as described in paragraph 8.3(b).

### 8.4 Cross Default

A Default under any Community Housing Assistance Agreement will constitute a Default under the Community Housing Agreement and all elements of it.

### 8.5 Remedy

If the Provider fails to comply with any material obligation under its Community Housing Agreement and if in the Housing Agency's opinion the failure is capable of remedy, the Provider will ensure that such failure is remedied within 20 Business Days or as otherwise agreed in writing by the Housing Agency and a plan is provided to the Housing Agency detailing the remedy within 10 Business Days after the earlier of receipt by the Provider of a Notice from the Housing Agency identifying the failure to comply or the Provider becoming aware of the failure to comply.

### 8.6 Effect of Default

IF:

- (a) the Provider is no longer a Registered Community Housing Provider; or
- (b) a Default subsists which in the Housing Agency's opinion is capable of remedy and is not remedied in accordance with clause 8.5 of this Agreement; or
- (c) a Default subsists which in the Housing Agency's opinion is material and is incapable of remedy,

THEN the Housing Agency may by Notice to the Provider:

- (d) terminate or suspend any Community Housing Assistance Agreement or the Community Housing Agreement;
- (e) withdraw or cancel any Assistance;
- (f) amend the terms and conditions upon which any Assistance is provided;
- (g) demand the repayment of money or, specifically with respect to vested properties, exercise such rights as are applicable under section 24 of the Act, noting that the Housing Agency in the exercise of its rights under section 24 of the Act will seek the transfer of the Land so it vests in a specified Registered Community Housing Provider and will only seek to vest the Land in a Housing Agency as a last resort;
- (h) refer the matter to the Registrar for Information and possible review of the Provider's compliance with the requirements of the Act and the Regulations; or
- (i) any one or more of the above.

## **8.7 Review**

If the Housing Agency reasonably believes that a Default may occur or events which may lead to a Default occurring have occurred it may initiate a review of all or part of the Assistance it has provided or may provide to the Provider. The Provider will cooperate with any such review and provide the Housing Agency with all Information and access to Records required to effectively complete that review.

## **8.8 No Limitation**

Nothing in this clause 8 limits any Power of the Housing Agency or of the Housing Corporation under the Housing Act, the Act or under the National Law.

# **9. Review of Agreement**

The Provider and the Housing Agency will meet on a periodic basis as required by the Housing Agency, to discuss and review the operation of the Community Housing Agreement or any element of it. Prior to this review the Housing Agency will request advice from the Registrar about any outstanding registration matters.

# **10. Variation**

## **10.1 By Mutual Agreement**

Subject to clause 10.2 of this Agreement, a Community Housing Assistance Agreement may only be amended, changed or modified by instrument or instruments in writing executed by or on behalf of the parties.

## **10.2 Policy Change**

The Housing Agency has the right to change Policies or to introduce new Policies which affect the Provider and its delivery of Community Housing. Those changes will be communicated to the Provider in accordance with clause 13 of this Agreement.

## **10.3 Policy Impact**

If the Housing Agency changes or introduces a Policy during the term of a Community Housing Assistance Agreement which affects a Community Housing Assistance Agreement the Housing Agency will consult with the Provider before implementing any necessary variations to that Community Housing Assistance Agreement having regard to the nature and extent of the change or new Policy.

## 11. Release, Indemnity and Charge

### 11.1 Indemnity

- (a) The Provider indemnifies the Housing Agency against, and must pay the Housing Agency on demand the amount of, all Loss arising directly or indirectly from any Indemnifiable Event.
- (b) The indemnity in clause 11.1(a) is a continuing obligation and survives the termination of this document.
- (c) Subject to clause 11.1(e), if the Housing Agency gives or is required to give a Relevant Notice in respect of a parcel of Relevant Property in connection with the occurrence of, or the Provider's actions to remedy or to negate the consequences of, an Indemnifiable Event, then the Provider must as soon as practicable apply, or cause to be applied, any Net Sales Proceeds of the parcel of Relevant Property in satisfying the Provider's liability under the indemnity in clause 11.1(a).
- (d) Subject to clause 11.1(e), until such time as the application of the Net Sales Proceeds is made as required by clause 11.1(c), the Provider holds the Net Sales Proceeds on trust for the Housing Agency.
- (e) Clauses 11.1(c) and 11.1(d) do not apply or cease to apply (as the case may be):
  - (i) if and to the extent that the Housing Agency notifies the Provider in writing that clauses 11.1(c) and/or 11.1(d) do not apply; or
  - (ii) if the Provider is being wound up.

### 11.2 Charge

- (a) The Housing Corporation may at any time by written notice require the Provider to grant and execute a charge or mortgage against any Relevant Property to secure the payment of all moneys owing or to become owing under the Community Housing Agreement (including the indemnity in clause 12.1) in accordance with section 19 of the Act (the "Charge").
- (b) The Charge shall be in form and substance satisfactory to or otherwise determined by the Housing Corporation.
- (c) The Provider will grant and execute the Charge within twenty eight (28) days of a written direction and submission of the Charge by the Housing Corporation.
- (d) The Provider agrees to pay all applicable stamp duty and registration fees in respect of the Charge.
- (e) The Provider irrevocably appoints the Housing Corporation and each person authorised by the Housing Corporation from time to time jointly and severally its attorney to grant and execute the Charge on the Provider's behalf should the Provider fail to comply with clause 12.2(c).
- (f) The Housing Corporation shall be at liberty to register the Charge or a caveat in respect of the Charge over the title to the Relevant Property. If the Housing Corporation chooses to register the Charge, then the Provider must do all things necessary, including production or delivery of the title to enable registration of the said Charge.

## 12. Insurances

### 12.1 Permanent Cover

The Provider will at its own cost effect and at all times during the term and any extension of the Community Housing Agreement, or for such other period as may be specifically required by the Housing Agency or any Community Housing Assistance Agreement, keep in full force and effect the following insurances with an insurance company on the Australian Prudential Regulation Authority's Register of Authorised Insurers:

- (a) public liability insurance in the sum of not less than twenty million dollars (\$20,000,000.00) per event covering all liability risks arising from its activities including but not limited to its ownership, management and use of its Property Portfolio such policy to be suitably endorsed to cover all liability of the Housing Agency;
- (b) worker's compensation insurance as required by law for all the Provider's employees;
- (c) loss or damage insurance for its Property Portfolio for the full replacement value and which includes coverage for loss or damage due to flood, fire, lightening, storm and tempest or other disabling cause; and
- (d) cover for all other risks which from time to time a prudent property owner and landlord would effect for a Property Portfolio being used as Community Housing; and

in each case, such policies to note the Housing Agency's interests and otherwise to be on terms, including as to limits, exclusions and excesses as are acceptable to the Housing Agency acting reasonably.

### 12.2 Project Cover

The Provider will also effect all insurances (if any) required in Community Housing Assistance Agreements to which it is party.

### 12.3 Policy Documents

The Provider will deliver to the Housing Agency upon demand all cover notes and applicable policies of insurance including endorsements and all certificates of renewal and receipts for the premiums payable.

### 12.4 Not to Void

The Provider will not at any time during the term or any extension of the Community Housing Agreement do or permit any act or matter done knowingly or which the Provider ought to have known whereby any insurance may be rendered void or voidable.

### 12.5 Increase in Cover

The Housing Agency may increase the amount of cover required in clause 12.1 of this Agreement at any time to a higher reasonable amount by written notice to the Provider.

## 13. Communication

### 13.1 Communications Generally

If the Provider is required under its Community Housing Agreement to notify the Housing Agency about anything it must do so in writing.

### 13.2 Authorised Representatives and Communications

The Provider irrevocably authorises the Housing Agency to rely on a certificate by any person that the Housing Agency reasonably believes to be a director or company secretary of the Provider as to

the identity and signatures of its Authorised Representative, and to rely on any Notice or other document contemplated by any Community Housing Assistance Agreement which bears the purported signature (whether given by facsimile or otherwise) of its Authorised Representative. The Provider warrants that those persons have been authorised to give notices and communications under or in connection with the Community Housing Assistance Agreements.

### **13.3 Policy Communication**

Where the Housing Agency changes a Policy or introduces a new Policy or Guideline that materially affects a Community Housing Assistance Agreement it will notify the Provider of that fact by sending an email:

- (a) including an electronic link to the amended or new Policy or Guideline; or
- (b) providing reasonable detail of the amendments or of the new Policy or Guideline.

### **13.4 Public Announcements**

The Provider will:

- (a) publicly acknowledge the assistance of the Housing Agency in providing Community Housing;
- (b) engage and work with the Housing Agency where relevant in the development, organisation and promotion of events relevant to Community Housing;
- (c) respond to media and other issues relating to vested properties or properties that are leased from the Housing Agency, and where appropriate, advise the Housing Agency of such issues; and
- (d) in each case act in a manner reasonably required by the Housing Agency.

### **13.5 Rights and Powers**

Powers under Community Housing Assistance Agreements are cumulative and do not limit or exclude Powers under law. Full or partial exercise of a Power does not prevent a further exercise of that or any other Power.

### **13.6 Waivers**

No failure or delay in exercising a Power operates as a waiver or representation. A waiver by the Housing Agency in relation to a Community Housing Assistance Agreement is effective only if in writing.

## **14. No Exclusivity**

Despite the Housing Agency providing Assistance to a Provider under a Community Housing Assistance Agreement which may address a particular location, sector, group or Client base nothing will restrict the Housing Agency from engaging other Providers or providing Assistance to other Providers of the same type or targeted to the same groups or locations.

## **15. Law and Process**

### **15.1 Law and Legislation**

To the extent permitted by law:

- (a) each Community Housing Assistance Agreement prevails to the extent of inconsistency with any law; and

- (b) any present or future legislation operating to reduce the Provider's obligations under a Community Housing Assistance Agreement or the effectiveness of the Powers is excluded.

## **15.2 Governing Law, Jurisdiction and Service of Process**

- (a) Unless otherwise indicated each Community Housing Assistance Agreement is governed by the laws of New South Wales. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of that place (and any court of appeal) and waives any right to object to an action being brought in those courts, including on the basis of an inconvenient forum or those courts not having jurisdiction.
- (b) Without preventing any other mode of service, any document in an action or process may be served on any party by being delivered to or left for that party at its address for service of Notices under this document.

## **15.3 Conflicts**

Where there is any conflict between this document and any Community Housing Assistance Agreement the Community Housing Assistance Agreement will prevail.

# **16. Costs and Taxes**

## **16.1 Costs and Expenses**

The Provider will pay or reimburse on demand all reasonable costs and expenses of the Housing Agency and any of its respective officers, employees and agents in connection with:

- (a) enforcing a Community Housing Assistance Agreement, or exercising, enforcing or protecting a Power, or preparing or attempting to do so; or
- (b) a Default.

This includes legal costs and expenses (on a full indemnity basis).

Nothing in this clause limits the provisions in the Act which address costs, expense or compensation.

## **16.2 Taxes, Fees and Charges**

The Provider will pay, or reimburse the Housing Agency on demand for, all:

- (a) Taxes, fees and charges in connection with any Community Housing Assistance Agreement or any payment, receipt, supply or other transaction carried out pursuant to, or contemplated by, this document, including Taxes passed onto the Housing Agency by a financial institution or supplier of goods and services; and
- (b) fines and penalties for late payment or non-payment of those amounts, except where the Provider places the Housing Agency in cleared funds to make the payment not less than 5 Business Days before the due date and the Housing Agency fails to make the payment.

# **17. Goods and Services Tax**

## **17.1 Warranty**

The Provider warrants that it is registered under the GST Law. If the Housing Agency requests written evidence of registration the Provider will promptly produce evidence satisfactory to the Housing Agency.



## **17.2 Information**

The Provider will provide to the Housing Agency within [14] days of a request to do so all documents and Information that may permit the Housing Agency to claim an input tax credit or similar benefit.

## **17.3 Recipient Created Tax Invoice**

The Provider agrees to participate in any scheme to allow the Housing Agency to issue Recipient Created Tax Invoices.

## **17.4 GST Private Ruling**

- (a) The Housing Corporation has obtained a GST Private Ruling from the ATO confirming that vesting of Land under statute in the circumstances envisaged is not subject to GST.
- (b) If, in future, GST is found to apply to any arrangements contemplated under or in connection with these Common Terms or a Community Housing Agreement (for example, in connection with the withdrawal by the ATO of the Housing Agency's Private Ruling, or as a result of an amendment to the GST Law), the Provider will use its best endeavours to agree with the Housing Agency so that the economic impact of the imposition of GST is neutralised as between the parties to the extent possible.
- (c) Such an agreement may involve the payment to the Housing Agency of any Input Tax Credit entitlement of the Provider in connection with the arrangements in order to compensate for the Housing Agency's liability to GST.

## **17.5 Provider's Private Ruling**

- (a) If the Provider wishes to request a Private Ruling referring or relating to the GST treatment of any arrangements made under or in connection with these Common Terms or a Community Housing Agreement, the Provider shall furnish a copy of the draft Private Ruling application to the Housing Agency prior to its lodgement with the ATO.
- (b) The Provider will allow the Housing Agency the opportunity to review and make recommendations as to the content of the ruling, with the aim of not prejudicing or rendering wholly or partly ineffective the Private Ruling the Housing Corporation has itself obtained (as referred to in clause 17.4). The Provider will not unreasonably withhold its agreement to incorporate any recommendations the Housing Agency may wish to make regarding the private ruling or application.

## **18. Assignment**

### **18.1 By Provider**

The Provider may not assign, transfer or otherwise Deal with its rights, interests or obligations under this agreement or any Community Housing Assistance Agreement without the Housing Agency's prior written consent.

## **19. Termination**

The Community Housing Agreement or any Community Housing Assistance Agreement may be terminated:

- (a) at any time by mutual agreement between the parties; or
- (b) in accordance with clause 8.6 of this Agreement.

## 20. Dispute Resolution

### 20.1 General

The parties agree to endeavour in good faith to settle any disputes arising out of the Community Housing Agreement (**Dispute**).

### 20.2 No Arbitration or court Proceedings

If a Dispute arises, a party must comply with this clause 20 before starting arbitration or court proceedings (except proceedings for interlocutory relief).

### 20.3 Notification

A party claiming a Dispute has arisen must give the other parties to the Dispute a Notice:

- (a) setting out details of the Dispute; and
- (b) nominating a time and place acceptable to both parties for the parties to meet with the aim of resolving the Dispute.

### 20.4 Parties to Resolve Dispute

Each party must:

- (a) ensure an Authorised Representative from it attends the meeting specified in clause 20.3;
- (b) use its reasonable efforts to resolve the Dispute; and
- (c) ensure that if the parties do not resolve the Dispute within 20 Business Days of the date the other party receives the Notice (or longer period if the parties to the Dispute agree in writing) (**Resolution Period**), the parties must refer the Dispute to mediation under clause 20.5.

### 20.5 Resolution by Mediation

Failing agreement on an issue, any Dispute under the Community Housing Agreement will be referred for determination in accordance with clause 20.4, to the Australian Commercial Disputes Centre (ACDC) to be conducted in accordance with the ACDC mediation guidelines.

### 20.6 Role of Mediator

Each party must co-operate fully with the mediator and acknowledges that:

- (a) the determination made by the mediator will be final and binding on the parties (except as to matters of law);
- (b) the costs of the mediator will be borne equally by the parties to the dispute; and
- (c) each party will bear its own costs and expenses in relation to the mediation.

## 21. Notices and Demands

### 21.1 Service

A Notice, demand, consent, approval or communication given by a party in connection with a Community Housing Assistance Agreement must be:

- (a) in writing, in English and signed by an Authorised Representative of the party; and
- (b) hand delivered or sent by prepaid post (or airmail if applicable) or facsimile or by email to the recipient's business address or registered address for Notices, as varied by any Notice given by the recipient to the party.

## **21.2 Effective on Receipt**

A Notice given in accordance with clause 21.1 takes effect when received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, on the second Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia);
- (c) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within eight hours after the transmission (being counted as hours from 9.00am to 5.00pm on a Business Day), the recipient informs the sender that it has not received the entire Notice;
- (d) if sent by email pursuant to clause 13.3, at the time that the Notice enters an information system which is under the control of the intended recipient,

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm (addressee's time) on a Business Day, the Notice is taken to be received at 9.00am (addressee's time) on the next Business Day.

## **22. Other Provisions**

### **22.1 No Obligation**

Despite any representation written or oral made by or on behalf of the Housing Agency, the Housing Agency has no obligation to the Provider including, without limitation, to offer any Assistance to the Provider either at all or on any particular terms or conditions except as expressly provided in the relevant Community Housing Assistance Agreement.

### **22.2 Severability**

A provision of a Community Housing Assistance Agreement that is illegal or unenforceable in a jurisdiction is ineffective in that jurisdiction to the extent of the illegality or unenforceability. This does not affect the validity or enforceability of that provision in any other jurisdiction, nor the remainder of that Community Housing Assistance Agreement in any jurisdiction.

### **22.3 Counterparts**

A Community Housing Assistance Agreement and any variation of it may be executed in any number of counterparts.

### **22.4 Entire Agreement**

Each Community Housing Assistance Agreement represents the whole agreement between the parties regarding the subject matter of it and entirely supersedes and replaces any and all earlier discussions, negotiations, correspondence, heads of agreement, submissions or other expressions of agreement or intention between them.

### **22.5 Transitional**

Where the Provider has Community Housing Assistance Agreements in force with the Housing Agency at the date the Common Terms become effective those Community Housing Assistance Agreements will remain in full force and effect, be taken to be Community Housing Assistance Agreements, and will incorporate the Common Terms except to the extent to which the Common Terms are inconsistent with a provision in the relevant Community Housing Assistance Agreement excluding the Common Terms in which case the Community Housing Assistance Agreement will prevail.

## 23. Defined Terms

### 23.1 Defined Terms

In each Community Housing Assistance Agreement:

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<b>Act</b>	means the <i>Community Housing Providers (Adoption of National Law) Act 2012</i> (NSW).
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<b>Affordable Housing</b>	means accommodation for people on a very low, low and moderate income managed in accordance with the NSW Affordable Housing Guidelines.
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<b>Assistance</b>	Has the same meaning as defined in the Act, that is:  all forms of assistance and facilitation in cash and in kind usually but not necessarily provided under an Assistance Program and includes, but is not limited to:  (a) any funding, properties or land provided on whatever basis and under whatever program or process by the Housing Agency to the Provider for the purposes of providing Community Housing;  (b) any resources provided by the Housing Agency to the Provider to be used by the Provider to provide Community Housing; or  (c) any cooperative joint venture or partnership arrangements whether formal or informal and whether or not with others made or entered into between the Housing Agency and the Provider in respect of the provision of Community Housing.
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<b>Assistance Program</b>	means a set of terms and conditions including as to type, duration and amount under which from time to time the Housing Agency will offer Assistance to Registered Community Housing Providers.
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<b>ATO</b>	means the Australian Taxation Office and includes the Commissioner of Taxation
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<b>Authorised Representative</b>	means, in respect of the Provider, a director or company secretary; or, <b>in the case of the Housing Agency, means (until notified otherwise) the Executive Director, Community, Homes and Place, Department Family and Community Services</b> or, in either case, a person it notifies to the other party as being authorised to act as its Authorised Representative for the Community Housing Assistance Agreements.
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<b>Board</b>	means the Board of Directors and includes any management committee or board of management of the Provider and includes the company secretary.
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<b>Business Day</b>	means:  (a) for receiving a Notice under clause 21, a week day on which banks are open for general banking business in the place of receipt; and  (b) for all other purposes, a week day on which banks are open for general banking business in Sydney.
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<b>Clients</b>	means those to whom the Provider provides, commits to provide, offers to provide or is constitutionally established to provide, Community Housing.
<b>Common Terms</b>	means these Common Terms and Conditions to Community Housing Assistance Agreements entered into between the Provider and the Housing Agency.
<b>Community Housing</b>	means subsidised accommodation for people on a very low, low or moderate income or people with additional needs that is managed by not for profit organisations within the State of New South Wales.  Community Housing includes Crisis Accommodation, Transitional Housing, Co-operative Housing, Social Housing and Affordable Housing.
<b>Community Housing Agreement</b>	means, in the case of each Provider, the aggregation of agreements and arrangements including each Community Housing Assistance Agreement in effect from time to time between the Provider and the Housing Agency made in accordance with the Act and National Law.
<b>Community Housing Asset</b>	has the same meaning as given in the Act, that is: (a) land vested in the provider by or under the Act; or (b) land acquired by the provider wholly or partly with funding provided by a Housing Agency; or (c) land vested in the provider on which a Housing Agency has constructed housing or made other improvements; or (d) funds provided to the provider by a Housing Agency for the purposes of community housing; or (e) any other asset of the provider that is of a class of assets declared by the Act as a community housing asset.
<b>Community Housing Assistance Agreement</b>	means: (a) each document so described now or in the future entered into between the Provider and the Housing Agency which incorporates these Common Terms and includes each Supplementary Agreement entered into pursuant to any Community Housing Assistance Agreement; (b) a document that the Provider and the Housing Agency agree is a 'Community Housing Assistance Agreement'; and (c) a document entered into or given under or in connection with, or for the purpose of amending or novating, any document referred to in the paragraphs above.
<b>Community Housing Provider</b>	means an entity registered under the Act that provides community housing.
<b>Co-operative Housing</b>	means Community Housing management based on mixed income eligibility, tenant management and co-operative principles.
<b>Corporation</b>	Has the same meaning as Housing Corporation.

<b>Corporations Act</b>	means the Corporations Act 2001 of the Commonwealth.
<b>Crisis Accommodation</b>	means short term accommodation (generally three months or less) for people that are experiencing homelessness or people who are at risk of homelessness.
<b>Deal Or Dealing</b>	includes any agreement, or attempt to agree, to sell, assign, transfer, dispose or part with possession of, lease, licence, redevelop, sub-divide, the granting of a mortgage or charge or otherwise deal with, any of the Vested Properties and any combination of a Deal or Dealing as defined herein.
<b>Default</b>	means an event or circumstance specified in clauses 9.1 and 9.2 of these Common Terms.
<b>Dollars And \$</b>	mean the lawful currency of Australia.
<b>Eligible Persons</b>	means persons who are eligible for Community Housing in New South Wales, as defined in the policy document Community Housing Eligibility Policy, or any document or policy that amends, replaces or succeeds the same.
<b>Exempt Transactions</b>	means for the purposes of section 18(1)(a) of the Act those transactions (if any) described in clause 8.2 of these Common Terms.
<b>External Administrator</b>	means an administrator, controller or managing controller (each as defined in the Corporations Act), trustee, provisional liquidator, liquidator or any other person (however described) holding or appointed to an analogous office or acting or purporting to act in an analogous capacity.
<b>Funds or Funding</b>	means funds provided under a Community Housing Agreement to the Provider by the Housing Agency for community housing.
<b>Guidelines</b>	means the Guidelines set out in Schedule 1 of these Common Terms
<b>Government Agency</b>	means any government or governmental, semi-governmental, administrative, public, regulatory or judicial entity, body, department, commission, agency or authority.
<b>GST</b>	means a tax, levy, duty, charge, deduction imposed by the GST Law together with any related additional tax, interest, penalty, fine, or other charge calculated by reference to the value of anything supplied other than one imposed on net income GST.
<b>GST Law</b>	means any law imposing a GST and includes <i>A New Tax System (Goods &amp; Services Tax) Act 1999</i> , or if that Act does not exist for any reason, means any Act imposing, or relating, to a GST and any regulation made pursuant to any such Acts.
<b>Housing Act</b>	Means the Housing Act 2001 (NSW)

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<b>Housing Agency</b>	means (as the case may be) the Secretary or the Housing Corporation or any other entity or official so defined in accordance with section 4 of the Act and in certain circumstances may be a combination of them.
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<b>Housing Corporation</b>	means the New South Land and Housing Corporation (ABN 24 960 729 253) a Housing Agency constituted under section 4 of the Act, either acting in its own right or under the authority delegated to it by the Secretary.
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<b>Indemnifiable Event</b>	Means: <ul style="list-style-type: none"> <li>(a) the Provider states in writing to the Housing Agency that it is insolvent;</li> <li>(b) the Provider's registration under the Act is cancelled;</li> <li>(c) the circumstances of section 24(1)(c) of the Act apply in respect of the Provider;</li> <li>(d) a Trigger Event (under and as defined in any tripartite deed relating to Relevant Property between, amongst others, the Provider and the Housing Agency) occurs;</li> <li>(e) the Provider breaches a provision of this document or any Community Housing Assistance Agreement;</li> <li>(f) the Provider engages in or commits any unlawful conduct or wilful misconduct relating to this document or any Community Housing Assistance Agreement;</li> <li>(g) the Provider is negligent in the performance of its obligations in or pursuant to this document or of any Community Housing Assistance Agreement; or</li> <li>(h) a Default occurs.</li> </ul>
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<b>Input Tax Credit</b>	has the same meaning given to it in the GST Law.
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<b>Information</b>	means all information, documents or data however held, stored or recorded including drawings, plans, specifications, calculations, reports, models, concepts, source codes, files, computerised data, photographic recordings, audio or audio visual recordings.
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<b>Interest</b>	<p>Has the same meaning as expressed in section 14 of the Act, that is, a Housing Agency is taken to have an interest in land of a community housing provider in the following circumstances:</p> <ul style="list-style-type: none"> <li>(a) if the land was owned by the Housing Agency immediately before being vested in the community housing provider; or</li> <li>(b) if the land was transferred to the community housing provider in accordance with an instruction given under section 14 of the Act; or</li> <li>(c) if the land is acquired by the community housing provider wholly or partly with funding provided by the Housing Agency; or</li> <li>(d) if the Housing Agency constructs housing or makes other improvements on the land,</li> <li>(e) if a community housing agreement with the community housing provider identifies the land as being land in which the Housing Agency has an interest.</li> </ul>
<b>Insolvency Event</b>	<p>means, in respect of a provider, any of the following occurring:</p> <ul style="list-style-type: none"> <li>(a) it becomes insolvent within the meaning of section 95A, or is taken to have failed to comply with a statutory demand under section 459F(1), or must be presumed by a court to be insolvent under section 459C(2), or is the subject of a circumstance specified in section 461 (whether or not an application to court has been made under that section) or, if the person is a Part 5.7 body, is taken to be unable to pay its debts under section 585, of the Corporations Act;</li> </ul> <p>except with the Housing Agency's consent:</p> <ul style="list-style-type: none"> <li>(b) it is the subject of a Liquidation, or an order or an application is made for its Liquidation; or</li> <li>(c) an effective resolution is passed or meeting summoned or convened to consider a resolution for its Liquidation;</li> <li>(d) an External Administrator is appointed to it or any of its assets or a step is taken to do so;</li> <li>(e) if a registered corporation under the Corporations Act, a step is taken under section 601AA, 601AB or 601AC of the Corporations Act to cancel its registration;</li> <li>(f) an analogous or equivalent event to any listed above occurs in any jurisdiction; or</li> <li>(g) it stops or suspends payment to creditors generally.</li> </ul>
<b>Land</b>	<p>has the meaning given in section 13(1) of the Act, that is, it includes:</p> <ul style="list-style-type: none"> <li>(a) a legal estate or equitable interest in the land; or</li> <li>(b) an easement, right, charge power or privilege, over, or in connection with the land.</li> </ul>
<b>Leveraging Target</b>	<p>has the same meaning as defined in the Vested Properties Community Housing Assistance Agreement.</p>



<b>Leveraging Date</b>	has the same meaning as defined in the Vested Properties Community Housing Assistance Agreement.
<b>Leveraged Property</b>	means properties acquired by the Provider using finance raised under a facility in relation to which there is security granted by the Provider over a Vested Property or another Leveraged Property (or both).
<b>Liabilities</b>	has the meaning given in section 13(1) of the Act, that is, any liabilities, debts or obligations (whether present or future and whether vested or contingent and whether personal or assignable).
<b>Liquidation</b>	means: <ul style="list-style-type: none"> <li>(a) a winding up, deregistration, liquidation, provisional liquidation, bankruptcy or other proceeding for which an External Administrator is appointed, or an analogous or equivalent event or proceeding in any jurisdiction; or</li> <li>(b) an arrangement, moratorium, assignment or composition with or for the benefit of creditors or any class or group of them.</li> </ul>
<b>Loss</b>	means any loss, claim, action, damage, liability, cost, charge, expense, outgoing, payment, diminution in value or deficiency of any kind or character suffered or incurred by the Housing Agency or for which the Housing Agency is liable. Without limitation, Loss includes an amount equal to the unencumbered value of the Housing Agency's notional investment (as reasonably determined by the Housing Agency) in any parcel of Funded Property in respect of which the Housing Agency gives or is required to give a Relevant Notice in connection with the occurrence of, or the Provider's actions to remedy or to negate the consequences of, an Indemnifiable Event.
<b>Minister</b>	Means the Minister for Family and Community Services or as otherwise defined in section 4 of the Act.
<b>National Law</b>	means the <i>Appendix to the Community Housing Providers (Adoption of National Law) Act 2012 (NSW)</i> , which establishes the National Regulatory System for Community Housing.
<b>National Regulatory Code</b>	means the <i>National Regulatory Code for Registered Community Housing Providers</i> set out in Schedule 1 of the National Law.
<b>Net Sale Proceeds</b>	means the sale proceeds to which the Provider is entitled upon the sale of any parcel of Community Housing Asset in which the Housing Agency has an Interest or is entitled to have an Interest, after taking into account any amount required to be paid to an encumbrancee of the parcel of Community Housing Asset and net of the Provider's reasonable costs of sale of the parcel of Community Housing Asset.
<b>Notice</b>	means a notice given in accordance with clause 21 of this Agreement.

<b>Person</b>	includes the Provider.
<b>Policy</b>	means a policy issued by the Department of Family and Community Services which includes, but is not limited to, those listed in Schedule 1 of this Agreement.
<b>Power</b>	means any right, power, discretion or remedy of the Housing Agency under any Community Housing Agreement or applicable law.
<b>Private Ruling</b>	has the same meaning given to it in section 359-5 of Schedule 1 to the <i>Taxation Administration Act 1953</i> .
<b>Property</b>	means the Land, building and all fixtures, fittings, furnishings, plant and equipment (if any) and fences, including any right, interest, revenue or benefit in, under or derived from the property or asset.
<b>Property Portfolio</b>	means all properties including improvements however held owned, leased or controlled by the Provider and available to provide Community Housing.
<b>Records</b>	means, in relation to a person, all Information relating in any way to that person's business or any transaction entered into by the person, whether recorded electronically, magnetically or otherwise.
<b>Registered Community Housing Provider</b>	means a Community Housing Provider that is registered under Part 3 of the National Law.
<b>Registrar</b>	means the Registrar of Community Housing established pursuant to Part 2 of the National Law and operating within the jurisdiction of New South Wales.
<b>Relevant Notice</b>	means a notice or an application (as the case may be) by the Housing Agency to the New South Wales Registrar-General of Lands for the purpose of sections 16(5) and 18(6) of the Act.
<b>Regulations</b>	means any Regulations issued under the Act from time to time.
<b>Relevant Property</b>	means Land (including buildings and improvements) owned by the Provider in which the Housing Agency has an Interest by reason of section 14 of the Act.
<b>Secretary</b>	means the Secretary of the Department of Family and Community Services.

<b>Security Interest</b>	means any (a) security for payment of money, performance of obligations or protection against default (including a mortgage, bill of sale, charge, lien, pledge, trust, power or title retention arrangement, right of set-off, assignment of income, garnishee order or monetary claim and flawed deposit arrangements); or (b) thing or preferential interest or arrangement of any kind giving a person priority or preference over claims of other persons or creditors with respect to any property or asset, and includes any agreement to create any of them or allow them to exist.
<b>Social Housing</b>	means accommodation for people on a very low or low income that meet the required eligibility criteria.
<b>Specified Number</b>	means the number of housing units which are required to be maintained as Social Housing.
<b>Supplementary Agreement</b>	means each lease, transfer, service agreement priority deed or other ancillary agreement required under or to implement a Community Housing Assistance Agreement.
<b>Tax</b>	means any tax, levy, duty, rate, impost or charge imposed, levied or assessed by a Government Agency, and any related penalty, fine, fee or interest. It includes stamp duty, GST and transaction taxes and duties.
<b>Transitional Housing</b>	means short term accommodation (generally from three to eighteen months) for people that are experiencing homelessness or are at risk of homelessness.
<b>Vested</b>	means the process described in section 21 of the Act for transferring the ownership of a Property owned by a Housing Agency to a Registered Community Housing Provider under a Community Housing Assistance Agreement.  <i>S21(a) The Governor may, by order published in the Gazette, vest land owned by a Housing Agency in a registered community housing provider that is a company registered under the Corporations Act 2001 of the Commonwealth.</i>
<b>Vested Property</b>	means a Property that is Vested to a Registered Community Housing Provider under a Community Housing Assistance Agreement in accordance with section 21 of the Act.

## 24. Interpretation

In this document:

- (a) headings are for reference only and do not affect interpretation;
- (b) unless stated otherwise, all interest, amounts in the nature of interest (including discount amounts) and fees are to be calculated on a daily basis and a year of 365 days;
- (c) any undertaking, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (d) the singular includes the plural and vice versa, a gender includes other genders and different grammatical forms of defined expressions have corresponding meanings;
- (e) no provision or expression is to be construed against a party on the basis that the party (or its advisers) was responsible for its drafting; and
- (f) examples and use of the word **including** and similar expressions do not limit what else may be included.

Unless the context requires otherwise, a reference in this document to:

- (g) a party to any document includes that person's successors and permitted substitutes and assigns;
- (h) an agreement includes any legally enforceable arrangement, understanding, undertaking or representation whether or not in writing;
- (i) a document or agreement includes that document or agreement as novated, altered, amended, supplemented or replaced from time to time;
- (j) any thing includes any part of it and a reference to a group of things or persons includes each thing or person in that group;
- (k) clauses, schedules and annexures are to those in this document, and a reference to this document includes any schedule and annexure;
- (l) a person, corporation, trust, partnership, unincorporated body or other entity includes any of them;
- (m) time is to Sydney time unless stated otherwise;
- (n) legislation or other law or a provision of them includes regulations and other instruments under them, and any consolidation, amendment, re-enactment or replacement;
- (o) a word or expression defined in legislation has the meaning given to it in that legislation.

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# Schedule 1 – Policies and Guidelines

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The Provider agrees to comply with all current applicable Policies including but not limited to:

1. Community Housing Rent Policy;
2. Community Housing Eligibility Policy;
3. Community Housing Access Policy;
4. Community Housing Asset Ownership Policy;
5. Community Housing Water Charges;
6. New South Wales Affordable Housing Guidelines; and
7. Other policies and guidelines as notified by the Housing Agency from time to time.

Or any document that replaces or succeeds them.

# Schedule 2– Reporting Requirements

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## Reporting Requirements

The Provider agrees to complete and provide to the Housing Agency the following reports as specified by the Housing Agency in the format and within the time period specified by the Housing Agency:

1. all Information requested by the Housing Agency including but not limited to Information which will enable the Housing Agency to determine whether the Provider is complying with the terms and conditions of its Community Housing Agreement;
2. all disclosures and all Information requested by the Housing Agency to comply with its reporting obligations to the Minister, Parliament, and Government Agencies;
3. all information specified in contract compliance, performance management frameworks and related documentation, including but not limited to:
  - a. Community Housing Compliance and Performance Management data return – submitted annually.
  - b. Unit Record Level Data – submitted quarterly;
  - c. Information on Housing Pathway applications and allocations if the Provider participates in Housing Pathways.
4. Further reporting requirements as may be specified in individual Community Housing Assistance Agreements.

## Documentation

The Provider will provide one copy of each of the following documents to the Housing Agency on request:

1. Certificate of Incorporation;
2. Articles of Association, Rules or Constitution;
3. all cover notes and applicable policies of insurance specified in clause 12, including endorsements and all certificates of renewal and receipts for the premiums payable;
4. a list of the Provider's Board members and office holders which identifies the position held on the Board by each member, and, in the case of new appointments to the Board, provide the Housing Agency with a copy of the new member's passport and driving licence within 21 days of such appointment.
5. Consolidated Audited General Purpose Financial Statements for the year ended 30 June of each financial year for a reporting entity prepared in accordance with Australian Accounting Standards. Copies of the External Audit Report to Management are also to be provided. Special Purpose Financial Reports for either a reporting entity or a non reporting entity are not acceptable;
6. the Annual Report;
7. Minutes of the Annual General Meeting and Extra-Ordinary General Meeting(s) (if any);
8. copies of other documentation as may be reasonably requested by the Housing Agency.

# Signing Page

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## EXECUTED AS AN AGREEMENT

### DATED:

**THE SECRETARY** of the Department of Family and Community Services

**EXECUTED** for and on behalf of the Crown in right of the state of New South Wales acting through the *Department of Family and Community Services* by

**(Name of delegate)**  
**(Title of delegate)**

In the presence of:

\_\_\_\_\_  
(Print) Full Name of Witness

\_\_\_\_\_  
Signature of Delegate

\_\_\_\_\_  
Signature of Witness

**THE PROVIDER** - [name of provider]

**EXECUTED** in accordance with section 127 of the Corporations Act by:

Signature	POSITION	Name in Full
_____	Director	_____
_____	Secretary or Director	_____
_____	In the Presence of WITNESS	_____