

Annex 3 – Bournemouth, Christchurch and Poole Council (5069) - AHP 21 - 26 Deed of Variation (LA)

The main changes concern Clause 14 (***Grant Claim Procedures***) and Clause 16 (***Adjustments to Remaining Tranches***) which was previously named ***Adjustments to Final Tranche***.

New definitions have been added, in particular:

Additional Tranche Grant means each sum approved by Homes England in IMS pursuant to Clause 14.5 (Grant Claim Procedures) in relation to a Firm Scheme

Alternative Interest means such interest in land permitted by Homes England (in its absolute discretion) in writing in respect of a Firm Scheme (other than a Single Claim Scheme) pursuant to Clause 14.7 (Grant Claim Procedures)

GB Scheme means a Firm Scheme:

- (a) in respect of which the Grant Recipient holds a **Golden Brick SLI**;
- (b) in respect of which the Grant Recipient has not made any claim for Acquisition Tranche Grant; and
- (c) that is not a Flex Scheme or a Single Tranche Scheme

Golden Brick SLI means the Grant Recipient has in respect of the relevant Site entered into a binding contract with the owner of the legal and beneficial interest in the Site to acquire a Completed Interest in the relevant AHP Dwellings to be constructed on that Site such that:

- (a) the binding contract prescribes that legal completion of the transfer or lease of the Completed Interest to the Grant Recipient shall take place:
 - (i) no earlier than the point at which the relevant AHP Dwellings constitute partly constructed buildings as defined in paragraph 4.7.4 of HM Revenue & Customs VAT Notice 708; but
 - (ii) prior to the relevant AHP Dwellings achieving Practical Completion;
- (b) the owner of the legal and beneficial interest in the Site is responsible pursuant to such binding contract for undertaking or procuring the construction of the relevant AHP

Dwellings up to the point at which the Completed Interest is to be transferred or leased to the Grant Recipient; and

(c) the Grant Recipient has or will have by the point at which the Completed Interest is to be transferred or leased to the Grant Recipient contractual arrangements in place (whether as part of such binding contract or pursuant to a separate Building Contract) to undertake or procure the continued construction of the relevant AHP Dwellings to Practical Completion following its acquisition of the Completed Interest; and

(d) unless otherwise agreed with Homes England (in Homes England's absolute discretion), the Grant Recipient's acquisition of the Completed Interest pursuant to such binding contract is otherwise conditional only upon matters that are in form and substance within reasonable control of either the owner of the legal and beneficial interest in the Site and/or the Grant Recipient

Remaining Tranche means any remaining Tranche due to be paid to the Grant Recipient in respect of the relevant Firm Scheme

RTB Disposal means a disposal to a tenant of an AHP Dwelling pursuant to the tenant exercising their Right to Buy

The definition of “**Scheme Default**” has been expanded to include the following events (which include those new definitions referred to above):

(j) the Grant Recipient does not hold a **Golden Brick SLI** for a **GB Scheme**;

(k) the Grant Recipient does not hold the requisite **Alternative Interest** previously approved by Homes England in respect of a Firm Scheme; or

(l) any conditions attached to an **Alternative Interest** are not satisfied within the relevant timeframe required by Homes England (in its absolute discretion)

In addition, there have been amendments to various clauses, in particular the following, including Clauses 14 and 16 as mentioned above, which instructing officers would be advised to read in the attached Comparison Report:

- Clause 5.4 (*Firm Schemes*)
- **Clause 14 (*Grant Claim Procedures*)**

- **Clause 16 (*Adjustments to Remaining Tranches*) – previously named *Adjustments to Final Tranche***
- Clause 17.1.4 (*Withholding of Grant*)
- Clause 18.2.12 and 18.3.9 (*Repayment of Grant*)

Finally, Schedule 9 (*Agreed Principles*) is a useful section as it summarises the key principles of the funding agreement. Instructing officers would be advised to take note of the amendment to Principle numbered 9 with the highlighted yellow text below and the new Principles numbered 13 and 14:

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| 9 | The Grant Recipient must hold Registered Provider status at the point at which any AHP Rent Dwelling, Rent to Buy Dwelling or Nil Grant Unit provided pursuant to this Agreement is made available for rent and must be the immediate landlord of the individual occupational tenants in such AHP Rent Dwelling, Rent to Buy Dwelling or Nil Grant Unit at that point and throughout the period of the Grant Recipient's ownership of such AHP Dwelling. |
| 13 | The aggregate of the Acquisition Tranche Grant, Start on Site Tranche Grant, the Practical Completion Tranche Grant and each or any Additional Tranche Grant in respect of each Firm Scheme cannot exceed one hundred per centum (100%) of the Firm Scheme Grant. |
| 14 | The Grant Recipient acknowledges that it: |
| 14.1 | must hold a Completed Interest: |
| 14.1.1 | on submission of a claim made in respect of a Flex Scheme pursuant to Clause 14 (Grant Claim Procedures); or |
| 14.1.2 | on submission of a claim made for Final Tranche in respect of any Firm Scheme pursuant to Clause 14 (Grant Claim Procedures); and |
| 14.2 | must hold a Golden Brick SLI or Completed Interest (as applicable) in respect of a GB Scheme. |