

Appendix 17

NOMINATIONS AGREEMENT

DATED

201

**THE MAYOR AND BURGESSES OF
THE ROYAL BOROUGH OF
KENSINGTON AND CHELSEA**

-and-

XX

**NOMINATIONS AGREEMENT
FOR SHARED OWNERSHIP UNITS/
SHARED EQUITY UNITS**

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The Royal Borough of Kensington and Chelsea
The Town Hall
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London W8 7NX

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THIS AGREEMENT is made this

day of

201

BETWEEN:

- (1) **THE MAYOR AND BURGESSES OF THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA** of The Town Hall, Hornton Street, London W8 7NX ("**the Council**"); and
- (2) [] (No. []) of [] ("**the Registered Provider**")

WHEREAS:

- (A) The Registered Provider intends to build/acquire the Shared Ownership Units which are to be sold by the Registered Provider by way of shared ownership leases to applicants approved by the Council
- (B) The Registered Provider has agreed to grant to the Council nomination rights in respect of the Shared Ownership Units

1. DEFINITIONS

"**Affordable**" means in relation to affordable housing, means social rented, affordable rented and intermediate housing provided to eligible households whose needs are not met by the market; eligibility is determined with regard to local incomes and local house prices; affordable housing contracts should include provisions so the affordable housing remains at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision; and for units of shared ownership, the equity level is to start at 25% with the rental element being 75%

"**Agreed Cascade**" means the cascade mechanism agreed by the Council and the Registered Provider pursuant to clause 4 below

"**Housing Register**" means a register maintained by the Council of those in need of Affordable housing in the Council's area or a mechanism supported by the Council to enable those in affordable housing need to access details of available accommodation

"**Lessee**" means a lessee of one of the Shared Ownership Units

"**List of Applicants**" means the database kept by the Council or any other database used by the Council and notified to the Registered Provider containing details of applicants who registered on the Housing Register who are seeking accommodation in the Council's area, or such other database as may be applied by the Council (the Council acting reasonably and properly)

"**Marketing Plan**" means a plan for the marketing and leasehold sale of the Shared Ownership Units to be prepared by the Registered Provider and approved by the Council, and which shall include:

- (a) a detailed action plan of how the Shared Ownership Units are to be marketed;
- (b) the date at which the show-home is expected to be completed and ready for viewings;
- (c) details of how the Shared Ownership Units are to be Affordable, including the prices at which leases of the Shared Ownership Units will be offered for sale, the intended frequency of valuations, and what percentage of the full value of the leasehold interest in the units this represents;

- (d) details of how the Shared Ownership Units are to be publicised to the different client groups within the List of Applicants
- (e) an estimate of the likely service charges;
- (f) any reservation fees that will be charged to purchasers; and
- (g) details of any proposed cascade to allow the Registered Provider to market the Shared Ownership Units to persons other than priority applicants registered on the Housing Register

"Plan" means the Plan appended hereto showing the location of the Shared Ownership Units

"RBKC Resident(s)" means a person (or persons) whose sole or main residence is within the area of the Royal Borough of Kensington and Chelsea;

"Shared Ownership Units" means [insert details of location, number type; refer to Schedule and Plan]

"Working Day" means any day of the week excluding Saturday, Sunday, bank holidays and public holidays

2. GRANT OF SHARED OWNERSHIP NOMINATION RIGHTS

The Registered Provider grants the Council nomination rights in respect of 100% of the initial sales and re-sales of the Shared Ownership Units in accordance with the terms of this Agreement in perpetuity

3. MARKETING OF SHARED OWNERSHIP UNITS

3.1 No later than three/[less if acquisition?] calendar months before the anticipated date of practical completion/purchase of the Shared Ownership Units the Registered Provider shall:

- (a) inform the Council of the expected date of practical completion of the Shared Ownership Units (and shall thereafter keep the Council notified of any expected or anticipated changes to the date of practical completion);
- (b) forward its Marketing Plan to the Council for approval.

3.2 The Council shall within 10 Working Days of receipt of the Marketing Plan notify the Registered Provider:

- (a) of any amendments it reasonably requires and the Registered Provider shall incorporate any such amendments within 10 Working Days; and
- (b) whether or not it agrees to any proposed cascade referred to in clause 4 above or of any amendments it reasonably requires

3.3 No later than six months before the anticipated date of practical completion/the purchase of the Shared Ownership Units the Registered Provider shall begin marketing the Shared Ownership Units in accordance with the Marketing Plan to applicants on the Housing Register.

3.4 In the event that prospective Lessees for the relevant Shared Ownership Units have not been identified from the Housing Register within [twelve] weeks of the date on which the marketing began then the Registered Provider shall market the Shared Ownership Units to prospective Lessees in accordance with the Agreed Cascade.

3.5 The Registered Provider shall (unless the Agreed Cascade applies) ensure that proposed Lessees:

- (a) meet the requirements relating to eligibility for affordable housing as set out by the Mayor of London or such other person or body to which the function of setting out such requirements may be transferred by obtaining and verifying proof of their income; and
- (b) are registered on the Housing Register

but for the avoidance of doubt the Registered Provider shall not be responsible or in any way liable to the Council in case of misrepresentation or fraud by the proposed Lessee or in case of error or inaccuracy of the information on the Housing Register.

4. APPROVAL OF APPLICANTS/INITIAL SALES

- 4.1 As soon as available the Registered Provider shall provide to the Council details of prospective purchasers from the Housing Register (unless the Agreed Cascade applies), which details must include three reserve prospective purchasers for each category of the Shared Ownership Units by their respective bedroom numbers
- 4.2 Within five Working Days of receipt of the details referred to in clause 4.1 above (or under clause 4.5 below) the Council shall notify the Registered Provider of whether the prospective Lessees have been approved and, if the number of prospective Lessees exceeds the number of Shared Ownership Units available, the priority in which the prospective Lessees are to be offered the Shared Ownership Units PROVIDED THAT if the Council does not notify the Registered Provider as required by this clause 4.1 within the time limit referred to, the Council shall be deemed to have approved the Lessees proposed by the Registered Provider as notified to the Council under clause 4.1 (or as applicable clause 4.5) and the Registered Provider shall be entitled to offer and sell the leases of the Shared Ownership Units to any of the prospective Lessees for whom details were provided to the Council under clauses 4.1 and 4.5 and who (unless the Agreed Cascade applies) meet the definition of RBKC Resident in such order as priority as determined by the Registered Provider acting reasonably.
- 4.3 The Registered Provider shall offer the Shared Ownership Units to the prospective Lessees in accordance with the priority notified by the Council pursuant to clause 4.1 above, or in the absence of such order of priority being notified to the Registered Provider, in such order as the Registered Provider shall deem appropriate, acting reasonably
- 4.4 Subject to the prospective Lessees who have accepted offers made pursuant to clause 4.3 above still then meeting the definition of RBKC Resident (unless the Agreed Cascade applies when the relevant Lessees need not be RBKC Residents) the Registered Provider shall offer leases of the Shared Ownership Units to the prospective Lessees, the timing of the grant to be agreed between the Council the Registered Provider (each acting reasonably) and the relevant prospective Lessee
- 4.5 The Registered Provider shall continue to market the Shared Ownership Units (as applicable in accordance with the Agreed Cascade) and to forward details of prospective Lessees to the Council for approval until such time as leases have been granted of all of the Shared Ownership Units
- 4.6 The Registered Provider shall confirm the details of successful Lessees to the Council within 10 Working Days of completion of the relevant lease

5. NOTIFICATION/MARKETING ON RE-SALES

- 5.1 In the event of the Registered Provider receiving notification from a Lessee of a Shared Ownership Unit that she/he wishes to sell, his/her interest in the unit the Registered Provider shall notify the Council within three Working Days of such notification
- 5.2 After receiving from the Lessee the notification referred to in clause 5.1 above, the Registered Provider shall market the unit to prospective Lessees on the Council's Housing Register
- 5.3 During the process of marketing referred to in clause 5.2 above the Registered Provider shall provide the Council with details of how the prospective Lessees meet the definition of RBKC Resident

5.4 The Registered Provider shall offer the unit to prospective Lessees who are RBKC Residents and registered on the Housing Register unless no prospective Lessees who are RBKC Residents have been identified as prospective Lessees within four weeks of the date of notification referred to in clause 5.1 above and carry out the checking requirements as set out in clause 3.5 above

5.5 The Registered Provider shall confirm the name of Lessees to the Council and to the extent not already provided information on the prospective Lessee in respect of those lessees within 14 days of completion of the recent lease

6. DISPUTE RESOLUTION

In the event of a dispute between the Council and the Registered Provider, they shall use their best endeavours to resolve the issue amicably between them; in the event that any dispute or difference has not been resolved in this way then the dispute shall be referred to the Chief Executives (or the most senior officer within the Council or Registered Provider with responsibility for the subject matter of this Agreement) of the parties in dispute who shall use their respective best endeavours to resolve the dispute

7. EXCLUSIONS

For the avoidance of doubt it is confirmed that the terms of this Agreement shall not be binding on any lender mortgagee or chargee of the Registered Provider exercising its power of sale subject to the consent of the Council having been obtained to any such mortgage or charge (such consent not to be unreasonably withheld or delayed)

8. GOVERNING LAW AND JURISDICTION

This Agreement and any dispute or claim whatsoever relating to it or its formation shall be governed by and construed in accordance with English law and subject to clause 6 above (Dispute Resolution) the Council and the Registered Provider hereby submit to the exclusive jurisdiction of the English courts

IN WITNESS WHEREOF this Agreement has been executed as a deed by the parties hereto and is intended to be and is hereby delivered on the day before first written

**THE COMMON SEAL of the MAYOR
AND BURGESSES OF THE ROYAL
BOROUGH of KENSINGTON AND
CHELSEA** was affixed)
in the presence of:-)

Executed as a deed by **XXX**)
XXX acting by a director)
and its secretary/two directors-)

Director/Secretary

Director/Secretary