

CERTIFICATE OF TITLE

**relating to
Freehold [and Leasehold] properties
owned by ♦**

CERTIFICATE OF TITLE

To:

[DN: The addressee wording will be stipulated by the funders' advisers and will be tailored for each specific transaction, but will be expected to cover the mortgagee and all relevant funding parties (both present and future and its or their successors, transferees and assignees)]

Properties owned by ♦ (the Association)

Introduction

1 In accordance with the instructions of the Association, but in the knowledge that you will be relying on this Certificate in connection with the loan facilities made or to be made available to [the Association] [the Borrower to be on-lent to the Association [and other ♦]] and/or the hedging transactions and interest rate agreements to be entered into with [the Association] [the Borrower] and/or other financial arrangements entered or to be entered into with [the Association] [the Borrower], we have investigated fully and appropriately the title of the Association to those properties (the **Properties**, each being a **Property**) short particulars of which are contained in schedule 1. This Certificate is given in connection with ♦ ***[DN: reference to relevant funding documents to be included]*** and a legal mortgage to be dated with today's date and made between the Association and ♦ (the **Charge**) as [both] [they] may be amended, novated, replaced, restated, supplemented or varied from time to time (the **Transaction**). [We acknowledge that in providing this Certificate we owe a duty of care to the Security [Trustee] and the Beneficiaries from time to time for whom any of the Properties become [Designated Security].]

In this Certificate, references to the **Properties** includes the whole and every part of each of the Properties and reference to any schedule is a reference to a schedule to this Certificate.

Save where otherwise defined herein, terms defined in the ♦ shall bear the same meanings in this Certificate.

Headings in this Certificate are for reference only and shall not affect its construction.

2 In giving this Certificate, we have:

- (a) examined and considered all relevant title and other documents relating to the Properties;
- (b) made all necessary and appropriate searches in relation to the Association and the Properties given the nature and location of the Properties (which searches we confirm are no older than six months at the date of this Certificate) including those required to protect the ♦ as mortgagee; and
- (c) made all relevant and necessary enquiries of the Association enabling us to provide this Certificate.

3 The Association has confirmed to us in writing within the 5 working days before the date of this Certificate that it has no information which renders any statement in this Certificate incomplete or inaccurate in any respect.

4 We confirm that we have received a copy of the valuation report prepared by ♦ (the **Valuers**) dated ♦ (the **Valuation**) and that the assumptions made by the Valuers about title (its tenure, easements, boundaries and restrictions on use) in the Valuation are correct. There is nothing in the Valuation which is inconsistent with this Certificate. A copy of this Certificate has been supplied to the Valuers and we confirm that the Valuers have confirmed to us that the contents of the Certificate do not affect the Valuation.

Certificate

We certify as follows:

1 Properties

- (a) Save as itemised in part II of schedule 1, the Properties are registered at the Land Registry with title absolute and the title numbers and postal addresses appear in part I of schedule 1 which details we confirm are complete and accurate, and where registered are not subject to any unregistered interests referred to in Schedules 1, 3 or 12 of the Land Registration Act 2002. In the case of those unregistered Properties appearing in part II of schedule 1 the Association's title to those Properties commences with a valid and effective conveyance on sale of at least 15 years, no event has occurred in consequence of which registration should have been effected and there is no caution against first registration. We are of the opinion that on compulsory first registration the Association will be registered with title absolute.
- (b) Schedule 2 sets out particulars of the leases under which those Properties which are leasehold are held, otherwise the tenure of the Properties is freehold.
- (c) Details of the insurance of the Properties are set out in schedule 3 and the Association has confirmed to us that all premiums due have been paid. The interest of ♦ has been noted on the policy of insurance in a manner which complies with the requirements of the ♦.
- (d) The Association has confirmed that all of the Properties are presently used for general residential purposes (the **Existing Use**) and, save as disclosed in schedule 4, our searches, investigations and enquiries do not reveal otherwise.
- (e) Save as disclosed in schedule 4, no consents (statutory or otherwise) are required for the charging of the Properties by the Association or for the subsequent disposal of the Properties by the ♦ (or any receiver appointed by the ♦) following enforcement of the security created by the Charge or otherwise.

2 Title

- (a) Save as disclosed in schedule 4:
 - (i) the Association is the sole legal and beneficial owner of the Properties and has a good and marketable title to each of them and is absolutely entitled to the whole proceeds of sale thereof;
 - (ii) the Properties enjoy all rights and easements which are necessary for their use and enjoyment for the Existing Use and they are enjoyed on terms which do not entitle any person to terminate or curtail them and we have no reason to believe such rights and easements will not be enjoyed indefinitely (whether or not after enforcement of ♦'s security or otherwise) and such rights and easements are enjoyed without the need to pass through land either in the possession or ownership of another or that of the Association (and which land is not included in the Charge);
 - (iii) the entrances to the Properties abut a roadway maintainable at public expense;
 - (iv) the Properties drain to a public sewer;
 - (v) the Properties are connected to all services necessary for their use and enjoyment for the Existing Use;
 - (vi) the Association is in sole possession of the Properties save only for those in respect of which the Association has granted tenancies in accordance with the terms of the ♦;
 - (vii) all deeds and documents or copies necessary to show good and marketable title to the Properties are in our possession;

- (viii) the Properties and the Association are not subject to any monetary payment for the rights and easements mentioned in this Certificate save for any reasonable contribution required for the repair or maintenance of the subject of any such rights; and
- (ix) the Charge is being granted over the whole of each of the Properties.

3 Third Party Rights

- (a) Save as disclosed in schedule 4:
 - (i) the Properties are not subject to any adverse estate, right, interest, covenant, restriction, stipulation, easement or other encumbrance or liability whatsoever of an unusual or onerous nature (including, without limitation, financial charges (including for the avoidance of doubt floating charges or any security for the repayment of public sector grant) and planning, statutory or regulatory conditions and restrictions), or rights of nomination binding on the Properties and/or on any mortgagee, chargee or receiver of the Properties, or restrictions on disposal by charge or otherwise by the Association or any such mortgagee, chargee or receiver, or any third party rights or to the payment of outgoings other than the usual rates;
 - (ii) the Association has confirmed that (having made all necessary enquiries) it is not aware of any material disputes in respect of the Properties;
 - (iii) the Association has confirmed that, as far as it is aware (having made all necessary enquiries), any covenants, restrictions, stipulations or other encumbrances affecting the Properties have been complied with to date and our searches, investigations and enquiries have not revealed otherwise. The Association has also confirmed that, as far as it is aware (having made all necessary enquiries), no demands or complaints have been made or received in respect of the Properties and no notices have been given or received nor are any anticipated to be made or received or given and there are no outstanding monies payable relating to the Property due from the Association but not paid and our searches, investigations and enquiries have not revealed otherwise.

4 Planning

- (a) Save as disclosed in schedule 4:
 - (i) there are no agreements or obligations affecting the Properties under section 52 Town and Country Planning Act 1971, section 33 Local Government (Miscellaneous Provisions) Act 1982, section 106 Town and Country Planning Act 1990 (as amended) or any legislation of a similar nature or any agreements under sections 38 and/or 278 Highways Act 1980 or section 18 Public Health Act 1936 or section 104 Water Industry Act 1991 affecting the Properties nor any agreement to create any of the same whereby such agreement is binding upon or enforceable against any person deriving title from or under the original contracting parties;
 - (ii) none of the buildings, erections or structures on the Properties have been listed under section 1 Planning (Listed Buildings and Conservation Areas) Act 1990 (the **1990 Act**) nor has the local authority served any building preservation notice under section 3 or 4 of the 1990 Act or any repairs notice under section 48 of the 1990 Act in respect of the Properties or any building, structure or erection thereon;
 - (iii) there is no resolution and the Association is not aware of any proposal for the compulsory acquisition of the Properties and it is not in an area designated as an urban development area or an enterprise zone;
 - (iv) the Association has confirmed that no development has been carried out in relation to the Properties which is unlawful or which has been carried out without any necessary consents and permissions under the Town and Country Planning legislation and Building Regulations and no enforcement proceedings have been

commenced or any notices served or proposed and our searches, investigations and enquiries do not reveal otherwise;

- (v) the use of the Properties for the Existing Use is not in contravention of the Town and Country Planning legislation and the planning permission affecting the Properties is not the subject of an existing challenge as to its validity. There are no planning conditions which now or will in the future restrict or affect the Existing Use and the Association has confirmed that all conditions attached to such planning permission have been complied with. We have seen confirmation from the local planning authority that such conditions have been discharged where discharge is required by the local planning authority;
- (vi) there are no unusual or onerous conditions attaching to any planning permission affecting the Properties and no planning permission is subject to any condition or limitation making it temporary (other than the conditions referred to in the Town and Country Planning Act 1990 sections 91 and 92) or personal to anyone or which limits use or occupation to a specific class (including in the case of sheltered housing to persons over any particular age) or is awaiting determination or subject to appeal; and
- (vii) in respect of the Community Infrastructure Levy (**CIL**):
 - (A) the Properties are not subject to an existing CIL liability; and
 - (B) the Association has confirmed to us that it is not aware of any existing or future CIL liability relating to the Properties and that no notice or correspondence relating to any existing or future CIL liability in respect of the Properties (including in relation to any payments of CIL in kind) have been sent, lodged or received.

5 Statutory matters

- (a) Save as disclosed in schedule 4:
 - (i) the Association has confirmed that it is not aware of any material breach of planning legislation, building, fire and other relevant regulations, and our searches, investigations and enquiries do not reveal otherwise;
 - (ii) the Association has confirmed that there is no outstanding statutory or formal notice relating to the Properties or to any business carried on there or to the Existing Use or which involves any expenditure in compliance with it nor any circumstances which may result in any such order or notice being made or served and our searches, investigations and enquiries do not reveal otherwise; and
 - (iii) our searches and enquiries reveal that there is no outstanding monetary claim or liability, contingent or otherwise, in respect of the Properties under any Act of Parliament or any order, regulation or bye-law made under it, and the Association does not anticipate that it will be obliged to incur expenditure in relation to the Properties of any substantial sum of money in the near future whether to comply with the requirements of any Act of Parliament, order, regulation or bye-law or otherwise.

6 Leases of the Properties

- (a) In relation to those Properties identified as leasehold and summarised in schedule 2 and save as disclosed in schedule 4:
 - (i) the leases and any headlease are on usual institutionally acceptable terms and comply with the requirements of the CML Lenders' Handbook and the leases will be acceptable as security by ♦, there being no rent review and there being no restrictions which prevent the Properties being used now or in the future for the Existing Use or which conflict with that use, and there are no terms of an onerous or

unusual nature which are prejudicial to the interests of ♦ as mortgagee and in particular:

- (A) there are no forfeiture and re-entry provisos (save for those which are only exercisable on grounds of non payment of rent or breach of covenant by the tenant);
 - (B) where the insurance of any such Property is controlled by the landlord (or by any head landlord) the arrangements effectively cover the replacement value; the landlord is obliged to apply the insurance monies accordingly in reinstating the Property; any shortfall is payable by the landlord; the Association has the right to a copy of the policy; and your interest will be noted on the policy on completion of the Charge;
 - (C) there are no break clauses or option to determine the leases (or any headlease) exercisable by the landlord or tenant; and
 - (D) there are no provisions which fetter the Association's right to assign the lease or prevent the lease being sold at a premium;
- (ii) the Association has confirmed that it (having made all necessary enquiries) is not aware of any material breach of any of the covenants (on the part of the landlord or tenant) or terms contained in the leases or of any notice or formal written complaint having been issued or received by the Association in respect of any such breach;
 - (iii) we have received written confirmation from the landlord that the rent (which shall include all other sums due from the tenant to the landlord under the terms of the lease) is paid up to date and that there are no known breaches of the covenants contained in the lease; and
 - (iv) no consent is necessary under the leases, headleases or otherwise to the charging or mortgaging of the Properties or in respect of any disposal of the Properties.

7 Tenancies

- (a) The Properties are not subject to any lease, licence or tenancy other than lettings using the forms of tenancy and/or shared ownership lease substantially in the form(s) [contained in the Appendix] [approved by the Welsh Ministers appointed under section 48 of the Government of Wales Act 2006 (their predecessors or any successors (the **Welsh Ministers**), and where any letting differs from each such form, such difference does not materially adversely affect either the title of the Association to the Properties, the value of the Properties or the acceptability of the Properties by ♦ as security for loans made or to be made pursuant to the ♦ and/or the hedging transactions and interest rate agreements entered or to be entered into with the ♦ and/or other financial arrangements entered or to be entered into with the ♦. We have verified with the Association that the lettings of individual units at the Properties are in accordance with the restrictions contained in the ♦ and with the details (including rent and percentage of equity retained) in the Valuation.
- (b) We certify that where Properties are subject to shared ownership leases or long leases in each case the form of lease is either in a form recommended by the Welsh Ministers or contains adequate service charge provisions for the maintenance and upkeep of the structure and common parts and the Association has confirmed that each lease is in substantially similar form.
- (c) Where the Properties are let using shared ownership leases:
 - (i) the Association has confirmed that the information contained in the Valuation in relation to the shared ownership leases is correct as at the date of this Certificate;
 - (ii) the Association has informed us that since the date of the Valuation it has received no notices from any shared ownership tenant purporting to exercise any rights to

purchase a further interest in the Properties nor has any such tenant completed the purchase of any such further interest; and

- (iii) any of the Properties that are subject to shared ownership rights are listed together with details of the shared ownership leases and the Association's percentage shares in part 1 of schedule 5.
- (d) Unless otherwise disclosed in part 2 of schedule 5 none of the Properties are subject to the tenant's statutory right to buy or the right to acquire pursuant to the Housing Act 1985 and Housing Act 1996 (as amended by the Housing (Wales) Measure 2011 respectively) all as may be amended or supplemented from time to time or any other statute or contract.
- (e) The Association has confirmed that there are no material breaches of the terms of any tenancy or lease and that no legal proceedings have been instigated by the Association or any tenant or lessee and our searches, investigations and enquiries do not reveal otherwise.

8 Searches and General

- (a) There is no other matter arising on our investigation of title, including our searches and enquiries, which casts any doubt on the title of the Association to the Properties and the acceptability of the Properties as security and which should be brought to your attention before the Transaction is completed.
- (b) We confirm that where appropriate the Properties have the benefit of NHBC, Zurich Insurance, Foundation 15 or Premier Guarantee cover.

9 Environmental

- (a) Save as disclosed in schedule 4, so far as the Association is aware (having made all such diligent and proper enquiries as a prudent purchaser would make and our investigations of title searches and enquiries made (and in particular the desktop environmental searches commissioned) do not reveal otherwise):
 - (i) the Properties are not contaminated with, nor have they or any of the premises adjoining them been used for any purpose which may have caused the Properties or the ground water beneath or in its vicinity to be contaminated with any noxious or hazardous substances (whether in solid or liquid form or in the form of gas or vapour and whether by seepage or contamination from any neighbouring or adjoining property) which may cause environmental pollution or harm to human health (and "environmental pollution" and "harm" shall have the meanings respectively ascribed to them by s.1 Pollution Prevention and Control Act 1999);
 - (ii) the Properties have not been used for landfill or other waste disposal purposes;
 - (iii) no claim or notice relating to any pollution of, or release into, the environment on or from the Properties has been received from, or threatened by, any third party the Environment Agency, the relevant local authority or any other competent authority and the state and condition of the Properties is not such as to constitute contaminated land for the purpose of Part IIA of the Environmental Protection Act 1990;
 - (iv) any development carried out on the Properties has been in accordance with the recommendations of any site/soil investigation report obtained in respect of the Properties;
 - (v) the Properties have never suffered from flooding or problems as a result of subsidence; and
 - (vi) the Association does not hold any permits, licences, consents, authorisations, registrations or any other approvals (together an "**environmental permit**") under any legislation relating to pollution or protection of health and the environment (together "**environmental laws**") in respect of the Properties and is not aware of any need for any environmental permit.

Undertakings

[DN: funders' advisers to stipulate whether this is to be documented separately or left incorporated in the CoT. It should be noted that the terms of the undertaking may need to be tailored to meet the requirements of a specific transaction.]

We undertake in the following terms:

- 1 We have obtained clear Land Registry searches in Forms OS1 and/or OS2 (as appropriate) or Land Charge Searches (as appropriate) in your favour, save, in the case of Land Registry Searches, for reference to pending applications in favour of third parties for the registration of matters which we confirm are non material to enable the charges created by the Charge to become fully effective and binding upon the Association and to charge properly the Properties.
- 2 We have ensured that all the properties listed in the Valuation are charged by the Charge and that the Charge contains adequate conveyancing descriptions of the Properties to satisfy the requirements of the Land Registry for the registration of the Charge.
- 3 We have ensured that the Charge is correctly and validly executed by the Association as at the date hereof and will be registered as a first fixed charge over the Properties.
- 4 We have obtained all consents pursuant to Section 9 Housing Act 1996 and all other necessary third party consents (if any) for completion of the Charge and any disposal of the Properties pursuant to the Charge.
- 5 We have obtained all requisite letters of consent from all relevant chargeholders to the creation of the Charge and shall not complete the Charge without first obtaining letters of non crystallisation in respect of any floating charges entered into by the Association.
- 6 Within the priority period afforded by the searches referred to in paragraph 1 we shall complete the Charge and following completion of the Charge, we shall procure that any deeds of transfer or assurance to the Association are properly and duly stamped by HM Revenue & Customs or a correctly completed land transaction return delivered to HM Revenue & Customs (as appropriate) within the appropriate time, and that during the priority period allowed by the searches referred to in paragraph 1 above, we shall:
 - (a) lodge the applications (which shall be in a form approved by you or your solicitors should you request and in any event in the correct Land Registry form) at the Land Registry where necessary together with all necessary documents (which, in the case of the transfer to the Association, shall include only a fully certified copy and not the original) with a payment in respect of fees for the registration of the Association as proprietor of:
 - (i) those of the Properties with registered title which have been transferred to the Association prior to the date hereof; and
 - (ii) those of the Properties with unregistered titles which should be subject to an application for first registration of title;
 - (b) lodge applications (which shall be in a form approved by you or your solicitors should you request and in any event in the correct Land Registry form) at the Land Registry (including, but not limited to, applications in form RX1) and all necessary documents (which, in the case of the Charge, shall include only a fully certified copy and not the original) with a payment in respect of fees [including, but not limited to, the certificate of registration of the Charge at Companies House (following receipt of the certificate of registration from ♦)] ***[DN: Wording in brackets to be included in respect of Companies Act chargors only]*** for the registration of:
 - (i) the Charge as a first legal mortgage over the Properties; and
 - (ii) a note of the restrictions and applications referred to in clause ♦ of the Charge

- (iii) [a deed of priority executed by the Welsh Ministers and ♦ (the **Deed of Priority**) in order that the Charge ranks in priority to the legal charges of the Welsh Ministers]

in the Title Registers of each of the Properties to be obtained by us pursuant to our obligations under this paragraph 6; and

- (c) file Land Registry Form CH2 (which shall be in a form approved by you or your solicitors should you request and in any event in the correct Land Registry form) applying for the Chief Land Registrar to note the obligation of ♦ under the ♦ to make further advances on the Charges Registers of each of the Properties and to be obtained by us under our obligations set out above.

7 We shall ensure that there shall be discharged any mortgages secured against the Properties to enable the Charge to be registered as a first legal mortgage.

8 To use our reasonable endeavours to perfect the Association's title to the Properties and the security under the Charge and deal promptly (which, for the avoidance of doubt, means within 5 working days of our receipt of notification of such by either ♦, its Solicitors or the Land Registry and in any event no later than the relevant cancellation date) with any requisitions on title raised by the Land Registry relating thereto or to the application to register the Association as proprietor of the Properties (to the extent not already registered) [and to provide you or your solicitors with a copy of such requisitions as soon as they are received by us from the Land Registry and, in addition, a copy of the replies given to such requisitions at the same time as they are sent to the Land Registry – **DN: this option may be included by specific funders**].

9 Within ten business days of completion of the Charge to send to you or your solicitors a schedule in duplicate of all documents of title and other documents relating to the Properties and to hold all documents of title (to include, but not limited to, the original Charge where this has been sent to us by your solicitors) relating to the Properties charged pursuant to the Charge to your order (subject only to the requirements of the Land Registry) and give you written notice on completion of registration of the Association's title (if applicable) and the Charge and [to send to you or your solicitors the original Title Information Documents with official copies of the registers of title to the Properties and filed plans, the original Charge and any original indemnity insurance policies we have agreed in this Certificate to place on risk and to hold all other title deeds and documents to your order - **DN: all non-THFC funders**] [within 6 months of the date of this Certificate send promptly the documents referred to in Schedule 6 (to include, but not limited to, the original Charge and any indemnity insurance policies we have agreed in this Certificate to place on risk) to your solicitors [ref: ♦], in each case with an accurate schedule or schedules listing the relevant documents. – **DN: THFC only**]

10 After completion of the Charge promptly to:

[(a) register the Charge at the Mutual Societies Registration Section of the Financial Conduct Authority and to forward the original certificate of registration to the ♦ or its solicitors on receipt;

(b)] serve notice of charge in duplicate (and to pay any associated registration fee due) on:

(i) the landlord of those of the Properties pursuant to the Charge which are leasehold; and

(ii) any other third parties on whom notice must be served;

in each case in accordance with the requirements of the relevant document and to place the receipted notices with the title deeds for the Properties; and

(c) put on risk all new indemnity insurance policies as referred to in Schedules 2 and 4 of this Certificate.

General

1 We confirm that a copy of this Certificate has been produced to the [Association] which acknowledges and agrees that all action undertaken will be at the cost of the [Association].

- 2 We confirm that our obligations under this Certificate shall not be limited in any way by reference to any other undertaking and/or certificates given by other solicitors to you.
- 3 We undertake to maintain professional negligence insurance for at least 6 years for an amount not less than £♦ (each and every claim) provided such insurance remains available on reasonably commercial terms.
- 4 We confirm that if any of the Properties are to be purchased by the Association we are not also acting for the seller.

Signed:

Date:

Solicitors (Ref: ♦)

Schedule 1

Part I – Registered title details of the Properties



Part II - Unregistered title details of the Properties



Schedule 2

Particulars of the leases

Property:	◆
Commencement Date:	◆
Landlord:	◆
Term:	◆
Current rent:	◆
Rent review provisions:	◆
Alienation:	◆
Insurance:	◆
Service charge:	◆
Onerous/unusual provisions:	◆

Schedule 3

Insurance



Schedule 4

Matters to be disclosed



Schedule 5

Part 1 – shared ownership Properties

Property: ♦

Percentage of equity
retained by Association: ♦

Part 2 – Properties subject to the right to buy or right to acquire

♦

Schedule 6 [DN: THFC only]

Original/copy documents to be provided subsequent to Completion

(please disclose where not available)

- 1 All title deeds including all charges to be discharged as schedule to be annexed thereto.
- 2 Completion searches in favour of THFC giving priority for at least three weeks beyond the date of Completion.
- 3 Local Authority Searches dated not more than six months prior to completion/ local search indemnity insurance policy¹
- 4 Coal Board Search dated not more than three months prior to completion
- 5 Commons Search
- 6 Consent under Section 133 Housing Act 1988
- 7 Landlord's Consent
- 8 Other necessary Consents [please specify]
- 9 National House Building Council Certificates or acceptable alternative where Property built within last ten years **or** HAPM Certificate of Insurance **or** Zurich Municipal Certificate of Insurance **or** Certificate of Practical Completion of Works pursuant to the Building Contract and Letter Appointment and Certificate of current indemnity insurance held of Contractor/Architect if NHBC/HAPM/Zurich Municipal insurance not available
- 10 Building Regulation Approval
- 11 Section 106 Town and Country Planning Act 1990 Agreement
- 12 Section 52 Town and Country Planning Act 1971 Agreement
- 13 Planning Permissions²
- 14 Approval of conditions/reserved matters to Planning Permissions
- 15 Section 38 Highways Act 1980 Agreement
- 16 Section 104 Water Industry Act 1991 Agreement
- 17 Light and Air Agreements
- 18 Soil Survey
- 19 Land Use Survey
- 20 Environmental Consultants Report
- 21 Plan of Property

¹ Delete the incorrect alternative.

² Where confirmation of the discharge of any planning condition(s) or planning obligation(s) is given by email, a hard copy of the email should be sent with the deeds and the electronic copy held to THFC's order.

[Appendix

Standard Form Tenancy Agreement(s)

See attached]