



Community Housing Assistance

Agreement - Capital Funding

INSERT PROGRAM NAME

FY INSERT BUDGET CYCLE

XXXXXX Project

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The Secretary of the  
Department of Communities and Justice

(Housing Agency)

And

INSERT PROVIDER NAME  
(Provider)

ABN XX XXX XXX

# Table of Contents

- 1. Background.....3
- 2. Principles .....3
- 3. Objectives .....4
- 4. Provision of Assistance .....4
- 5. Amendment and Termination .....7
- 6. Repayment of Funding .....9
- 7. Reporting .....10
- 8. Housing Agency's Interest.....10
- 9. Subdivision or Sale.....11
- 10. Use of Funded Properties.....12
- 11. Dealing with Funded Properties.....12
- 12. Representations and Warranties .....13
- 13. Provider's Undertakings .....13
- 14. Common Terms .....14
- 15. Goods and Services Tax .....14
- 16. Defined Terms.....15
- 17. Interpretation .....18
- 18. Approved Purpose and Funding .....19
- 19. Project Proposal .....19
- 20. Signing Page.....20
- 21. Appendix 1 – **INSERT NAME OF Project** .....21

# Agreed Terms

## 1. Background

The INSERT PROGRAM NAME (INSERT PROGRAM ABBR) has the following definitions:

- (a) **(Program)** the Housing Agency has committed \$DOLLARS (excluding GST) on XX July 2022 to contribute to the DELIVERY METHOD of XXXXXX Project (the Project)
- (b) **(Purpose)** The Housing Agency is entering into this Community Housing Assistance Agreement with the Provider for the purposes of documenting the conditions precedent to the Provider being entitled to Assistance and the terms on which such Assistance may be used.
- (c) **(Housing Agency)** The Secretary of the Department of Communities and Justice is a Housing Agency within the meaning of the Act and the National Law and is entitled to give Assistance to Registered Community Housing Providers.
- (d) **(Registered Provider)** The Provider is a Registered Community Housing Provider within the meaning of the Act and the National Law.
- (e) **(Assistance)** The Housing Agency has agreed to provide Assistance in the form of Funding to the Provider, subject to the Provider meeting and continuing to meet its obligations under the Housing Act, the Act, the National Law and this Community Housing Assistance Agreement.
- (f) **(Provider Contribution)** The provider will partially fund the Project, to the amount specified in clause 18.

## 2. Principles

The following principles apply to the implementation of the INSERT PROGRAM NAME

- (a) The INSERT PROGRAM NAME fund grant must be used for the INSERT HOUSING TYPE proportion of a project. CHP funds can be used for additional social and/or affordable housing.
- (b) CHPs are required to contribute financial resources and may also commit non-financial resources (e.g., the value of GST savings) to the project.
- (c) The CHP will own the property and be responsible for all expenses. The Government's contribution to the property will be registered on title by way of a Statutory Interest.
- (d) Partnerships are encouraged between CHPs and others (i.e., developers, councils, support services, etc.) especially where they improve tenancy management, boost property viability and amenity, and strengthen tenants' social outcomes. CHPs are expected to ensure that the partnerships have a sound commercial and service delivery basis.
- (e) CHPs will submit an Implementation Plan forecasting redevelopment and / or acquisition timeframes.

### 3. Objectives

- (a) The Department of Communities and Justice, through the Community Housing Branch, is working to grow and promote the Community Housing sector in New South Wales and will do so by providing Assistance to Registered Community Housing Providers.
- (b) The objectives of the Housing Agency in providing Assistance to the Provider are:
  - (i) To support the growth of not-for-profit community housing providers capable of increasing the supply of affordable rental accommodation for people in need in NSW.
  - (ii) To enable community housing providers to strategically manage assets to better meet future housing demand and the changing needs of residents.
  - (iii) To provide a secure asset base for community housing providers to leverage additional finance for investment in Social Housing.
- (c) The Housing Agency will provide Assistance in the form of Funding to the Provider in accordance with and subject to the terms of this Community Housing Assistance Agreement, the Act and the National Law.
- (d) The Provider will use Funding provided under this Agreement to partially or wholly assist the Provider undertake one or more of the following:
  - (i) purchase Land or Property;
  - (ii) construct housing on Land or Property;
  - (iii) make improvements to existing housing on Land or Property; or
  - (iv) undertake other purposes as agreed between the Provider and the Housing Agency in writing,

(each purpose being an **Approved Purpose** and each land or property so purchased, improved, or constructed on being a **Funded Property**).

### 4. Provision of Assistance

#### 4.1 Funding

- (a) The Housing Agency agrees to provide or has already provided the Funding, identified in clause 18, to the Provider.

#### 4.2 Use of Funding

- (a) The Provider must use the Funding provided under this Agreement and all interest earned from the funding for the Approved Purpose as specified in clauses 18 and 19 and agrees to carry out the works and actions as detailed in the project proposal in clause 19 (**Project Proposal**).
- (b) The Provider agrees to complete each Approved Purpose by the Funding Expiration Date.
- (c) At any time prior to the Funding Expiration Date, the Housing Agency and the Provider may agree in writing to extend the Funding Expiration Date.

- (d) The Provider agrees to use funding in the following order for the Approved Purpose:
  - (i) Provider Equity;
  - (ii) Housing Agency Funding; and
  - (iii) Provider Finance.

#### 4.3 Conditions Precedent to a Drawdown of Funding

The Drawdown of Funding is conditional on:

- (a) the Provider submitting to the Housing Agency a Request for the Drawdown of Funding in form and substance satisfactory to the Housing Agency;
- (b) the Provider submitting to the Housing Agency details of the Provider Equity and Provider Finance, as specified by the Housing Agency;
- (c) the Provider meeting each and every obligation imposed on the Provider under the Act, the National Law and this Community Housing Assistance Agreement to the satisfaction of the Housing Agency;
- (d) the representations and warranties set out in clause 4 of the Common Terms and clause 12 of this Agreement being correct and not misleading on the Funding Date;
- (e) no Default subsisting on the Funding Date;
- (f) if the Provider is seeking to Drawdown Funding **to wholly or partly fund the acquisition of Land or Property**, the Provider submitting to the Housing Agency:
  - (i) a valuation of the Land or Property, or a valuation of estimated value if property is not yet complete, carried out by an Authorised Valuer; and
  - (ii) details of the purchase price of the Land or Property (including any adjustments of the purchase price required on completion of the Land or Property) and any stamp duty payable (if applicable); and
  - (iii) a copy of the contract for sale; and
  - (iv) a copy of any development consent.
- (g) if the Provider is seeking to Drawdown Funding to wholly or partly fund the design and **construction of housing on Land or Property**, the Provider submitting to the Housing Agency:
  - (i) a valuation of the estimated value of the Land or Property on completion of construction carried out by an Authorised Valuer; and
  - (ii) confirmation that the builder proposed to carry out construction of the Community Housing holds the relevant licences required to carry out such work and that the builder will comply with the Building Code of Australia and other statutory requirements; and
  - (iii) a copy of any development consent; and
  - (iv) a certificate from a quantity surveyor or some other person approved by the Housing Agency certifying that the previous stages of the design and construction have been completed satisfactorily, stating that the amount

specified in the Request for the Drawdown of Funding corresponds to the cost of works undertaken since either the date of commencement of the design and construction or the date of the last certificate.

- (h) if not already done so, the Provider submitting to the Housing Agency evidence of:
  - (i) the insurances required under clause 12 of the Common Terms;
  - (ii) building replacement and re-instatement insurance (if applicable); and
  - (iii) contractors all risk insurance (if applicable),and noting the interests of both the Provider and the Housing Agency on each policy (other than any third party policy); and
- (i) if not already done so, the Provider submitting to the Housing Agency the most current version of the documentation specified in clause 6.2 of the Common Terms.
- (j) The Provider must not enter into any financial arrangements or commitments which are incompatible or inconsistent with the Approved Purpose.

#### **4.4 Approval or rejection of the Request for the Drawdown of Funding**

- (a) The Housing Agency may approve or refuse a Request for the Drawdown of Funding in the absolute discretion of the Housing Agency. The Housing Agency may waive the provisions of clauses 4.3(g) or 4.3(f) at its entire discretion.
- (b) If the Housing Agency approves a Request for the Drawdown of Funding, the Housing Agency may impose conditions on the payment of Funding.
- (c) If the Housing Agency refuses a Request for the Drawdown of Funding, the Housing Agency may provide its reasons for refusing the Request for the Drawdown of Funding, but is not obliged to do so.
- (d) If the Housing Agency considers or suspects that a Request for the Drawdown of Funding is for an amount that is not properly due, the Housing Agency may postpone payment of the amount requested in the Request for the Drawdown of Funding or alternatively only pay the amount the Housing Agency considers properly due, until the Housing Agency has obtained its own report from a quantity surveyor appointed by the Housing Agency.

#### **4.5 Payment of Funding**

- (a) If the Housing Agency approves the Request for the Drawdown of Funding, the Housing Agency will pay to the Provider the amount of Funding set out in the Request for the Drawdown of Funding as either a lump sum or in instalments on or before the relevant Funding Date set out in clause 18.
- (b) The Provider must establish and maintain separate accounts in its accounting systems for the Funding received (including interest received), by the Provider under this Community Housing Assistance Agreement and to process and record all Funding receipts and expenditures in those separate accounts, in order to enable identification of Funding receipts and expenditure for that Funding.
- (c) If it has not already done so, the Provider must provide written notice to the Housing Agency of the details of the bank account used to invest all Funding

received by the Provider under this Community Housing Assistance Agreement and process and record all Funding receipts and expenditure at or before the time the Provider provides the Housing Agency with an initial Request for Funding.

- (d) Notwithstanding any other provision of this clause 4 the Housing Agency may elect to pay a single lump sum to the Provider and upon receipt of such notification the Provider must provide the Tax Invoice for the relevant amount to the Housing Agency. In addition the Provider must provide to the Housing Agency any of the information or documentation referred to in clause 4.3 upon demand and must return any unspent funds on demand to the Housing Agency whose determination as to any surplus is at its absolute discretion.

## 5. Amendment and Termination

### 5.1 Voluntary Amendment or Termination

- (a) The Provider agrees that this Agreement will not be assigned.
- (b) This Agreement may be amended from time to time by an instrument in writing executed by both parties.
- (c) This Agreement may be terminated at any time if both parties so agree, in writing, subject to negotiation as to the return of any Funding.

### 5.2 Amendment or Termination by Government Agency

- (a) The Housing Agency may terminate or amend this Agreement if for any reason the Housing Agency or any Government Agency terminates, amends, or makes a decision or determination regarding any law, policy, guideline, or funding which affects the operation of this Agreement.

### 5.3 Termination by Provider's Default

In addition to the Defaults specified in the Common Terms Agreement, the Housing Agency may terminate this Agreement if any one or more of the following Defaults occurs:

- (a) (improper use of Assistance) the Provider:
  - (i) fails to use funds advanced or paid to it by or on behalf of the Housing Agency as contemplated by a Community Housing Assistance Agreement;
  - (ii) fails to use any Funded Property for the purposes contemplated by the Community Housing Agreement under which the property is funded; or
  - (iii) takes steps to sell, encumber or otherwise dispose of a Funded Property without the prior written consent of the Housing Agency other than by an Exempt Transaction.
- (b) (**project not completed**) the Provider does not complete the work for which the Housing Agency makes Funding available as specified in clause 18; or
- (c) (**project discontinued**) the Provider discontinues the work for which the Housing Agency makes Funding available as specified in clause 18; or
- (d) (**breach of undertaking**) the Provider breaches any undertaking given at any time to the Housing Agency or fails to comply with any condition imposed by the

Housing Agency in agreeing to any matter (including any waiver) and that breach or failure in the Housing Agency's reasonable opinion:

- (i) is not able to be remedied; or
  - (ii) is capable of remedy and the Provider does not comply with a Notice to remedy the breach within the period specified in that notice; or
- (e) **(breach of Agreement)** the Provider breaches a provision of this Agreement such that in the Housing Agency's reasonable opinion:
- (i) is not able to be remedied; or
  - (ii) is capable of remedy and the Provider does not comply with a Notice to Remedy the breach within the period specified in that notice; or
- (f) **(event)** an Insolvency Event or an Indemnifiable Event occurs or has occurred for the Provider.

Nothing in this clause limits the operation of the Common Terms.

#### **5.4 Termination or Amendment by Other Cause**

The Housing Agency may terminate or amend this Agreement if any one or more of the following occurs or has occurred:

- (a) all or part of the Agreement is or becomes void, avoided, illegal, invalid, unenforceable or limited in its effect; or
- (b) an event or change occurs which would, in the reasonable opinion of the Housing Agency, have or be likely to have a material adverse effect on:
  - (i) the validity or enforceability of all or a material part of a Community Housing Assistance Agreement;
  - (ii) the Housing Agency's material rights or remedies under any Community Housing Assistance Agreement;
  - (iii) the ability of the Provider to observe or perform its obligations under this Agreement or Community Housing Assistance Agreement; or
  - (iii) the assets, operations, condition (financial or otherwise) or business of the Provider; or
- (c) if, in the Housing Agency's reasonable opinion, there is a change in the management, ownership or control of the Provider which would have a material adverse effect as described in clause 5.4; or
- (d) if the purchase of all the properties is not completed by the Funding Expiration Date.

#### **5.5 No Limitation**

- (a) Nothing in this clause 5 limits the operation of the Act, the National Law or the Common Terms.



## 6. Repayment of Funding

### 6.1 Repayment as at the Funding Expiration Date

- (a) Any Funding (and interest earned on that Funding and applicable GST) not expended for an Approved Purpose by the Funding Expiration Date must be repaid by the Provider to the Housing Agency on demand.

### 6.2 Repayment on Termination

- (a) Subject to clause 6.3, if this Community Housing Assistance Agreement is terminated for any reason prior to the Funding Expiration Date, the Provider must repay to the Housing Agency any Funding (together with any interest earned on that Funding and applicable GST) not expended for an Approved Purpose by the date the Community Housing Assistance Agreement is terminated.

### 6.3 Repayment on Default

- (a) Without limiting the rights of the Housing Agency under clause 9 of the Common Terms, in the event of Default by the Provider the Housing Agency may, by serving notice on the Provider, require the Provider to repay any or all of the Funding (together with any interest earned on the Funding and applicable GST) to the Housing Agency (Repayment Notice).
- (b) Clause 6.3(a) applies regardless of whether, as at the date of the Repayment Notice, any or all of the Funding has already been expended by the Provider.
- (c) The Repayment Notice must contain the following information:
  - (i) the Default on which the Housing Agency relies to require repayment of the Funding;
  - (ii) the amount of Funding (and any interest) required to be repaid by the Provider to the Housing Agency; and
  - (iii) the date on which the repayment of Funding (and any interest) must be paid to the Housing Agency.
- (d) The Provider must pay to the Housing Agency the amount of Funding (and any interest) stipulated in the Repayment Notice by the due date stipulated in that Repayment Notice. The due date may not be any earlier than 21 days after the Repayment Notice is received by the Provider.
- (e) The amount of Funding (and any interest) stipulated in the Repayment Notice is a debt due and owing by the Provider and, without limiting the rights of the Housing Agency, the Housing Agency may commence legal proceedings in any court of competent jurisdiction to recover that debt.
- (f) If the Provider fails to pay an amount on its due date for payment under clause 6.3 (d), the Provider must on demand pay the Housing Agency interest calculated at the Overdue Rate on the amount in default from the due date until it is paid in full.
- (g) the Housing Agency may:
  - (i) capitalise, on a monthly or other periodical basis as the Housing Agency determines, any part of any interest which becomes due and payable,

and interest is payable in accordance with this Community Housing Assistance Agreement on capitalised interest; and

- (ii) continue to capitalise interest despite:
  - (A) that as between the Housing Agency and the Provider the relationship under this Community Housing Assistance Agreement has ceased;
  - (B) any composition agreed to by the Housing Agency;
  - (C) any judgment or order against the Provider; or
  - (D) any other thing.
- (h) In the event the Provider disputes any of the details set out in the Repayment Notice then the parties will be in dispute and clause 21 of the Common Terms applies.

#### **6.4 Charge**

The Housing Agency may at any time take a charge against the Funded Property to secure repayment of the Funding and any interest under this Community Housing Assistance Agreement in accordance with section 19 of the Act.

### **7. Reporting**

The Provider agrees to complete and provide the Housing Agency with the following reports:

- (a) Monthly updates on project progress, including but not limited to, the purchase of suitable sites, design and construction plans and service planning;
- (b) all information relating to the Funded Properties provided under this Agreement as is reasonably requested by the Housing Agency, to be provided at the times and in the manner reasonably specified by the Housing Agency;
- (c) all information as is reasonably requested by the Housing Agency, including but not limited to, information which will enable the Housing Agency to determine whether the Provider is complying with the terms and conditions of this Agreement; and
- (d) all reports specified in clause 7 of the Common Terms and related Schedules.

### **8. Housing Agency's Interest**

#### **8.1 Interest Exists**

- (a) The Provider agrees that the Housing Agency has an Interest in the following:
  - (i) Land acquired by the Provider wholly or partly with Funding provided by the Housing Agency under this Agreement as identified in clause 18 as updated from time to time;
  - (ii) Land on which the Provider constructs housing or makes other improvements wholly or partly using Funding provided by the Housing Agency under this Agreement as identified in clause 18 as updated from time to time;

- (iii) Land as otherwise provided for under Section 14 of the Act.
- (b) the Housing Agency's Interest will be recorded against the title to each Land described in clause 8.1 (a).
- (c) The Provider agrees to do all things necessary to facilitate the registration of the Housing Agency's Interest against the title to each Land in clause 8.1 (a) or to which the Housing Agency is entitled to register an Interest under section 14 of the Act and must assist the registration of such statutory interest as soon as reasonably practicable following transfer of title to the Provider and must ensure that such statutory interest is registered in advance of any financial interest.
- (d) Nothing in this clause limits the operation of section 14 of the Act.

## 8.2 Costs

The Housing Agency will pay the cost of registering its Interest on the title of each Funded Property. Otherwise, all costs and expenses related to this Community Housing Assistance Agreement will be paid in accordance with clause 17 of the Common Terms.

## 9. Subdivision or Sale

### 9.1 Withdrawal of Property Interest

- (a) If the Funded Property is subdivided by the Provider, the Interest will be recorded against the title to each subdivided lot (**Funded Property Lot**).
- (b) If the Housing Agency grants consent in writing to withdraw the Interest in the Funded Property Lot under clause 9.2 or 9.3 of this Agreement the Housing Agency will (at the Housing Agency's cost) provide a withdrawal of its Interest in registrable form in so far as the Interest relates to the Funded Property Lot.

### 9.2 Dealing involving Redevelopment and Subdivision of Funded Property Lots

If the Housing Agency consents to withdrawing its Interest to the Funded Property Lot following a dealing which may include (without limitation) to redevelopment or subdivision, such consent may involve certain conditions. The Housing Agency will act reasonably and the parties agree that reasonable, without limitation, might include any of the following:

- (a) maintain at least %%% (Housing Agency's Contribution as set out in Clause 18) of the value of a Funded Property Lot as set out in clause 9 on a replacement property; and
- (b) the Provider will use an Authorised Valuer to determine the value of the Funded Property Lot at the point of seeking Dealing consent from the Housing Agency; or
- (c) maintain the Net Present Value (as reasonably determined by the Housing Agency) of the DAY MONTH YEAR advance of \$DOLLARS (excluding GST) of the value of a Funded Property as set out in clause 9 on a replacement property.
- (d) the Housing Agency's Interest will be recorded against the title of the replacement property.

### 9.3 Sale of Funded Property Lots to third parties

If any Funded Property Lot is not required for Community Housing the Provider may seek the Housing Agency's consent to sell the Funded Property Lot to a third party under section 18 of the Act (the provision requires the Housing Agency to act reasonably). The parties agree that reasonable, without limitation, might include any of the following:

- (a) That the Net Sale Proceeds from the sale of a Funded Property or (at the Housing Agency's discretion) at least %%% of the Net Sale Proceeds (Housing Agency's Contribution as set out in Clause 18), must only be used as set out in clause 9; or
- (b) The Net Present Value (as reasonably determined by the Housing Agency) of the DAY MONTH YEAR advance of \$DOLLARS (excluding GST) from the sale of a Funded Property must only be used as set out in clause 9 of this Agreement.
- (c) The Housing Agency's Interest will be recorded against the title of the replacement property.

## 10. Use of Funded Properties

### 10.1 Restriction on Use

The Housing Agency's Contribution to the Funded Property may only be used:

- (a) provide Social Housing to eligible people; and;
- (b) for purposes ancillary to those described in this clause as approved from time to time by the Housing Agency.

### 10.2 Change in Use

If the Provider wishes to change the use of a Funded Property from that permitted under clause 10.1 of this Agreement or from that previously approved by the Housing Agency it may do so only with the written approval of the Housing Agency.

### 10.3 Funded Properties

In this clause 10 and in clause 11 reference to a Funded Property includes a property acquired using the Net Sale Proceeds of a Funded Property.

## 11. Dealing with Funded Properties

### 11.1 No Dealings

Except as permitted under clause 11.2 no Dealings with Funded Properties are permitted without the Housing Agency's prior written consent.

### 11.2 Exempt Transactions

The following Dealings are Exempt Transactions:

- (a) where a Dealing is the granting of a lease not exceeding five years for the purpose of Community Housing over one or part of one or more Funded Properties; and
- (b) where a Dealing, other than as defined in clause 11.2(a), is directly for the purpose of providing Community Housing. A Dealing is not for the purpose of providing Community Housing if it is for the purpose of:
  - (i) procuring non-residential premises; or
  - (ii) withdrawing from the provision of social housing in a particular location.

### 11.3 Comply with Conditions

Any Exempt Transaction must satisfy all conditions which the Housing Agency may impose on Dealings as notified in writing by the Housing Agency to the Provider from time to time.

## 12. Representations and Warranties

In addition to all representations and warranties set out in the Common Terms, the Provider represents and warrants to the Housing Agency:

- (a) that it is and will remain registered under the Act and National Law as a Community Housing Provider;
- (b) the Provider operates on a not-for-profit basis;
- (c) the Provider is a company limited by guarantee registered under the Corporations Act; and
- (d) the constitution or rules of the Provider:
  - (i) may only be amended by special resolution in accordance with the Corporations Act; and
  - (ii) includes a provision stating that in the event of the Provider being wound up, any surplus assets remaining after payment of its liabilities must be transferred to another Registered Community Housing Provider within the meaning of the Act and the National Law, approved by the Registrar under the Act, with similar purposes and which is not carried on for the purposes of profit or gain to its members; and
- (e) when transferring the surplus assets to another Registered Community Housing Provider, the Provider must be of an equal or higher registration tier.

## 13. Provider's Undertakings

### 13.1 General

In addition to all undertakings and requirements set out in the Common Terms and the Act, the Provider must (unless the Housing Agency otherwise consents in writing):

- (a) **(Specified Housing Agency Contribution)** meet and maintain the Specified Housing Agency Contribution as referred to in clauses 9.2, 9.3 and clause 18 which is the minimum required to be maintained as Social Housing and related housing
- (b) **(Number of Social Housing units proposed to be on the Funded Property)** meet and maintain the Specified Housing Agency Contribution referred to in clause 18 which is the minimum number of units required to be maintained as Social Housing to be used for social housing tenants clients;
- (c) **(Number of INSERT PROGRAM NAME related housing units proposed to be on the Funded Property)** meet and maintain the Specified Housing Agency Contribution referred to in clause 18 which is the minimum number of units required to be maintained as INSERT PROGRAM NAME related housing.

- (d) **(Register Interest)** upon request from the Housing Agency do all things necessary to facilitate the registration of the Housing Agency's Interest on the title to each Property to which the Housing Agency is entitled to register an Interest as provided for in Section 14 of the Act;
- (e) **(Social Housing eligible)** only allocate a Property to persons in line with the social housing eligibility guidelines.
- (f) **(priority)** prioritise housing to INSERT TARGET GROUP. Such a determination may be made through a local allocation strategy.
- (g) **(housing policy)** administer the units in accordance with the policies applicable to community housing (as the case may be) in New South Wales, including but not limited to the Community Housing Rent Policy, the Community Housing Eligibility Policy, the Community Housing Access Policy, Community Housing Asset Management Policy and the NSW Affordable Housing Guidelines.
- (h) **(not a subsidiary)** not be or become a Subsidiary, act as a trustee or amend its constitution if to do so may adversely affect its ability to provide the Community Housing, or comply with the Act, Policies, or Community Housing Assistance Agreement.

## 14. Common Terms

- (a) This Community Housing Assistance Agreement is entered into and incorporates the Common Terms.
- (b) The parties acknowledge and agree to comply with their respective obligations under the Common Terms.
- (c) To the extent that there is any inconsistency between this document and the Common Terms, this document shall prevail.
- (d) The Provider has, by signing this document, entered into a Community Housing Assistance Agreement incorporating the Common Terms, the terms and conditions set out in this Agreement and each relevant Supplementary Agreement.

## 15. Goods and Services Tax

- (a) Any reference in this clause to a term defined or used in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) is, unless the context indicates otherwise, a reference to that term as defined or used in that Act.
- (b) Unless expressly included the consideration for any supply made under or in connection with this Community Housing Assistance Agreement does not include an amount on account of GST in respect of the supply
- (c) (GST Exclusive Consideration) except as provided under this clause.
- (d) Any amount referred to in this Community Housing Assistance Agreement which is relevant in determining a payment to be made by one of the parties to the other is, unless indicated otherwise, a reference to that amount expressed on a GST exclusive basis.

- (e) To the extent that GST is payable in respect of any supply made by a party (Supplier) under or in connection with this Community Housing Assistance Agreement, the consideration to be provided under this Community Housing Assistance Agreement for that supply (unless it is expressly stated to include GST) is increased by an amount equal to the GST Exclusive Consideration (or its GST exclusive market value if applicable) multiplied by the rate at which GST is imposed in respect of the supply.
- (f) The recipient must pay the additional amount payable under Clause 14(d) to the Supplier at the same time as the GST Exclusive Consideration is otherwise required to be provided.
- (g) The Supplier must issue a tax invoice to the recipient of the taxable supply at or before the time of payment of the consideration for the supply as increased on account of GST under Clause 15 (d) or at such other time as the parties agree.
- (h) Whenever an adjustment event occurs in relation to any taxable supply made under or in connection with this Community Housing Assistance Agreement the Supplier must determine the net GST in relation to the supply (taking into account any adjustment) and if the net GST differs from the amount previously paid under Clause 15(e), the amount of the difference must be paid by, refunded to or credited to the recipient, as applicable.

## **16. Defined Terms**

### **16.1 Defined Terms from Common Terms**

The following terms defined in the Common Terms (as defined below) have the same meanings when used in this document unless otherwise defined in this document.

ACT

ASSISTANCE

ATO

COMMUNITY HOUSING

COMMUNITY HOUSING AGREEMENT

COMMUNITY HOUSING ASSET

COMMUNITY HOUSING PROVIDER

DEAL OR DEALING

FUNDING

GOVERNMENT AGENCY

GST

GST LAW

HOUSING ACT

HOUSING AGENCY

INDEMNIFIABLE EVENT

INSOLVENCY EVENT

INPUT TAX CREDIT

NATIONAL LAW  
NATIONAL REGULATORY CODE  
PROPERTY  
REGISTERED PROVIDER  
REGISTRAR  
SECRETARY  
SOCIAL HOUSING

## 16.2 Other Defined Terms In this document:

Other Defined Terms In this document:

<b>Approved Purpose</b>	means the purpose for which the Housing Agency makes available the Funding to the Provider under this Agreement.
<b>Authorised Valuer</b>	means a qualified property valuer appointed by or approved in writing by the Housing Agency.
<b>Common Terms</b>	means the document entitled 'Community Housing Agreement Common Terms and Conditions to Community Housing Assistance Agreements' entered into between the Provider and the Housing Agency.
<b>Default</b>	means an event or circumstance specified in clause 5.3 of this agreement and those specified in clause 8 of the Common Terms.
<b>Dollars And \$</b>	mean the lawful currency of Australia.
<b>Drawdown</b>	means the provision of Funding to the Provider by the Housing Agency.
<b>Exempt Transactions</b>	means for the purposes of section 18(1)(b) of the Act those transactions (if any) described in clause 11.2 of this Agreement.
<b>Funds or Funding</b>	Also means the Assistance provided by the Housing Agency to the Provider in accordance with clause 4 of this Agreement.
<b>Funding Date</b>	Means the date set out in clause 18.



<b>Funded Property</b>	Means: <ul style="list-style-type: none"> <li>(a) Land acquired by a Community Housing provider wholly or partly with Funding provided by the Housing Agency under a Community Housing Assistance Agreement; or</li> <li>(b) Land on which the Provider constructs housing or makes other improvements wholly or partly with Funding provided by the Housing Agency under a Community Housing Assistance Agreement.</li> <li>(c) Land on which the Provider makes improvements to existing housing wholly or partly with Funding provided by the Housing Agency under a Community Housing Assistance Agreement.</li> </ul>
<b>Funding Property Lot</b>	has the meaning given to this term in clause 9.1 of this Agreement
<b>Funding Expiration Date</b>	means the date stipulated in clause 18 of this Agreement.
<b>Interest</b>	Has the same meaning as expressed in section 14 of the Act, that is, a Housing Agency is taken to have an interest in land of a community housing provider in the following circumstances: <ul style="list-style-type: none"> <li>(a) if the land was owned by the Housing Agency immediately before being vested in the community housing provider; or</li> <li>(b) if the land was transferred to the community housing provider in accordance with an instruction given under section 14 of the Act; or</li> <li>(c) if the land is acquired by the community housing provider wholly or partly with funding provided by the Housing Agency; or</li> <li>(d) if the Housing Agency constructs housing or makes other improvements on the land,</li> <li>(e) if a community housing agreement with the community housing provider identifies the land as being land in which the Housing Agency has an interest.</li> </ul>
<b>Land</b>	has the meaning given in section 13(1) of the Act, that is, it includes: <ul style="list-style-type: none"> <li>(a) a legal estate or equitable interest in the land; or</li> <li>(b) an easement, right, charge power or privilege, over, or in connection with the land.</li> </ul>

<b>Net Sale Proceeds</b>	means the sale proceeds to which the Provider is entitled upon the sale of any Community Housing Asset in which the Housing Agency has an Interest or is entitled to have an Interest, after taking into account any amount required to be paid to an encumbrance of the Community Housing Asset and net of the Provider's reasonable costs of sale of the Community Housing Asset.
<b>Overdue Rate</b>	means the rate per annum which is 2% above the rate prescribed by the Uniform Civil Procedure Rules 2005 for the payment of interest after judgement under the Civil Procedure Act 2005, corresponding to the due date for payment.
<b>Provider Contribution</b>	may include Provider Equity or Provider Finance or a combination of both.
<b>Provider Equity</b>	the Provider's own contribution meaning the amount specified in clause 18 as Provider Contribution.
<b>Provider Finance</b>	finance provided by a bank or financial institution to the Provider for the Approved Purpose described in clause 18.
<b>Repayment Notice</b>	has the meaning given to that term in clause 6.1 of this Agreement.
<b>Request for the Drawdown Funding</b>	means a request for the Drawdown of some or all of the Funding on terms determined by the Housing Agency from time to time, which may include the information set out in clause 4.3 of this Agreement.

## 17. Interpretation

The Interpretations listed in Clause 24 of the Common Terms apply to this document.

## 18. Approved Purpose and Funding

<b>Project</b>	<b>XXXXXX Project Name</b>
<b>Agreed Funding (exc. GST) (\$) (Specified Housing Agency Contribution)</b>	<b>TBC</b>
<b>Provider Contribution (exc. GST) (\$)</b>	<b>TBC</b>
<b>Total Project Cost (exc. GST) (\$)</b>	<b>TBC</b>
<b>Housing Agency Contribution Percent (%) (Agreed Funding divided by Total Project Cost. Approximate anticipated percentage at date of signing. Parties may agree amendments to figures once actual costs established post completion of project)</b>	<b>TBC</b>
<b>Provider Contribution Percent (%) Approximate anticipated percentage at date of signing. Parties may agree amendments to figures once actual costs established post completion of project)</b>	<b>TBC</b>
<b>Purpose of Funding (Approved Purpose)</b>	<b>DELIVERY METHOD</b>
<b>Address of Funded Property</b>	<b>TBC</b>
<b>Title Details of Funded Property (Lot and Deposited Plan Number)</b>	<b>TBC</b>
<b>Total number of dwellings on the Funded Property</b>	<b>XX units</b>
<b>Total number of dwellings available for the clients of INSERT PROGRAM NAME on the Funded Property</b>	<b>XX units</b>
<b>Completion date (Funding Expiration Date)</b>	<b>TBC</b>
<b>Funding to be paid in lump sum (Lump sum paid in one instalment on receipt of Tax Invoice at election of Housing Agency as provided for in clause 4.5(d))</b>	Lump sum
<b>Funding Date</b>	On or after DAY MONTH YEAR

## 19. Project Proposal

- (c) The Provider will deliver the Project as submitted by it under **the INSERT PROGRAM NAME** Request for Grant Tender Returnable Schedule Part C, Schedules 1, 2 and 3 or any substitution project as agreed at Appendix 1.

# Signing Page

EXECUTED AS AN AGREEMENT

DATED:

**The Secretary of the Department of Communities and Justice**  
**EXECUTED** for and on behalf of the Secretary of the Department of Communities and Justice by its delegate

**NAME Muhammad Humair Ahmad**  
Director, Community Housing Branch,  
Department of Communities and Justice

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

Signed in the presence of:

\_\_\_\_\_  
Name of Witness in FULL

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

**THE PROVIDER – INSERT CHP'S NAME**

Executed by **INSERT PROVIDER'S NAME** (The Provider) in accordance with section 127 of the *Corporations Act 2001* (Cth), by a director and secretary/director

**Name in FULL, including  
MIDDLE NAMES, in BLOCK  
CAPITAL LETTERS**

**Position**

**Signature**

\_\_\_\_\_  
Print FULL name of Director  
(see above)

Director

\_\_\_\_\_  
Signature of Director

Secretary or  
Director  
(Strike out as  
required)

\_\_\_\_\_  
Print FULL name of Secretary/Director  
Secretary/Director  
(See above)

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

# Appendix 1 – INSERT NAME OF Project

## 1 Proposal and Funding Detail

INSERT CHP NAME (the Provider) is seeking to acquire/ develop/ redevelop/ refurbish/ reconfigure property(ies) in the XXXX Local Government Area (LGA).

The Provider will lease units in the Funded Property to PROGRAM NAME clients according a local allocation strategy.

**[If applicable]** The Provider will also use reasonable endeavours to allocate a further xxx apartments (xxx%) as affordable housing, providing long term accommodation to targeted group].

The DELIVERY METHOD investigation will focus on locations that are approximately within 500 metres of major transport routes (train line, bus routes); and within 1 km of commercial centres which have large supermarkets and other shops; medical and ancillary services; parks, and other recreation facilities.

## 2 Industry Relationships and Partnerships

The Provider is involved in the housing [INSERT NUMBER] XXXXX clients. Through its exiting partnerships with [insert numbers and names of services / organisations], the Provider aims to provide long term, safe and secure housing for its XXXXX clients.

## 3 Supply

### a) Housing Demand

- The Funded Property is proposed to be located in the allocation zone/s covered by XXXX LGA/s. DCJ data shows that demand for 1-bedroom properties is high with waiting times in this allocation zone/s being more than 5 years (use latest DCJ figure please)
- There are [INSERT NUMBER] households on the combined lists in [ALLOCATION ZONE] waiting for social housing vacancies.

### b) Responding to Social Impacts

- The additional social housing properties that will be delivered by this project will help provide further options for appropriate exits to long term social housing where head-leased properties may not be the most appropriate option, particularly where there are ongoing safety concerns or concerns about social isolation.

### c) Tenancy Mix

- 30 one-bedroom units will be allocated to social housing eligible XXXXX clients according a local allocation strategy.
- [If applicable) In addition, the Provider will use reasonable endeavours to house up to an additional xxxxxx targeted group as affordable housing tenants]

### d) Implementation Plan. AMEND DATES AS REQUIRED

- Stage 1: DELIVERY METHOD – Completed by MONTH/YEAR
- Stage 2: (If applicable) DELIVERY METHOD – Completed by MONTH/YEAR
- Stage 3: Occupation – Completed by MONTH/YEAR

## 4 Financial Contribution

- a) The Provider will contribute \$DOLLARS towards the DELIVERY METHOD of the property(ies).
- b) The Provider will deliver XX units to house INSERT PROGRAM NAME's clients

- c) The Provider will hold complete responsibility over the life of the property for all planned, responsive and structural maintenance costs, as well as all fixed costs for rates and insurances, and all staffing related costs for property and tenancy management.

## 5 Project Summary

### Project Summary Table

Project Summary	Comment	
Purpose of funding	DELIVERY METHOD of units providing x-bedroom units in the XXXX LGA	
Development status	N/A To be deleted	
Address and title details	TO BE ADVISED	
LGA	XXXXXXXXXX	
CHP contribution	Equity	XXXXXXX
	Debt	XXXXXXX
	Land value	XXXXXXX
	Tax concession value	TBA (this will depend on whether a new or existing block is purchased and also on the value of the upgrade works)
	Donations	-
	Pro bono / reduced fees	TBA
	Other [insert description] Stamp Duty concessions	TBA
<b>TOTAL CHP CONTRIBUTION</b>		
<b>Total CHP contribution</b>		

### Supply Information Table

Supply information	Comment
Total number of dwellings	XX units
Total number of dwellings available for Social Housing units available for INSERT PROGRAM NAME's clients	XX units

Supply information	Comment
<b>Total number of additional Affordable Housing units (If Applicable)</b>	IF ADDITIONAL PROPERTIES ARE CONTRIBUTED <b>TBC</b>

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