

# **Administrative Procedures for Agents administering the Help to Buy (Scotland) Affordable New Build Scheme**

**October 2018**

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## **General Information on the Help to Buy (Scotland): Affordable Home Ownership Scheme**

1. The Help to Buy (Scotland) Affordable New Build Scheme is a Scottish Government scheme to help people to buy an affordable new build home from a participating home builder.
2. The scheme comprises two elements - the main Help to Buy (Scotland) Affordable New Build Scheme and the Help to Buy (Scotland) Smaller Developers Scheme.
3. Buyers must be able to fund at least 85% of the purchase price of a selected new build home (up to a maximum threshold price, currently £200,000) through a combination of a conventional mortgage and a minimum 5% deposit (if one is required by their lender). In the case of applicants aged 60 or over there is no requirement for a mortgage. These buyers can fund their share of the purchase price from a combination of the funds received from the sale of any existing property and savings.

## **Role of the Administering Agent managing and administering the Help to Buy (Scotland) Affordable New Build Scheme**

4. The Administering Agent will manage and assess applications to the scheme from prospective buyers. The following documentation to assist Administering Agents to manage and assess applications to the scheme is provided in the Annexes to this document.

Annex A - Application Form  
Annex B - Authority to Proceed Letter  
Annex C - Standing Instructions to Solicitors  
Annex D - Sales Log Form  
Annex E - Worked Examples

5. Administering Agents are acting for Scottish Ministers in administering the Help to Buy (Scotland) Affordable New Build Scheme and so must follow these administrative procedures and have due regard to the interests of the Scottish Ministers.
6. Help to Buy (Scotland) Affordable New Build Scheme aims to help all first-time buyers and second steppers who wish to move home to buy an affordable new build home up to a maximum threshold price as detailed below:-
  - For financial years 2018/19, 2019/20 and 2020/21 for purchases which complete on or before 31<sup>st</sup> March 2021, the threshold price is £200,000

7. Existing homeowners must sell their home before they purchase a new home under the scheme. People buying a home under the scheme are expected to occupy the property as their sole and only residence. The scheme is not available to assist buy-to-let investors and upon completion it must be the only home owned by the buyer.
8. Existing homeowners may not part-exchange their home and purchase a new home under the scheme. A buyer of a Help to Buy (Scotland) Affordable New Build Scheme home must purchase a minimum of 85% of the purchase price of a home. A buyer may have to provide a 5% deposit to their lender. An applicant's mortgage and any deposit combined must cover a combined minimum of 85% of the total purchase price. Applicants to the scheme who are aged 60 or over are not required to take a mortgage. For this applicant group they can contribute proceeds from the sale of their current property/previous home plus savings. –If these applicants are able to afford the purchase price of a property without assistance they will not be eligible for support through the scheme.
9. Joint applications (without the requirement for a mortgage) will be eligible from couples where only one of the applicants is aged 60 or over. Joint applications with an applicant aged 60 or over and their offspring under the age of 60 will also be eligible, without the requirement for a mortgage, if the applicants can demonstrate that the offspring has a disability that affects their housing needs or ability to sustain a sole occupancy.
10. Where applicants to the scheme are aged 60 or over and are applying to purchase a property without a mortgage they must demonstrate a housing need which includes at least one of the following:
  - Under-occupation – the applicant is living in property which is too large and needs to downsize
  - Their current property is no longer suitable to meet their needs – (e.g. they can no longer manage stairs).
  - Support – the applicant needs to move closer to family or friends that provide care and support
  - Living in private rented accommodation

\*Please note this list is not exhaustive and other circumstances can be considered as evidence of housing need.
11. Applicants aged 60 or over applying to purchase a property without a mortgage will also be required to provide proof of the sales price achieved from the sale of their previous home or the offer accepted to purchase their current home and the free proceeds received or expected to be received from the sale of that property following repayment of any existing mortgage, as part of the assessment process. Reasonable expenses such as legal, estate agency fees and removal costs will be regarded as eligible deductions from the sales proceeds prior to determining the equity stake. The Standing Instructions to Solicitors (Annex C) make clear that, where an applicant aged 60 or over is selling their existing house and intends to apply the free sale proceeds towards the purchase of a house under the Help to Buy (Scotland) Affordable New Build

and Small Developers Schemes, the applicant's solicitor is expected to confirm the amounts involved, within the Solicitor's Form 1. Where applicants are purchasing without a mortgage a valuation of the property will still be required.

12. Applicants who are in employment are required to provide payslips for the last 3 months with their application and administering agents should use this information to check that it is the same information provided in the application form. If an applicant is paid weekly then the previous 12 weeks' payslips will be acceptable.
13. All applicants to the scheme must complete an application form to apply for assistance under the scheme and the information provided will be assessed by the Administering Agent to determine if the applicant's application is eligible or not. Applicants should ensure that a full reservation form is attached to applications.
14. Administering Agents must provide each eligible buyer with a copy of the Help to Buy (Scotland) Affordable New Build Scheme After Sales brochure at settlement of the purchase of their home.

#### **Home builders approved to participate in the scheme**

15. The Scottish Government will provide each Administering Agent with a list of home builders who have been approved to participate in the scheme. If a home builder has not been approved to participate in the scheme, no assistance will be provided under the scheme.
16. Administering agents will be provided with a list of the home builders that have registered to participate in the main Help to Buy (Scotland) Affordable New Build Scheme. All other home builders will participate in the Help to Buy (Scotland) Smaller Developers Scheme.
17. All home builders will be required to enter into a Participation Agreement with the Scottish Government if their registration is successful.
18. All eligible properties must be covered by an industry-recognised warranty, such as NHBC or equivalent and home builders are expected to have adopted the Consumer Code for Home Builders. As an exception to this requirement, a professional consultant's certificate may be acceptable to Scottish Ministers, but only if it will be acceptable to the eligible buyer's primary lender or at the discretion of Scottish Ministers where there is no primary lender – more detail on this is contained in the Standing Instructions to Solicitors (Annex C).
19. Homes which have been previously occupied either by an owner occupier or a tenant before sale may not be purchased with assistance under the scheme.
20. Homes built by home builders to fulfil affordable housing obligations pursuant to Section 75 Agreements (under the Town and Country Planning (Scotland) Act 1997) are not eligible for assistance under the scheme. Homes sold under the scheme must be market sale homes.

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

21. This section sets out the procedures that Administering Agents must follow when assessing, approving and paying grant under the scheme.
22. If the Administering Agent receives an incomplete Application Form (set out in Annex A), from an applicant, they must ask the applicant to provide any missing information before the application can be assessed. Applicants should be aware that their application cannot be assessed until they provide all necessary information.
23. Administering Agents must undertake an assessment of individual household circumstances. This information will be obtained from the Application Form that applicants will complete as well as (if applicable) payslips for the last 3 months that will also be sent.
24. In Part 2 of the application form within the 'Additional Income' section, if there is a spouse or partner co-habiting with the applicant who contributes towards the household income, the applicant is required to provide this information which will be taken into account in the assessment process.
25. An applicant must purchase the maximum amount of equity that they can reasonably afford, taking account of other financial commitments and the associated costs of home ownership.
26. On the Application Form, applicants will provide details of all sources of finance. This information is to be used by the Administering Agent to determine if the applicant is able to contribute a minimum of 85% of the purchase price of the property and to calculate what equity share Scottish Ministers will contribute.

## **Income Assessment**

27. The information in the application form and the three recent pay slips provided by applicants will be used by the Administering Agent to determine the anticipated value of mortgage finance.
28. The Administering Agent will apply a 'rule of thumb' for the maximum mortgage for an applicant in employment as follows:
  - individual application – individual salary x 4.5 = estimated maximum; or
  - joint application – joint salary x 3.5 = estimated maximum.

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

29. Administering Agents should note that the 'rule of thumb' will not be appropriate in the case of applicants who are aged 60 or over and are not taking a mortgage. For self-employed cases, the most recent set of accounts should be provided unless otherwise advised by the lender and a Decision in Principle would be acceptable for assessment purposes. Normally lenders will require

sight of a minimum number of years' accounts before providing a mortgage quote although some allow self-employed people to self-certify their income.

30. Where an applicant with particular needs will be using their benefit entitlement to support a mortgage, the standard multiplier of 4.5 for individuals or 3.5 for joint will be an inappropriate measure. The assessment should therefore be conducted using knowledge of the benefit entitlements of disabled people.
31. Where applicants are aged 60 or over and apply for assistance without the use of a mortgage evidence of the sale price achieved from a previous house sale or the formal offer accepted will be required as part of the assessment process, along with evidence of any amount required to repay in full any existing mortgage. Reasonable expenses such as legal, estate agency fees and removal costs will be regarded as eligible deductions from the sales proceeds prior to determining the equity stake.
32. Like all applicants to the scheme, we expect buyers aged 60 or over, purchasing without a mortgage, to contribute their savings to the purchase. However, where the applicant provides evidence that they need to keep funds aside to meet additional living costs (e.g. the cost of employing a carer, paying for a spouse in care etc), the applicant may not need to meet the requirement to use their full savings towards the purchase of a property.
33. The Administering Agent will be required to check that the applicant's monthly costs are no more than 45% of their net disposable income. This does not apply for applicants aged 60 or over who are buying without a mortgage.
34. The Scottish Government will provide the Administering Agent with a calculator to be used for assessing affordability and sustainability of purchasers. Once the Administering Agent is satisfied that the following apply:-
  - **the applicant can afford to pay a minimum of 85% of the purchase price of the property (taking into account existing debts);**
  - **that the Administering Agent has calculated the maximum amount of equity that the applicant can reasonably afford, taking account of other financial commitments;**
  - **and that the applicant's monthly costs are no more than 45% of their net disposable income** This does not apply for applicants aged 60 or over who are buying without a mortgage.
35. The Administering Agent can proceed with issuing an Authority to Proceed Letter to the applicant, the applicant's IFA, the home builder and Scottish Government solicitors (Harper Macleod). When the applicant has provided information on their solicitor, the Administering Agent should send the solicitors a copy of the Authority to Proceed along with a set of Standing Instructions (set out in Annex C). These standing instructions explain to the purchaser's solicitor what they must do to facilitate the transaction. The Scottish Ministers will be advised on each transaction by the Scottish Government solicitors, who will be responsible for preparation of the Shared Equity Agreement, the Standard

Security in favour of Scottish Ministers and the Ranking Agreement. However, to avoid unnecessary duplication of legal work, the applicant's solicitor will be asked to carry out all necessary title and property due diligence on the Scottish Ministers' behalf. The Standing Instructions set out in Annex C therefore make clear to the applicant's solicitor what is expected of them, including them owing a duty of care to Scottish Ministers and submitting a Solicitor's Form 1 and a certificate of title in the required terms. **Settlement of a transaction must not take place unless the Solicitor's Form 1 and the certificate of title have been received by the Administering Agent and they are in acceptable terms and Scottish Government's solicitors have confirmed to the Administering Agent that either the necessary shared equity documentation is signed and in place or that acceptable arrangements have been put in place between Scottish Government's solicitors and the applicant's solicitor for delivery of the documentation.**

36. Once the Authority to Proceed Letter has been issued where the applicant is taking out a mortgage, the applicant will then inform their independent financial advisor (IFA), who will prepare a full mortgage application for submission in line with the details on the Authority to Proceed Letter.
37. Agents will be asked in the weekly report to provide information on fallen/cancelled/withdrawn applications and should be aware that **no Authority to Proceeds should be recycled under any circumstances.**
38. If an eligible buyer has a Help to Buy: ISA (which is a UK Government scheme) they may be able to use the proceeds of the ISA as a deposit towards the purchase price of a home. The eligible buyer's solicitor is required to register with the UK Government in accordance with the rules of the Help to Buy: ISA scheme before they can apply for the release of funds on behalf of their client. Further information on these matters is provided in the Standing Instructions, and more information on the Help to Buy: ISA scheme can be found at <http://www.helptobuy.gov.uk/home>. Help to Buy: ISAs are only available to first-time buyers and not second steppers.

## Property Valuation

39. The Authority to Proceed is subject to receipt by the applicant's solicitor of (a) a mortgage valuation valuing the property at no less than the full purchase price or (b) (if the mortgage is being provided by a lender which does not provide the applicant's solicitor with a copy of the valuation) a mortgage offer which contains details of the valuation). If in the case of an applicant aged 60 or over the applicant is not taking out a mortgage, a mortgage valuation will still require to be instructed. **Scottish Ministers must be able to rely on the property valuation for the purpose of providing financial support through the Help to Buy (Scotland) Affordable New Build Scheme.** Generally this will be done by way of a Letter of Reliance which is asked by Scottish Ministers from surveying firms registered with the RICS and which will cover all valuations undertaken by the firm of surveyors in relation to the Scheme within a 12 month period. A list of those surveyors which currently provide a Letter of Reliance in these terms can be obtained from Lesley Dyker at the Scottish Government ([HousingMarkets@gov.scot](mailto:HousingMarkets@gov.scot)). If a valuation is undertaken by a surveying firm

which does not participate in these reliance arrangements, the valuation report must expressly state that it can be relied upon by Scottish Ministers. The Administering Agent is required to check the property valuation against the full purchase price. If the property valuation is lower than the purchase price, then the purchase price will be required to be lowered to match the property valuation. Administering Agents should note that if a valuation is taken from a mortgage offer then a Letter of Reliance should still be obtained from the surveying firm who carried out the valuation.

40. The Administering Agent should then contact the applicant's solicitors to confirm whether or not the property valuation matches the full purchase price. If the purchase price is higher it must be reduced to the level of the property valuation or lower and a revised application form must be submitted and signed by the applicant. The Administering Agent should provide the buyer's solicitor with a web link to the Sales Log Form either at this point or at the point of issue of the Authority to Proceed and ask for it to be completed online. The Scottish Government will provide each Administering Agent with a web link to the Sales Log Form.
41. **Settlement must not take place unless the Certificate of Title has been received by the Administering Agent from the applicant's solicitor.** The Certificate of Title will contain the settlement date and the Administering Agent should confirm that the settlement date is acceptable with the buyer's solicitor.
42. Provided that the valuation of the property is satisfactory, the Administering Agent should submit an electronic grant claim to the Scottish Government.

### **The responsibilities associated with buying a home**

43. An applicant will be responsible for their own legal and, if necessary, valuation costs incurred in relation to the purchase, and will be responsible for all tax and registration costs. The owner will have full title to the property. Scottish Ministers hold a heritable security over the property which is discharged upon the open market sale of the property or purchase of the remaining equity stake by the shared equity owner. An owner is expected to occupy the property as their only residence and they will be responsible for keeping the property in a good and habitable state of repair. As well as making mortgage repayments and paying tax to their local authority, an owner must also insure their property. An owner is responsible for all maintenance, repair and insurance costs and not just a percentage, and if the property has common and shared areas they will be responsible for paying any common maintenance or service charges.
44. In so far as practicable, Administering Agents should encourage applicants to discuss common maintenance and/or service charges with their solicitor to find out how much these additional costs are before they proceed with buying a property.
45. Your home should be your sole residence and permission to let your home will not be given in any circumstances. If you let your home or do not reside there as your sole residence then this will be a breach of the shared equity agreement and enforcement action could be taken

46. Administering Agents should make sure that applicants are made aware of these obligations (and the associated financial responsibilities) when they apply to Help to Buy (Scotland). Administering Agents must also recommend to applicants that, in so far as they have not already done so, they appoint solicitors and fully discuss with them the obligations that come with being an owner of a Shared Equity property – and the associated costs – as well as the full terms of the Shared Equity documentation. Administering Agents should also recommend that applicants contact an independent financial advisor if they have not already done so.
47. The standard styles of legal documentation are set out in **Appendices 1-3**.

### **Timing and Monitoring of Transactions**

48. Applications from prospective eligible buyers cannot be submitted more than 9 months before the expected completion date for the purchase of the home. Missives for each transaction must be concluded within 3 months of the date of the issue of an Authority to Proceed. If missives for a transaction have not been concluded by 2 weeks prior to the end of the 3 month period of the date of the issue of an Authority to Proceed, the administering agent should write to the buyer/buyer's solicitor to inform them that the application is due to expire in 2 weeks' time. If the 3 month period expires without missives being concluded, then the Authority to Proceed lapses, and the applicant will no longer qualify for support under the Scheme and will have to submit a fresh application for possible financial support under the Scheme.
49. Settlement of the purchase of a home must take place within 9 months from the date of the issue of the Authority to Proceed letter. If it is foreseeable that a purchase transaction is unlikely to complete within the maximum 9 month period of time, the home builder must inform the Administering Agent as soon as possible in order for the Agent and Scottish Government to determine if it is possible for any flexibility to be provided in order to extend the permitted timescale for completion. **Flexibility should only be provided in certain limited situations which are genuinely out with the builder's control- for example, severe weather causing a delay to the building work, or a delay by a local authority in inspecting the home in order to certify completion.**
50. The Administering Agent should monitor the progress of all Help to Buy (Scotland) Affordable New Build Scheme transactions.

### **Payment Claims**

51. Processing of payment claims in HARP will work as follows:-
- The **Applicant Finance Inputter** will enter transactions eligible for payment on a claim spreadsheet. This spreadsheet will perform various checks such as ensuring postcodes are in upper case and developers names are in the agreed format. Once complete the applicant will click on the create CSV file button on the spreadsheet. This file should then be uploaded to the HARP system and forwarded for internal authorisation.

- The **Applicant Finance Approver** will check the claim and, if satisfied, will authorise the claim or reject it. The approver may add comments, as appropriate, for the SG Finance team.
  - The **SG housing finance team** will check the claim and all relevant back up documents and either accept or reject the claim.
  - If the claim is accepted it will be processed for payment and marked paid, if rejected it will be returned to the applicant for a rework
52. In the event of a purchase failing, or if a change occurs to the data as submitted, then the following procedure applies:-
- The **Applicant Finance Approver** creates a change request, adding supporting documentation as required.
  - The SG housing finance team will review the request and either approve or reject it, adding comments as necessary. If the change is for a failed sale then a sales invoice will be sent out.
53. The SG will mark off settled sales in HARP that are notified by their solicitors (Harper Macleod). This will feed into a standard report in the HARP system indicating which properties have not settled within 14 days of the payment of grant. It is the responsibility of the **Applicant Finance Approver** to ensure that dates of entry are reviewed and monitored and appropriate action is taken for those transactions breaching 14 days

### **Monitoring who is provided with assistance under the scheme**

54. The Scottish Government monitors who is housed in properties funded by the Help to Buy (Scotland) Affordable New Build Scheme.
55. The Sales Log Form (set out in Annex D) is in two parts. The first part (Part A) relates to details of the property that has been bought and should be completed by the Administering Agent. The second part (Part B) gives details about the household which has bought the property and should be completed by one of the named purchasers.
56. The Administering Agent must provide a web link to the Sales Log Form to both the solicitor and purchaser either with the issue of the Authority to Proceed or at a later stage. The purchaser or solicitor should then access this link and complete the form. It should only take a few minutes to complete.
57. The Scottish Government has contacted Administering Agents separately about access to the online Sales Log Form.
58. The online Sales Log Form system will generate a CSV document detailing all the forms with a summary of all of the information in Part B that has been completed and this will be sent to administering agents on a weekly basis. The CSV will contain several empty columns for the agents to complete and this is

the information that forms Part A of the Sales Log Form. Administering Agents are encouraged to complete this information on a monthly basis.

59. Administering agents should provide a copy of the CSV to the Scottish Government on a quarterly basis. It will contain a record of all transactions with information on each one obtained from completed Parts A & B of the Sales Log Form.

### **Maintaining Information on Help to Buy (Scotland) Affordable New Build Scheme transactions and reporting arrangements**

60. The Administering Agent should maintain a complete electronic record of each Help to Buy (Scotland) Affordable New Build Scheme transaction including all relevant documentation (and including subsequent Charge Sheet documentation).
61. Administering Agents should provide Scottish Government with a weekly report in the format that will be provided separately (with instructions) to this guidance.

### **Post Sale Work for all Help to Buy (Scotland) Affordable New Build Scheme Transactions**

62. The Scottish Government has prepared [After Sale Shared Equity Procedures](#) for use by Administering Agents administering post sale shared equity work. The procedures contain sample emails and correspondence to be used for a variety of post-sale issues.

### **Data Protection**

63. Administering Agents act as a data processor in relation to Help to Buy applications. Further detailed information is contained in the [Shared Equity Privacy Notice](#). The retention periods for information processed by Administering Agents on behalf of Scottish Government are as follows:
- **Application Information and supporting documentation** (i.e. forms, wage slips, Key Facts form lenders) – This should be held for the remainder of the calendar year within which the information was received plus an additional 12 months
  - **Sales Log forms** – This information should now be sent directly to our Analytical Services colleagues ([joseph.jobling@gov.scot](mailto:joseph.jobling@gov.scot)). This data should be held for 5 years following the end of the calendar year in which it was received.
  - **Shared Equity Owner and Property Purchase Information where Scottish Ministers hold an equity stake** – This information should be held indefinitely until ministers securities are discharged and for the remainder of the calendar year plus a further 6 years subsequent to discharge for audit purposes
  - **Non-anonymised Customer Satisfaction Survey and Testimonials** - The information should be destroyed within 12 months after the end of the

calendar year the information was received, unless the individual has given express permission for it to be used in publicity materials.

All shared equity information stored by Administering Agents on behalf of the Scottish Government must be stored in electronic form.

## ANNEX A – Application Form

### Application Form – Help to Buy (Scotland) Affordable New Build Scheme

**Scheme:** Help to Buy (Scotland) Affordable New Build Scheme

**To:** *[Name of Administering Agent]*

#### PART 1

Named applicant 1	
Current property address	
Date of birth	
Contact telephone number	
Email address	

Named applicant 2	
Current property address	
Date of birth	
Contact telephone number	
Email address	

Please confirm if applicant 1 or 2 currently own a residential home

YES  NO

If YES, please provide address of the property:

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Development/site name	
Plot Number (or address is known)	
Name of house builder or developer	
Full purchase price	£
Buyer's mortgage amount (i.e. maximum amount to be obtained by applicant)	£
Applicant's cash contribution	£
Contribution required from Help to Buy (Scotland) Affordable New Build Scheme	£
Expected purchase completion date	
Number of adults to live in the property	
Number of children to live in the property	

*NB Those of [18] years of age at the date of [ ] are adults and those below [18] years old at the date of [ ] are children.*

Independent Financial Adviser details:

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Solicitors details:

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The applicant confirms to the Administering Agent that the above details are accurate and are agreed between the applicant and the home builder or developer.

## PART 2

### Financial Details

#### Income – Applicant 1

Basic employment income (annual, gross)	£
Overtime, bonuses and commissions	£

#### Income – Applicant 2

Basic employment income (annual, gross)	£
Overtime, bonuses and commissions	£

#### Additional household income (monthly) - to cover all applicants if more than one

Working tax credits	£
Child tax credits	£
Child benefit	£
Disability allowance	£
Guaranteed maintenance income	£
Other income	£

#### Debt (to cover all applicants if more than one)

Monthly loan/HP payments	£
Outstanding credit card balances	£

#### Household net income (monthly) - to cover all applicants if more than one

Net Monthly Income	£
<b>PLUS</b> any Additional Housing Income	£
<b>LESS</b> any Debts	£
<b>TOTAL NET MONTHLY INCOME</b>	£

## PART 3

The Applicant acknowledges that if they own a residential home this must be sold prior to the completion of the purchase of the home under the Help to Buy (Scotland) Affordable New Build Scheme. Failure to do so will result either in delay or the withdrawal of support from the Scottish Government to assist with the purchase of the new home. It is a condition of the Minute of Agreement that the applicant will enter into with Scottish Ministers that the home they purchase under the scheme will be the only residential property they have any interest in for the duration of the term of the Minute of Agreement.

The applicant declares and confirms that it is (or if there is more than one applicant that each applicant is) a:



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

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

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

**PART 5**

I/ We hereby authorise (*enter below the name and address of the lenders who you have spoken to about obtaining a mortgage*). \*not applicable to non-mortgage applicants aged 60 or over\*

<b>Lender 1</b> Name: Address:
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<b>Lender 2</b> Name: Address:
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<b>Lender 3</b> Name: Address:
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to release any information about my/ our current financial situation to the Scottish Government and the Administering Agent which the Scottish Government and the Administering Agent might need in connection with my/ our application to purchase a home through the Help to Buy (Scotland) Affordable New Build Scheme. I/ We also authorise the lenders to release all data relevant to the valuation of any property which may be purchased, including Disclosure of Incentives Form in terms of the Council of Mortgage Lenders' handbook.

**Signatory 1:** Print name (including Mr/Mrs/Ms/Miss):  
Address:

Signature 1:

Date:

Signatory 2:

Print name (including Mr/Mrs/Ms/Miss):

Address:

Signature 2:

Date:

Please note: you can access a copy of the Scottish Government's Shared Equity Scheme Privacy notice at <https://beta.gov.scot/publications/shared-equity-schemes-privacy-notice/>

This privacy notice illustrates how your personal information will be used by the Scottish Government in relation to the operation of its shared equity schemes and explains your rights under the General Data Protection Regulation (EU) 2016/679 and how to exercise these rights.

**ANNEX B**

**Authority to Proceed Letter**

**Help to Buy (Scotland) Affordable New Build Scheme Form of Authority to Proceed**

To be completed and issued by the Administering Agent to the purchaser and copies sent to the purchaser’s solicitor, the home builder and Scottish Government’s solicitors.

When it is issued to the purchaser’s solicitor, the Administering Agents should also send to the purchaser’s solicitor the Standing Instructions to Solicitors (duly completed by the Administering Agent with the details of the transaction).

The Standing Instructions to Solicitors are provided in Annex C in a separate Word document and must not be amended other than to complete any blanks with applicable information.

If a purchaser intends to benefit from a developer “cash-back” incentive, which will be paid to the purchaser on completion, the cash back should not be treated as part of the cash contribution figure. The Administering Agent should complete the paragraph on the Authority to Proceed informing the purchaser’s solicitor that the purchaser intends to recover money at completion. For avoidance of doubt cash back payments are incentives and should also be confirmed as compliant with Help to Buy (Scotland) Affordable New Build Scheme rules by the purchaser’s solicitor.

**If Option B at the end of this letter is not applicable please delete.**

**Form of Authority to Proceed**

- Date: [●]
  
- To: [Purchaser – Name/Address]
  
- CC: [Purchaser’s solicitor – Name/Address]
  
- CC: Home builder: [Name/Address]
  
- CC: Scottish Government Solicitors: Harper Macleod
  
  
- Scheme: Help to Buy (Scotland) Affordable New Build Scheme
  
- Property: [●]
  
- Named Purchaser: [●]
  
- Anticipated Completion Date (as advised by home builder) [●]

## Option A

Thank you for returning your application to the Help to Buy (Scotland) Affordable New Build Scheme. We are pleased to tell you that your application has been approved and that Scottish Ministers will take an equity stake in respect of the Property on the following terms:-

FULL DETAILS OF NAMED PURCHASER: [●]

FULL DETAILS OF PROPERTY ADDRESS [●]

FULL DETAILS OF PURCHASER'S SOLICITOR [●]

FULL PURCHASE PRICE: £[●]

SCOTTISH MINISTERS CONTRIBUTION £[●]

FULL PURCHASE PRICE LESS SCOTTISH MINISTERS CONTRIBUTION  
(i.e. the amount met by the Purchaser after deducting the amount provided by Scottish Ministers from the Full Purchase Price and excluding any mortgage fees of the Qualifying Lender) £[●]

SCOTTISH MINISTERS CONTRIBUTION PERCENTAGE (for example if the full purchase price is £150,000 and the Scottish Ministers Contribution is £22,500 then the contribution percentage would be 15%) [●]

MORTGAGE AMOUNT (if applicable): £[●]

REQUISITE AMOUNT OF CASH SAVINGS TO BE INVESTED BY BUYER (which will exclude any cashback incentive provided to the Buyer): £[●]

CASHBACK PROVIDED BY HOME BUILDER (to be paid to the Buyer on completion: £[●]

TOTAL AMOUNT OF INCENTIVES PROVIDED BY THE HOME BUILDER (as set out in the Council of Mortgage Lenders Disclosure of Incentives Form and which must not exceed 5% of the full purchase price: £[●]

BUYER'S PROPERTY TO BE SOLD PRIOR TO PURCHASE:

### **Guidance for the Buyer**

You should have read the Help to Buy (Scotland) Affordable New Build Scheme Buyer's Guide issued to you when you reserved your Property. (If required, a further copy of the guide is available on our website – *insert link*). You should ensure that you have read this Guide before continuing with your purchase.

If you wish to proceed with your Help to Buy (Scotland) Affordable New Build Scheme home purchase on the above terms you must now take the following steps:-

## Step 1

You should by now have seen an independent financial advisor (IFA) and be getting ready to submit a mortgage application. It is very important that you seek independent advice about your mortgage. The mortgage must be from a qualifying lender.

Qualifying lending institutions include mortgage lenders who are authorised under the Financial Services and Markets Act 2000, and who have permission to enter into regulated mortgage contracts.

This is likely to include most banks and building societies. The Financial Conduct Authority keeps a register of authorised persons on its website. The register can be found at <http://www.fsa.gov.uk/register/home.do>. Please discuss with your independent financial advisor if you have any doubts as to whether a lender falls within this definition.

The mortgage offer you should receive must be equal to the Mortgage Amount noted on the front of this form and should be for a repayment mortgage. **Interest-only mortgages will not be approved for Help to Buy (Scotland) Affordable New Build Scheme assisted purchases.**

In addition to your mortgage funding, you have also told us that you will be making a cash contribution towards the purchase price of the house, as set out above.

**PLEASE BE ADVISED THAT YOUR HOME MAY BE REPOSSESSED IF YOU DO NOT KEEP UP REPAYMENTS ON A MORTGAGE OR ANY OTHER DEBTS SECURED ON IT.**

## Step 2

<insert name of Administering Agent> has assessed the Application Form completed by you [and the home builder] and has prepared this Authority to Proceed based on the information you have provided. This Authority to Proceed is only valid for three months from the date of issue as set out above and you must ensure that your solicitors conclude missives on your behalf with the home builder's solicitors to purchase the home within this three months timeframe.

**This Authority to Proceed is valid for 3 months and you are expected to conclude missives within this period of time. If you have not concluded missives within three months, your application to the scheme will no longer be eligible and it will be cancelled with immediate effect. Settlement of your property purchase must take place within 9 months of the date of this Authority to Proceed Letter. Failure to do so could result in your transaction no longer being eligible to receive assistance.**

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

### **Step 3**

Your solicitor will advise you on the Help to Buy (Scotland) Affordable New Build Scheme and will explain the legal documentation that you are required to enter into with Scottish Ministers.

You must agree to sign a Minute of Agreement, a Ranking Agreement, and Standard Security. Your solicitor will contact you to explain and arrange this.

Once your mortgage offer and valuation has been received, your solicitor will negotiate and conclude missives with the home builder's solicitor. After conclusion of missives you will be legally committed to purchasing the property.

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

**If you currently own a property you must ensure that this is sold before the completion date of your purchase of your Help to Buy (Scotland) Affordable New Build Scheme property.**

### **Step 4**

Your solicitor will finalise your home loan from your lender, including preparing and having you sign a first-ranking standard security over your home, to secure the mortgage. Your solicitor will also make arrangements with you to ensure that your deposit contribution will be available in time for completion of the purchase.

### **Step 5**

At completion, your lender will provide its funds and the Scottish Government will provide its contribution, so that your solicitor can pay the purchase price to the home builder. You will then be able to move in on a date agreed with the Home builder.

Your application will be treated as withdrawn if missives are not concluded on your behalf within three months after the date of this Authority to Proceed letter. If you are unsure of how to proceed, please contact [insert name of Administering Agent] at [insert contact address/telephone number].

You are advised to make sure you have read the Help to Buy (Scotland) Affordable New Build Scheme Buyers Guide that explains how the scheme operates.

**Please note:-**

**The Authority to Proceed ceases to have effect if missives are not concluded for the purchase of the property within 3 months of the date of this letter.**

**If your transaction does not complete within 9 months from the date of the issue of this Authority to Proceed Letter you may no longer be eligible to receive assistance.**

**The Authority to Proceed is conditional on your Solicitor receiving a mortgage valuation, or if your lender does not supply a copy of the valuation, a mortgage offer showing the valuation figure, in each case confirming that the Property is valued at no less than the Full Purchase Price.**

OR

## **Option B**

Thank you for returning your application to the Help to Buy (Scotland) Affordable New Build Scheme

We regret to inform you that on this occasion your application to the scheme has not been successful.

[The rules of the scheme state that a person must be able to afford a minimum of 85% of the purchase price of a home. After assessing your application to the scheme, you have been assessed as only being able to purchase <>% and therefore your application is not eligible to proceed.]

Yours sincerely

For and on behalf of

## ANNEX C - Standing Instructions to Solicitors

### THE SCOTTISH MINISTERS (“SCOTTISH MINISTERS”) - STANDING INSTRUCTIONS TO SOLICITORS FOR USE IN HELP TO BUY (SCOTLAND) AFFORDABLE NEW BUILD SCHEME TRANSACTIONS

#### INTRODUCTION

Please note that the following commentary gives an overview of how the Help to Buy (Scotland) Affordable New Build scheme is intended to work for the benefit of solicitors acting for purchasers who are being provided with financial support from Scottish Government via the scheme. The commentary is without prejudice to, and is subject to, the remainder of these Standing Instructions, and the legal documentation referred to herein.

The Help to Buy (Scotland) Affordable New Build scheme is intended to be the successor scheme to the Help to Buy (Scotland) scheme which operated in Scotland for a three-year period which ended on 31 March 2016. The new scheme places more emphasis on affordability. In terms of the scheme, financial assistance is provided to enable qualifying applicants to buy an affordable new build property within a new housing development being built by a participating housebuilder. It is intended to help applicants by providing a stepping stone onto the property market or by allowing those selling their existing home to access a new property. It is intended to allow purchasers to access mortgage funding at a lower loan to value ratio than might otherwise be possible and to assist those aged 60 or over to purchase a home suitable for their needs without the requirement of a mortgage. The Scottish Government operates the Help to Buy (Scotland) Affordable New Build scheme for the whole of Scotland. The maximum qualifying sale price for the financial years 1 April 2018 to 31 March 2021 will be £200,000.

**Your receipt of these papers means that the applicant for whom you are being asked to act has been successful in his/her application for such assistance and is intending to purchase a property from a housebuilder who is participating in the Help to Buy (Scotland) Affordable New Build scheme (the "Builder").**

For the avoidance of doubt, a qualifying applicant (the "**Purchaser**") currently includes:-

- those that are intending to be owner/occupiers (the properties cannot be bought for investment purposes);
- those that have satisfied the eligibility conditions as assessed by the administering agent appointed by Scottish Ministers to administer the Help to Buy (Scotland) Affordable New Build scheme (the "**Administering Agent**");
- those that are obtaining a first ranking mortgage (from a qualifying lending institution) for the maximum amount which he/she is able to afford on usual terms and is likely to be sustainable by them (as an exception to this requirement, applicants aged 60 or over do not require to take out a mortgage, if they are able to apply savings or the proceeds from the sale of another property towards the purchase price of the new house); and

- applicants who do not (or will not at the point of purchase of the Help to Buy (Scotland) Affordable New Build property) possess any interest in any other dwelling.

By way of background, Scottish Government provides the assistance to the Purchaser by paying an agreed percentage of the full purchase price payable for a Help to Buy (Scotland) Affordable New Build property which, added to the amount which the Purchaser can afford to contribute (and including any deposit provided by the Purchaser) enables the Purchaser to purchase their preferred property. The Scottish Government's contribution (the "**Contribution**") will represent no more than 15% of the total purchase price of the home that is being acquired (the percentage being defined as the "**Contribution Percentage**"). The full purchase price must not exceed the maximum permitted price which applies to the year of the scheme in which the purchase will complete, which means that the maximum contribution from the Scottish Government in each of the years 2018/19, 2019/20, and 2020/21 will be £30,000. Exact figures will be provided for each property.

The reduced amount payable by the Purchaser will correspond to the amount which is affordable to the Purchaser as assessed by the Administering Agent under the scheme. The intention is that Purchasers have assistance for the element which is not affordable through normal private mortgages together with any financial contribution which the Purchaser can afford to make from their own resources (including through the sale of any existing property) or in place of a mortgage, the contribution made by those aged 60 or over. The Administering Agent therefore calculates the Contribution and the Contribution Percentage and notifies these to the Purchaser, Scottish Government and the Builder, via the Authority to Proceed letter. The terms of the purchase missives will need to correspond with this. In order to qualify for this scheme the Purchaser must be entering into a first ranking standard security prior to the Scottish Minister's second ranking standard security. The only exception to this is in the case of applicants aged 60 or over who may be eligible to participate in the Scheme without taking out a mortgage towards the purchase price of the property, in which case the standard security in favour of Scottish Ministers will be first ranking.

When the Purchaser purchases a property under the Help to Buy (Scotland) Affordable New Build scheme, the Builder receives the full purchase price from the Purchaser at settlement, which is comprised of the amount which the Purchaser is borrowing as a mortgage (or contribution from those aged 60 or over without a mortgage), plus any personal financial contribution from the Purchaser, plus the Contribution. The Contribution expressed as a percentage of the full purchase price will be the Contribution Percentage. When the Purchaser sells the property he/she will be obliged to pay to Scottish Ministers the Contribution Percentage of the eventual sales proceeds.

For the avoidance of doubt, in calculating the amount of funding to be provided by the first qualifying lending institution together with any contribution from the Purchaser's own reserves), any mortgage fees that may be added by the qualifying lending institution which is providing the Purchaser with a home loan are to be **ignored**.

A Purchaser who is a first-time buyer may have opened up a Help to Buy: ISA in which to save a deposit towards the purchase of their home. While the Help to Buy: ISA scheme covers Scotland, it is operated by the UK Government and not by Scottish Ministers, and involves the UK Government providing the ISA holder with a bonus at the point when the savings in the ISA are being withdrawn and applied towards the home purchase. You should note that if your client has a Help to Buy: ISA, then (a) only you as the purchaser's solicitor are able to access and uplift the ISA funds, and (b) you must be registered with the UK Government in order to do so. Please also note that Help to Buy ISAs are not available to persons who are already homeowners or who have been previously.

The obligation to make the repayment to the Scottish Ministers has to be secured on the property by a second ranking standard security (the "**Postponed Security**") which must rank immediately behind the loan of the qualifying lending institution (such as a building society, bank or insurance company) who will be providing a conventional mortgage for a sum up to the remainder of the total purchase price. A ranking agreement is also required in Scottish Government's preferred form to regulate the ranking of the two standard securities. In the case of applicants who are aged 60 or over and are not taking out a mortgage the standard security in favour of Scottish Ministers will be first ranking.

The Scottish Government has appointed an Administering Agent for the purpose of administering the Scottish Government's financial support to Purchasers, including providing Purchaser's solicitors with these instructions and collecting all payments due including partial and full redemption payments. This will mean that the Purchaser has one nominated point of contact for the shared equity documentation, including the Postponed Security, which governs Scottish Government's financial support.

**The Purchaser must not obtain a first loan for more than the purchase price less the Contribution (the "reduced purchase price") (excluding any mortgage fees of the qualifying lending institution providing the home loan) and you will be expected to provide the Administering Agent with verification of the total purchase price payable and the amount of the first loan.**

**Please note that in terms of the Ranking Agreement which forms a part of the shared equity documentation and which will require to be entered into among the qualifying lending institution, Scottish Ministers and the Purchaser, the amount of lending by the qualifying lending institution which ranks ahead of any sums due to Scottish Ministers is expressly stated and fixed. It is important that you confirm that the amount of the first preference does not exceed the reduced purchase price, save in respect of any mortgage fees (or, if less, the amount of the first loan save in respect of any mortgage fees).**

**It is also important that you confirm that, in calculating the Contribution (and therefore the Contribution Percentage) the mortgage fees of the first qualifying lending institution have not been (and will not be) included in the calculation of the reduced purchase price.**

The Purchaser will either repay the Contribution early voluntarily (the Purchaser can repay the whole or part of the amount provided at any time) or when they sell the property or on a compulsory basis on the happening of specified events which are

detailed in the Shared Equity Agreement to be entered into between the Scottish Ministers and the Purchaser. The amount of the required repayment is equivalent to the value of the property (or the actual sale price if higher) at the date of repayment (whether that value has increased or decreased) multiplied by the Contribution Percentage.

By way of illustration, if the Contribution Percentage is 15%, the Purchaser must pay the Scottish Government 15% of the sale price when he or she sells the property. The actual amount to be repaid will therefore increase if the property increases in value but will decrease if the property decreases in value.

It is anticipated that, as the Purchaser's income improves, it will buy out the Scottish Ministers by advance repayment or will move up the housing ladder by selling and moving on to home ownership which is not supported by an equity contribution.

## **STANDING INSTRUCTIONS**

1. These standing instructions ('instructions') are designed for use when you are asked to act on our behalf in relation to a Standard Security. (In the instructions, any reference to "we", "us" or "our" means the Scottish Ministers). The key features of our approach are:
  - in all transactions where you receive an instruction to act for us these instructions (as amended from time to time) will form an integral part of our instructions;
  - while these instructions have been divided into a series of separate sections, in some instances it will be necessary for you to cross refer between sections; and
  - all matters which require to be reported or delivered to Scottish Ministers are to be reported or delivered to the Administering Agent.

We will be relying upon you to carry out our instructions in a professional manner. Although our instructions are intended to be comprehensive they are not exhaustive and it is likely that circumstances will arise where we will require to rely on your professional skill and guidance to deal with situations which are not specifically addressed.

This may include for example but without prejudice to the generality of the foregoing, any additional requirement in the UK Finance Lenders Handbook upon which these instructions have been based. If a situation arises where you identify a gap in the instructions, please let us know.

If you or a member of your immediate family (that is to say your spouse, civil partner or co-habitee, or a parent, sibling, child, step-parent, step-child, grandparent, grandchild, parent-in-law or child-in-law, or a spouse civil partner or co-habitee of any such person) is your client and you are a sole practitioner, you must not act for us.

Your firm must not act for us if the partner or fee earner dealing with the transaction or a member of his immediate family is your client unless we say your firm may act and a separate fee earner of no less standing or a partner within the firm acts for us.

If there is any conflict of interest you must not act for us and must return our instructions.

Unless we otherwise state you must not advise any guarantor or any non-entitled spouse who is to execute a consent to the taking of a standard security, or a renunciation of occupancy rights and you must arrange for them to take independent legal advice. If we do allow you to advise any of these people you must only do so after recommending in the absence of any other person interested in the transaction that such person obtains independent legal advice. Any advice you give any of these people must be given in the absence of any other person interested in the transaction.

Nothing in these instructions lessens your duties to your client.

In addition to these definitions, any reference to any regulation, legislation or legislative provision shall be construed as a reference to that regulation, legislation or legislative provision as amended, re-enacted or extended at the relevant time.

#### Searches and enquiries

2. In carrying out your investigation, you must make all usual and necessary searches and enquiries, taking into account the locality and other features of the particular property.
3. All requisite searches in the Personal/ Land Register, the Register of Charges, Company File, and any other relevant registers, should be carried out. In addition, local authority certificates, Property Enquiry Certificates (where you deem it necessary), Advance Notices, Legal Reports and Plans Reports as appropriate should be obtained. These reports should not be forwarded to us unless we specifically request in writing that you do so.
4. It is appreciated that for new build properties it may be unusual to obtain an up-to-date Property Enquiry Certificate for each individual property due to the new-build nature of the development. We will not therefore insist on there being obtained a Property Enquiry Certificate dated no more than three months prior to the date of settlement, provided you are satisfied that all relevant matters normally covered by a Property Enquiry Certificate have been addressed within the site title pack.
5. We accept searches and reports from private firms in the Land Register of Scotland, Register of Inhibitions and Adjudications, Register of Companies and Register of Insolvencies. We accept Property Enquiry Certificates from private firms. You must be satisfied that you will be able to certify that the title

is good and marketable. You must take reasonable steps to check that private firms carry adequate indemnity cover.

6. You must address issues arising from any contaminated land entries revealed in the course of you undertaking your investigations. You must ensure that the questions relating to contaminated land have been addressed. In particular please list any entries relating to the property in the Register maintained under s. 78R(1) of the Environmental Protection Act 1990.
  - Has the council served or resolved to serve any notice relating to the property under s. 78B(3)?
  - Has the council consulted, or resolved to consult, with the owner or occupier of the property under s. 78G(3) in relation to anything to be done on the property as a result of adjoining or adjacent land being contaminated?
  - Has any entry been made in the Register, or any notice served or resolved to be served, under s. 78B(3) in relation to any adjoining or adjacent land which has been identified as contaminated because it is in such a condition that harm or pollution of controlled waters might be caused on the property?

### Valuation of the property

7. **You must take reasonable steps to verify that there are no discrepancies between the description of the property as valued and the title and other documents including e.g. a plans report which a reasonably competent conveyancer should obtain and, if there are, you must tell us immediately.**
8. **You should take reasonable steps to verify that the assumptions stated by the valuer about the title in the valuation report are correct. If they are not, please let us know as soon as possible as it will be necessary for us to check with the valuer whether the valuation needs to be revised. We are not expecting you to assume the role of valuer. We are simply trying to ensure that the valuer has valued the property based on correct information.** Via the Administering Agent, we will require sight before conclusion of missives of either a copy of the property valuation or, if the mortgage provider does not supply a copy of the valuation report, a copy of the mortgage offer (but only provided it expressly confirms the valuation figure). We will require to be satisfied that the valuer owes a duty of care to us and that we can rely on the valuation report. This will normally be done through an over-arching arrangement between Scottish Government and RICS members pursuant to which valuers agree to extend a duty of care to Scottish Ministers in relation to all valuations prepared by them for properties which come within the Help to Buy (Scotland) Affordable New Build scheme. **If the Purchaser is aged 60 or over and is not taking out a mortgage, a valuation report suitable for mortgage purposes will still require to be instructed and exhibited to us.**

## Coal mining

9. You must obtain a Coal Authority search, which must not be more than six months old at settlement, where it is reasonable to believe that the property could be affected by underground workings. In the case of a coal mining search, you should follow the current edition of The Law Society of Scotland Guidance Notes. If the results of the search from the Coal Authority are such that the property is not affected by any of the matters mentioned in the report then we do not need to be notified of its contents. Subject to that, you should advise us if any entries are revealed. You should not simply send us a copy of the mining search.

## Planning and building regulations

10. You must by making appropriate searches and enquiries take all reasonable steps (including any further enquiries to clarify any issues which may arise) to ensure that:
  - the property has the benefit of any necessary planning and building regulation consents;
  - there is no evidence of any breach of the conditions of those consents or any other consent or certificate affecting the property; and
  - no matter is revealed which would preclude the property from being used as a residential property or indicate that the property may be the subject of enforcement action.
11. If there is such evidence and the participating house builder who is selling the house is not providing a sufficient undertaking to satisfy those outstanding conditions by settlement, then this must be reported to us. Copies of planning permissions, building warrants and other consents or certificates should not be sent to us.
12. If the property will be subject to any enforceable restrictions, for example under an agreement (such as an agreement under section 75 of the Town and Country Planning (Scotland) Act 1997) or in a planning permission which, at the time of settlement, might reasonably be expected materially to affect its value or its future marketability, you should report this to us.

## Good and marketable title

13. The title to the property must be good and marketable, and free of any burdens, restrictions, servitudes, charges or encumbrances which, at the time of settlement, might reasonably be expected to materially adversely affect the

value of the property or its future marketability (other than any matters covered by indemnity insurance and which may be accepted by us). Our requirements in respect of indemnity insurance are set out below. You must ensure that, following settlement, the title to the property will be vested in your client.

14. Where the property comprises a flat, the cost of maintenance of the foundations and roof must be borne by the owners of the building of which the flat forms part in equitable proportions in terms of the title.

#### Restrictions on use and occupation

15. You must check whether there are any material restrictions on the occupation of the property as a private residence or as specified by us (for example, because of the occupier's employment, age or income), or any material restrictions on its use. If there are any such restrictions, you must report details to us.

#### Title conditions

16. You must enquire whether the property has been built, altered or is currently used in breach of a title condition. We rely on you to take reasonable steps to check that the condition is not enforceable. If in your professional opinion you believe that there is a risk of enforceability you must ensure (subject to below) that indemnity insurance is in place at settlement.
17. We will not insist on indemnity insurance:
  - if you are satisfied that there is no risk to our security;
  - the breach has continued for more than 20 years; and
  - there is nothing to suggest that any action is being taken or is threatened in respect of the breach.

#### Inhibitions and insolvency

18. You must obtain a clear personal search against each proprietor, each person selling to your client if other than the proprietor and your client as at a date not more than three days prior to the date of completion of the advance. You must fully investigate any entries revealed by your personal search against each proprietor or person selling to your client and your client to ensure that they do not relate to them.
19. Where an entry is revealed against the name of the proprietor, the person selling to your client or your client:

- you must be satisfied that in your professional opinion the entry does not relate to the proprietor, the person selling to your client or your client if you are able to do so from your own knowledge or enquiries (for example in the Register of Insolvencies); or
  - if, after enquiry, you are unable to certify that the entry does not relate to the proprietor, the person selling to your client or your client you must report this to us even if, in the case of an inhibition, it pre-dates the person selling to your client's acquisition of the property. We may as a consequence need to withdraw our offer.
20. If you are aware that any transfer of the title to the property may be open to challenge as a gratuitous alienation or an unfair preference, then you must be satisfied that we will acquire our interest in good faith and will be protected under the relevant statutory provisions against our security being set aside. You must also obtain clear personal searches against all parties to any such transfer. If in your professional opinion you are not satisfied on any such matter you must arrange indemnity insurance for an amount sufficient to protect our interests under the security.

#### Powers of attorney

21. If any document is being executed under power of attorney, you must see an extract registered power of attorney, the original or a certified copy, and ensure that it is, on its face, properly drawn up, that it is adequate for the transaction contemplated, that it appears to be properly executed by the grantor and that the attorney knows of no reason why such power of attorney will not be subsisting at settlement. In the case of joint clients, neither client may appoint the other as attorney.

#### Payment and title documents

22. The payment ('Payment') by Scottish Ministers to you on behalf of your client will not be made until all relevant matters which need to be satisfied before settlement have been complied with and we have received and are satisfied with the Solicitor's Form 1 and your Certificate of Title (both of which are referred to below and are to be submitted by you to the Administering Agent).
- 23.1 You must check your instructions and ensure that there are no discrepancies between them and the title documents and other matters revealed by your investigations.
- 23.2 You will require to explain to your client the terms and legal effect of the shared equity documentation which our solicitors will prepare and send to you for completion and signing by your client and (in the case of the Ranking Agreement) the primary lender. The shared equity documentation comprises a Shared Equity Agreement, a Standard Security in favour of Scottish Ministers and a Ranking Agreement, and is intended to regulate and secure the financial assistance given by Scottish Ministers to your client.

- 23.3 The Shared Equity Agreement will subsist for an indeterminate period of time and so the Standard Security to be granted by your client in favour of the Scottish Ministers is potentially capable of being redeemed by your client pursuant to section 11 of the Land Tenure Reform (Scotland) Act 1974 (often referred to as the “20-year security rule”). The Scottish Government has proposed an amendment to the 20 year security rule pursuant to the Housing (Scotland) Act 2014. The amendment will aim to remove the right to redeem securities after 20 years for those participating in designated schemes including the Help to Buy (Scotland) Affordable New Build shared equity scheme. You must therefore inform your client of this by sending to them a copy of the pro-forma notice which forms Appendix 3 to these Instructions, duly addressed to your client, and provide the Administering Agent with a copy of the notice to your client when returning the duly completed Solicitor’s Form 1.
24. You should tell us as soon as possible if you have been told that your client has decided not to proceed with the purchase or to not take up the Payment for any reason. You should advise us as soon as possible after missives have been concluded for the purchase.

#### Boundaries

25. Wherever possible, these must be clearly defined by reference to a suitable plan or description. They must also accord with the information given in the valuation report. You should ensure that the plan or the description accords with your client’s understanding of the extent of the property to be secured to us. You must report to us if there are any discrepancies and, where appropriate, a Plans Report should be obtained and any discrepancies reported to us.

#### Purchase price

26. The purchase price for the property and the amount of loan being advanced by the primary lender must be the same as set out in the accompanying Authority to Proceed letter from the Administering Agent. If it is not, you must tell us. You must tell us if the missives provide for:
- a cashback payment to the buyer; or
  - part of the price being satisfied by a non-cash incentive to the buyer.
27. This may lead to the Payment not being made or amended.
28. You must report to us if you will not have control over the payment of all of the purchase money (for example if it is proposed that your client pays money to the seller direct) other than a deposit held by an estate agent or a reservation fee of not more than £500 paid to a builder or developer. If your client is using the proceeds of a Help to Buy: ISA towards the purchase price, you must be responsible for applying for the payment (and any bonus payment from the UK

Government), which means you will require to be registered for the purposes of that scheme.

#### Vacant possession

29. Unless otherwise stated in your instructions, it is an essential condition of the Payment being made that vacant possession is obtained. The missives must provide for this. If you doubt that vacant possession will be given, you must not part with the Payment and should report the position to us.

#### New properties – building standards indemnity schemes

30. Since the property is newly built and to be occupied for the first time, you must ensure that it was built under the following:
  - the National House Building Council (NHBC) Buildmark scheme;
  - the Zurich Municipal Newbuild scheme;
  - the Premier Guarantee for Private Housing and Completed Housing; or
  - any other new home warranty or insurance schemes which we have confirmed in writing as being acceptable to us.

If a new home warranty or insurance scheme is acceptable to your client's primary lender in terms of the UK Finance Handbook, then that scheme will normally be acceptable to us.

If the property will not have the backing of a new home warranty or insurance scheme but the seller has indicated that a professional consultant's certificate will be provided as an alternative, we may be willing to accept such a certificate, but only if it is acceptable to the primary lender and/or we are satisfied with the details of the proposed certificate including the period of time it will subsist for and the professional indemnity insurance of the consultant, and that Scottish Ministers as the second-ranking secured creditor will be given the benefit of the certificate and will be able to place reliance upon it.

31. You must obtain by settlement a copy of a new home warranty provider's cover note from the developer. The cover note must confirm that the warranty provider has carried out a final/pre-handover inspection and that the new home warranty will be provided. The warranty documentation should not be sent to us after settlement. You do not need to see the cover note before submitting to us the certificate referred to in paragraph 53 below, provided that you do obtain it prior to settlement.

#### Roads and sewers

32. If the roads serving the property are not adopted or maintained at public expense, but it is intended that they should be so, there must be a road bond

in existence where required by statutory regulation, or you must make an appropriate retention from the purchase price, or you must report to us.

33. The property must be served by a public sewer or by private sewerage arrangements which have the necessary approvals from the sewerage authority or you must report to us.

#### Servitudes

34. You must take all reasonable steps to check that the property has the benefit of all servitudes necessary for its full use and enjoyment. This would include, for example, rights of way (both vehicular and pedestrian), the use of services and any necessary rights of entry for repair. All such rights must be enforceable by your client and your client's successors in title. If they are not, you must report to us.
35. If your client owns adjoining land over which your client requires access to the property or in respect of which services are provided to the property, the land over which such access is to be taken or over or through which such services are to be provided must also be included in our security.

#### Rights of pre-emption and restrictions on resale

36. You must ensure that there are no rights of pre-emption, restrictions on resale, options or similar arrangements in existence at settlement which will affect our security. If there are, please report this to us.

#### Improvement and repair grants

37. Where the property is subject to an improvement or repair grant which will not be discharged or waived on settlement, you must report the matter to us.

#### Insurance

38. You must:
  - report to us if the property is not insured in accordance with our requirements as set out in the standard security;
  - ensure that the insurance cover starts from no later than the date of settlement;

#### Prior securities

41. Confirmation must be obtained from the prior security holders that they have no objection to the standard security being granted in our favour before proceeding with the constitution of our security. At the same time confirmation of the total amount to be secured by the prior security must be obtained and the prior security holders should be asked for confirmation that they are not obliged to make any further advances under the contract to which their security relates.
42. If the amount secured by the prior security differs materially from the figure quoted in our instruction letter we must be advised immediately as this may affect our decision to proceed further.
43. If it is found that there are existing securities affecting the subjects or any other incumbrances to which reference has not been made in our instruction letter, we should be advised immediately.

#### Other occupiers

44. You must ensure that there are no occupancy rights under the Matrimonial Homes (Family Protection) (Scotland) Act 1981 as amended or the Civil Partnership Act 2004 or any similar such legislation which will have priority over our security. Any deed required for this purpose must be executed prior to settlement.
45. You must ensure that no liferent has been created which could result in our not obtaining vacant possession in the event of enforcing our security against your client.

#### Indemnity insurance

46. Given that the property has been newly-built by a participating housebuilder, we would not envisage title issues arising which could be addressed by taking out title indemnity insurance. However, if you identify that the taking out of an indemnity insurance policy is a course required to ensure that the property has a good and marketable title at settlement, you must first tell us and only if we agree should you then take steps to take out suitable insurance. For the avoidance of doubt, this paragraph does not relate to mortgage indemnity insurance. Where indemnity insurance is effected you must approve the terms of the policy on our behalf:
  - the limit of indemnity must meet our requirements;
  - the policy must be effected without cost to us;
  - you must disclose to the insurer all relevant information which you have obtained;
  - you must make sure that the policy does not contain conditions which you know would make it void or prejudice our interests;

- you must provide a copy of the policy to your client and explain to your client why the policy was effected and that a further policy may be required if there is further lending against the security of the property;
- you must explain to your client that your client will need to comply with any conditions of the policy and that your client should notify us of any notice or potential claim in respect of the policy; and
- the policy should always be for our benefit and that of the primary lender and, if possible, for the benefit of your client and any subsequent proprietor or heritable creditor. If your client will not be covered by the policy, you should advise your client of this.

### **Safeguards**

- 47.1 You must ensure that you comply with all legislation, regulations and guidance from the Law Society of Scotland in connection with money laundering (“money laundering checks”) including without prejudice, the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007. For the avoidance of doubt Scottish Ministers are relying on such compliance in terms of Section 17 of the Money Laundering Regulations 2007.
- 47.2 If you are not familiar with the seller’s solicitors you must verify that they appear in a legal directory or that they are currently on record with the Law Society of Scotland or other supervisory body as practicing at the address shown on their notepaper.

### **Reporting back to us**

48. Although legal advisers have been instructed to act in respect of our interest in the preparation of the Shared Equity Agreement, Ranking Agreement and provision of the template Standard Security, we are placing full reliance upon you to act for us in a proper and professional manner in accordance with these instructions. This is in order to avoid unnecessary costs arising from duplication of work.
49. Where you are required to report matters to us in terms of these instructions you should at first instance address your correspondence to *[insert Administering Agent’s point of contact details]* or such other person as we may notify to you in writing making reference to the subject heading under which the matter to be reported upon falls and setting out clearly why it is necessary to report back to us under the instructions. You should also confirm whether you have reported the matter in similar terms to the primary lender. Whilst we may, on occasion, decide to discuss the matter with the legal advisers acting in other aspects of the transaction all correspondence on matters which you are required under these instructions to report to us should be drafted on the basis that we will not do so and that we will rely purely on your firm's advice and recommendation.

50. The main documentation which requires to be completed by you and submitted to us, via the Administering Agent, comprises the Solicitor's Form 1 and your certificate of title, both of which are discussed in detail below. You should also note, however, to notify the Administering Agent as soon as practicable upon missives being concluded for the purchase of the Property. You should notify the Administering Agent of the date of conclusion of missives and the anticipated date of entry. Please notify the Administering Agent if you become aware of a delay in the anticipated date of entry.

## The documentation

### Solicitor's Form 1

51. You must accurately complete and return to us the Solicitor's Form 1 in the form set out in Appendix 1 to these Standing Instructions as soon as you are in a position to do so after missives have been concluded, and (if applicable) once you have received instructions to act for the primary lender in the granting of a first ranking standard security over the Property. You should note that the Solicitor's Form 1 must be completed and returned before submitting the Certificate referred to in paragraph 53 below.
52. You should accurately complete the title description in the Standard Security and Ranking Agreement (if applicable) forwarded to you by our solicitors and ensure that the Standard Security, Ranking Agreement and Shared Equity Agreement are properly executed by your client and (in the case of the Ranking Agreement) by the primary lender prior to settlement and that the names and designations of your client are identical to what is shown in the money laundering checks. You should be alert to the possibility that the property may initially be described by reference to a plot number, and then during the transaction a postal address is allocated to it. It is your responsibility to ensure that the property is properly described and that there is no confusion as to which property/title is the subject of the shared equity documentation including the Standard Security. If the Ranking Agreement is unlikely to be signed by the primary lender as well as by your client before settlement, our solicitors will normally be willing to recommend to us that we release the Payment so that the purchase of the Property can be completed, provided that you give our solicitors a written undertaking in acceptable terms in relation to the Ranking Agreement being fully signed and registered within an agreed period of time, but if this situation is likely to occur you should liaise with our solicitors as soon as possible to discuss the matter.

### Payment and certificate

53. **When you are ready to settle, you should forward to us a certificate ('Certificate') in the form set out in Appendix 2 to these Standing Instructions. Upon our being satisfied with the terms of the Certificate we will arrange for the Payment to be released directly to you by BACS transfer. You should be aware that this may still take 3 days to be**

**identified in your records and you should take that into account when planning for Completion.**

Please note that if any disclosures are to be made these must be of matters which have been promptly notified to and accepted on our behalf in terms of the instructions. You should also confirm that they have been notified to and fully accepted by the primary lender.

54. You are only authorised to release the Payment when you hold sufficient funds to complete the purchase of the property and pay all tax on the transaction (including land and buildings transaction tax) and registration fees to perfect the security forthwith (including the registration of the Ranking Agreement) as well as make payment to our solicitors in respect of the cost of registration of the Shared Equity Agreement in the Books of Council and Session and the obtaining of one extract or, if you do not have them, you accept responsibility to pay them yourself. You must hold the Payment on trust for us until settlement. If settlement is delayed, you must return it to us when and how we tell you.
55. You should note that although the Certificate will be addressed to us, we may at some time transfer our interest in the security. In those circumstances, our successors in title to the security and persons deriving title under or through the security will also rely on your Certificate.
56. If, after you have requested the Payment, settlement is delayed you must telephone, fax or e-mail us immediately after you are aware of the delay and you must inform us of the new date for settlement.
57. You can hold the Payment for **five working days** before returning it to us. If settlement is delayed for longer than that period, you **must** return the Payment to us. By applying the Payment towards settlement you shall be deemed to have confirmed that the terms of the Certificate continue to apply as at settlement.
58. If the Payment is not returned within the period of five working days, we will assume that settlement has been completed. You must advise the Administering Agent and Scottish Ministers' solicitors of the fact that the transaction has settled within five working days of settlement having been effected.

After settlement

59. You must forthwith after settlement register our standard security and the Ranking Agreement in the Land Register within the period covered by an appropriate Advance Notice. You should check that all deeds have been correctly executed or signed by all relevant parties before submitting them for registration. Before making your application for registration, you must place on your file certified copies of the Land Certificate (if any) or copy title sheet, the disposition or other conveyance in favour of your client, our standard security and any discharge from a previous heritable creditor. Following registration,

you must check the copy title sheet for accuracy, and ensure there is no exclusion of indemnity or warranty or other adverse entry.

60. Copies of all title deeds, searches, enquiries, consents, requisitions and documents relating to the property must be held to our order and you must not create or exercise any lien over them.
61. You must only send us documents we tell you to.

#### Your transaction file

62. For evidential purposes you must keep your file in respect of this transaction for at least six years from the date of the Payment before destroying it. Microfiching or data imaging is suitable compliance with this requirement. It is the practice of some fraudsters to demand the conveyancing file on completion in order to destroy evidence that may later be used against them. It is important to retain these documents to protect our interests.
63. Where you are processing personal data (as defined in the Data Protection Act 1998) on our behalf you must do so in accordance with the data processing agreement you have entered into with the Scottish Ministers. Where you are processing personal data (as defined in the Data Protection Act 1998) on our behalf you must: take such security measures as are required to enable you to comply with obligations equivalent to those imposed on us by the seventh data protection principle in the 1998 Act; and process such personal data only in accordance with our instructions. In addition, you must allow us to conduct such reasonable audit of your information security measures as we require to ensure your compliance with your obligations in this paragraph. You will duly observe your obligations under the Data Protection Act 2018 and the General Data Protection Regulation (EU) 2016/679, which arise in connection with this transaction and will provide us with any personal data relating to this transaction as we may reasonably require. You undertake to us that you will ensure that at all times each relevant individual has been provided with sufficient information (in an appropriate form) so as to enable fair, transparent and lawful processing of the personal data shared with us in accordance with the Data Protection Act 2018 and the General Data Protection Regulation (EU) 2016/679.
64. Subject to any right of lien or any overriding duty of confidentiality, you should treat documents comprising your file as if they are owned by us and you should not part with them without our consent. You should on request supply certified copies of documents on the file or a certified copy of the microfiche to us.

#### Payment of fees

65. You must not allow non-payment of fees or outlays to delay the completion and submission of a land and buildings transaction return (with payment of tax if applicable) and registration of all documents including the Ranking

Agreement. We will be responsible for registration of the Shared Equity Agreement in the Books of Council and Session but you must place the solicitors acting on our behalf in funds at settlement in order to enable registration to take place and one extract to be obtained. The extract will be forwarded to you after registration for retention by your client.

#### Transmission of funds

66. Where appropriate we will provide you, at the outset of a transaction, with details of a contact name with whom you should liaise in order to obtain funds in time for settlement of the transaction.
67. Please note that the Payment we send you must only be used for the purchase of the property. Therefore you should not release the Payment unless you are sure that it will be used solely for that purpose.
68. Furthermore the Standard Security should be registered in the Land Register as soon as possible after settlement.

#### Sales log form

69. The Administering Agent will have asked your client to complete an online sales log form in relation to the transaction, which **must** be completed by your client online prior to settlement. Please remind your client of the importance of completing the sales log form online for the Administering Agent.

#### Disclosure of incentives

70. You will provide us with a copy of the duly signed Disclosure of Incentives form required by the primary lender and any changes to it and confirm that a copy of the said form (and any such changes) has been provided to the valuer.

## APPENDIX 1

### SOLICITOR'S FORM 1

To: [Details of Administering Agent]

From: Solicitor's reference: [●]  
[Insert details of solicitor]

SCHEME: Help to Buy (Scotland) Affordable New Build Scheme

Dear Sirs

**PURCHASER: [INSERT DETAILS]**

**BUILDER: Builder and Development Name [INSERT DETAILS]**

**PROPERTY: Property being purchased [INSERT DETAILS]**

We confirm that we have been instructed to act on behalf of the Purchaser named above in connection with the purchase of the Property. We also confirm that we have been instructed to act on behalf of the Purchaser's lender (*delete, if not applicable*).

We confirm that we are in receipt of your Authority to Proceed dated [●] and your Standing Instructions to Solicitors and the accompanying documentation.

We confirm that:-

- 1 we will comply with the instructions that have been supplied to us;
- 2 we will ensure that the financial terms of the proposed purchase accord with those set out in the Authority to Proceed;
- 3 we have read the instructions and that we are not aware of any Incentives being provided to the Buyer which we are required to notify to you [save for .....and/as set out in the attached copy of the Builder's UK Finance Disclosure of Incentives Form]\*;
- 4 we have obtained a completed copy of the UK Finance Disclosure of Incentives form from the solicitor acting on behalf of the Builder and it complies with our instructions;
- 5 [where the Authority to Proceed makes reference to the Purchaser providing some of [his][her] own investment to the purchase, the Purchaser has confirmed that that investment will be available upon completion];

6 **EITHER**

[the Purchaser has received a mortgage offer from a Qualifying Lender. We further confirm that the identity of the Qualifying Lender and the amount of the primary loan are as set out below:-

Qualifying Lender: [●]

Primary loan (net of fees): [£[●]];

Mortgage fees: [£[●]];

Scottish Ministers' Contribution [£ [ ]

and that the balance of £[●] is to be provided by the Buyer (which includes any deposit from the Buyer and any relevant permitted Incentive from the Builder);]

**OR**

[the Purchaser, being aged 60 or over, is not taking out a mortgage to assist with the purchase of the Property. The purchase price for the Property will be made up as follows:-

Purchaser's contribution [£[ ]];

Scottish Ministers' Contribution [£[ ]].

[All or part of the Purchaser's contribution is made up of the free proceeds from the sale of an existing property at [Insert address of existing property]. Where we were instructed in the sale of that property or are instructed in its sale, we confirm that the free proceeds (after repayment of any existing secured loan) were, or are expected to be [£[ ]]. Where we were not, or are not, instructed by the Purchaser in the sale of that property, the Purchaser has confirmed to us for the purposes of this Form 1 that the free proceeds (after repayment of any existing secured loan) were, or are expected to be [£[ ]].]

- 7 the Full Purchase Price of the Property is [£[●]];
- 8 the calculation of the full purchase price minus Scottish Ministers' contribution (and therefore the Contribution and the Contribution Percentage) does not include the mortgage fees referred to in paragraph 6;
- 9 missives for the purchase of the Property were concluded on [specify date];
- 10 the anticipated completion date is [ specify date].
- 11 we have received written confirmation from the Purchaser (and from each Purchaser where there is more than one person) [that they have no interest in any other dwelling] OR [that the Purchaser has an interest in a dwelling but that it intends to sell or complete the sale of any dwelling(s) that they have an interest in, on or before the date of completion. The Purchaser has confirmed that it anticipates that conclusion of the sale of such dwelling shall take place on or before the anticipated completion date specified in

paragraph 10]\*\*. We further confirm that we have received no notice or indication that contradicts such written confirmation(s) from the Purchaser;

- 12 the Purchaser has received copies of the Help to Buy (Scotland) Affordable New Build Buyer's Guide, and the Authority to Proceed and we have advised [him][her][them] of their contents, and also on the main terms of, and legal effect of, the shared equity documentation in accordance with the Standing Instructions to Solicitors.
- 13 [Subject to final inspection\*] the Full Purchase Price for the Property shall not exceed the market value of the Property as stated in the valuation report or any refresh of the report (or the final mortgage offer) for the Qualifying Lender (a copy of which is attached or will be exhibited prior to settlement ).

Yours faithfully

[Date and insert details of solicitor signing report]

\*Amend as appropriate

\*\* Delete as appropriate

The Solicitor's Form 1 paragraphs 1 – 13 must be returned unamended (save for the words in square brackets at the start of paragraph 13 as indicated) to the Administering Agent. Amended forms will not be accepted by the Administering Agent.

## APPENDIX 2

### FORM OF CERTIFICATE OF TITLE

**To The Scottish Ministers  
c/o [insert name and address of Administering Agent]**

Dear Sirs

Name of Purchaser: [ ] (the "Purchaser")

Address of Property: [ ] (the "Property")

Date of settlement: [ ]

Scottish Ministers' Contribution: £ ( ) (the "Payment")

We refer to the instruction letter by [insert name of Administering Agent] dated [insert date] on your behalf together with your Standing Instructions to Solicitors, (both together referred to as the "Instructions"). We confirm that we have fully complied with its terms.

Without prejudice to your rights in respect of the foregoing we also confirm that the title to the Property may be safely accepted by you as security and is good and marketable.

We hereby request the Payment in time for settlement and confirm that we will (a) deal with the same and (b) attend to settlement and all post settlement matters including without prejudice registration and preservation of all documents, titles, records and others in accordance with the Instructions.

Yours faithfully

[Date and insert details of solicitor signing report]

## **APPENDIX 3**

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

To be addressed to the Purchaser

Dear [Insert name(s) of Purchaser]

#### **Help to Buy (Scotland) Affordable New Build Scheme Purchase of [Insert address of the Property] Section 11 of the Land Tenure Reform (Scotland) Act 1974**

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

The Scottish Government has introduced an amendment to the 20 year security rule pursuant to the Housing (Scotland) Act 2014. The amendment will provide Scottish Ministers with a power to remove the right to redeem securities after 20 years for those participating in designated schemes including the Help to Buy (Scotland) Affordable New Build shared equity scheme. Secondary legislation will be introduced in 2018. Accordingly, the purpose of this letter is to make the Purchaser aware of this and to make clear that the Purchaser should not enter into the shared equity documentation on the assumption that, after 20 years, the Purchaser will be able to rely on section 11 of the 1974 Act as that section currently applies.

## ANNEX D – Sales Log Form

### Help to Buy (Scotland) Affordable New Build Scheme – Sales Log Form

#### What is the sales log form?

The sales log form is used by the Scottish Government to collect information about sales through the Help to Buy (Scotland) Affordable New Build Scheme. It is in two parts and both parts should be completed online. No paper copies should be completed.

**PART A** Records details of the house purchased and is completed by (name of Administering Agent to be input). A person authorised by the Administering Agent acting in connection with the purchase should sign the form to confirm the accuracy of all of the information contained in Part A.

**PART B** Records information about the household which has purchased the house and is completed by one of the named purchasers. The purchaser's solicitor must ensure that this part of the form is completed and returned to (name of Administering Agent to be input) on or before settlement.

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

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

#### What happens to the answers?

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

#### For purchasers:

You can access a copy of the Scottish Government's Shared Equity Scheme Privacy notice at <https://beta.gov.scot/publications/shared-equity-schemes-privacy-notice/>

This privacy notice illustrates how your personal information will be used by the Scottish Government in relation to the operation of its shared equity schemes and explains your rights under the General Data Protection Regulation (EU) 2016/679 and how to exercise these rights.

**Thank you for your co-operation**



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

**B1** How many people live permanently in your household? \_\_\_\_\_

**B2** What are their ages, sex and the applicable occupation category (listed 1-8)?

The 8 categories are:

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

Person number	Age	Sex	Occupation category (1-8)
Example	30	M	1
First named purchaser			
Person 2			
Person 3			
Person 4			
Person 5			
Person 6			
Person 7			
Person 8			

**Information about your new home**

**B3** Please tick which one of these applies to your new home

- |          |                          |          |                          |               |                          |
|----------|--------------------------|----------|--------------------------|---------------|--------------------------|
| a flat   | <input type="checkbox"/> | terraced | <input type="checkbox"/> | semi detached | <input type="checkbox"/> |
| detached | <input type="checkbox"/> | other    | <input type="checkbox"/> |               |                          |

**B4** Please say how many rooms there are in the property

\_\_\_\_\_

**B5** Please say how many bedrooms there are in the property

\_\_\_\_\_

**B6** How long do you think you are likely to stay in your shared equity home?

Years \_\_\_\_\_

**B7** Do you think you are likely to want to increase your equity stake in the future?

Yes  No

**Other Information**

**B8** How many buyers are there? \_\_\_\_\_

**B9** Were you an existing home owner before buying a new home under the scheme?

**First named purchaser** Yes  No

**Second named purchaser** Yes  No

**B10** What kind of accommodation were you living in before buying your new house/flat?

**First named purchaser**

A house or flat you were renting (If you rented, go to question B11. If not, go to B12.)

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

Living with parents/relatives

Living with friends (where you were not renting)

Other (please specify)

**Second named purchaser**

A house or flat you were renting (If you rented, go to question B11. If not, go to B12.)

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

Living with parents/relatives

Living with friends (where you were not renting)

Other (please specify)

**B11** If you lived in rented accommodation, who was your landlord?

**First named purchaser**

The Council  Private landlord

Housing Association/  
Co-operative  Your employer (excluding  
the Ministry of Defence)

No comment  Your employer (the  
Ministry of Defence)

**Second named purchaser**

The Council  Private landlord

Housing Association/  
Co-operative  Your employer (excluding  
the Ministry of Defence)

No comment  Your employer (the  
Ministry of Defence)

**B12** Were you on a waiting list when you bought this house?

**First named purchaser**

Council  Housing Association/  
Co-operative

Common housing list  Not on a waiting list   
Refused to comment  Don't know

**Second named purchaser**

Council  Housing Association/  
Co-operative   
Common housing list  Not on a waiting list   
Refused to comment  Don't know

**B13** Would you have been able to buy a property you wanted anyway without this assistance?

Agree  Disagree

**B14** Do you think you would have been able to buy this same property without the assistance of Help to Buy?

Yes  No

**B15** Do you think you would have been able to buy a similar property that was not new build and being sold by its owner? By similar we mean in terms of type, size and location?

Yes  No

**Please return this form to** (name and address of Administering Agent to be inserted)

**Thank you for taking the time to fill out this form.**

## ANNEX E - Worked Examples

### Case Study 1

Sally and Jack currently rent a one bedroom flat in Glasgow from a private Landlord. They have been married for a year and are expecting their first child.

Both work full time – Sally earns a salary of £21,500 and Jack earns £20,000 a year. They have met with their financial advisor who has advised them that the maximum mortgage they will be able to obtain is £144,000 and that they will be expected to pay their lender a 5% deposit.

Jack has seen an advertisement from a developer participating in the Help to Buy (Scotland) Affordable New Build Scheme who has a development of new build homes in an area that he and Sally would like to live. Jack and Sally make enquires about purchasing a three bedroomed semi-detached new build home which is currently being marketed for sale at £170,000.

Jack and Sally have submitted an application form to an agent administering the scheme. Their application has been assessed and it is eligible to proceed. Jack and Sally can afford to buy a 90% share of the property for £144,500. This includes a 5% deposit to their lender of £8,500.

Value of Property	£170,000	
Deposit of 5% of mortgage	£8,500	(5%)
Owners' equity stake	£144,500	(85% stake)
Scottish Ministers' Equity Stake	£17,000	(10% stake)

Guidelines advise that your monthly costs (mortgage, service charges and fees) are no more than 45% of your net disposable income; in this case Jack and Sally's mortgage will be around 28% of their monthly income.

### Case study 2

Mary and John are married with three children. They currently own a three bedroom home but they are looking to buy a larger property with four bedrooms.

**Mary and John must sell their own home before they can buy a home under the scheme.**

John and Mary have submitted pay slips with their application form indicating that John's annual salary is £22,500 and Mary earns £21,000.

John has seen a local advertisement from a developer participating in the Help to Buy (Scotland) Affordable New Build Scheme who is marketing 3 bedroom detached homes for sale for £165,000. John and Mary can contribute a £17,500 deposit.

Using the rule of thumb of 3.5 times John and Mary's salary, the maximum level of borrowing that they should be able to achieve is £152,250. This combined with their deposit of £17,500 amounts to around 103% of the purchase price of the property.

In the application form, John and Mary have no outstanding monthly debts other than their mortgage and utility bills.

The couple are likely to be unsuccessful as they can afford to buy the property without assistance from the scheme.

John and Mary's IFA has provided written evidence confirming that the maximum amount that their lender is willing to offer is £130,000 due to them having 3 dependents and monthly childcare commitments.

The couple are successful as the amount of £130,000 combined with their deposit of £17,500 totals £147,500 and equals 89.40% of the purchase price of the property. They are therefore entitled to a contribution of £17,500 (10.60%) from the Scottish Government.

### **Case study 3**

Robert and Michelle are looking to buy their first property. They have heard a radio advertisement from a developer for three bedroom properties being built in an area that they want to live in. The homes are available under the Help to Buy (Scotland): Affordable New Build Scheme.

The house they would like to buy is priced at £200,000. They have saved a deposit of £20,000 and they have provided payslips with their application that shows that Robert's wage is £35,000 and Michelle's is £38,000. Using the rule of thumb, Robert and Michelle should be able to obtain a mortgage of around £255,500.

In the application form, Robert and Michelle have no outstanding monthly debts other than their mortgage and utility bills.

Robert and Michelle's application has been assessed and they are not eligible to receive assistance from the scheme as they can afford to buy the home without assistance from the scheme.

Robert's IFA is asked to provide additional information to the administering agent including a Decision in Principle form. The Decision in Principle shows that the maximum level of borrowing from their lender is £240,000.

This additional information has been provided and therefore Robert and Michelle's application to the scheme is not eligible. As they can contribute £240,000 as a mortgage and £20,000 deposit they can afford the property without assistance from the scheme.



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